



8 December 2011

Company Announcements Office  
Australian Securities Exchange Limited  
Exchange Centre  
20 Bridge Street  
Sydney NSW 2000

Dear Sir or Madam

**AUSTAR UNITED COMMUNICATIONS LIMITED (ASX: AUN):**

Please find attached an announcement from AUSTAR regarding the release of its Scheme Booklet.

Yours faithfully

A handwritten signature in black ink, appearing to read "Deanne Weir". The signature is fluid and cursive, with a large initial "D" and "W".

Deanne Weir  
Company Secretary



8 December 2011

Media Release

## Release of Scheme Booklet on the FOXTEL Proposal

AUSTAR United Communications Limited (ASX: AUN) (AUSTAR) has today lodged with the ASX its Scheme Booklet relating to FOXTEL's proposed acquisition of AUSTAR.

The Scheme Booklet has been registered with the Australian Securities and Investments Commission and is expected to be dispatched to Shareholders by the 20th of December 2011. Subject to the receipt of approvals from the Australian Competition and Consumer Commission (ACCC) and the Foreign Investment Review Board (FIRB), both the Scheme Meeting and the follow-on General Meeting will be held on the 17th of February 2012.

If the ACCC and FIRB approvals have not been obtained by 3<sup>rd</sup> of February 2012, unless AUSTAR, Liberty Global and FOXTEL agree otherwise, AUSTAR will postpone the Scheme Meeting and General Meeting.

ENDS

### Media Contacts:

Rebecca Tabakoff  
T + 61 (0)2 8298 6100  
M +61 (0)419 229 878  
E [rebecca.tabakoff@fticonsulting.com](mailto:rebecca.tabakoff@fticonsulting.com)

Ilse Schache  
T + 61 (0)2 8298 6100  
M +61 (0)416 041 768  
E [ilse.schache@fticonsulting.com](mailto:ilse.schache@fticonsulting.com)

### Austar United Communications (AUSTAR)

[www.austarunited.com.au](http://www.austarunited.com.au)

AUSTAR (Australian Stock Exchange "AUN") is a leading provider of subscription television services in regional and rural Australia, with more than 750,000 customers enjoying satellite digital television services. AUSTAR is also a significant provider of programming in the Australian television market through its 50% owned joint venture, XYZnetworks, which owns and/or distributes Nickelodeon, Nick Jr, Discovery Channel, Channel [V], [V]Hits, MAX, Arena, The Lifestyle Channel, Lifestyle Food, LifeStyle You, Country Music Channel and The Weather Channel. Liberty Global, Inc., the largest international broadband cable operator in terms of subscribers, holds an indirect controlling stake in AUSTAR.

AUSTAR United Communications Limited  
(ACN 087 695 707)

**This is an important document and requires your immediate attention. You should read it in its entirety before deciding whether or not to vote in favour of the Scheme and the Resolutions.**

**If you are in any doubt about how to deal with this document, you should contact your broker or your financial, legal or other professional adviser immediately.**

**If you have any queries about the Transaction, the Scheme or the Shareholder Meetings, please call the AUSTAR Shareholder Information Line on 1300 706 158 (within Australia) or on +61 3 9946 4459 (outside Australia).**

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## SCHEME BOOKLET

This Scheme Booklet relates to the Transaction, including:

- 1 a scheme of arrangement between AUSTAR United Communications Limited and the Minority Shareholders which, if implemented, will result in the transfer of all the Scheme Shares to LGI Bidco Pty Limited, a wholly-owned Subsidiary of Liberty Global, Inc.; and
- 2 AUSTAR United Communications Limited incurring various obligations, granting security over its assets and taking certain other steps to facilitate implementation of the Transaction.

The Independent Directors unanimously recommend that you **vote in favour** of the Scheme and each of the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

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## IMPORTANT NOTICES

### This Scheme Booklet contains important information

This Scheme Booklet explains the terms of the Transaction, which comprises:

- (a) the proposed acquisition of all of the Scheme Shares by LGI Bidco, by way of a scheme of arrangement under Part 5.1 of the Corporations Act;
- (b) AUSTAR incurring certain obligations and granting security interests in relation to certain of its assets to FOXTEL Finco under the FOXTEL Funding Agreement and the AUSTAR Charge (or to LGI Bidco's alternative financiers under the Substitute Funding Agreement and any Substitute Security) after the Effective Date which constitutes:
  - 1 AUSTAR giving financial assistance to LGI Bidco and FOXTEL to acquire AUSTAR Shares, and to FOXTEL Bidco to acquire shares in Aus Bidco 1, a holding company of AUSTAR at the time of the acquisition, for the purposes of Part 2J.3 of the Corporations Act; and
  - 2 AUSTAR giving a financial benefit to certain related parties of AUSTAR, being LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco, and FOXTEL Bidco, for the purposes of Chapter 2E of the Corporations Act; and
- (c) AUSTAR changing its status from a public company limited by shares into a proprietary company limited by shares under section 162 of the Corporations Act after Implementation of the Scheme.

This Scheme Booklet also sets out the manner in which the Transaction will be considered and implemented (if certain Conditions Precedent, including approval by the requisite majorities of AUSTAR Shareholders and the Court, are satisfied or waived) and provides such information as is prescribed or is otherwise material to the decision of AUSTAR Shareholders whether or not to vote in favour of the Scheme and Resolutions. This Scheme Booklet constitutes an explanatory statement pursuant to section 412(1) of the Corporations Act in relation to the Scheme, section 260B(4) of the Corporations Act in relation to the giving of financial assistance by AUSTAR to LGI Bidco, and section 219(1) of the Corporations Act in relation to the giving of a financial benefit by AUSTAR to its related parties.

You should read this booklet in its entirety before making a decision as to how to vote at the Shareholder Meetings.

### Defined terms

A number of defined terms are used in this Scheme Booklet. These terms are capitalised and have their meanings set out in the Glossary in Section 13.

Some of the documents reproduced in the Annexures to this Scheme Booklet have their own defined terms, which are in some cases different from those in the Glossary.

All numbers are rounded unless otherwise indicated. The financial amounts in this Scheme Booklet are expressed in Australian currency unless otherwise stated. All times referred to in this Scheme Booklet are references to the time in Sydney, Australia, unless otherwise stated.

### Important notice associated with the Court order

The fact that under subsection 411(1) of the Corporations Act, the Court has ordered that a meeting be convened and has approved the explanatory statement required to accompany the Notice of Scheme Meeting does not mean that the Court:

- (a) has formed any view as to the merits of the proposed Scheme or as to how Minority Shareholders should vote (on this matter Minority Shareholders must reach their own decision); or
- (b) has prepared, or is responsible for the content of, this Scheme Booklet.

### ASIC and ASX involvement

A copy of this Scheme Booklet has been provided to ASIC for the purposes of sections 411(2)(b), 218(1) and 260B(5) of the Corporations Act. It has been registered by ASIC under section 412(6) of the Corporations Act. ASIC has been requested to provide a statement, in accordance with section 411(17)(b) of the Corporations Act, that ASIC has no objection to the Scheme. If ASIC provides that statement, it will be produced to the Court at the Second Court Hearing. Neither ASIC nor any of its officers takes any responsibility for the contents of this Scheme Booklet.

A copy of this Scheme Booklet has been lodged with the ASX. Neither the ASX nor any of its officers take any responsibility for the contents of this Scheme Booklet.

## **Responsibility for information**

AUSTAR has prepared, and is responsible for, the AUSTAR Information in this Scheme Booklet. AUSTAR is also responsible for any information contained in this Scheme Booklet obtained from AUSTAR's public filings on the ASX regarding the AUSTAR Group contained in, or used in the preparation of, the FOXTEL Information or the LGI Information, but only to the extent that those filings are accurately reflected in the FOXTEL Information or the LGI Information (as applicable). None of AUSTAR, its Subsidiaries or their respective directors, officers, employees and advisers are responsible for the accuracy or completeness of any other part of this Scheme Booklet. None of FOXTEL, the FOXTEL Partners, LGI, their respective Subsidiaries or their respective directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of the AUSTAR Information.

FOXTEL has prepared, and is responsible for, the FOXTEL Information in this Scheme Booklet. None of FOXTEL, the FOXTEL Partners, their respective Subsidiaries or their respective directors, officers, employees or advisers are responsible for the accuracy or completeness of any other part of this Scheme Booklet. None of AUSTAR, LGI, their respective Subsidiaries or their respective directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of the FOXTEL Information.

LGI has prepared, and is responsible for, the LGI Information in this Scheme Booklet. None of LGI, its Subsidiaries, or their respective directors, officers, employees and advisers are responsible for the accuracy or completeness of any other part of this Scheme Booklet. None of AUSTAR, FOXTEL, the FOXTEL Partners, their respective Subsidiaries or their respective directors, officers, employees or advisers assume any responsibility for the accuracy or completeness of the LGI Information.

The Independent Expert, Grant Samuel & Associates Pty Limited, has prepared, and is responsible for the Independent Expert's Report contained in Annexure A. None of AUSTAR, FOXTEL, the FOXTEL Partners, LGI, their respective Subsidiaries or their respective directors, officers, or advisers assume any responsibility for the accuracy or completeness of the information in the Independent Expert's Report, except in the case of AUSTAR, in relation to information given by it to the Independent Expert or its directors, officers or employees for the purposes of the Independent Expert preparing the Independent Expert's Report. The Independent Expert and its directors, officers and employees are not responsible for the accuracy or completeness of any other part of this Scheme Booklet.

PricewaterhouseCoopers has prepared the Tax Report on taxation implications of the Scheme contained in Section 10 and takes responsibility for the information in that report. PricewaterhouseCoopers and its directors, officers and employees are not responsible for the accuracy or completeness of any other part of this Scheme Booklet.

## **Bona fide Competing Transactions**

If a proposal for a Competing Transaction that the Independent Directors reasonably consider to be a bona fide proposal is publicly announced at any time between the date of this Scheme Booklet and the date of the Scheme Meeting, AUSTAR will ensure that AUSTAR Shareholders are provided with all information which is known to AUSTAR and which is material to consideration of the Scheme, including any material information concerning the Competing Transaction.

AUSTAR will also consult in a timely manner with ASIC in relation to the new information to be sent to AUSTAR Shareholders before the date scheduled for the Scheme Meeting. Where new information is sent to AUSTAR Shareholders, AUSTAR will take such steps as are reasonably required to adjourn the holding of the Scheme Meeting to allow Minority Shareholders at least 10 Business Days before the last date on which proxies can be lodged in relation to the Scheme Meeting to consider the new information.

## **Forward looking statements**

Some of the statements appearing in this Scheme Booklet (including in the Independent Expert's Report) may be in the nature of forward looking statements. All forward looking statements in this Scheme Booklet (including in the Independent Expert's Report) reflect views only as at the date of this Scheme Booklet, and generally may be identified by the use of forward looking words such as 'believe', 'aim', 'expect', 'anticipate', 'intending', 'foreseeing', 'likely', 'should', 'planned', 'may', 'project', 'will', 'estimate', 'potential', or other similar words. Similarly, statements that describe the objectives, plans, goals, intentions or expectations of AUSTAR, FOXTEL or LGI are or may be forward looking statements.

Although AUSTAR believes that there are reasonable grounds for making the statements, you should be aware that such statements are only predictions and are subject to inherent risks and uncertainties, both known and unknown, and assumptions. Those risks and uncertainties include factors and risks specific to the industries in which AUSTAR, FOXTEL and LGI operate, as well as general economic conditions, prevailing exchange rates and interest rates, the regulatory environment and conditions in the financial markets. Actual events or results may differ materially from the events or results expressed or implied in any forward looking statement.

None of AUSTAR, FOXTEL, the FOXTEL Partners, LGI, their respective Subsidiaries or their respective directors, officers, employees or advisers, any persons named in this Scheme Booklet with their consent, or any person involved in the preparation of this Scheme Booklet, makes any representation or warranty (express or implied) as to the likelihood of fulfilment of any forward looking statement, or any events or results expressed or implied in any forward looking statement, except to the extent required by law. You are cautioned not to place reliance on forward looking statements.

None of AUSTAR, FOXTEL, the FOXTEL Partners, LGI, their respective Subsidiaries or their respective directors, officers, employees or advisers, undertake any obligation to publicly update any forward looking statements, whether as a result of new information, future events or otherwise, except to the extent described under the heading 'Bona fide Competing Transactions' set out above or as otherwise required by law. However, any further statements made on related subjects in subsequent public disclosures or filings should be consulted.

### **Investment advice**

This Scheme Booklet and the recommendations contained in it should not be taken as, and do not constitute, personal financial advice as they do not take into account your individual objectives, financial and tax situation or particular needs. As such, your directors encourage you to seek independent financial and tax advice before making any investment decision and any decision as to whether or not to vote in favour of the Scheme or the Resolutions.

### **Foreign jurisdictions**

The release, publication or distribution of this Scheme Booklet in jurisdictions other than Australia may be restricted by law or regulation in such other jurisdictions and persons outside Australia who come into possession of this Scheme Booklet should seek advice on, and observe, any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable laws or regulations.

This Scheme Booklet has been prepared in accordance with Australian law and the information contained in this Scheme Booklet may not be the same as that which would have been disclosed if this Scheme Booklet had been prepared in accordance with the laws and regulations outside Australia.

### **Diagrams and websites**

Diagrams used in this Scheme Booklet are illustrative only and may not be drawn to scale.

AUSTAR, LGI and FOXTEL maintain internet websites. All references in this Scheme Booklet to those or other websites are for information purposes only and such websites do not form, and must not be construed as, part of this Scheme Booklet.

### **No offer**

This Scheme Booklet does not constitute or contain an offer to AUSTAR Shareholders, or a solicitation of an offer from AUSTAR Shareholders, in any jurisdiction.

### **Privacy**

AUSTAR and the AUSTAR Registry may collect personal information about you in connection with the Transaction. The personal information may include the names, contact details and details of shareholdings of AUSTAR Shareholders, together with the names and contact details of individuals appointed by AUSTAR Shareholders to act as proxies, attorneys or body corporate representatives to vote at a Shareholder Meeting. Such information will be collected for the purpose of conducting the Shareholder Meetings and implementing the Transaction. The information may be disclosed to the AUSTAR Registry, Subsidiaries of AUSTAR and officers, employees and advisers of AUSTAR or its Subsidiaries, print and mail service providers, authorised securities brokers, FOXTEL, the FOXTEL Partners, LGI and their respective Subsidiaries and officers, employees and advisers of FOXTEL, the FOXTEL Partners, LGI and their respective Subsidiaries, to the extent necessary in connection with the Shareholder Meetings and implementing the Transaction.

You may have certain rights to access personal information which is collected about you. You should contact the AUSTAR Share Registry in the first instance if you wish to exercise these rights.

AUSTAR Shareholders who appoint a named person as their proxy, attorney or body corporate representative to vote at a Shareholder Meeting should inform that person of the matters outlined above.

### **Date**

This Scheme Booklet is dated 8 December 2011.

## Letter from the Independent Directors of AUSTAR

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8 December 2011

Dear AUSTAR Shareholder,

On 11 July 2011, AUSTAR announced that it had entered into definitive transaction agreements with Liberty Global, Inc. and FOXTEL under which FOXTEL will acquire AUSTAR through a series of transactions including a scheme of arrangement.

If the Scheme is Implemented, Minority Shareholders will receive \$1.52 in cash per share. This cash consideration represents a significant premium to AUSTAR's average historical trading prices.

The cash payment of \$1.52 per share represents:

- a 20.2% premium to the closing price of \$1.265 on 25 May 2011, being the last trading day prior to AUSTAR's announcement that it had received a proposal from FOXTEL;
- a 21.5% premium to the one month volume weighted average share price of AUSTAR Shares to 25 May 2011;
- a 17.9% premium to the three month volume weighted average share price of AUSTAR Shares to 25 May 2011;
- a 54.3% premium to the closing price of \$0.985 on 17 February 2011, being the last trading day prior to publication in the media of speculation about the Transaction;
- a 55.8% premium to the one month volume weighted average share price of AUSTAR Shares to 17 February 2011; and
- a 56.8% premium to the three month volume weighted average share price of AUSTAR Shares to 17 February 2011.

As at 7 December 2011, the last trading day before the date of this Scheme Booklet, AUSTAR Shares closed at \$1.215.

The proposed acquisition of AUSTAR by FOXTEL will be accomplished through a series of transactions. The first will involve a new, wholly-owned Subsidiary of LGI acquiring all of the AUSTAR Shares that LGI Group Members do not already control through the proposed Scheme. Following Implementation of the Scheme and various restructure steps, FOXTEL will acquire the LGI Group's interest in AUSTAR for \$1.52 per AUSTAR Share under the FOXTEL Acquisition.

The Independent Expert, Grant Samuel & Associates Pty Limited, has assessed the value of AUSTAR Shares at between \$1.23 and \$1.40, and has concluded that the Scheme is in the best interests of AUSTAR Shareholders, in the absence of a superior proposal.

In addition, the Independent Expert has concluded that:

- the Scheme is in the best interests of Minority Shareholders, in the absence of a superior proposal; and
- the FOXTEL Acquisition is fair to Minority Shareholders.

The Independent Directors of AUSTAR unanimously recommend that Minority Shareholders vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

Minority Shareholders will be asked to approve the Scheme and related Resolutions at Shareholder Meetings which will be held at AGL Theatre, Museum of Sydney, 37 Phillip

Street, Sydney NSW 2000, on 17 February 2012, starting from 3:00pm. If you are unable to attend on this day, we encourage you to vote by completing your proxy form and returning it to the AUSTAR Registry or submitting a proxy form online at [www.austarunited.com.au](http://www.austarunited.com.au) so that it is received by 3:15pm on 15 February 2012.

AUSTAR will keep AUSTAR Shareholders informed of any material developments in relation to the Transaction through releases to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)).

If you have any questions in relation to the Transaction, please call the AUSTAR Shareholder Information Line on 1300 706 158 (within Australia) or on +61 3 9946 4459 (outside Australia) Monday to Friday between 9:00am and 5:00pm (Sydney time) or contact your legal, financial, taxation or other professional adviser.

Yours sincerely

Tim Downing

Roger Amos

Independent Directors

AUSTAR United Communications Limited

## Key dates

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Date of this Scheme Booklet	8 December 2011
Latest time and date for receipt of proxy forms or powers of attorney by the AUSTAR Registry for the Shareholder Meetings	3:15pm on 15 February 2012
Time and date for determining eligibility to vote at the Scheme Meeting and the General Meeting	7:00pm on 15 February 2012
Scheme Meeting (to be held at AGL Theatre, Museum of Sydney, 37 Phillip Street, Sydney NSW 2000)	3:00pm on 17 February 2012
General Meeting (to be held at AGL Theatre, Museum of Sydney, 37 Phillip Street, Sydney NSW 2000)	3:15pm on 17 February 2012 (or as soon after that time as the Scheme Meeting is concluded or adjourned)
<b>If the Scheme is approved at the Scheme Meeting and the Resolutions are passed at the General Meeting</b>	
Second Court Date (for approval of the Scheme)	21 February 2012
Effective Date	22 February 2012
Last day of trading in AUSTAR Shares on the ASX – AUSTAR Shares suspended from trading on the ASX from close of trading	22 February 2012
Record Date (for determining entitlements to Scheme Consideration)	7:00pm on 29 February 2012
Implementation Date – despatch of Scheme Consideration to Scheme Shareholders and transfer of Scheme Shares to LGI Bidco	2 March 2012
AUSTAR delists from the ASX	5 March 2012
Completion of the FOXTEL Acquisition – transfer of LGI's interests in AUSTAR to the FOXTEL Group	Expected to be 12 April 2012

All dates in the above timetable (other than the date of this Scheme Booklet) are indicative only and are subject to change. In particular, if the Shareholder Meetings are postponed (see Section 5), subsequent dates will be deferred. Any changes will be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au) and, while AUSTAR remains listed, announced to the ASX.

## Scheme highlights

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<b>Scheme Consideration</b>	If the Scheme is Implemented, Minority Shareholders will receive \$1.52 cash per AUSTAR Share held at the Record Date.
<b>Independent Directors' recommendation</b>	The Independent Directors of AUSTAR unanimously recommend that you vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.
<b>Independent Expert's conclusion</b>	<p>The Independent Expert has assessed the full underlying value of AUSTAR Shares at between \$1.23 and \$1.40. The Scheme Consideration of \$1.52 per AUSTAR Share exceeds the value range assessed by the Independent Expert. Accordingly, the Independent Expert considers the Scheme is fair and reasonable and therefore has concluded that it is in the best interests of AUSTAR Shareholders, in the absence of a superior proposal.</p> <p>In addition, the Independent Expert has concluded that:</p> <ul style="list-style-type: none"> <li>the Scheme is in the best interests of Minority Shareholders, in the absence of a superior proposal; and</li> <li>the FOXTEL Acquisition is fair to Minority Shareholders.</li> </ul>
<b>Significant premium to historical share prices</b>	<p>The cash payment of \$1.52 per AUSTAR Share represents:</p> <ul style="list-style-type: none"> <li>a 20.2% premium to the closing price of \$1.265 on 25 May 2011, being the last trading day prior to AUSTAR's announcement that it had received a proposal from FOXTEL;</li> <li>a 21.5% premium to the one month volume weighted average share price of AUSTAR Shares to 25 May 2011;</li> <li>a 17.9% premium to the three month volume weighted average share price of AUSTAR Shares to 25 May 2011;</li> <li>a 54.3% premium to the closing price of \$0.985 on 17 February 2011, being the last trading day prior to publication in the media of speculation about the Transaction;</li> <li>a 55.8% premium to the one month volume weighted average share price of AUSTAR Shares to 17 February 2011; and</li> <li>a 56.8% premium to the three month volume weighted average share price of AUSTAR Shares to 17 February 2011.</li> </ul>
<b>No Superior Proposal</b>	No Superior Proposal for AUSTAR has emerged since media speculation about the Transaction commenced on 18 February 2011, including following announcement of receipt of a proposal from FOXTEL and execution of definitive transaction documentation on 26 May 2011 and 11 July 2011, respectively.
<b>Value realisation</b>	The Scheme Consideration provides you with the opportunity of timely and certain value realisation.

**Possible fall in share price** If the Scheme does not proceed, and no Superior Proposal emerges, the market price of AUSTAR Shares on the ASX could fall significantly or persistently trade at prices below \$1.52 per share.

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**Reasons to vote against the Scheme**

You may disagree with the recommendation of the Independent Directors and the conclusion of the Independent Expert.

You will no longer participate in any potential upside that may result from remaining as an AUSTAR Shareholder.

You may consider that there is the potential for a Superior Proposal to be made to AUSTAR in the foreseeable future.

Based on your individual circumstances, there may be adverse tax consequences of transferring your AUSTAR Shares if the Scheme becomes Effective that outweigh the benefits of the Scheme.

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# 1 Frequently asked questions

This Section 1 answers some frequently asked questions about the Transaction. It is not intended to address all relevant issues for AUSTAR Shareholders and should be read together with all other parts of this Scheme Booklet.

Question	Answer	More information
<b>The Transaction</b>		
What is being proposed?	<p>AUSTAR proposes to implement the Transaction, being the acquisition of AUSTAR by the FOXTEL Group.</p> <p>If implemented, the Transaction will take place in two stages:</p> <ul style="list-style-type: none"> <li>• first, LGI Bidco will acquire all of the AUSTAR Shares held by Minority Shareholders (that is, AUSTAR Shareholders other than LGI Group Members) under the Scheme; and</li> <li>• second, following Implementation of the Scheme and various restructure steps, FOXTEL will acquire all of the LGI Group's interests in AUSTAR under the FOXTEL Acquisition.</li> </ul> <p>As part of the Transaction, after the Scheme has become Effective, AUSTAR will incur various obligations, grant security over its assets and take certain other steps to facilitate implementation of the Transaction.</p>	Sections 4 and 6.
What is the Scheme?	<p>The Scheme is a scheme of arrangement between AUSTAR and Minority Shareholders.</p> <p>If the Scheme becomes Effective, all of the AUSTAR Shares other than those held by, on behalf of, or for the benefit of, LGI Group Members will be acquired by LGI Bidco. AUSTAR will become wholly-owned by the LGI Group and will be delisted from the ASX.</p>	Sections 4.1, 4.2, 6.2 and the Scheme contained in Annexure E.
What is the FOXTEL Acquisition?	<p>Following Implementation of the Scheme and various restructure steps, FOXTEL will acquire all of the LGI Group's interests in AUSTAR.</p> <p>This second stage of the Transaction is expected to be completed 6 to 8 weeks after Implementation of the Scheme.</p>	Sections 4.1, 6.5 and 12.3.
What happens if the	If the Scheme is Implemented, Minority Shareholders will be paid the Scheme	Sections 6 and

Question	Answer	More information
Transaction proceeds?	<p>Consideration and all Scheme Shares will be transferred to LGI Bidco. AUSTAR Shareholders that are LGI Group Members will not receive the Scheme Consideration and will retain their AUSTAR Shares.</p> <p>After the Scheme becomes Effective, AUSTAR will incur certain obligations and grant security interests in respect of certain of its assets:</p> <ul style="list-style-type: none"> <li>• to FOXTEL Finco under the FOXTEL Funding Agreement and the AUSTAR Charge; or</li> <li>• (if LGI gives a Substitution Notice) to LGI Bidco's alternative financiers under the funding arrangements that substitute the FOXTEL Funding,</li> </ul> <p>among other things, to secure funding provided to LGI Bidco to pay the Scheme Consideration.</p> <p>Following Implementation of the Scheme, LGI Bidco will hold the Scheme Shares, AUSTAR will become wholly-owned by the LGI Group and will be removed from the official list of the ASX. The LGI Group will then implement certain restructuring steps under the Restructure and Sale Deed, including conversion of AUSTAR from a public company limited by shares into a proprietary company limited by shares.</p> <p>Finally, all of the LGI Group's interests in AUSTAR will be transferred to the FOXTEL Group. The FOXTEL Group will pay the LGI Group an amount equal to the Scheme Consideration (\$1.52) per AUSTAR Share for its interests in AUSTAR.</p>	12.3.

### The Scheme and the Scheme Consideration

What is a scheme of arrangement?	<p>A scheme of arrangement is a procedure under the Corporations Act that allows for the rights and obligations of some or all shareholders in a company to be rearranged pursuant to an agreement between the company and its shareholders (or a class or classes of shareholders). Schemes of arrangement are frequently used to implement control or merger transactions in Australia.</p> <p>In order to become binding, a scheme of arrangement must be approved by the Court and by shareholders (or classes of shareholders, depending on the terms of the proposed scheme of arrangement) in accordance with the requisite majorities specified in the Corporations Act.</p>	Sections 5.1 and 6.1.
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Question	Answer	More information
What will I receive if the Scheme becomes Effective?	<p>If the Scheme becomes Effective, Minority Shareholders will receive \$1.52 cash for each AUSTAR Share that they hold on the Record Date.</p> <p>Excluded Shareholders (that is, AUSTAR Shareholders who are LGI Group Members) will not participate in the Scheme, will not receive the Scheme Consideration and will retain their AUSTAR Shares after the Scheme is Implemented until Completion.</p> <p>The Scheme Consideration will be funded using the FOXTEL Funding, provided by FOXTEL Finco (or under alternative financing arrangements separately arranged by LGI, if it gives a Substitution Notice).</p>	Sections 2.2(c), 4.3 and 6.4.
When will the Scheme become Effective?	Subject to satisfaction or waiver of the Conditions Precedent, the Scheme is expected to become Effective on or around 22 February 2012 and be Implemented on the Implementation Date (currently expected to be 2 March 2012).	Section 6.2.
Who is entitled to participate in the Scheme?	Minority Shareholders as at the Record Date are entitled to participate in the Scheme and receive the Scheme Consideration.	Sections 4.3 and 6.2(b).
When will I receive the Scheme Consideration?	If the Scheme is Implemented, the Scheme Consideration will be despatched to Scheme Shareholders on the Implementation Date, which is expected to be 2 March 2012.	Sections 4.3 and 6.2.
Will I have to pay brokerage or stamp duty in respect of the Scheme Consideration?	No. Scheme Shareholders will not have to pay brokerage or stamp duty in relation to the Scheme Consideration. FOXTEL has agreed to ultimately pay any stamp duty in respect of the Scheme.	Clause 13.1 of the Implementation Deed contained in Annexure D and clause 6.2 of the Scheme Deeds Poll contained in Part A and Part B of Annexure F.
What are the tax consequences of the Scheme?	<p>The tax consequences of the Scheme for Scheme Shareholders, including those arising in connection with disposal of Scheme Shares to LGI Bidco under the Scheme, will differ depending upon the individual circumstances of each AUSTAR Shareholder.</p> <p>The Tax Report in Section 10 provides a</p>	Section 10.

Question	Answer	More information
	<p>general summary of the key Australian tax implications arising for certain individual Scheme Shareholders as a result of the Scheme. You should seek your own independent taxation advice regarding your participation in the Scheme in light of current tax laws as they apply to you and your particular circumstances.</p>	
<p>What arrangements have been put in place relating to funding of the Scheme Consideration?</p>	<p>LGI Bidco will fund the Scheme Consideration either using a loan from FOXTEL Finco or, if LGI gives a Substitution Notice, using alternative financing arrangements.</p> <p>Before the Scheme Meeting, LGI Bidco, LGI, FOXTEL Finco and FOXTEL Management (or, if LGI gives a Substitution Notice, only LGI Bidco and LGI) will each enter into the appropriate Scheme Deed Poll in favour of the Scheme Shareholders, in which they undertake to discharge their respective obligations with respect to the payment of the Scheme Consideration.</p>	<p>Sections 6.4, 12.5, 12.7, 12.8 and the Scheme Deeds Poll contained in Part A and Part B of Annexure F.</p>
<p>Are there any conditions to be satisfied in order for the Scheme to be implemented?</p>	<p>There are a number of Conditions Precedent that remain to be satisfied or waived before the Scheme can become Effective.</p> <p>For the Scheme to proceed:</p> <ol style="list-style-type: none"> <li>1 Minority Shareholders must approve the Scheme at the Scheme Meeting by the requisite majorities;</li> <li>2 AUSTAR Shareholders must approve the Resolutions at the General Meeting by the requisite majorities;</li> <li>3 the Court must approve the Scheme in accordance with section 411(4)(b) of the Corporations Act;</li> <li>4 Australian competition law approval must be received with respect to the Transaction;</li> <li>5 Australian foreign investment approval must be received by the required parties with respect to the Transaction;</li> <li>6 the private letter ruling from the IRS, received by LGI, relating to the United States federal income tax treatment of the Transaction must not be withdrawn, invalidated or modified in an adverse manner, and any representation, qualification or assumption made in obtaining that ruling must not cease to apply;</li> <li>7 there must be no restraint or other prohibition imposed on the Transaction by</li> </ol>	<p>Sections 4.4, 12.1(a), 12.13 and clause 3.1 of the Implementation Deed contained in Annexure D.</p>

Question	Answer	More information
	<p>any court or Government Agency;</p> <p>8 no AUSTAR Prescribed Occurrence or AUSTAR Material Adverse Change may have occurred; and</p> <p>9 the Independent Expert must not have withdrawn or adversely varied its conclusion that the Scheme is in the best interests of Minority Shareholders.</p> <p>Certain of these Conditions Precedent may be waived by one or more of the parties to the Implementation Deed.</p> <p>If one or more of these Conditions Precedent are satisfied or waived before the Shareholder Meetings, or if changes are required to the timetable in connection with the Conditions Precedent, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at <a href="http://www.austarunited.com.au">www.austarunited.com.au</a>).</p>	
<p>What happens if the Conditions Precedent are not satisfied or waived?</p>	<p>If one or more of the Conditions Precedent is not satisfied, the Transaction will not be implemented unless the Condition Precedent may be waived, and the relevant party or parties to the Implementation Deed agree to waive it. This is the case even if the Scheme is approved by Minority Shareholders at the Scheme Meeting.</p>	<p>Sections 4.6, 12.1 and Annexure D which contains the Implementation Deed.</p>
<p>What happens if the Transaction does not proceed?</p>	<p>If the Transaction does not proceed, Minority Shareholders will not receive the Scheme Consideration but will retain their AUSTAR Shares and the parties will not implement the other Transaction steps. AUSTAR will continue to operate as a stand alone company listed on the ASX.</p> <p>Certain transaction costs incurred by AUSTAR, totalling approximately \$5 million, will be payable. Additionally, depending on the reasons for the Scheme not proceeding, a Reimbursement Fee (of approximately \$19.3 million) may be payable to FOXTEL Management.</p>	<p>Sections 4.6, 12.1 and Annexure D which contains the Implementation Deed.</p>
<p>Do I give any warranties under the Scheme?</p>	<p>Yes. If the Scheme becomes Effective, all Minority Shareholders are deemed by the terms of the Scheme to have warranted to LGI Bidco and AUSTAR that:</p> <ul style="list-style-type: none"> <li>all of their AUSTAR Shares which are to be transferred to LGI Bidco (including any rights and entitlements attaching to those shares) under the Scheme will, at the date</li> </ul>	<p>Section 6.3 and Annexure E which contains the Scheme.</p>

Question	Answer	More information
	<p>of that transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests of third parties of any kind (whether legal or otherwise) and restrictions on transfer of any kind; and</p> <ul style="list-style-type: none"> <li>• they have full power and capacity to sell and to transfer their AUSTAR Shares to LGI Bidco together with any rights and entitlements attaching to those shares.</li> </ul> <p>Please see the warranty in clauses 8.2(b) and (c) of the Scheme in Annexure E, which Scheme Shareholders will be deemed to have given if the Scheme becomes Effective.</p>	
<b>Recommendations</b>		
<p>What are Minority Shareholders being asked to vote on at the Scheme Meeting?</p>	<p>Minority Shareholders are being asked to vote on whether the Scheme should be approved.</p>	<p>Section 5.1 and the Notice of Scheme Meeting contained in Annexure G.</p>
<p>What are AUSTAR Shareholders being asked to vote on at the General Meeting?</p>	<p>AUSTAR Shareholders who are eligible to vote on the relevant Resolutions are being asked to vote on whether the Resolutions should be approved. The Resolutions relate to the financial assistance and related party benefits that it is proposed AUSTAR give after the Effective Date to facilitate the Transaction, as well as approving AUSTAR becoming a proprietary company limited by shares after Implementation of the Scheme.</p>	<p>Sections 5.2, 5.4, 5.5, 5.6 and the Notice of General Meeting contained in Annexure H.</p>
<p>Who are the Independent Directors?</p>	<p>AUSTAR's two Independent Directors as at the date of this Scheme Booklet are Mr Timothy D Downing and Mr Roger M Amos. The Independent Directors have no affiliation with either LGI or FOXTEL.</p> <p>The remaining AUSTAR Directors are either associated with LGI or are executives of AUSTAR.</p>	<p>Section 7.2.</p>
<p>What do the Independent Directors recommend?</p>	<p>The Independent Directors unanimously recommend that you vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.</p>	<p>Section 3.</p>

Question	Answer	More information
How do the Independent Directors propose to vote their AUSTAR Shares?	<p>Each of the Independent Directors intends to vote in favour of the Scheme and (except to the extent he is restricted from doing so by the Corporations Act) the Resolutions in relation to the AUSTAR Shares:</p> <ul style="list-style-type: none"> <li>• held by him or on his behalf; or</li> <li>• listed as an indirect interest in an Appendix 3X or 3Y lodged by AUSTAR for him and in respect of which interest he controls (directly or indirectly) the exercise of voting rights attaching to the relevant AUSTAR Shares,</li> </ul> <p>at the time of the relevant Shareholder Meeting, in the absence of a Superior Proposal and subject to the Independent Expert not withdrawing or adversely varying its conclusion that the Scheme is in the best interests of Minority Shareholders.</p>	Section 3.2.
Why have only some of the AUSTAR Directors provided a recommendation?	<p>Only the Independent Directors have provided a recommendation in relation to the Scheme.</p> <p>The remaining AUSTAR Directors are either associated with LGI or are executives of AUSTAR, and have not provided a recommendation for that reason.</p>	Section 3.3.
How do the other AUSTAR Directors propose to vote their AUSTAR Shares?	<p>Mr John C Porter and Mr John W Dick are the only other AUSTAR Directors who hold AUSTAR Shares. Both of them intend to vote in favour of the Scheme and (except to the extent they are restricted from doing so by the Corporations Act) the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.</p>	Section 3.4.
Is it likely that a Superior Proposal will emerge?	<p>No Superior Proposal has been received by AUSTAR, despite media speculation about the Transaction since 18 February 2011 and AUSTAR's announcement of its receipt of a proposal from FOXTEL and execution of definitive transaction documentation on 26 May 2011 and 11 July 2011, respectively.</p> <p>The Independent Directors consider the emergence of any Superior Proposal from the date of this Scheme Booklet until the Implementation Date to be unlikely in light of LGI's majority ownership of AUSTAR.</p> <p>Since 18 February 2011, no AUSTAR Director has received any approaches which would cause him to believe that a Superior Proposal is</p>	Section 2.2(d).

Question	Answer	More information
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likely to emerge.

What will happen if a Superior Proposal emerges?

If a Superior Proposal is received (or a proposal for a Competing Transaction that may become a Superior Proposal), this will be announced to the ASX to the extent required by AUSTAR's continuous disclosure obligations and the Independent Directors will carefully consider the proposal or transaction and advise you of their recommendation.

If a Superior Proposal or other proposal for a Competing Transaction that the Independent Directors reasonably consider to be a bona fide proposal is publicly announced at any time between the date of this Scheme Booklet and the date of the Scheme Meeting, AUSTAR will ensure that AUSTAR Shareholders are provided with all information which is known to AUSTAR and which is material to consideration of the Scheme, including any material information concerning the Competing Transaction.

AUSTAR will also consult in a timely manner with ASIC in relation to the new information to be sent to AUSTAR Shareholders before the date scheduled for the Scheme Meeting. Where new information is sent to AUSTAR Shareholders, AUSTAR will take such steps as are reasonably required to adjourn the holding of the Scheme Meeting to allow Minority Shareholders at least 10 Business Days before the last date on which proxies can be lodged in relation to the Scheme Meeting to consider the new information.

## Shareholder Meetings and approvals

What votes are required to approve the Scheme at the Scheme Meeting?

The Scheme must be approved by:

- a majority in number (more than 50%) of Minority Shareholders present and voting at the Scheme Meeting (either in person or by proxy) unless the Court orders otherwise; and
- at least 75% of the total number of votes cast at the Scheme Meeting (either in person or by proxy) by Minority Shareholders.

LGI Group Members will not vote at the Scheme Meeting.

Even if the Scheme is approved at the Scheme Meeting, the Scheme is still subject to other outstanding conditions and the approval of the

Sections 5.1 and 6.1.

Question	Answer	More information
	Court at the Second Court Hearing.	
<p>Why is a General Meeting being held?</p>	<p>The Scheme is part of the overall Transaction by which FOXTEL acquires AUSTAR.</p> <p>So that other parts of the Transaction can be implemented, as well as approving the Scheme, AUSTAR Shareholders need to pass:</p> <ol style="list-style-type: none"> <li>1 the Financial Assistance Resolution, approving the giving of financial assistance by AUSTAR;</li> <li>2 the Related Party Resolution, approving the giving of financial benefits to certain related parties of AUSTAR; and</li> <li>3 the Status Resolution, approving the change in status of AUSTAR from a public company limited by shares into a proprietary company limited by shares.</li> </ol> <p>These resolutions need to be passed regardless of whether or not LGI chooses to utilise the FOXTEL Funding to fund the Scheme Consideration. In either case, by incurring certain obligations and granting security interests in relation to certain of its assets to FOXTEL Finco under the FOXTEL Funding Agreement and the AUSTAR Charge after the Effective Date (or, if LGI gives a Substitution Notice, to LGI Bidco's alternative financiers under the funding arrangements that substitute the FOXTEL Funding after the Effective Date), AUSTAR will be:</p> <ul style="list-style-type: none"> <li>• giving financial assistance to LGI Bidco and FOXTEL to acquire AUSTAR Shares, and to FOXTEL Bidco to acquire shares in Aus Bidco 1, a holding company of AUSTAR at the time of the acquisition; and</li> <li>• giving a financial benefit to certain related parties of AUSTAR, being LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco and FOXTEL Bidco,</li> </ul> <p>each of which is only permitted by the Corporations Act if it is approved by AUSTAR Shareholders.</p> <p>In addition, as part of the Transaction Steps under the Restructure and Sale Deed, AUSTAR will need to change into a proprietary company limited by shares after the Scheme is Implemented, which under the Corporations Act also requires the approval of AUSTAR Shareholders.</p>	<p>Sections 5.2 and 5.4 - 5.6.</p>
<p>What votes are required at the General Meeting to</p>	<p>In order to be passed, the Resolutions must be approved by:</p>	<p>Sections 5.2 and 5.4 - 5.6.</p>

Question	Answer	More information
approve the Resolutions?	<ul style="list-style-type: none"> <li>• in the case of the Financial Assistance Resolution, a special resolution (75% or more) of the votes cast by AUSTAR Shareholders present and voting at the General Meeting (either in person or by proxy), with no votes being cast in favour of the resolution by the financially assisted parties or by their Associates (including LGI Group Members);</li> <li>• in the case of the Related Party Resolution, an ordinary resolution (more than 50%) of the votes cast by AUSTAR Shareholders present and voting at the General Meeting (either in person or by proxy) excluding the relevant related parties and their Associates (including LGI Group Members); and</li> <li>• in the case of the Status Resolution, a special resolution (75% or more) of the votes cast by AUSTAR Shareholders present and voting at the General Meeting (either in person or by proxy). LGI Group Members are entitled to vote on this resolution.</li> </ul>	
When and where will the Scheme Meeting and General Meeting be held?	<p>The Scheme Meeting and General Meeting will be held on 17 February 2012 at AGL Theatre, Museum of Sydney, 37 Phillip Street, Sydney NSW 2000.</p> <p>The Scheme Meeting will commence at 3:00pm (Sydney time) and the General Meeting will commence at 3:15pm (Sydney time) or as soon after that time as the Scheme Meeting is concluded or adjourned.</p> <p>AUSTAR will notify you if, for any reason, the Shareholder Meetings are postponed.</p>	Sections 5 and 12.1(a).
Am I entitled to vote at the Scheme Meeting and General Meeting?	<p>If you are registered as an AUSTAR Shareholder (except if you are an Excluded Shareholder) on the Register as at 7:00pm (Sydney time) on 15 February 2012, you will be entitled to vote at the Scheme Meeting, and at the General Meeting (unless the Corporations Act provides that you cannot vote or cannot cast a vote in a particular fashion).</p> <p>Under the Corporations Act:</p> <ul style="list-style-type: none"> <li>• LGI Bidco, FOXTEL and FOXTEL Bidco and their Associates may not cast any votes in favour of the Financial Assistance Resolution; and</li> <li>• LGI, LGI Bidco, UGC Australia, FOXTEL, FOXTEL Finco and FOXTEL Bidco and their Associates may not vote on the Related Party Resolution.</li> </ul>	Sections 5.1(c), 5.2, 5.4 and 5.5.

Question	Answer	More information
	All AUSTAR Shareholders will be entitled to vote on the Status Resolution.	
Should I vote?	Voting is not compulsory. However, the Independent Directors encourage all Minority Shareholders to vote at the Scheme Meeting and all AUSTAR Shareholders who are entitled to vote at the General Meeting to do so.	
How can I vote if I can't attend the Scheme Meeting or General Meeting?	<p>If you would like to vote but cannot attend the Scheme Meeting or General Meeting in person, you should appoint:</p> <ul style="list-style-type: none"> <li>• a proxy to vote on your behalf by either: <ul style="list-style-type: none"> <li>– completing, signing and returning the proxy form sent to you with this Scheme Booklet; or</li> <li>– submitting a proxy form online at <a href="http://www.austarunited.com.au">www.austarunited.com.au</a> by 3:15pm (Sydney time) on 15 February 2012; or</li> </ul> </li> <li>• an attorney to vote on your behalf by sending your power of attorney (or a certified copy of it) to the AUSTAR Registry by 3:15pm (Sydney time) on 15 February 2012 or lodging it at the registration desk before the Scheme Meeting or General Meeting (as applicable).</li> </ul>	Section 5.3, the Notice of Scheme Meeting contained in Annexure G and the Notice of General Meeting contained in Annexure H.
Is LGI entitled to vote?	<p>LGI Group Members are excluded from voting at the Scheme Meeting. No AUSTAR Shares held by, or on behalf of, or for the benefit of, any LGI Group Member may be voted at the Scheme Meeting.</p> <p>Under the Corporations Act:</p> <ul style="list-style-type: none"> <li>• LGI Bidco, and its Associates (including each other LGI Group Member) may not cast any votes in favour of the Financial Assistance Resolution at the General Meeting; and</li> <li>• LGI, LGI Bidco, UGC Australia and their Associates (including each other LGI Group Member) may not vote on the Related Party Resolution at the General Meeting.</li> </ul> <p>LGI Group Members will be entitled to vote any AUSTAR Shares that they hold in relation to the Status Resolution.</p>	Sections 5.1, 5.4 - 5.6 and 8.4.
Will FOXTEL vote?	No. The FOXTEL Group does not hold any AUSTAR Shares and under ASIC's joint bid	Sections 5.4 - 5.6, 9.8 and

Question	Answer	More information
	<p>relief, FOXTEL and the FOXTEL Partners are prohibited from voting at the Scheme Meeting.</p> <p>Also, under the Corporations Act:</p> <ul style="list-style-type: none"> <li>• FOXTEL and FOXTEL Bidco and their Associates may not cast any votes in favour of the Financial Assistance Resolution at the General Meeting; and</li> <li>• FOXTEL, FOXTEL Finco and FOXTEL Bidco and their Associates may not vote on the Related Party Resolution at the General Meeting.</li> </ul>	12.16.
<p>When will the results of the Shareholder Meetings be known?</p>	<p>The results of the Scheme Meeting and General Meeting are expected to be available shortly after the conclusion of the meetings and will be announced to the ASX once available.</p> <p>Even if the resolution to approve the Scheme is passed by the requisite majorities at the Scheme Meeting, the Scheme will remain subject to the satisfaction or waiver of outstanding Conditions Precedent (including approval by the Court).</p>	
<p>What happens to my AUSTAR Shares if I do not vote, or if I vote against the Scheme, and the Scheme is approved?</p>	<p>If the Scheme is approved and becomes Effective, all Scheme Shares held by Minority Shareholders will be transferred to LGI Bidco and you will receive the Scheme Consideration, even if you did not vote at the Scheme Meeting, or if you voted against the Scheme.</p>	Section 4.7.
<p>What happens if the Scheme is not approved at the Scheme Meeting or if any one or more of the Resolutions is not approved at the General Meeting?</p>	<p>If the Scheme is not approved at the Scheme Meeting, the Transaction (including the Scheme) will not proceed.</p> <p>Similarly, if one or more of the Resolutions is not approved at the General Meeting, the Transaction (including the Scheme) will not proceed, unless the parties to the Implementation Deed agree to waive the corresponding Condition Precedent. This is the case even if the Scheme is approved at the Scheme Meeting.</p>	Sections 4.6 and 5.2.
<p><b>Other questions</b></p>		
<p>Who is LGI?</p>	<p>LGI is a Delaware US incorporated company, listed on the NASDAQ. It is a leading international cable operator providing video, broadband internet and telephony services.</p> <p>Through its Subsidiaries, LGI holds 54.15% of</p>	Section 8.

Question	Answer	More information
	AUSTAR Shares.	
What are the risks associated with an investment in AUSTAR if the Scheme does not become Effective?	<p>The risks associated with an investment in AUSTAR if the Scheme does not become Effective include existing risks relating to AUSTAR's business and an investment in AUSTAR.</p> <p>In addition, there is a risk that the AUSTAR Share price may fall significantly, or AUSTAR Shares may persistently trade at prices below \$1.52 per AUSTAR Share.</p>	Sections 2.2(g) and 7.10.
Can I sell my AUSTAR Shares now?	You can sell your AUSTAR Shares on the ASX at any time before close of trading on the Effective Date (currently expected to be 22 February 2012).	Section 4.7.
What arrangements are in place between LGI and FOXTEL in relation to, or conditional on, the Scheme?	<p>LGI (and other LGI Group Members, including LGI Bidco) have entered into a number of agreements with FOXTEL to implement the Transaction, which relate to, or are conditional on, the Scheme.</p> <p>These include the Implementation Deed, a copy of which is included in this Scheme Booklet, the FOXTEL Funding Agreement and the Restructure and Sale Deed, each of which is summarised in Section 12. In addition, if a Substitution Notice is not given, they will enter into the Scheme Deed Poll in the form set out in Part A of Annexure F. Each of these agreements relates to, or is conditional on, the Scheme, and each will terminate or be terminated if the Scheme does not proceed.</p>	Sections 12.1 - 12.9 and Annexure D which contains the Implementation Deed.
What should I do?	You should read this Scheme Booklet carefully in its entirety. If you decide to vote on the Scheme, the Resolutions or both, you may vote by attending the relevant Shareholder Meeting or by appointing a proxy to vote on your behalf.	Sections 4.7 and 5.3.
Where can I get further information?	<p>For further information, you can call the AUSTAR Shareholder Information Line on 1300 706 158 (within Australia) or on +61 3 9946 4459 (outside Australia).</p> <p>If you are in any doubt about anything in this Scheme Booklet, please contact your broker or your financial, legal, tax or other professional adviser.</p>	

## 2 Key reasons to vote in favour of or against the Scheme

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### 2.1 Summary

#### (a) Reasons to vote in favour of the Scheme

- The Independent Directors of AUSTAR unanimously recommend that Minority Shareholders vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.
- The Independent Expert has concluded that the Scheme is in the best interests of AUSTAR Shareholders, in the absence of a superior proposal.
- \$1.52 cash per AUSTAR Share represents a significant premium to the historical AUSTAR Share price.
- No Superior Proposal has emerged as at the date of this Scheme Booklet.
- The Scheme Consideration provides Minority Shareholders the opportunity of timely and certain value realisation.
- You will not incur any brokerage or stamp duty in connection with the Scheme.
- If the Scheme does not proceed, and no Superior Proposal emerges, the market price of AUSTAR Shares on the ASX could fall significantly or persistently trade at prices below \$1.52 per AUSTAR Share.

#### (b) Reasons to vote against the Scheme

- You may disagree with the recommendation of the Independent Directors and the conclusion of the Independent Expert.
- You will no longer participate in any potential upside that may result from remaining as an AUSTAR Shareholder.
- You may consider that there is the potential for a Superior Proposal to be made to AUSTAR in the foreseeable future.
- Based on your individual circumstances, there may be adverse tax consequences of transferring your AUSTAR Shares if the Scheme becomes Effective that outweigh the benefits of the Scheme.

### 2.2 Reasons to vote in favour of the Scheme

#### (a) The Independent Directors of AUSTAR unanimously recommend it

Your Independent Directors consider that the expected advantages of the Transaction outweigh its potential disadvantages and unanimously recommend that Minority Shareholders vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

#### (b) The Independent Expert has concluded that the Scheme is in the best interests of AUSTAR Shareholders

The Independent Expert has assessed the full underlying value of AUSTAR Shares at between \$1.23 and \$1.40. The Scheme Consideration exceeds the range assessed by the Independent Expert. Accordingly, the Independent Expert considers the Scheme is fair and reasonable and therefore has

concluded that it is in the best interests of AUSTAR Shareholders, in the absence of a superior proposal.

The Independent Expert has also concluded that the Scheme is in the best interests of Minority Shareholders, in the absence of a superior proposal.

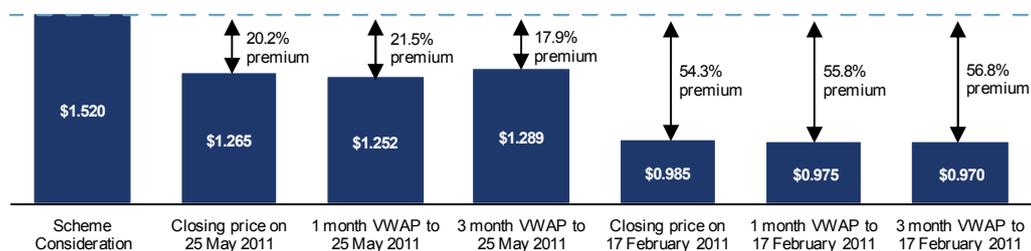
The Independent Expert's Report is included in Annexure A. You should read the Independent Expert's Report in its entirety as part of your assessment of the Scheme before casting your vote in relation to the Scheme.

(c) **\$1.52 cash per AUSTAR Share represents a significant premium**

The cash payment of \$1.52 per AUSTAR Share represents:

- a 20.2% premium to the closing price of \$1.265 on 25 May 2011, being the last trading day prior to AUSTAR's announcement that it had received a proposal from FOXTEL;
- a 21.5% premium to the one month volume weighted average share price of AUSTAR Shares to 25 May 2011;
- a 17.9% premium to the three month volume weighted average share price of AUSTAR Shares to 25 May 2011;
- a 54.3% premium to the closing price of \$0.985 on 17 February 2011, being the last trading day prior to publication in the media of speculation about the Transaction;
- a 55.8% premium to the one month volume weighted average share price of AUSTAR Shares to 17 February 2011; and
- a 56.8% premium to the three month volume weighted average share price of AUSTAR Shares to 17 February 2011.

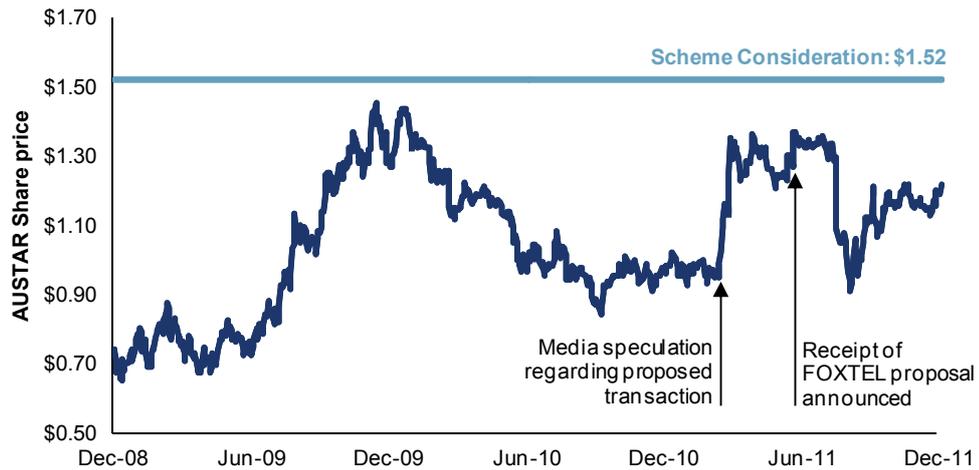
**Figure 1 – Premium over historical share prices**



**Figure 2 – The share price performance of AUSTAR over the last three years**

The price of AUSTAR Shares closed at \$0.985 on 17 February 2011, being the last trading day prior to publication in the media of speculation about a proposed transaction, and at \$1.265 on 25 May 2011, being the last trading day prior to AUSTAR's announcement that it had received a proposal from FOXTEL. As at 7 December 2011, the last trading day before the date of this Scheme Booklet, AUSTAR Shares closed at \$1.215.

The chart below shows the price performance of AUSTAR Shares over the last three years to 7 December 2011.



Accordingly, the Scheme Consideration payable if the Scheme becomes Effective provides an opportunity for Minority Shareholders to realise their investment in AUSTAR at a premium to the pre-announcement AUSTAR Share price, and a significant premium to the price which AUSTAR Shares traded before media speculation about the proposed transaction.

**(d) No Superior Proposal has emerged as at the date of this Scheme Booklet**

The Independent Directors' recommendation that Minority Shareholders vote in favour of the Scheme and the Resolutions is made in the absence of a Superior Proposal.

No Superior Proposal has been received by AUSTAR, despite media speculation about the Transaction since 18 February 2011 and AUSTAR's announcement of its receipt of a proposal from FOXTEL and execution of definitive transaction documentation on 26 May 2011 and 11 July 2011, respectively.

The Independent Directors consider the emergence of any Superior Proposal from the date of this Scheme Booklet until the Implementation Date to be unlikely in light of LGI's majority ownership of AUSTAR.

Since 18 February 2011, no AUSTAR Director has received any approaches which would cause him to believe that a Superior Proposal is likely to emerge.

**(e) The Scheme provides Minority Shareholders the opportunity of timely and certain value realisation**

If the Scheme becomes Effective, Minority Shareholders will receive, for each AUSTAR Share held at the Record Date, \$1.52 in cash.

In the absence of the Scheme, the amount, in terms of price, which AUSTAR Shareholders will be able to realise from their investment in AUSTAR Shares would be uncertain, and not only subject to the risk factors set out in Section 7.10, but also to the vagaries of the share market.

If the Scheme becomes Effective, Minority Shareholders will not be exposed to these uncertainties, and will be provided with a higher degree of certainty of value and timing, in relation to their investment in AUSTAR.

**(f) No brokerage or stamp duty**

Minority Shareholders will not incur any brokerage or stamp duty in connection with the Scheme.

**(g) If the Scheme does not proceed, and no Superior Proposal emerges, the price of AUSTAR Shares may fall**

If the Scheme does not proceed, and no Superior Proposal emerges, the market price of AUSTAR Shares on the ASX could fall significantly or AUSTAR Shares could persistently trade at prices below \$1.52 per share.

## 2.3 Potential reasons to vote against the Scheme

### (a) You may disagree with the Independent Directors and Independent Expert

You may disagree with:

- your Independent Directors' recommendation that you vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders; or
- the Independent Expert's conclusion that the Scheme is in the best interests of AUSTAR Shareholders, in the absence of a superior proposal.

### (b) You will no longer participate in any potential upside that may result from remaining as an AUSTAR Shareholder

If the Scheme becomes Effective, you will cease to be an AUSTAR Shareholder. You will no longer participate in any potential future upside of AUSTAR through any dividends that it might declare or any appreciation of the price of AUSTAR Shares.

Potential future benefits associated with being an AUSTAR Shareholder will accrue exclusively to the FOXTEL Group as the owner of AUSTAR, after the Transaction is completed.

### (c) You may consider that there is the potential for a Superior Proposal to be made to AUSTAR

You may believe that there is a possibility that a Superior Proposal could emerge in the foreseeable future, although no Superior Proposal has been received by AUSTAR, despite media speculation about the Transaction since 18 February 2011 and AUSTAR's announcement of its receipt of a proposal from FOXTEL and execution of definitive transaction documentation on 26 May 2011 and 11 July 2011, respectively.

### (d) Based on your individual circumstances, there may be adverse tax consequences of transferring your AUSTAR Shares if the Scheme becomes Effective that outweigh the benefits of the Scheme

If the Scheme becomes Effective, it may result in tax consequences for AUSTAR Shareholders, including, for example, a CGT liability upon the disposal of AUSTAR Shares, which may arise earlier than would otherwise have been the case.

Section 10 contains a summary of certain Australian tax consequences of the Scheme for Minority Shareholders.

## 3 Directors' recommendation

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### 3.1 Independent Directors' recommendation

The Independent Directors of AUSTAR unanimously recommend that Minority Shareholders vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

The Independent Directors believe that the reasons for Minority Shareholders to vote in favour of the Scheme and the Resolutions outweigh the reasons to vote against the Scheme and the Resolutions. These reasons and other relevant considerations for Minority Shareholders are set out in Section 2.

In considering whether to vote in favour of the Scheme and the Resolutions, the Independent Directors encourage you to:

- carefully read the whole of this Scheme Booklet (including the Independent Expert's Report);
- consider the choices available to you as outlined in Section 4.7;
- have regard to your individual risk profile, portfolio strategy, tax position and financial circumstances; and
- obtain independent, professional financial and tax advice on the effect of the Scheme becoming Effective.

### 3.2 Voting intentions of Independent Directors

Each of the Independent Directors intends to vote in favour of the Scheme and (except to the extent he is restricted from doing so by the Corporations Act) the Resolutions in relation to the AUSTAR Shares:

- held by him or on his behalf; or
- listed as an indirect interest in an Appendix 3X or 3Y lodged by AUSTAR for him and in respect of which interest he controls (directly or indirectly) the exercise of voting rights attaching to the relevant AUSTAR Shares,

at the time of the relevant Shareholder Meeting, in the absence of a Superior Proposal and subject to the Independent Expert not withdrawing or adversely varying its conclusion that the Scheme is in the best interests of Minority Shareholders.

The Corporations Act contains certain restrictions on voting by the Independent Directors in relation to the Financial Assistance Resolution and the Related Party Resolution. These restrictions are explained in Sections 5.4(d) and 5.5(d).

Details of the interest of each AUSTAR Director in AUSTAR Shares are set out in Section 11.1.

### 3.3 No recommendation from other AUSTAR directors

Each of Messrs Michael T Fries, John C Porter, John W Dick, Balan Nair and Bernard Dvorak does not make any recommendation to Minority Shareholders in respect of the approval of the Scheme or the Resolutions, or otherwise in connection with the Transaction. Each of them does not consider it appropriate for him to do so, for the following reasons:

- each of Messrs Michael T Fries, John W Dick, Balan Nair and Bernard Dvorak is a director or an executive of LGI and/or other LGI Group Members. LGI Bidco (the proposed acquirer of the Scheme Shares under the Scheme) is a wholly-owned Subsidiary of LGI and an LGI Group Member; and
- Mr John C Porter is an executive of AUSTAR, which is controlled by LGI.

### 3.4 Voting intentions of other AUSTAR directors

Each of Messrs John C Porter and John W Dick holds AUSTAR Shares and intends to vote in favour of the Scheme and the Resolutions (except to the extent he is restricted from doing so by the Corporations Act) in relation to the AUSTAR Shares:

- held by him or on his behalf; or
- listed as an indirect interest in an Appendix 3X or 3Y lodged by AUSTAR for him and in respect of which interest he controls (directly or indirectly) the exercise of voting rights attaching to the relevant AUSTAR Shares,

at the time of the relevant Shareholder Meeting, in the absence of a Superior Proposal and subject to the Independent Expert not withdrawing or adversely varying its conclusion that the Scheme is in the best interests of Minority Shareholders.

The Corporations Act contains certain restrictions on voting by the AUSTAR Directors in relation to the Financial Assistance Resolution and the Related Party Resolution. These restrictions are explained in Sections 5.4(d) and 5.5(d).

Messrs Fries, Nair and Dvorak do not hold any AUSTAR Shares directly or indirectly, and therefore none of them makes any statement as to his personal voting intentions.

Details of the interest of each AUSTAR Director in AUSTAR Shares are set out in Section 11.1.

### 3.5 Management of potential conflicts of interest in relation to the Transaction

The AUSTAR Board recognised the potential for conflicts of interest to arise in relation to the Transaction for AUSTAR Directors who are also directors or executives of LGI Group Members, or who are executives of AUSTAR.

Accordingly, the Transaction was evaluated by the Independent Directors without the participation of other AUSTAR Directors. The Independent Directors had access to independent financial and legal advisers to assist them with their evaluation.

## 4 Overview of the Transaction and the Scheme

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### 4.1 Background

On 26 May 2011, AUSTAR announced that it had received an indicative, non-binding and conditional proposal from FOXTEL to acquire AUSTAR. Subsequently, on 11 July 2011, AUSTAR announced that it had entered into definitive transaction documents with LGI and FOXTEL under which FOXTEL would acquire AUSTAR through a series of transactions including the following:

- first, LGI Bidco will acquire all of the AUSTAR Shares held by Minority Shareholders (that is, AUSTAR Shareholders other than LGI Group Members) under the Scheme; and
- second, following Implementation of the Scheme and various restructure steps, FOXTEL will acquire the LGI Group's interests in AUSTAR for \$1.52 per AUSTAR Share under the FOXTEL Acquisition.

If the Scheme becomes Effective, AUSTAR will be delisted from the ASX and become a wholly-owned Subsidiary of LGI. Following completion of the FOXTEL Acquisition, AUSTAR will become a wholly-owned Subsidiary of FOXTEL.

As part of the Transaction, after the Scheme has become Effective, AUSTAR will incur various obligations, grant security over its assets and take certain other steps to facilitate implementation of the Transaction.

### 4.2 Parties to, and effect of, the Scheme

Only AUSTAR and the Minority Shareholders will be parties to the Scheme.

The LGI Group Members who hold AUSTAR Shares are Excluded Shareholders and are not parties to the Scheme.

Minority Shareholders as at the Record Date (that is, **Scheme Shareholders**) will be paid the Scheme Consideration on the Implementation Date in exchange for the transfer of their AUSTAR Shares to LGI Bidco.

### 4.3 Scheme Consideration

If the Scheme becomes Effective, Minority Shareholders will receive Scheme Consideration of \$1.52 cash for each AUSTAR Share held on the Record Date, reduced by the per share cash amount or value of any dividend, return of capital or other distribution by AUSTAR to AUSTAR Shareholders the record date for which falls between the date of this Scheme Booklet and the Implementation Date, each inclusive. AUSTAR does not expect to make any such distribution on or before the Implementation Date.

The Scheme Consideration will be sent to Minority Shareholders on the Implementation Date.

The entitlements of Minority Shareholders to receive the Scheme Consideration will be determined on the basis of the Register as it appears on the Record Date.

If the Scheme is approved, FOXTEL Finco will lend LGI Bidco the estimated Total Scheme Consideration to be paid to Minority Shareholders, which it will deposit into an Escrow Account before the scheduled Second Court Date: see Section 6.4.

However, LGI has the right to choose not to use the FOXTEL Funding to fund the Scheme Consideration, in which case it will give a Substitution Notice. If it gives a Substitution Notice, LGI will cause the Total Scheme Consideration to be loaned to LGI Bidco through an alternative financing arrangement. The proceeds of this funding

necessary to pay the Scheme Consideration to Scheme Shareholders will be paid into AUSTAR's Scheme Account shortly before AUSTAR pays the Scheme Consideration to Scheme Shareholders on the Implementation Date.

If LGI gives a Substitution Notice, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)), including a description of the alternative funding arrangements that LGI Bidco will enter into to fund the Scheme Consideration.

Under the Transaction, the LGI Group will receive from the FOXTEL Group on a pre-tax basis total cash consideration of no more than an amount equal to the Scheme Consideration multiplied by the total number of AUSTAR Shares held by or on behalf of LGI Group Members as at the Implementation Date immediately before the Scheme Shares are transferred under the Scheme (plus, if LGI gives a Substitution Notice, the Total Scheme Consideration): see Section 6.5.

#### 4.4 Conditions and termination

The Implementation Deed sets out a number of Conditions Precedent to the Scheme and termination rights: see Section 12.1 for more details.

As at the date of this Scheme Booklet, the Scheme remains subject to the following Conditions Precedent and will only proceed if these Conditions Precedent are satisfied or (if capable of waiver) waived:

- (a) **ACCC:** Before 8:00am on the Second Court Date, Australian competition law approval is received with respect to the Transaction from the ACCC (or the Australian Competition Tribunal or the Federal Court of Australia) which is either unconditional or is on or requires conditions or undertakings acceptable to FOXTEL and each FOXTEL Partner. This Condition Precedent cannot be waived.
- (b) **FIRB:** Before 8:00am on the Second Court Date, Australian foreign investment approval is received with respect to the Transaction by each of the relevant FOXTEL Group Members, FOXTEL Partner Group Members, AUSTAR Group Members and LGI Group Members which is either unconditional or on terms that are acceptable to them. This Condition Precedent cannot be waived.
- (c) **IRS:** The private letter ruling from the IRS, received by LGI in late November 2011, relating to the United States federal income tax treatment of the Transaction has not been withdrawn, invalidated or modified in an adverse manner, and no representation, qualification or assumption made in obtaining that ruling ceases to apply as a result of changes in law, regulation or accounting standards announced or introduced between 11 July 2011 and 8:00am on the Second Court Date. LGI may in its absolute discretion waive this Condition Precedent.
- (d) **Court approval:** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act. This Condition Precedent cannot be waived.
- (e) **Shareholder approval:** Minority Shareholders agree to the Scheme at the Scheme Meeting by the requisite majorities under the Corporations Act. This Condition Precedent cannot be waived.
- (f) **Resolutions:** Before 8:00am on the Second Court Date, AUSTAR Shareholders approve each of the Resolutions at the General Meeting by the requisite majorities. This Condition Precedent can only be waived by the written consent of all of AUSTAR, LGI and FOXTEL.
- (g) **Restraints:** No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency or other material legal restraint or prohibition preventing the Transaction

is in effect at 8:00am on the Second Court Date. This Condition Precedent cannot be waived.

- (h) **AUSTAR Material Adverse Change:** No AUSTAR Material Adverse Change occurs before 8:00am on the Second Court Date. This Condition Precedent can only be waived by FOXTEL.
- (i) **AUSTAR Prescribed Occurrence:** No AUSTAR Prescribed Occurrence occurs before 8:00am on the Second Court Date. This Condition Precedent can only be waived by FOXTEL.
- (j) **Independent Expert's Report:** The Independent Expert's Report is not withdrawn or varied adversely before 8:00am on the Second Court Date. This Condition Precedent can only be waived by the written consent of all of AUSTAR, LGI and FOXTEL.

See Section 12.13 for more information about the status of the Conditions Precedent as at the date of this Scheme Booklet.

If one or more of these Conditions Precedent are satisfied or waived before the Shareholder Meetings, or if changes are required to the timetable in connection with the Conditions Precedent, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)).

The Implementation Deed may be terminated at any time before 8:00am on the Second Court Date in certain circumstances including the following, in which case the Scheme will not proceed:

- (a) **Independent Directors' recommendation withdrawn:** any of AUSTAR, LGI or FOXTEL may terminate if the Independent Directors withdraw their recommendation of the Scheme following:
  - a Superior Proposal; or
  - the Independent Expert varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

If either Independent Director withdraws his recommendation for other reasons, FOXTEL alone may terminate.
- (b) **AUSTAR or LGI default:** FOXTEL may terminate for an unremedied breach of any of AUSTAR's or LGI's warranties or material obligations in the Implementation Deed.
- (c) **FOXTEL default:** AUSTAR or LGI may terminate for an unremedied breach of any of FOXTEL's warranties or material obligations in the Implementation Deed.
- (d) **AUSTAR insolvency:** LGI may terminate if an insolvency event occurs with respect to AUSTAR or certain material AUSTAR Subsidiaries.
- (e) **LGI insolvency:** AUSTAR or FOXTEL may terminate if an insolvency event occurs with respect to LGI. AUSTAR may also terminate where an insolvency event occurs with respect to LGI Bidco.
- (f) **FOXTEL insolvency:** AUSTAR or LGI may terminate if an insolvency event occurs with respect to FOXTEL Management, Telstra Media or Sky Cable (in any capacity).
- (g) **Failure to fund:** unless a Substitution Notice has been given, AUSTAR or LGI may terminate if FOXTEL Finco does not deposit the estimated Total Scheme Consideration into the Escrow Account before the scheduled Second Court Date.

In addition:

- if the Scheme does not become Effective by the End Date, any of AUSTAR, LGI or FOXTEL may at any time terminate the Implementation Deed; and

- LGI or AUSTAR may terminate the Implementation Deed at any time between 11 December 2011 and 24 December 2011 (both inclusive) if either of them, acting reasonably, considers that the Condition Precedent regarding competition approval is unlikely to be satisfied by the End Date.

#### 4.5 Independent Expert's conclusions

AUSTAR commissioned the Independent Expert to prepare a report on whether the Scheme is, in the Independent Expert's opinion, in the best interests of AUSTAR Shareholders.

The Independent Expert has assessed the full underlying value of AUSTAR Shares at between \$1.23 and \$1.40.

As the Scheme Consideration for each Scheme Share exceeds the value range assessed by the Independent Expert, the Independent Expert has assessed that the Scheme is fair. As the Scheme is fair, it is also reasonable. Accordingly, the Independent Expert has concluded that the Scheme is in the best interests of AUSTAR Shareholders, in the absence of a superior proposal.

In addition to opining as to whether the Scheme is in the best interests of AUSTAR Shareholders, AUSTAR commissioned the Independent Expert also to consider whether:

- the Scheme is in the best interests of Minority Shareholders; and
- the FOXTEL Acquisition is fair to Minority Shareholders.

In this regard, the Independent Expert has further concluded that:

- the Scheme is in the best interests of Minority Shareholders, in the absence of a superior proposal; and
- the FOXTEL Acquisition is fair to Minority Shareholders.

The Independent Expert's Report is set out in Annexure A. The Independent Directors encourage Minority Shareholders to read the Independent Expert's Report in full before deciding whether to vote to approve the Scheme. It contains the reasons for the Independent Expert's views, which may be relevant to your consideration of whether to vote in favour of the Scheme and the Transaction, and the assumptions, qualifications and disclaimers on which the Independent Expert's conclusions are based.

#### 4.6 If the Scheme does not proceed

If the Scheme does not proceed, AUSTAR Shareholders will continue to hold AUSTAR Shares and will be exposed to the risks set out in Section 7.10. Minority Shareholders will not receive the Scheme Consideration for each of their AUSTAR Shares.

In the absence of a Superior Proposal, AUSTAR will continue as a stand alone entity and will remain listed on the ASX, with management continuing to implement the business plan and financial and operating strategies it had in place before the announcement of the Transaction.

In addition, depending on the reasons why the Scheme does not proceed, AUSTAR may be liable to pay a Reimbursement Fee of approximately \$19.3 million to FOXTEL Management. AUSTAR must pay the Reimbursement Fee if either of the following events occurs:

- Before the earlier of the Scheme Meeting and the End Date, either Independent Director changes his recommendation in favour of the Scheme and the Resolutions (or his statement that he will vote his AUSTAR shares accordingly). However, the Reimbursement Fee is not payable in this situation if the Independent Expert withdraws the Independent Expert's Report or varies that Independent Expert's Report to conclude that the Scheme is not in the best

interests of Minority Shareholders other than as a result of a Superior Proposal being announced.

- Before the End Date, a third party announces a Superior Proposal and LGI sells its AUSTAR Shares into that Superior Proposal (or it is substantially completed, in certain circumstances) within 12 months of its announcement.

However, even if either of these events occurs, the Reimbursement Fee is not payable where the Implementation Deed has been terminated for certain reasons, including for non-satisfaction of Conditions Precedent or material breach by FOXTEL: see Section 12.1 for additional information about the Reimbursement Fee.

The Independent Directors consider the Reimbursement Fee to be reasonable and appropriate in amount, structure and effect.

Prior to the Scheme Meeting, transaction costs of approximately \$5 million will have been incurred, or will be committed, by AUSTAR in relation to the Scheme. Those transaction costs will be payable by AUSTAR regardless of whether or not the Scheme becomes Effective and Implementation occurs.

If the Scheme does not proceed, and no Superior Proposal is received, the market price of AUSTAR Shares on the ASX could fall significantly or persistently trade at prices below \$1.52 per share.

## 4.7 Your choices as a Minority Shareholder

The Independent Directors unanimously recommend that Minority Shareholders vote in favour of the Scheme and the Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

As an AUSTAR Shareholder, you have 3 choices currently available to you. These choices are set out below.

### 1 Vote in favour of, or against, the Scheme and the Resolutions

Minority Shareholders may vote in favour of or against the Scheme and each of the Resolutions (subject to any restrictions on voting on particular Resolutions applicable to certain persons who may be Minority Shareholders) in respect of some or all of their AUSTAR Shares. Details of how to vote at the Scheme Meeting and the General Meeting are set out in Section 5.3.

Minority Shareholders should note that even if they vote against the Scheme or the Resolutions, if the Scheme is approved and becomes Effective, then any AUSTAR Shares that they hold on the Record Date will be transferred to LGI Bidco, and they will be sent the Scheme Consideration, even though they may have voted against the Scheme or the Resolutions.

### 2 Sell your AUSTAR Shares on market

Minority Shareholders may elect to sell some or all of their AUSTAR Shares on market through the ASX. The latest price for AUSTAR Shares may be obtained from the ASX website at [www.asx.com.au](http://www.asx.com.au). This price may differ from the Scheme Consideration.

Minority Shareholders who sell some or all of their AUSTAR Shares on market may be liable for income tax or CGT on the disposal of their AUSTAR Shares and may incur a brokerage charge.

Minority Shareholders who wish to sell some or all of their AUSTAR Shares on market should contact their broker for information on how to implement that sale.

### 3 Do nothing

Minority Shareholders who do not wish to vote for or against the Scheme or sell their AUSTAR Shares on market should do nothing.

Minority Shareholders should note that if they do nothing and the Scheme is approved and becomes Effective, then any AUSTAR Shares they hold on the Record Date will be transferred to LGI Bidco, and they will be sent the Scheme Consideration, even though they may not have voted for or against the Scheme or the Resolutions.

## 5 The Shareholder Meetings and voting instructions

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Both of the Shareholder Meetings will be held on 17 February 2012 at AGL Theatre, Museum of Sydney, 37 Phillip Street, Sydney NSW 2000.

The Scheme Meeting will commence at 3:00pm (Sydney time).

The General Meeting will commence at 3:15pm (Sydney time) or as soon after that time as the Scheme Meeting is concluded or adjourned.

However, if the Australian competition law or foreign investment approvals required to implement the Transaction (see Sections 4.4 and 12.1(a) for details) have not been obtained by 3 February 2012, unless AUSTAR, LGI and FOXTEL Management agree otherwise, AUSTAR will postpone the Shareholder Meetings until a date that is 10 Business Days after the date by which AUSTAR reasonably expects that those conditions will have been satisfied. If the Shareholder Meetings are postponed, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)) and notify AUSTAR Shareholders of the new meeting details in accordance with its constitution and the Corporations Act.

Each resolution to be put to each of the Shareholder Meetings must be passed in order for the Scheme to become Effective and for the Transaction to proceed (unless the parties to the Implementation Deed waive the Condition Precedent relating to the Resolutions).

Although LGI and its Associates may vote on the Status Resolution at the General Meeting, they will not be able to vote on the other Resolutions or on the Scheme. Accordingly, the transaction will not proceed without Minority Shareholder approval.

### 5.1 Scheme Meeting and approval of the Scheme

The Scheme will only become Effective and be Implemented if it is agreed to by Minority Shareholders at the Scheme Meeting and approved by the Court at the Second Court Hearing, and if the other Conditions Precedent are satisfied or waived.

#### (a) Scheme approval requirements

Agreement by Minority Shareholders requires the resolution to approve the Scheme to be approved by:

- unless the Court orders otherwise, a majority in number (more than 50%) of Minority Shareholders present and voting at the Scheme Meeting (either in person or by proxy); and
- at least 75% of the total number of votes cast on that resolution at the Scheme Meeting by Minority Shareholders present and voting at the Scheme Meeting (either in person or by proxy).

The text of the resolution to approve the Scheme is set out in the Notice of Scheme Meeting in Annexure G.

#### (b) Voting at the Scheme Meeting

Instructions on how to attend and vote at the Scheme Meeting (in person or by proxy), are set out in the Notice of Scheme Meeting in Annexure G. A summary is set out in Section 5.3.

#### (c) Voting entitlement

Each AUSTAR Shareholder (other than Excluded Shareholders) who is registered on the Register at 7:00pm (Sydney time) on 15 February 2012 is entitled to attend and vote at the Scheme Meeting, either in person, by proxy, by attorney or, in the case of a body

corporate, by its body corporate representative appointed in accordance with section 250D of the Corporations Act.

Pursuant to ASIC's joint bid relief (see Section 12.16(f)), members of the FOXTEL Group and their respective Associates must not cast any votes at the Scheme Meeting in relation to AUSTAR Shares in which they have a Relevant Interest.

Voting at the Scheme Meeting will be by poll.

(d) **Independent Directors' recommendation**

See Section 3.1 for details of the Independent Directors' recommendation to Minority Shareholders in respect of the Scheme.

## 5.2 General Meeting and approval of the Resolutions

In order for the Transaction to proceed, the Resolutions must be passed at the General Meeting. The Resolutions are:

- the Financial Assistance Resolution (see Section 5.4);
- the Related Party Resolution (see Section 5.5); and
- the Status Resolution (see Section 5.6).

If one or more of the Resolutions is not passed, but the Scheme is approved by Minority Shareholders and the Court, the Transaction (including the Scheme) will not proceed, unless the parties to the Implementation Deed agree to waive the corresponding Condition Precedent.

(a) **Approval requirements**

The approval requirements vary between the different Resolutions. In order for:

- the Financial Assistance Resolution to be passed, it must be approved by a special resolution (that is, at least 75%) of the votes cast by AUSTAR Shareholders present and voting at the General Meeting (either in person or by proxy) with no votes being cast in favour of the resolution by the financially assisted parties or their Associates;
- the Related Party Resolution to be passed, it must be approved by an ordinary resolution (that is, more than 50%) of votes cast by AUSTAR Shareholders present and voting at the General Meeting (either in person or by proxy) excluding the relevant related parties and their Associates; and
- the Status Resolution to be passed, it must be approved by a special resolution (that is, at least 75%) of votes cast by AUSTAR Shareholders present and voting at the General Meeting (either in person or by proxy).

For more information about the persons excluded from voting in respect of each of the Financial Assistance Resolution and the Related Party Resolution, see Section 5.4(d) and Section 5.5(d), respectively.

(b) **Voting at the General Meeting**

Instructions on how to attend and vote at the General Meeting (in person or by proxy) are set out in the Notice of General Meeting in Annexure H. A summary is set out in Section 5.3.

(c) **Voting entitlement**

Each AUSTAR Shareholder (subject to the restrictions set out in Sections 5.4(d) and 5.5(d)) who is registered on the Register at 7:00pm (Sydney time) on 15 February 2012 is entitled to attend and vote at the General Meeting, either in person, by proxy, by attorney or, in the case of a body corporate, by its body corporate representative appointed in accordance with section 250D of the Corporations Act.

Voting at the General Meeting will be by poll.

### 5.3 Procedure for voting at the Shareholder Meetings

#### (a) Voting in person

If you are entitled to vote at the Scheme Meeting or General Meeting and wish to do so in person, you should attend the relevant Shareholder Meetings.

For further information regarding the procedure for voting in person, please see the explanatory notes to the Notice of Scheme Meeting and Notice of General Meeting in Annexure G and Annexure H, respectively.

#### (b) Voting by proxy

If you are entitled to vote at the Shareholder Meetings and wish to appoint a proxy to attend and vote on your behalf, you must either:

- complete and return the proxy form sent to you with this Scheme Booklet; or
- submit a proxy form online at [www.austarunited.com.au](http://www.austarunited.com.au).

To be effective, proxy forms must be received by the AUSTAR Registry at the address shown on the proxy form, or submitted online, by no later than 3:15pm on 15 February 2012.

For the reasons set out in Sections 5.4(d) and 5.5(d), the chairman of the General Meeting will not vote any undirected proxy appointments nominating him on either of the Financial Assistance Resolution or the Related Party Resolution. **If you appoint the chairman of the General Meeting as your proxy, you are therefore urged to indicate on your proxy form how he should cast your vote on each of the Financial Assistance Resolution and the Related Party Resolution.**

For further information regarding voting by proxy, please see the explanatory notes to the Notice of Scheme Meeting and Notice of General Meeting in Annexure G and Annexure H, respectively.

#### (c) Voting in person through an attorney or body corporate representative

If you are entitled to vote at the Shareholder Meetings, you may have an attorney or, if you are a body corporate, a body corporate representative, attend and vote on your behalf.

For further information regarding the procedure for voting by attorney or body corporate representative, please see the explanatory notes to the Notice of Scheme Meeting and Notice of General Meeting in Annexure G and Annexure H, respectively.

### 5.4 The Financial Assistance Resolution

This Section provides additional information specific to the Financial Assistance Resolution that will be put to AUSTAR Shareholders at the General Meeting. For the reasons set out in Section 5.4(a), the General Meeting has been convened for AUSTAR Shareholders to consider, and if thought fit, pass the Financial Assistance Resolution. The text of the Financial Assistance Resolution is set out in the Notice of General Meeting in Annexure H.

#### (a) Purpose of proposing the Financial Assistance Resolution

The approval of AUSTAR Shareholders will be sought for the purposes of section 260A of the Corporations Act for AUSTAR to incur obligations to LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco and FOXTEL Bidco:

- under the FOXTEL Funding Agreement and the AUSTAR Charge, including:
  - guaranteeing to FOXTEL Finco the repayment of the FOXTEL Funding by LGI Bidco and indemnifying FOXTEL Finco against loss if the guaranteed amounts are not recovered; and

- granting a fixed and floating charge over substantially all of AUSTAR's assets to FOXTEL Finco, securing its and LGI Bidco's obligations under the FOXTEL Funding Agreement,
- or, if LGI gives a Substitution Notice, corresponding obligations with respect to the Substitute Funding Agreement and any Substitute Security; and
- under the Restructure and Sale Deed, including (in each case after Implementation of the Scheme) acquiring LGI Bidco, assuming (by novation) LGI Bidco's obligations as borrower under the FOXTEL Funding (or if LGI gives a Substitution Notice, the Substitute Funding Agreement) in exchange for a promissory note or the buy-back of LGI Bidco's AUSTAR Shares and, following conversion to a proprietary company limited by shares, if LGI gives a Substitution Notice, entering into all documentation necessary to novate AUSTAR's obligations with respect to the Substitute Funding Agreement on to UGC Australia and release any Substitute Security.

The transactions financially assist:

- LGI Bidco's acquisition of AUSTAR Shares under the Scheme; and
- FOXTEL's acquisition of AUSTAR Shares, and FOXTEL Bidco's acquisition of shares in Aus Bidco 1, a holding company of AUSTAR at the time of the acquisition, under the FOXTEL Acquisition.

Section 260A of the Corporations Act prohibits AUSTAR from 'financially assisting' a person to acquire AUSTAR Shares or shares in a holding company of AUSTAR unless:

- the giving of the financial assistance does not materially prejudice the interests of AUSTAR or its shareholders, or AUSTAR's ability to pay its creditors;
- the financial assistance is approved by AUSTAR Shareholders under section 260B of the Corporations Act; or
- the financial assistance is exempted under section 260C of the Corporations Act (which is not applicable in this case).

(b) **Information relevant to your decision how to vote on the Financial Assistance Resolution**

Unless LGI gives a Substitution Notice, the acquisition of the Scheme Shares by LGI Bidco will be funded by a loan to be provided by FOXTEL Finco to LGI Bidco under the FOXTEL Funding Agreement.

Under the FOXTEL Funding Agreement, AUSTAR has agreed that it will guarantee to FOXTEL Finco the repayment of the FOXTEL Funding by LGI Bidco and indemnify FOXTEL Finco against loss if the guaranteed amounts are not recovered, as well as incurring certain other ancillary obligations relating to the provision of funding under the FOXTEL Funding Agreement.

After the Scheme is Implemented and AUSTAR is wholly-owned by LGI Group Members, AUSTAR will acquire LGI Bidco under the Restructure and Sale Deed, and then assume (by novation) LGI Bidco's obligations as borrower under the FOXTEL Funding Agreement, in exchange for (at LGI's option) a promissory note or the buy-back of the AUSTAR Shares that LGI Bidco holds.

AUSTAR will also grant FOXTEL Finco a fixed and floating charge over substantially all of its assets to secure AUSTAR and LGI Bidco's obligations in connection with the FOXTEL Funding Agreement and the AUSTAR Charge. AUSTAR will execute the AUSTAR Charge before the Shareholder Meetings.

However, AUSTAR's obligations, and the grant of security over AUSTAR's assets, under the FOXTEL Funding Agreement and the AUSTAR Charge will only take effect after the Scheme has become Effective on the later of:

- the date 14 days after the notice of the Resolutions being approved at the General Meeting is lodged with ASIC;

- the date that the lesser of the estimated Total Scheme Consideration and the Total Scheme Consideration is deposited into the Scheme Account to be held on trust for Scheme Shareholders (this is expected to be the day before the Implementation Date),

that is, the **AUSTAR Funding Date**.

If LGI chooses not to use the FOXTEL Funding and gives a Substitution Notice, the FOXTEL Funding Agreement will be cancelled and AUSTAR will not be required to enter into the AUSTAR Charge. Instead, AUSTAR will be required to:

- if necessary, enter into the Substitute Funding Agreement, but only if that agreement does not provide for AUSTAR to incur any obligations until on or after the AUSTAR Funding Date; and
- grant any Substitute Security in favour of LGI Bidco's alternative financiers but only if it does not provide for AUSTAR to encumber any assets until on or after the AUSTAR Funding Date,

subject to entering into, or giving effect to, the transaction not causing an insolvency event in relation to AUSTAR or specified material subsidiaries. In addition, if LGI gives a Substitution Notice, after the Scheme is Implemented and AUSTAR is wholly-owned by LGI Group Members, AUSTAR will acquire LGI Bidco under the Restructure and Sale Deed; assume (by novation) LGI Bidco's obligations as borrower under the Substitute Funding Agreement in exchange for (at LGI's option) a promissory note or the buy-back of the AUSTAR Shares that LGI Bidco holds, and following conversion to a proprietary company limited by shares, enter into all documents necessary to novate the Substitute Funding Agreement on to UGC Australia and release any Substitute Security.

Accordingly, regardless of whether or not LGI gives a Substitution Notice, at the time the financial assistance is to be provided, Minority Shareholders' only interest in AUSTAR will be to receive the Scheme Consideration for their Scheme Shares. As the Scheme Consideration will be held in the Scheme Account on trust for Minority Shareholders at that time, the provision of the financial assistance does not prejudice Minority Shareholders' interests.

Under the FOXTEL Funding Agreement, approximately \$886 million will be advanced to LGI Bidco (and deposited directly into the Escrow Account), and AUSTAR will be responsible for repayment of that amount, initially as guarantor and later (after certain restructure steps have occurred following Implementation of the Scheme) as borrower. The loan will have a 5 year term and will accrue interest at 12% per annum.

The Independent Directors consider that AUSTAR will have the capacity to service the interest payments and repay the principal under the FOXTEL Funding Agreement without prejudicing its ability to continue operating its business and paying its other creditors.

If LGI gives a Substitution Notice, this notice will set out (among other things) a description of the Substitute Funding Agreement and any Substitute Security, and LGI will be required to confirm that with the Substitute Funding Agreement, LGI Bidco has financing commitments available to it on a certain funds basis sufficient to enable LGI Bidco to comply with its obligations to pay the Total Scheme Consideration. In this scenario, LGI Bidco must pay the Total Scheme Consideration into AUSTAR's Scheme Account shortly before AUSTAR pays the Scheme Consideration to Scheme Shareholders on the Implementation Date.

If LGI gives a Substitution Notice, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)) including a description of the alternative funding arrangements that LGI Bidco will enter into to fund the Scheme Consideration.

### **Directors' recommendation**

The Independent Directors unanimously recommend that, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its

conclusion that the Scheme is in the best interests of Minority Shareholders, AUSTAR Shareholders (excluding those who are not entitled to vote) vote in favour of the Financial Assistance Resolution, as it will facilitate the implementation of the Transaction, which the Independent Directors support for the reasons set out in Sections 2.2 and 3.1.

Each of the other AUSTAR Directors (being Messrs Michael T Fries, John C Porter, John W Dick, Balan Nair and Bernard Dvorak) do not make any recommendation for the reasons described in Section 3.3.

(c) **Additional information**

A copy of the Notice of General Meeting in Annexure H proposing the Financial Assistance Resolution (together with a draft of this Scheme Booklet) was lodged with ASIC before being sent to AUSTAR Shareholders as required by section 260B(5) of the Corporations Act.

This Scheme Booklet constitutes an explanatory statement in respect of the Financial Assistance Resolution which is to be considered at the General Meeting as required by section 260B(4) of the Corporations Act. It contains all material information known to the AUSTAR Directors that could reasonably be required by AUSTAR Shareholders in deciding how to vote on the Financial Assistance Resolution, other than information that would be unreasonable to require the AUSTAR Directors to disclose because such information has previously been disclosed to AUSTAR Shareholders.

For further information on the matters described in this section 5.4 relevant to the Financial Assistance Resolution, please refer to:

- Section 12.5 for a summary of the FOXTEL Funding Agreement (including the guarantee to be given by AUSTAR);
- Section 12.6 for a summary of the AUSTAR Charge; and
- Section 6.4 for a summary of the funding arrangements supporting payment of the Scheme Consideration.

(d) **Approval and voting exclusions**

Pursuant to section 260B(1) of the Corporations Act, the Financial Assistance Resolution must be approved by either:

- a special resolution (that is, 75% or more) of AUSTAR Shareholders present and voting (in person or by proxy), with no votes being cast in favour of the resolution by persons who are being financially assisted to acquire the AUSTAR Shares or Aus Bidco 1 shares (or units of those shares) or their Associates; or
- a unanimous resolution of all AUSTAR Shareholders.

AUSTAR will disregard any votes cast in favour of the Financial Assistance Resolution by LGI Bidco, FOXTEL and FOXTEL Bidco, and any of their Associates.

Under the Corporations Act, the AUSTAR Directors, including the Independent Directors, are classified as Associates of LGI Bidco because AUSTAR is a related body corporate of LGI Bidco as LGI is the ultimate holding company of both AUSTAR and LGI Bidco. Therefore, none of the AUSTAR Directors may vote their AUSTAR Shares in favour of the Financial Assistance Resolution. For this same reason, the chairman of the General Meeting may not vote any undirected proxy appointments nominating him in favour of the Financial Assistance Resolution. He will therefore not vote any undirected proxy appointments nominating him on the Financial Assistance Resolution. **If you appoint the chairman of the General Meeting as your proxy, you are therefore urged to indicate on your proxy form how he should cast your vote on the Financial Assistance Resolution.**

## 5.5 The Related Party Resolution

This Section provides additional information specific to the Related Party Resolution that will be put to AUSTAR Shareholders at the General Meeting. For the reasons set out in Section 5.5(a), the General Meeting has been convened for AUSTAR Shareholders to consider, and if thought fit, pass the Related Party Resolution. The text of the Related Party Resolution is set out in the Notice of General Meeting in Annexure H.

### (a) Purpose of proposing the Related Party Resolution

The approval of AUSTAR Shareholders will be sought for the purposes of section 208 of the Corporations Act for AUSTAR to incur obligations to LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco and FOXTEL Bidco:

- under the FOXTEL Funding Agreement and the AUSTAR Charge, including:
  - guaranteeing to FOXTEL Finco the repayment of the FOXTEL Funding by LGI Bidco and indemnifying FOXTEL Finco against loss if the guaranteed amounts are not recovered; and
  - granting a fixed and floating charge over substantially all of AUSTAR's assets to FOXTEL Finco, securing its and LGI Bidco's obligations under the FOXTEL Funding Agreement,
 or, if LGI gives a Substitution Notice, corresponding obligations with respect to the Substitute Funding Agreement and any Substitute Security; and
- under the Restructure and Sale Deed, including (in each case after Implementation of the Scheme) acquiring LGI Bidco, assuming (by novation) LGI Bidco's obligations as borrower under the FOXTEL Funding (or if LGI gives a Substitution Notice, the Substitute Funding Agreement) in exchange for a promissory note or the buy-back of LGI Bidco's AUSTAR Shares and, following conversion to a proprietary company limited by shares, if LGI gives a Substitution Notice, entering into all documentation necessary to novate AUSTAR's obligations with respect to the Substitute Funding Agreement on to UGC Australia and release any Substitute Security.

This will constitute AUSTAR directly and indirectly giving financial benefits to certain of its related parties. The financial benefits described above will be provided to facilitate the overall Transaction, which provides the benefits described in Section 2.2.

Chapter 2E of the Corporations Act (of which section 208 is a part) prohibits AUSTAR from 'giving a financial benefit' to any of its 'related parties' unless:

- AUSTAR Shareholders approve in advance the giving of the financial benefit; or
- the financial benefit falls within one of the exemptions in Division 2 of Chapter 2E of the Corporations Act.

### (b) Information relevant to your decision how to vote on the Related Party Resolution

This Section 5.5(b) outlines the matters considered material as to how to vote on the Related Party Resolution and indicates where a more detailed explanation of these matters can be found in this Scheme Booklet. In particular, you should read this Section in conjunction with Section 5.4 (relating to the Financial Assistance Resolution), since the matters discussed in Section 5.4 are relevant to a decision on how to vote on the Related Party Resolution.

### No adverse effect on the interests of Minority Shareholders

AUSTAR's obligations, and the grant of security over AUSTAR's assets, under the FOXTEL Funding Agreement and the AUSTAR Charge (or, if LGI gives a Substitution Notice, the Substitute Funding Agreement and any Substitute Security) will only take effect on or after the AUSTAR Funding Date, after the Scheme has become Effective.

AUSTAR is only required to perform its obligations under the Restructure and Sale Deed after the Implementation Date, at which time AUSTAR will be wholly-owned by LGI Group Members.

Accordingly, the financial benefits described above will only be given after the Scheme Consideration has been deposited in the Scheme Account on trust for Minority Shareholders (or has been paid to the Minority Shareholders and AUSTAR has become wholly-owned by LGI Group Members). Therefore, the provision of financial benefits will not affect Minority Shareholders' interests from a commercial and economic point of view.

### **Directors' recommendation**

The Independent Directors unanimously recommend that, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders, AUSTAR Shareholders (excluding those who are not entitled to vote) vote in favour of the Related Party Resolution, as it will facilitate the implementation of the Transaction, which the Independent Directors support for the reasons set out in Sections 2.2 and 3.1.

Each of the other AUSTAR Directors (being Messrs Michael T Fries, John C Porter, John W Dick, Balan Nair and Bernard Dvorak) do not make any recommendation for the reasons described in Section 3.3.

### **Other material information**

All other information that is reasonably required by members (that is, Minority Shareholders in the context of the Transaction) in order to decide whether or not to pass the Related Party Resolution known to AUSTAR or any of the directors of AUSTAR is contained in the Scheme Booklet.

#### **(c) Additional information**

A copy of the Notice of General Meeting in Annexure H proposing the Related Party Resolution (together with a draft of this Scheme Booklet and the proxy form for the Shareholders Meetings) was lodged with ASIC before being sent to AUSTAR Shareholders as required by subsection 218(1) of the Corporations Act.

This Scheme Booklet constitutes an explanatory statement in respect of the Related Party Resolution to be considered at the General Meeting as required by subsection 219(1) of the Corporations Act. In addition, and for the purposes of that subsection:

- **Related parties:** The related parties of AUSTAR to whom the Related Party Resolution would permit financial benefits to be given are LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco and FOXTEL Bidco.

LGI is a related party of AUSTAR for the purposes of subsection 228(1) of the Corporations Act because it is an entity that controls AUSTAR.

LGI Bidco and UGC Australia are related parties of AUSTAR for the purposes of subsection 228(4) of the Corporations Act because they are entities controlled by an entity (LGI) that controls AUSTAR.

FOXTEL, FOXTEL Finco and FOXTEL Bidco are related parties of AUSTAR for the purposes of subsections 228(6) and 228(7) of the Corporations Act because AUSTAR has reasonable grounds to believe that FOXTEL Finco is likely to become a related party in the future under subsections 228(1) and 228(4) of the Corporations Act if the Scheme is Implemented and FOXTEL subsequently acquires all of LGI's interests in AUSTAR under the Restructure and Sale Deed, and because they are acting in concert with LGI, UGC Australia and LGI Bidco on the understanding that LGI, UGC Australia and LGI Bidco will receive a financial benefit if FOXTEL, FOXTEL Finco and FOXTEL Bidco receive a financial benefit.

- **Directors' interests:** As discussed above, the Related Party Resolution is required to facilitate the implementation of the overall Transaction. The

AUSTAR Directors do not have any interest in the outcome of the Related Party Resolution other than their interests in the Transaction, which are set out in Section 11 of the Scheme Booklet.

- **Evaluation by the AUSTAR Directors:** As set out in Section 3.5, due to potential conflict issues, the Transaction was evaluated by the Independent Directors without the participation of the other AUSTAR Directors. Only the Independent Directors voted on the resolution regarding approval of the Transaction at the relevant AUSTAR Board meeting.
- **Alternatives:** The Independent Directors did not consider alternatives to giving the financial benefits described in this Section 5.5 because giving the benefits will have no adverse impact on Minority Shareholders.
- **Nature of the financial benefits:** The financial benefits proposed to be given by AUSTAR are the incurring of obligations and the grant of a fixed and floating charge over assets under the Restructure and Sale Deed and each of the FOXTEL Funding Agreement and the AUSTAR Charge (or, if LGI gives a Substitution Notice, the Substitute Funding Agreement and any Substitute Security relating to the alternative financing arrangements that LGI Bidco enters into in place of the FOXTEL Funding).

Under the FOXTEL Funding Agreement, approximately \$886 million will be advanced to LGI Bidco (and deposited directly into the Escrow Account). AUSTAR will be responsible for repayment of that amount plus interest to FOXTEL Finco, initially as guarantor and later (after certain restructure steps have occurred following Implementation of the Scheme) as borrower. The loan will have a 5 year term and will accrue interest at 12% per annum.

If LGI gives a Substitution Notice, this notice will set out a description of the Substitute Funding Agreement and any Substitute Security, and LGI will be required to confirm that with the Substitute Funding Agreement, LGI Bidco has financing commitments available to it on a certain funds basis sufficient to enable LGI Bidco to comply with its obligations to pay the Total Scheme Consideration. In this scenario, LGI Bidco must pay the Total Scheme Consideration into AUSTAR's Scheme Account shortly before AUSTAR pays the Scheme Consideration on the Implementation Date. AUSTAR will only have obligations under the Substitute Funding Agreement from a date on or after the AUSTAR Funding Date. Prior to Completion, AUSTAR's obligations with respect to the Substitute Funding Agreement will be novated on to UGC Australia and any Substitute Security will be released.

If LGI gives a Substitution Notice, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)) including a description of the alternative funding arrangements that LGI Bidco will enter into to fund the Scheme Consideration.

- **Other impacts:** As the financial benefits will only be provided after the Scheme has become Effective, on the AUSTAR Funding Date, the provision of the financial benefits does not give rise to any opportunity costs, taxation consequences or benefits foregone that affect the Minority Shareholders' investment in AUSTAR.

For further information on the matters described in this section 5.5 relevant to the Related Party Resolution, please refer to:

- Section 12.5 for a summary of the FOXTEL Funding Agreement (including the guarantee to be given by AUSTAR);
- Section 12.6 for a summary of the AUSTAR Charge; and
- Section 6.4 for a summary of the funding arrangements supporting payment of the Scheme Consideration.

(d) **Approval and voting exclusions**

The Related Party Resolution must be approved by a simple majority (that is, more than 50%) of AUSTAR Shareholders present and voting (in person or by proxy). Pursuant to subsection 224(1) of the Corporations Act, no vote may be cast on this resolution (in any capacity) by or on behalf of the related party to whom this resolution would permit a financial benefit to be given, or their Associates.

AUSTAR will disregard any votes cast on the Related Party Resolution by LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco and FOXTEL Bidco and any of their respective Associates.

Under the Corporations Act, the AUSTAR Directors, including the Independent Directors, are classified as Associates of LGI because they are directors of AUSTAR which is more than 50% owned by LGI. Therefore, none of the AUSTAR Directors may vote (in any capacity) on the Related Party Resolution, except as a proxy appointed by a Minority Shareholder where that appointment specifies how the vote is to be cast. The chairman of the General Meeting will therefore not vote any undirected proxy appointments nominating him on the Related Party Resolution. **If you appoint the chairman of the General Meeting as your proxy, you are urged to indicate on your proxy form how he should cast your vote on the Related Party Resolution.**

## 5.6 The Status Resolution

This Section provides additional information specific to the Status Resolution that will be put to AUSTAR Shareholders at the General Meeting. For the reasons set out in Section 5.6(a), the General Meeting has been convened for AUSTAR Shareholders to consider, and if thought fit, pass the Status Resolution. The text of the Status Resolution is set out in the Notice of General Meeting in Annexure H.

### (a) Purpose of proposing the Status Resolution

The approval of AUSTAR Shareholders will be sought for the purposes of subsection 162(1) of the Corporations Act for AUSTAR to change its status from a public company limited by shares into a proprietary company limited by shares after the Scheme has been Implemented.

If AUSTAR Shareholders approve the Status Resolution, AUSTAR will change status to a proprietary company limited by shares only after the Scheme is Implemented; all Scheme Shares have been transferred to LGI Bidco; AUSTAR has become wholly-owned by LGI Group Members; and has been removed from the official list of the ASX. The change of status of AUSTAR to a proprietary company limited by shares is contemplated by the Restructure and Sale Deed, and is necessary in order to complete the subsequent steps under the Restructure and Sale Deed.

AUSTAR is seeking AUSTAR Shareholder approval for the change of status while it remains widely held rather than waiting until Implementation of the Scheme (when the requisite resolution could be passed by the LGI Group Members who then hold all AUSTAR Shares) in order for the change of status to occur as promptly as possible after Implementation of the Scheme.

### (b) Material matters for deciding how to vote on the Status Resolution

All matters considered material as to how to vote on the Status Resolution are contained in this Scheme Booklet. For further information on the matters described in this section 5.6 relevant to the Status Resolution, please refer to Section 12.3 for a summary of the Restructure and Sale Deed and the restructuring involved in the Transaction Steps.

### Directors' recommendation

The Independent Directors unanimously recommend that, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders, AUSTAR Shareholders vote in favour of the Status Resolution, as it will facilitate the

implementation of the Transaction, which the Independent Directors support for the reasons set out in Sections 2.2 and 3.1.

Each of the other AUSTAR Directors (being Messrs Michael T Fries, John C Porter, John W Dick, Balan Nair and Bernard Dvorak) do not make any recommendation for the reasons described in Section 3.3.

(c) **Approval and voting exclusions**

Pursuant to subsection 162(1) of the Corporations Act, the Status Resolution must be approved by a special resolution (that is, 75% or more) of AUSTAR Shareholders present and voting (in person or by proxy). All AUSTAR Shareholders (including AUSTAR Directors and LGI Group Members) will be able to vote on the Status Resolution.

## 6 Implementation of the Transaction

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### 6.1 Court approval of the Scheme

AUSTAR will apply to the Court for orders approving the Scheme if:

- the Scheme is approved by the Minority Shareholders at the Scheme Meeting (see Section 5.1(a) for Scheme approval requirements); and
- all other relevant Conditions Precedent (including the passage of the Resolutions at the General Meeting) have been satisfied or waived (see Sections 4.4 and 12.1 for a summary of the Conditions Precedent).

Each AUSTAR Shareholder has the right to appear at the Second Court Hearing. Any AUSTAR Shareholder who wishes to oppose the Scheme may do so by filing with the Court and serving on AUSTAR a notice of appearance in the prescribed form, together with an affidavit on which they will seek to rely.

### 6.2 Implementation

#### (a) Effective Date

If the Court approves the Scheme, the Scheme will become Effective on the Effective Date, being the date an office copy of the Court order from the Second Court Hearing approving the Scheme is lodged with ASIC. AUSTAR will, on the Scheme becoming Effective, give notice of that event to the ASX.

AUSTAR will apply to the ASX for AUSTAR Shares to be suspended from official quotation on the ASX from close of trading on the Effective Date.

#### (b) Record Date and entitlement to Scheme Consideration

Those Minority Shareholders who are on the Register on the Record Date will become entitled to receive the Scheme Consideration in respect of the AUSTAR Shares they hold at that time (in this Scheme Booklet, those Minority Shareholders and the AUSTAR Shares that they hold are referred to as 'Scheme Shareholders' and 'Scheme Shares' respectively).

#### (c) Implementation Date

Scheme Shareholders will be sent payment of the Scheme Consideration on the Implementation Date.

Contemporaneous with payment of the Scheme Consideration to Scheme Shareholders, the Scheme Shares will be transferred to LGI Bidco.

### 6.3 Warranties by Scheme Shareholders

The terms of the Scheme provide that each Scheme Shareholder is taken to have warranted to AUSTAR and LGI Bidco, and appointed and authorised AUSTAR as its attorney and agent to warrant to LGI Bidco, that:

- all their AUSTAR Shares (including any rights and entitlements attaching to those shares as at the Implementation Date) which are transferred under the Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and

- they have full power and capacity to sell and transfer their AUSTAR Shares to LGI Bidco together with any rights attaching to those shares as at the Implementation Date.

This warranty is not subject to or qualified by any information recorded in a public register or which is known, or ought following any enquiry to become known, by AUSTAR, LGI Bidco or any other person.

AUSTAR undertakes that it will provide such warranty to LGI Bidco as agent and attorney of each Scheme Shareholder.

Your attention is drawn to the warranty that Scheme Shareholders will be deemed to have given under clause 8.2(b) of the Scheme.

## 6.4 Funding the Scheme Consideration

The Scheme Consideration will be paid wholly in cash. If the Scheme becomes Effective, Scheme Shareholders will receive the Scheme Consideration for each Scheme Share.

Based on Minority Shareholders holding 583,047,343 AUSTAR Shares as at the date of this Scheme Booklet, the maximum amount that LGI Bidco will be required to pay to Scheme Shareholders under the Scheme is approximately \$886 million. LGI Bidco will fund this 'Total Scheme Consideration' either using the FOXTEL Funding, being a loan from FOXTEL Finco under the FOXTEL Funding Agreement or, if LGI gives a Substitution Notice, using alternative financing arrangements that LGI Bidco enters into in place of the FOXTEL Funding.

If LGI uses the FOXTEL Funding, the FOXTEL Partners (or, in the case of News Corporation, its Subsidiary News Australia) will provide, or procure the provision of, the funds required by FOXTEL Finco to make the loan under the FOXTEL Funding Agreement, as required under the Commitment Deed Poll. FOXTEL Finco will deposit the amount to be lent into an Escrow Account operated by the Escrow Agent. These funds will then be transferred to AUSTAR's Scheme Account shortly before AUSTAR pays the Scheme Consideration to Scheme Shareholders.

If LGI gives a Substitution Notice, LGI will cause the Total Scheme Consideration to be loaned to LGI Bidco through an alternative financing arrangement pursuant to the Substitute Funding Agreement. In this scenario, LGI Bidco must pay the Total Scheme Consideration into AUSTAR's Scheme Account shortly before AUSTAR pays the Scheme Consideration on the Implementation Date.

### (a) FOXTEL Funding and support by FOXTEL Partners

Under the FOXTEL Funding Agreement, FOXTEL Finco will lend to LGI Bidco the estimated Total Scheme Consideration. AUSTAR will notify FOXTEL Management of the amount to be lent based on the total number of AUSTAR Shares and the number of those shares held by Minority Shareholders before the Second Court Date. The estimated Total Scheme Consideration will be deposited by FOXTEL Finco in the Escrow Account on the Business Day before the date scheduled by AUSTAR for the Second Court Date. If the Total Scheme Consideration is in fact more than the estimated amount provided under the FOXTEL Funding, LGI Bidco must fund the difference. A summary of the FOXTEL Funding Agreement, including the conditions precedent to the provision of the FOXTEL Funding as well as termination rights, is set out in Section 12.5.

Each of the FOXTEL Partners (or in the case of News Corporation, its Subsidiary News Australia) has entered into a Commitment Deed Poll in which it irrevocably and unconditionally undertakes to provide, or procure the provision of, a share of the FOXTEL Funding to FOXTEL Finco that corresponds to its percentage interest in the FOXTEL Partnership.

A summary of the Commitment Deeds Poll is set out in Section 12.7.

**(b) Details of FOXTEL Partners funding arrangements****Consolidated Media Holdings**

Consolidated Media Holdings has agreed to contribute an amount of up to \$225 million towards the FOXTEL Funding, to be funded through a loan facility fully underwritten by its financiers Australia and New Zealand Banking Group Limited and BNP Paribas (the **Loan Facility**).

The funds must be used to facilitate Consolidated Media Holdings' participation in the Transaction and have not been reserved for other purposes.

The Loan Facility contains conditions precedent to initial drawdown that are considered customary for a facility of this nature. Conditions precedent to drawdown to fund its portion of the FOXTEL Funding include:

- confirmation of the Second Court Date;
- certified copies of certain documentation relating to the Scheme; and
- confirmation that all conditions required to be satisfied prior to FOXTEL Finco being obligated to deposit the estimated Total Scheme Consideration into the relevant escrow account in accordance with the Implementation Deed have been satisfied.

**News Corporation**

News Australia has agreed to contribute an amount of up to \$225 million towards the FOXTEL Funding. News Australia intends to fund this commitment from existing cash reserves available to it in Australia.

**Telstra**

Telstra has agreed to contribute an amount of up to \$450 million towards the FOXTEL Funding. Telstra intends to fund this commitment from its general purpose funding pool which comprises a combination of existing cash reserves, operating cash flows and/or debt finance via the issue of securities in debt capital markets. Telstra has not and, as at the date of this Scheme Booklet, does not expect to, put in place any specific debt financings to fund its commitment.

**(c) Substitute funding arrangements**

If LGI gives a Substitution Notice, LGI will cause the Total Scheme Consideration to be loaned to LGI Bidco through the Substitute Funding Agreement. In this scenario, the FOXTEL Funding will not be extended by FOXTEL Finco.

AUSTAR will notify LGI Bidco and FOXTEL Management of the estimated Total Scheme Consideration based on the total number of AUSTAR Shares and the number of those shares held by Minority Shareholders before the Second Court Date.

If LGI gives a Substitution Notice, this notice will set out (among other things) a description of the Substitute Funding Agreement and any Substitute Security, and LGI will be required to confirm that with the Substitute Funding Agreement, LGI Bidco has financing commitments available to it on a certain funds basis sufficient to enable LGI Bidco to comply with its obligations to pay the Total Scheme Consideration.

If LGI gives a Substitution Notice, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)).

**(d) Provision of Scheme Consideration to Scheme Shareholders**

If LGI does not give a Substitution Notice, FOXTEL Finco will deposit the estimated Total Scheme Consideration into the Escrow Account. While in the Escrow Account, the amount of the estimated Total Scheme Consideration will be held on behalf of FOXTEL Finco until the Effective Date and thereafter the lesser of the estimated Total Scheme Consideration and the Total Scheme Consideration will be held on behalf of LGI Bidco. If the Scheme becomes Effective, AUSTAR will instruct the Escrow Agent to transfer that lesser amount from the Escrow Account to the Scheme Account which is operated by

AUSTAR on behalf of Scheme Shareholders in sufficient time before the Implementation Date to enable AUSTAR to pay the Scheme Consideration to each Scheme Shareholder on the Implementation Date.

If LGI gives a Substitution Notice, LGI Bidco must pay the Total Scheme Consideration into AUSTAR's Scheme Account shortly before AUSTAR pays the Scheme Consideration to Scheme Shareholders on the Implementation Date. This amount will be paid directly into that Scheme Account at the required time and no amount will be paid by FOXTEL Finco or LGI Bidco into the Escrow Account.

A summary of the Escrow Deed is set out in Section 12.8.

(e) **Scheme Deed Poll**

Before the date of the Scheme Meeting, each of LGI Bidco, LGI, FOXTEL Finco and FOXTEL (or, if LGI gives a Substitution Notice, only LGI Bidco and LGI) will enter into the appropriate Scheme Deed Poll in favour of the Scheme Shareholders. In it, each undertakes to discharge its respective obligations under the Implementation Deed with respect to the payment of the Scheme Consideration, which are described in this Section 6.4.

A summary of the Scheme Deed Poll is set out in Section 12.2 and a copy is set out in Annexure F.

(f) **AUSTAR's obligations in respect of the FOXTEL Funding and the substitute funding arrangements**

AUSTAR entered into the FOXTEL Funding Agreement on 11 July 2011 and, unless LGI gives a Substitution Notice, will enter into the AUSTAR Charge before the Scheme Meeting: see Sections 12.5 and 12.6 for more details. If LGI gives a Substitution Notice, the FOXTEL Funding Agreement will be cancelled and AUSTAR will not enter into the AUSTAR Charge. Instead, AUSTAR will enter into the Substitute Funding Agreement (if required) and any Substitute Security.

## 6.5 Other steps in the Transaction

(a) **Transaction Steps**

The Scheme comprises only part of the Transaction. The other elements of the Transaction will be effected pursuant to the Restructure and Sale Deed, a summary of which is set out in Section 12.3. To the extent that these other elements of the Transaction relate to the AUSTAR Shares held by Minority Shareholders, they will only occur after the Scheme has been Implemented and all of the Scheme Shares have been transferred to LGI Bidco.

On the Completion Date, after the Scheme has been Implemented and certain other restructuring steps have occurred, LGI's Subsidiary UGC Australia will sell:

- all the shares in Aus Bidco 1 (which will at the time be LGI's Australian holding company for the majority of its AUSTAR Shares) to FOXTEL Bidco for approximately \$1,037 million (plus, if LGI has previously given a Substitution Notice, the amount of the Total Scheme Consideration); and
- all the AUSTAR Shares it holds directly to the FOXTEL Group for approximately \$9.5 million.

FOXTEL Group Members will then hold 100% of the AUSTAR Shares.

If LGI does not give a Substitution Notice, the estimated Total Scheme Consideration paid under the Scheme will be funded by FOXTEL Finco pursuant to the FOXTEL Funding Agreement. When the FOXTEL Group acquires all of the shares in Aus Bidco 1 for approximately \$1,037 million, the FOXTEL Group will, in doing so, also acquire from the LGI Group the liability under the FOXTEL Funding Agreement in the amount of the estimated Total Scheme Consideration.

If LGI gives a Substitution Notice, it will cause the Total Scheme Consideration to be loaned to LGI Bidco through the Substitute Funding Agreement. When the FOXTEL Group acquires all of the shares in Aus Bidco 1, the LGI Group will retain the liability under the Substitute Funding Agreement in the amount of the Total Scheme Consideration. Accordingly, the price paid by FOXTEL Bidco for all of the shares in Aus Bidco 1 will be increased by the amount of the Total Scheme Consideration to offset this liability.

Completion of the FOXTEL Acquisition, and the transfer of AUSTAR by LGI to the FOXTEL Group, is expected to occur about 6 - 8 weeks after Implementation of the Scheme.

**(b) FOXTEL's payment to LGI**

On Completion, FOXTEL Group Members will acquire the LGI Group's interest in AUSTAR at an equivalent of \$1.52 per AUSTAR Share.

FOXTEL and LGI each confirm that, so long as the parties comply with their obligations in the Restructure and Sale Deed, the FOXTEL Group will provide the LGI Group on a pre-tax basis total cash consideration of no more than \$1.52 multiplied by the total number of AUSTAR Shares held by or on behalf of LGI Group Members as at the Implementation Date immediately before the Scheme Shares are transferred under the Scheme (plus, if LGI gives a Substitution Notice, the Total Scheme Consideration). If a party to the Restructure and Sale Deed does not comply with its obligations, the other parties to that deed may be able to seek damages or indemnities in respect of that breach (over and above these amounts). FOXTEL's payments to the LGI Group have not been increased to take into account the delay in payment for their AUSTAR Shares relative to the Minority Shareholders.

No FOXTEL Group Member or FOXTEL Partner Group Member will provide any consideration to any LGI Group Member, and no LGI Group Member will receive any consideration from any FOXTEL Group Member or FOXTEL Partner Group Member, in connection with the Transaction, other than the consideration provided under the Transaction Documents in their current form as at the date of this Scheme Booklet: see Section 12 for summaries of the main Transaction Documents.

## 7 Information about AUSTAR

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### 7.1 Overview of AUSTAR

AUSTAR is the leading provider of subscription television services to regional and rural Australia, with more than 765,000 subscribers as at 30 September 2011.

AUSTAR was established in 1995 and was listed on the ASX in 1999. As at 7 December 2011, AUSTAR had a market capitalisation of \$1,544,879,470 based on an AUSTAR Share price of \$1.215 per share.

### 7.2 AUSTAR's board of directors

As at the date of this Scheme Booklet, the directors of AUSTAR are:

- Michael T Fries - Chairman and non-executive director
- Timothy D Downing - Deputy Chairman and non-executive independent director
- John C Porter - Chief Executive Officer and executive director
- Roger M Amos - non-executive independent director
- John W Dick - non-executive director
- Balan Nair - non-executive director
- Bernard Dvorak - non-executive director

### 7.3 Principal activities of AUSTAR

#### (a) Subscription television and associated products

AUSTAR's primary business is providing digital satellite television services to customers located in Tasmania, the Northern Territory and the regional areas outside of the capital cities in South Australia, Victoria, New South Wales and Queensland.

AUSTAR and FOXTEL have an agreement pursuant to which AUSTAR is able to use a portion of FOXTEL's leased space on the Optus C1 and D3 satellites to provide its digital satellite services.

AUSTAR has over 750 employees with around 640 based at its National Customer Operations Centre on the Gold Coast. The remainder are based in the corporate office in Sydney.

AUSTAR offers 135 digital channels, including 17 high definition channels. AUSTAR's channel offerings include movies, sports, lifestyle programs, children's programs, documentaries, drama and news. AUSTAR also offers a near video-on-demand service, and increased levels of interactivity, such as BOX OFFICE, Sports Active and SKY News Active.

In 2008 and 2009, AUSTAR added the personal digital video recorders MyStar and MyStar HD to its product offerings. In 2010, AUSTAR launched AUSTAR AnyWhere, an online TV service, which allows customers to watch programs online anywhere in Australia by either live streaming or downloading them to their computer.

#### (b) Programming

AUSTAR is a significant provider of programming in the Australian television market through its 50% stake in XYZnetworks Pty Limited, a 50/50 joint venture with FOXTEL. XYZnetworks is the exclusive owner and/or distributor of 13 key programming channels

including Nickelodeon, Nick Jr, Discovery Channel, LifeStyle, LifeStyle You, LifeStyle Food, LifeStyle Home, CMC, The Weather Channel, Arena, [V], [V] Hits, and Max.

## 7.4 Recent activities

On 17 February 2011, AUSTAR announced the sale of its 2.3 GHz and 3.4 GHz spectrum holdings to the Commonwealth government's NBN Co Limited. AUSTAR received consideration of \$119.4 million in cash for this sale.

AUSTAR also completed the sale of its mobile customer base to M2 Communications in early 2011. AUSTAR received consideration of \$1.8 million in cash for this sale.

On 28 April 2011, AUSTAR announced a new agreement with FOXTEL in relation to enhanced Australian Football League (AFL) coverage, including the launch of a dedicated AFL channel.

At the end of September 2011, AUSTAR ceased to provide the AUSTARnet dial up internet service. Declining demand for dial up services and the introduction of faster substitutes in the market, made it no longer viable for AUSTAR to operate this service. AUSTAR's remaining dial up internet customers were provided with an opportunity to transfer to an internet service provided by Southern Cross Telco.

## 7.5 Shares on issue and capital ownership

As at the date of this Scheme Booklet, there were 1,271,505,737 AUSTAR Shares on issue, held by 6,209 AUSTAR Shareholders. No other class of securities is on issue.

The LGI Group collectively owns 688,458,394 AUSTAR Shares (representing 54.15% of the AUSTAR Shares on issue) through United Austar Partners and United AUN, LLC: see Section 8.8 for more details.

## 7.6 Historical financial information

### (a) Basis of preparation

The financial information set out below is a summary only. It has been extracted from AUSTAR's financial results for the quarter ended 30 September 2011 and its audited financial statements for the full years ended 31 December 2010 and 31 December 2009.

AUSTAR's full financial accounts including all notes to the accounts can be found in AUSTAR's:

- Half Yearly Report (Appendix 4D) for the half year ended 30 June 2011 (released to the ASX on 29 July 2011);
- Annual Report for the year ending 31 December 2010 (released to the ASX on 21 April 2011); and
- Annual Report for the year ending 31 December 2009 (released to the ASX on 22 April 2010).

Copies of these reports, and of AUSTAR's financial results for the quarter ended 30 September 2011, are available on the investor relations section of AUSTAR's website, [www.austarunited.com.au](http://www.austarunited.com.au). Alternatively, AUSTAR Shareholders may obtain copies of these documents free of charge by calling the AUSTAR Shareholder Information Line.

AUSTAR's financial reports for the full years ended 31 December 2010 and 31 December 2009 were audited in accordance with applicable Australian auditing standards. The audit opinions relating to those financial reports were unqualified.

AUSTAR's financial report for the half year ended 30 June 2011 and AUSTAR's financial report for the 9 months ended 30 September 2011 were reviewed in accordance with applicable Australian auditing standards. The review reports relating to those financial reports were unqualified.

The audited financial statements for the year ended 31 December 2010 are AUSTAR's last audited financial statements prior to the date of this booklet. A summary of those statements is set out in the middle column (titled '2010') in each of the tables in this Section 7.6.

(b) **Consolidated balance sheet**

Below is a summary of AUSTAR's consolidated balance sheets as at 30 September 2011 and the full years ended 31 December 2010 and 31 December 2009:

	<b>30 Sep 2011</b> \$000s	<b>2010</b> \$000s	<b>2009</b> \$000s
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	184,390	108,653	94,666
Trade and other receivables	28,030	31,707	33,568
Fair value derivatives	134	1,050	481
Spectrum licences held for sale	-	21,332	-
<b>Total current assets</b>	<b>212,554</b>	<b>162,742</b>	<b>128,715</b>
<b>NON-CURRENT ASSETS</b>			
Investments accounted for using the equity method	45,030	42,727	42,305
Property, plant and equipment	204,331	221,787	241,181
Intangible assets	17,147	17,767	24,464
Deferred tax assets	178,939	215,315	193,414
Fair value derivatives	-	1,717	3,329
Other non-current assets	425	2,007	-
<b>Total non-current assets</b>	<b>445,872</b>	<b>501,320</b>	<b>504,693</b>
<b>TOTAL ASSETS</b>	<b>658,426</b>	<b>664,062</b>	<b>633,408</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	85,933	92,152	104,232
Interest-bearing loans and borrowings	-	49,712	-
Employee benefits	10,926	23,868	23,083
Provisions	305	102	30
Fair value derivatives	13,725	11,631	15,339
Other current liabilities	2,436	2,442	1,023
<b>Total current liabilities</b>	<b>113,325</b>	<b>179,907</b>	<b>143,707</b>
<b>NON-CURRENT LIABILITIES</b>			
Interest-bearing loans and borrowings	658,779	703,861	814,269
Employee benefits	1,179	1,172	12,068
Provisions	5,395	5,909	5,443
Fair value derivatives	35,142	11,310	12,703
Other non-current liabilities	5,074	7,198	8,126
<b>Total non-current liabilities</b>	<b>705,569</b>	<b>729,450</b>	<b>852,609</b>
<b>TOTAL LIABILITIES</b>	<b>818,894</b>	<b>909,357</b>	<b>996,316</b>
<b>NET LIABILITIES</b>	<b>(160,468)</b>	<b>(245,295)</b>	<b>(362,908)</b>
<b>EQUITY</b>			
Issued capital	556,587	556,386	536,873
Reserves	(17,834)	(2,402)	(849)
Accumulated losses	(699,221)	(799,279)	(898,932)
<b>TOTAL EQUITY</b>	<b>(160,468)</b>	<b>(245,295)</b>	<b>(362,908)</b>

(c) **Consolidated income statement**

Below is a summary of AUSTAR's consolidated income statements for the 9 months ended 30 September 2011 and the full years ended 31 December 2010 and 31 December 2009:

	<b>30 Sep 2011</b> \$000s	<b>2010</b> \$000s	<b>2009</b> \$000s

Revenue	531,935	711,228	674,559
Programming and communications expenses	(232,488)	(319,062)	(295,628)
<b>Gross margin</b>	<b>299,447</b>	<b>392,166</b>	<b>378,931</b>
Operating expenses	(200,983)	(257,474)	(264,220)
<b>Results from operating activities</b>	<b>98,464</b>	<b>134,692</b>	<b>114,711</b>
Financial income	6,510	2,844	2,956
Financial expenses	(49,479)	(64,111)	(65,993)
Net (loss)/gain on fair value derivatives	(7,393)	8,617	34,950
<b>Net financing costs</b>	<b>(50,362)</b>	<b>(52,650)</b>	<b>(28,087)</b>
Share of net (loss)/profit of investments accounted for using the equity method	(697)	(329)	1,226
Gain on spectrum licences and mobile sales	95,775	-	-
<b>Profit before income tax</b>	<b>143,180</b>	<b>81,713</b>	<b>87,850</b>
<b>Income tax (expense)/benefit</b>	<b>(43,121)</b>	<b>17,940</b>	<b>(29,073)</b>
<b>Profit for the period</b>	<b>100,059</b>	<b>99,653</b>	<b>58,777</b>
<b>Other comprehensive income</b>			
Effective portion of changes in fair value of cash flow hedges	(22,046)	(2,219)	(1,177)
Income tax on other comprehensive income	6,614	666	363
<b>Total comprehensive income for the period attributable to the owners of the Company</b>	<b>84,627</b>	<b>98,100</b>	<b>57,963</b>

(d) **Consolidated cash flow statement**

Below is a summary of AUSTAR's consolidated cash flow statements for the 9 months ended 30 September 2011 and the full years ended 31 December 2010 and 31 December 2009:

	<b>30 Sep 2011</b>	<b>2010</b>	<b>2009</b>
	<b>\$000s</b>	<b>\$000s</b>	<b>\$000s</b>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
Cash receipts from customers	586,698	781,919	742,520
Cash paid to suppliers and employees	(394,621)	(519,436)	(497,537)
Net GST paid	(20,790)	(26,920)	(25,091)
Interest received	5,943	2,550	2,843
Interest payments	(48,092)	(61,358)	(64,577)
Financing costs	(207)	(12,126)	(4,005)
<b>Net cash from operating activities</b>	<b>128,931</b>	<b>164,629</b>	<b>154,153</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
Payments for plant and equipment and intangible assets	(74,305)	(99,900)	(113,246)
Loans to related entity	(3,000)	(750)	-
Proceeds from sale of intangible assets and plant and equipment	121,233	1,131	13
<b>Net cash from/(used in) investing activities</b>	<b>43,928</b>	<b>(99,519)</b>	<b>(113,233)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
Ordinary Share Buy-Back	-	-	(16,974)
Proceeds from borrowings	2,000	23,744	20
Repayment of borrowings	(99,199)	(75,000)	(23,744)

Proceeds from settlement of derivatives	-	-	2,776
Proceeds from the issue of shares under the employee share plans	77	133	155
<b>Net cash used in financing activities</b>	<b>(97,122)</b>	<b>(51,123)</b>	<b>(37,767)</b>
<b>Net increase in cash and cash equivalents</b>	<b>75,737</b>	<b>13,987</b>	<b>3,153</b>
Cash at the beginning of the period	108,617	93,996	90,797
Restricted cash at the beginning of the period	36	670	716
	<b>108,653</b>	<b>94,666</b>	<b>91,513</b>
Cash at the end of the period	184,353	108,617	93,996
Restricted cash at the end of the period	37	36	670
	<b>184,390</b>	<b>108,653</b>	<b>94,666</b>

## 7.7 Material changes in AUSTAR's financial position since last published accounts

AUSTAR's last published financial statements are the financial statements for the half year ended 30 June 2011. To the knowledge of the AUSTAR Directors, there have been no material changes to the financial position of AUSTAR since 30 June 2011.

## 7.8 Forecast financial information

AUSTAR has given careful consideration as to whether a reasonable basis exists to produce reliable and meaningful forecast financial information for inclusion in this Scheme Booklet. The AUSTAR Board has concluded that, as at the date of this Scheme Booklet, a reasonable basis does not exist for providing financial forecasts that would be sufficiently meaningful and reliable as required by applicable law, policy and market practice.

The financial performance of the AUSTAR Group in any period will be influenced by various factors that are outside the control of AUSTAR and the AUSTAR Board and that cannot, at this time, be predicted with a high level of confidence. In particular, the financial performance of the AUSTAR Group will be materially affected by:

- subscriber numbers;
- competition, which impacts on both subscriber numbers and prices;
- the level of capital expenditure by AUSTAR, which is largely dependent on subscriber growth and so cannot be forecast with sufficient reliability;
- input costs, such as the costs of marketing, installation services and programming content;
- general economic conditions, which impact on subscriber numbers; and
- any changes in government legislation, regulations or imposts.

## 7.9 Substantial holders in AUSTAR

As at the date of this Scheme Booklet, the substantial holders in AUSTAR (as notified to AUSTAR under substantial holder notices) are as follows:

Shareholder	AUSTAR Shares in which person has Relevant Interest	% Voting Power
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United AUSTAR Partners	682,218,242	53.65%
United AUN, LLC	6,240,152	0.49%
<b>LGI Group</b>	<b>688,458,394</b>	<b>54.15%</b>
Telstra and its controlled entities	688,458,394*	54.15%*
News Corporation and its controlled entities	688,458,394*	54.15%*
Consolidated Media Holdings and its controlled entities	688,458,394*	54.15%*
Mr James D Packer and Consolidated Press Holdings Limited and its controlled entities	688,458,394*	54.15%*
<b>FOXTEL Group and FOXTEL related entities</b>	<b>688,458,394*</b>	<b>54.15%*</b>
BNP Paribas Investment Partners (Australia) Limited	70,944,179	5.58%

\* Each of these substantial shareholdings relate to the same AUSTAR Shares, being the AUSTAR Shares held by the LGI Group. The Relevant Interests and Voting Power of these persons arise under the Implementation Deed and the Restructure and Sale Deed, and relate to the arrangements put in place to implement the Transaction.

## 7.10 Potential risks relating to AUSTAR's business

In considering the Scheme, Minority Shareholders should be aware that there are a number of risk factors, general and specific, which could materially adversely affect the future operating and financial performance of AUSTAR and the value of AUSTAR Shares. These risks will continue to be relevant to AUSTAR Shareholders if the Transaction does not proceed.

The information set out below does not purport to be, nor should it be construed as representing, an exhaustive list of the risks that may affect AUSTAR.

### (a) Specific risks relating to AUSTAR

**Competition:** AUSTAR faces vigorous competition for audiences from the free-to-air television networks, particularly with the new range of digital multichannels now available to consumers. The digital multichannels have allowed the free-to-air television networks to expand the range of content they broadcast and target specific demographics, placing increased competitive pressure on AUSTAR.

AUSTAR also faces competition from other providers of audiovisual content, including internet-based content such as IPTV, streaming services and online content downloads, as well as DVD rentals and sales. The establishment of the National Broadband Network may increase internet-based competition. The expansion of existing competitors,

particularly in relation to the free digital multichannels; the entry of new competitors; and the development of new forms of media have the capacity to reduce AUSTAR's subscriber base and advertising revenue.

**Technology change:** Technology plays a vital role in the delivery of content to customers. AUSTAR is committed to enhancing its technology and innovating on its products. AUSTAR's ability to compete effectively in the future may be impacted by its ability to maintain or develop competitive technologies in a cost effective manner. No assurance can be given that AUSTAR will have the scale or resources to acquire or the ability to develop new competitive technologies in an efficient manner.

**Renewal of contracts and programming costs:** A large amount of AUSTAR's programming is sourced from external content suppliers under existing contracts. These contracts and agreements vary in duration and there is no guarantee of renewal on terms which are commercially attractive to AUSTAR, or at all. Failure to secure competitive programming, through new contracts or the renewal of existing contracts, on terms favourable to AUSTAR, may reduce AUSTAR's ability to retain and attract subscribers. There is also a risk that programming costs may increase which would be likely to impact adversely on AUSTAR's profitability.

**Business interruption or satellite failure:** A substantial proportion of AUSTAR's revenue relies on the continued operation of its computer systems, network infrastructure and telecommunications links, particularly its satellite platform. These systems are vulnerable to interruption by external events beyond the control of AUSTAR. Although AUSTAR has developed certain contingency planning and disaster recovery capabilities, there can be no guarantee these will be effective. Interruptions could have a material adverse effect on AUSTAR's operations and financial performance. In particular, if the satellite platform used by AUSTAR ceases to be operational, AUSTAR would need to acquire capacity on another satellite and then re-point each AUSTAR customer's satellite dish so that it can receive transmissions from the new satellite. This would involve significant expense and time. Failure of the satellite is not covered by business interruption insurance.

**Reliance on FOXTEL and other key service providers:** AUSTAR has a number of key arrangements with FOXTEL including access to FOXTEL's satellite distribution platform, and access to a number of channels produced or licensed by FOXTEL. A significant disruption in FOXTEL's satellite platform or more generally FOXTEL's business operations could have a material adverse effect on AUSTAR's ability to deliver its services and on its financial performance and position.

In addition, AUSTAR has outsourced some of its functions to third parties, including installation and technical support. A disruption to these outsourcing arrangements may have a material adverse effect on AUSTAR.

**Signal theft:** Despite AUSTAR's strong encryption system, there can be no assurance that it will not be breached in the future. Should this happen, AUSTAR may lose revenue and further expenditures may also be required to attempt to prevent or reduce signal theft.

**Majority shareholder:** The fact that LGI indirectly owns 54.15% of AUSTAR Shares means that a control transaction can only proceed with the support of LGI. This could potentially reduce the likelihood of takeover offers.

**Regulatory:** AUSTAR may be affected by changes to government policies and legislation, including those relating to the subscription television industry, the broader media industry, taxation and the regulation of competition and consumer issues.

AUSTAR is required to hold and comply with licences pursuant to the Broadcasting Services Act.

A committee appointed by the Federal Government is currently conducting the Convergence Review. This is a review of the regulation and policy framework applying to media and communications, in light of convergence. The committee is expected to deliver its report in March 2012. It is likely that changes to the law resulting from the

Convergence Review will have a material impact on AUSTAR, though the nature of this impact is not known at this stage.

(b) **General**

**Force majeure events:** These include things such as natural disasters, extreme weather events, terrorism, civil and political unrest and wars.

**Employees:** These include loss of key personnel and industrial action.

**Litigation:** Litigation risks relating to AUSTAR include, but are not limited to, intellectual property disputes, contractual claims and regulatory disputes.

**Changes in accounting policy:** Changes to accounting and financial reporting standards may affect the reported earnings of AUSTAR and its financial position from time to time.

**General economic conditions:** Changes in prevailing economic conditions in Australia including, but not limited to, fluctuations in equity markets, interest rates, exchange rates, inflation and unemployment rates may have a significant impact on AUSTAR's financial performance and the price of its shares. For example:

- adverse changes to economic conditions and disposable household income, particularly those affecting rural and regional Australia, could materially adversely affect AUSTAR's subscriber base; and
- adverse changes in Australian and international market conditions and investor sentiment could materially reduce the market price of AUSTAR Shares.

## 7.11 Publicly available information about AUSTAR

AUSTAR is a listed disclosing entity for the purposes of the Corporations Act and as such is subject to regular reporting and disclosure obligations. Specifically, as a listed company, AUSTAR is subject to the Listing Rules which require (subject to certain exceptions) continuous disclosure of any information, of which AUSTAR is aware, that a reasonable person would expect to have a material effect on the price or value of AUSTAR Shares.

The ASX maintains files containing publicly disclosed information about all listed companies. Information disclosed to the ASX by AUSTAR is available on the ASX's website at [www.asx.com.au](http://www.asx.com.au) under 'Announcements'.

In addition, AUSTAR is required to lodge various documents with ASIC. Copies of documents lodged with ASIC by AUSTAR may be obtained from an ASIC office.

On request to AUSTAR, and free of charge, AUSTAR Shareholders may obtain a copy of:

- AUSTAR's published reports listed in Section 7.6(a) above; and
- any announcement made to the ASX by AUSTAR after the lodgement of its 2010 Annual Report and before the registration of this Scheme Booklet with ASIC.

To request a copy, please call the AUSTAR Shareholder Information Line on 1300 706 158 (within Australia) or on +61 3 9946 4459 (outside Australia).

A list of announcements made by AUSTAR to the ASX from 21 April 2011 (being the date on which AUSTAR lodged its 2010 Annual Report with ASIC) to 7 December 2011 is contained in Annexure B.

Information about AUSTAR, including financial information and releases to the ASX, is available in electronic form from AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au).

## 8 Information about LGI

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This Section 8 has been provided by LGI and LGI Bidco. Each of LGI and LGI Bidco are responsible for its accuracy.

### 8.1 Overview of LGI

LGI is a leading international cable operator providing video, broadband internet and telephony services. As at 30 September 2011, LGI operated networks serving over 17 million customers across 14 countries.

LGI's shares are traded on the NASDAQ under the symbols 'LBTYA', 'LBTYB', and 'LBTYK'. LGI had consolidated revenue of US\$9 billion for the year ended 31 December 2010 and a market capitalisation of approximately US\$11.1 billion at 28 October 2011. Further information about LGI can be found on its website at [www.lgi.com](http://www.lgi.com).

### 8.2 Directors of LGI

As at the date of this Scheme Booklet, the directors of LGI are:

- John C Malone - Chairman of the Board
- Michael T Fries - President and Chief Executive Officer
- John P Cole, Jr.
- Miranda Curtis
- John W Dick
- Paul A Gould
- Richard R Green
- David E Rapley
- Larry E Romrell
- JC Sparkman
- J David Wargo

### 8.3 Principal activities of LGI

The LGI Group's activities are principally located in Europe, Chile and Australia.

#### (a) Europe

The LGI Group's European operations are conducted through a wholly-owned Subsidiary of LGI, Liberty Global Europe, and span 11 countries. They are organised into 3 divisions, UPC Broadband, Telenet and Chellomedia.

The UPC Broadband division provides video, broadband internet, and telephony services in 10 countries serving approximately 13.4 million customers as at 31 December 2010. In Western Europe, UPC Broadband operates cable networks in the Netherlands, Austria, Ireland, Germany (through the Unitymedia brand) and Switzerland (through the UPC Cablecom brand). In Central and Eastern Europe, UPC Broadband's operations span five markets: Poland, Hungary, Czech Republic, Romania, and Slovakia.

Telenet, a majority owned Subsidiary of LGI, provides cable television, high-speed internet access, and fixed and mobile voice services in Belgium.

Chellomedia is the LGI Group's European-based content division. It provides interactive digital products and services, operates a digital media centre and produces and markets a number of widely distributed thematic channels. Chellomedia owns certain of these channels and the rest are owned by joint ventures with third parties.

(b) **The Americas**

The LGI Group's operations in the Americas are conducted primarily through its 80% owned Subsidiary, VTR GlobalCom S.A. in Chile, and its wholly-owned Subsidiary, Liberty Cablevision of Puerto Rico Ltd. LGI also has a Subsidiary in Argentina and a joint venture interest in MGM Networks Latin America, both of which offer programming content in the Americas.

VTR GlobalCom S.A is Chile's largest multi-channel television provider in terms of numbers of video cable subscribers, and a leading provider of broadband internet and residential voice services.

(c) **Australia**

The LGI Group's operations in Australia are primarily conducted through AUSTAR in which it has an indirect 54.15% ownership interest: for details about AUSTAR, see Section 7.

## 8.4 Relationship with AUSTAR

The LGI Group has been the majority AUSTAR Shareholder since 2005, and currently owns 688,458,394 AUSTAR Shares (representing 54.15% of the AUSTAR Shares on issue) through United Austar Partners and United AUN, LLC.

LGI Group Members will be Excluded Shareholders, and are excluded from voting at the Scheme Meeting. As such, no AUSTAR Shares held by, on behalf of, or for the benefit of, any LGI Group Member may be voted at the Scheme Meeting.

LGI's Subsidiary, LGI Services, is also a party to a management agreement with AUSTAR and AUSTAR Entertainment. The parties have agreed to terminate this management agreement with effect from Completion (see Section 12.9).

## 8.5 Overview of LGI Bidco

LGI Bidco was incorporated on 28 June 2011 as a wholly-owned Subsidiary of LGI, for the purpose of acquiring all of the Scheme Shares.

As at the date of this Scheme Booklet, the directors of LGI Bidco are:

- Michael T Fries
- Ian B Hopkins
- Elizabeth M Markowski

## 8.6 Funding arrangements for Scheme Consideration

The funding arrangements for payment of the Scheme Consideration are described in Section 6.4.

LGI Bidco considers that:

- if LGI does not give a Substitution Notice and the FOXTEL Funding is provided, it will be sufficient to fund the Total Scheme Consideration in full. FOXTEL Finco is required, under the FOXTEL Funding Agreement, to lend LGI Bidco the estimated amount of the Total Scheme Consideration. If the Total Scheme Consideration is in fact more than this estimated amount, then LGI will fund the difference from its existing cash reserves; and

- if LGI gives a Substitution Notice, LGI Bidco will have financing commitments available to it on a certain funds basis sufficient to enable LGI Bidco to comply with its obligations to pay the Total Scheme Consideration in accordance with the Scheme and the Scheme Deed Poll.

Accordingly, LGI Bidco believes that it has a reasonable basis for forming, and holds, the view that LGI Bidco will be able to satisfy its obligations to fund the Total Scheme Consideration in connection with the Scheme.

## 8.7 LGI's intentions

This Section sets out LGI's current intentions in relation to:

- Implementation of the remaining Transaction Steps;
- the continuation of the business of AUSTAR;
- any major changes to the business of AUSTAR and any redeployment of the fixed assets of AUSTAR; and
- the future employment of the present employees of AUSTAR,

if the Scheme is Implemented.

These intentions are based on the facts and information concerning AUSTAR and the existing circumstances affecting the AUSTAR business which are known to LGI at the time of preparation of this Scheme Booklet. These intentions may vary if new information becomes available or circumstances change.

The intentions, views and beliefs of LGI Bidco are the same as the intentions, views and beliefs of LGI. Accordingly, references to LGI in the remainder of this Section include LGI Bidco.

### (a) Implementation of remaining Transaction Steps

If the Scheme is Implemented, then LGI intends, in accordance with its obligations under the Restructure and Sale Deed, to:

- cause AUSTAR to be removed from the official list of the ASX in accordance with the Listing Rules;
- cause an application to be lodged to convert AUSTAR into a proprietary company limited by shares;
- cause Aus Bidco 1 to sell and AUSTAR to purchase all of the issued shares of LGI Bidco;
- cause AUSTAR and LGI Bidco to novate the FOXTEL Funding Agreement or Substitute Funding Agreement (as appropriate) to AUSTAR; and
- if a Substitution Notice has been given, following AUSTAR's conversion into a proprietary company limited by shares, cause AUSTAR to enter into all documentation necessary to novate the Substitute Funding Agreement to Aus Bidco 1, and then from Aus Bidco 1 to UGC Australia and release any Substitute Security.

Once AUSTAR has been converted into a proprietary company limited by shares and, if applicable, the Substitute Funding Agreement has been novated to UGC Australia, LGI intends to sell all of its direct and indirect interests in AUSTAR (including those acquired under the Scheme) to FOXTEL and FOXTEL Bidco in accordance with the Restructure and Sale Deed.

### (b) AUSTAR operations

Under the Restructure and Sale Deed, LGI must ensure that between the Scheme becoming Effective and Completion AUSTAR carries on its business in the ordinary

course and otherwise complies with restrictions on the conduct of business substantially similar to those set out in clause 5.5 of the Implementation Deed.

Accordingly, if the Transaction proceeds, based on the information presently known to it, LGI intends:

- to continue the business of AUSTAR in the manner in which it is being conducted currently;
  - not to make any major changes to the business or operations of AUSTAR or redeploy any of AUSTAR's fixed assets; and
  - to continue the employment of AUSTAR's employees in the usual course,
- until such time as the FOXTEL Acquisition is completed.

**(c) Changes to the AUSTAR Board**

LGI has no current intention to change the composition of the AUSTAR Board in the event that the Scheme is Implemented. However, LGI acknowledges that the Independent Directors may choose to resign following implementation of the Scheme.

## **8.8 LGI's interests in AUSTAR Shares**

**(a) Interests in AUSTAR Shares**

As at the date of this Scheme Booklet, LGI and LGI Bidco each have a Relevant Interest in 688,458,394 AUSTAR Shares, representing 54.15% of all of the issued AUSTAR Shares. These AUSTAR Shares are held by United Austar Partners (holding 682,218,242 AUSTAR Shares) and United AUN, LLC (holding 6,240,152 AUSTAR Shares), both of which are wholly-owned subsidiaries of LGI.

**(b) Dealings in AUSTAR Shares**

During the 4 months before the date of this Scheme Booklet, neither LGI or LGI Bidco (nor any of their respective Associates) provided, or agreed to provide, consideration for AUSTAR Shares under a purchase or an agreement other than the present Transaction (as detailed in the Transaction Documents).

**(c) No pre-Scheme benefits**

During the 4 months before the date of this Scheme Booklet, neither LGI or LGI Bidco (nor any of their respective Associates) gave, offered to give, or agreed to give a benefit to another person where the benefit was likely to induce the other person, or an associate of the other person, to:

- vote in favour of the Scheme; or
- dispose of AUSTAR Shares,

and where the benefit was not offered to all Minority Shareholders.

## 9 Information about FOXTEL

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This Section 9 has been provided by FOXTEL and FOXTEL is responsible for its accuracy.

### 9.1 Overview of FOXTEL

Launched in 1995, FOXTEL is Australia's largest subscription television provider. As at 30 June 2011, FOXTEL had 1.64 million subscribers including subscribers managed by FOXTEL, wholesale subscribers through Optus and subscribers of the FOXTEL on Xbox 360 product. FOXTEL is the primary service provider to Australia's 5 major metropolitan markets of Sydney, Melbourne, Brisbane, Perth and Adelaide, along with the nation's capital, Canberra, and selected regional markets (including all of Western Australia).

### 9.2 Principal activities of FOXTEL

#### (a) Subscription television and associated products

FOXTEL delivers more than 100 channels covering news, sport, general entertainment, movies, documentaries, music and children's programming.

FOXTEL's services are distributed to FOXTEL subscribers via both Telstra's hybrid fibre-coaxial cable network and a long-term contracted satellite platform provided by Optus.

FOXTEL provides AUSTAR with distribution capability via this satellite platform.

FOXTEL's services are marketed directly by FOXTEL as well as resold through both Telstra and Optus. Telstra resells FOXTEL to Telstra customers and Optus offers the FOXTEL service to its subscribers on the Optus cable network.

FOXTEL also offers limited versions of its services to set top units via broadband, to the Xbox platform, to a number of Virgin Australia aircraft and via the Internet to personal computers. FOXTEL also produces a mobile service for distribution by Telstra and FOXTEL on T-Box, which is a reduced service offering made available by Telstra to Telstra T-Box customers.

FOXTEL broadcasts the majority of its channels in Standard Definition, 21 channels in High Definition and provides a fully integrated electronic programme guide. The electronic programme guide links to FOXTEL's personal video recording technology, marketed under the FOXTEL iQ and iQHD branded services, which allow subscribers with FOXTEL iQ or iQHD to record and pause live television and to access on demand features.

The FOXTEL Television Centre in Sydney is the headquarters of FOXTEL's national subscription television operations and houses FOXTEL's television studios, broadcast operations and cable and satellite transmission facilities. FOXTEL's national Customer Solutions Centre based in Melbourne is a purpose built call centre. FOXTEL directly employs over 1,500 full-time equivalent employees. Additionally, in excess of 1,500 individuals engaged through subcontracting arrangements are involved in sales and installation services nationally.

For the fiscal year ended 30 June 2011 (**2010/11**), FOXTEL reported total revenues of \$2,142 million representing an increase of 6% from the previous corresponding period. Similarly to revenue, EBITDA improved to \$551 million in 2010/11, 15% higher than 2009/10.

#### (b) Programming

FOXTEL provides a broad channel selection featuring relevant and entertaining content across gender, age, ethnic and interest-specific demographics. The following combination of owned content, rights agreements, joint ventures and channel partnerships allows FOXTEL to deliver its programming line-up.

- FOXTEL Channel Group – FOX8, W, The History Channel, The Comedy Channel, Bio, Crime & Investigation Network, 111 Hits, Fox Classics and FOXTEL On Demand (pay-per-view on demand movies and near-video-on-demand channels). FOXTEL licenses the FOXTEL Channel Group channels and FOXTEL On Demand platform to AUSTAR.
- XYZnetworks (owned through a 50/50 joint venture with AUSTAR) – distributor and/or owner of Discovery Channel, Nickelodeon, The LifeStyle Channel, LifeStyle Food, LifeStyle Home, LifeStyle You, Channel [V], V Hits, MAX, Arena, Country Music Channel and The Weather Channel. The Arena channel is managed by FOXTEL on behalf of XYZnetworks.
- FOXTEL has programming arrangements for Australian Rules Football (AFL) and the subscription television rights for the 2012 Summer Olympic Games.
- FOXTEL has programming agreements with major studios, including Twentieth Century Fox, NBC Universal, Warner Bros, Sony, Paramount, Disney and MGM, for the supply of programming to its FOXTEL On Demand pay-per-view movie services.
- FOXTEL also has agreements with channel partners including; Premier Media Group, BBC Worldwide, Discovery Networks, ESPN, Turner Broadcasting, National Geographic, Premium Movie Partnership, The Movie Network and Disney.

### 9.3 Structure of FOXTEL

FOXTEL comprises the FOXTEL Partnership and FOXTEL Management. FOXTEL Management acts as agent for, and manager of, the FOXTEL Partnership, the partners of which are Telstra Media and Sky Cable. Telstra Media and Sky Cable each have a 50% interest in the FOXTEL Partnership and FOXTEL Management. FOXTEL, together with a number of associated entities, comprise the FOXTEL Group.

Telstra Media is a wholly-owned Subsidiary of Telstra. Sky Cable is a wholly-owned Subsidiary of Premier Media Group. Premier Media Group owns FOX Sports, which supplies channels and programmes to FOXTEL, and is ultimately 50% owned by News Corporation and 50% owned by Consolidated Media Holdings Limited (an ASX-listed media investment company).

The FOXTEL Group will acquire AUSTAR principally through a wholly-owned Subsidiary, FOXTEL Bidco. FOXTEL Bidco was incorporated in Australia and registered in Victoria on 28 June 2011 for the purpose of acquiring AUSTAR Shares in the Transaction and is not currently involved in any other business.

### 9.4 Directors of FOXTEL

The FOXTEL Management board comprises up to 9 directors, of which Telstra may appoint 4 and News Corporation and Consolidated Media Holdings may each appoint 2. The Chief Executive Officer is the 9th director. Set out below are the current directors of FOXTEL Management.

Name	Position
• Bruce Akhurst	Chairman FOXTEL board Group Managing Director Telstra Media Services and CEO Sensis
• John Alexander	Executive Chairman, Consolidated Media Holdings
• Guy Jalland	Non-executive Director, Consolidated Media Holdings
• Peter Macourt	Chief Operating Officer, News Limited
• News Corporation	Vacant

#### Appointee

- Gerry Sutton Executive General Manager, Customer, Sensis and Executive Director, Telstra Television
- John Stanhope Chief Financial Officer and Group Managing Director Finance, Telstra
- Telstra appointee Vacant
- Richard Freudenstein Chief Executive Officer and Managing Director

The directors of FOXTEL Bidco are Richard Freudenstein and Peter Tonagh (Chief Operating Officer of FOXTEL).

### 9.5 Funding arrangements for Scheme Consideration

The funding arrangements for payment of the Scheme Consideration are described in Section 6.4.

The Scheme Consideration will be satisfied wholly in cash. If the Scheme becomes Effective, Scheme Shareholders will receive the Scheme Consideration for each Scheme Share.

Unless LGI gives a Substitution Notice, LGI Bidco will fund the estimated Total Scheme Consideration using a loan from FOXTEL Finco under the FOXTEL Funding Agreement. The amount of this loan will be approximately \$886 million.

If LGI chooses to use the FOXTEL Funding, the FOXTEL Partners (or, in the case of News Corporation, its Subsidiary News Australia) will provide, or procure the provision of, the funds required by FOXTEL Finco to make the loan under the FOXTEL Funding Agreement. This will be provided pursuant to each FOXTEL Partner's Commitment Deed Poll, in which each irrevocably and unconditionally undertakes to provide, or procure the provision of, a share of the FOXTEL Funding to FOXTEL Finco that corresponds to its percentage interest in the FOXTEL Partnership.

FOXTEL Finco considers that under the Commitment Deeds Poll, it has arrangements sufficient to fully fund the loan of the estimated Total Scheme Consideration to LGI Bidco under the FOXTEL Funding Agreement. Accordingly, FOXTEL Finco believes that it has a reasonable basis for forming, and holds, the view that it will be able to satisfy its obligations to fund the loan to LGI Bidco of the estimated Total Scheme Consideration in connection with the Scheme.

### 9.6 Rationale for FOXTEL's acquisition of AUSTAR

FOXTEL's acquisition of AUSTAR will bring together two of Australia's major subscription TV service providers, creating one of Australia's largest media businesses with over 2,000 full-time equivalent employees.

FOXTEL expects that the Transaction, if implemented, will enable FOXTEL to:

- provide a high quality national offering which is able to better compete against the new and rejuvenated offering of the commercial and national broadcasters;
- acquire and supply its content nationally and supply content through other media, such as IPTV;
- offer to program rights holders and acquirers of aggregated content the ability to supply content nationally;
- take advantage of cost synergies as a result of being able to deploy content and new innovative offerings to both regional and metropolitan areas of Australia;
- access a broader subscriber base to whom it can market additional services and rapidly roll out new offerings like mobile, broadband and IPTV services in order to increase revenue;

- offer more flexibility in packaging, to enable FOXTEL to offer smaller packages at lower price points;
- offer consumers in regional Australia (other than those already covered by FOXTEL areas) access to new FOXTEL products and services that they do not currently receive, such as the Sky News Local service with its separate news services for Queensland, New South Wales, Victoria, South Australia and Western Australia, an IPTV service (including the opportunity to access FOXTEL via Microsoft's Xbox 360 and Telstra's T-Box), Two Way's wagering service, 3 additional standard definition channels (CNBC, MTV Hits and MTVN Live), 4 high definition channels and one 3D channel, which are not provided by AUSTAR; and
- provide consumers in regional Australia with access to the same services at the same time as metropolitan consumers.

## 9.7 FOXTEL's intentions

This Section sets out FOXTEL's intentions in relation to:

- the continuation of the business of AUSTAR;
- any major changes to the business of AUSTAR and any redeployment of the fixed assets of AUSTAR; and
- the future employment of the present employees of AUSTAR,

if the Transaction is implemented.

These intentions are based on the information concerning AUSTAR, its business and the general business environment known to FOXTEL at the time of preparation of this document, which is largely limited to publicly available information and information provided by AUSTAR to FOXTEL in connection with the due diligence enquiries undertaken by FOXTEL.

Final decisions about these matters will only be made by FOXTEL in light of material information and circumstances at the relevant time. Accordingly, the statements set out in this section are statements of current intention only, which may change as new information becomes available to FOXTEL or as circumstances change.

### (a) Removal from the ASX

FOXTEL expects that LGI will cause AUSTAR to be removed from the official list of the ASX shortly after the Implementation Date.

### (b) Board

After Completion, FOXTEL intends to reconstitute the AUSTAR Board with its own nominees. Those nominees have not yet been identified. Final decisions on the selection of the nominees will be made in light of the circumstances at the relevant time.

### (c) General operational review

FOXTEL's knowledge of the assets and operations of AUSTAR is limited. Accordingly, if the Transaction is implemented, FOXTEL intends to conduct a thorough and broad-based general review of AUSTAR's business, personnel and operations after Completion.

FOXTEL currently expects that the review will focus on identifying:

- profit improvement measures including cost synergies, for example combining selected functions of FOXTEL with similar functions within AUSTAR, to increase efficiency and minimise duplication;
- improvements in business systems that can be obtained from introducing FOXTEL systems or alternatively introducing AUSTAR business systems to FOXTEL's operations; and

- refinancing options for AUSTAR's existing debt facilities.

(d) **Premises**

FOXTEL intends to maintain AUSTAR's high-quality customer service facility at Robina on the Gold Coast.

(e) **Employees**

FOXTEL intends to retain most AUSTAR employees, but the positions of a number of AUSTAR employees may become redundant. FOXTEL may be able to offer suitable alternative roles to some affected employees but may not be able to do so in all cases. Any employee who is made redundant will receive, on redundancy, payments and other benefits in accordance with his or her contractual and other legal entitlements.

FOXTEL is not in a position at this time to determine how many employees may be affected in this way, nor the full nature and timing of any redundancies. FOXTEL will not be in that position until it has conducted its general operational review.

(f) **Other intentions**

Other than as set out in this section, it is the present intention of FOXTEL to:

- generally continue the business of AUSTAR;
- not make any major changes to the business of AUSTAR nor to redeploy any of the fixed assets of AUSTAR; and
- continue the employment of AUSTAR's present employees.

## 9.8 FOXTEL's interests in AUSTAR Shares

(a) **Relevant Interests and Voting Power**

At the date of this Scheme Booklet:

- Telstra Media and Sky Cable (in their capacity as partners of the FOXTEL Partnership), FOXTEL Management (in its capacity as agent for the FOXTEL Partnership), FOXTEL Holdings Pty Limited and its subsidiaries FOXTEL Bidco and FOXTEL Finco, and Premier Media Group Pty Limited (a holding company of Sky Cable);
- Telstra and its controlled entities;
- News Corporation and its controlled entities;
- Consolidated Media Holdings and its controlled entities;
- Mr James D Packer, and Consolidated Press Holdings Limited and its controlled entities,

each held a Relevant Interest in 688,458,394 AUSTAR Shares and had Voting Power in AUSTAR of 54.15%. The Relevant Interest and Voting Power of these persons relate to the AUSTAR Shares held by the LGI Group; arise under the Implementation Deed and the Restructure and Sale Deed; and relate to the arrangements put in place to implement the Transaction.

(b) **Dealings in AUSTAR Shares**

During the 4 months before the date of this Scheme Booklet, no FOXTEL Group Member or its Associates provided (or agreed to provide) consideration for any AUSTAR Shares under a purchase or an agreement other than the present Transaction (as detailed in the Transaction Documents).

(c) **No pre-Scheme benefits**

During the 4 months before the date of this Scheme Booklet, no FOXTEL Group Member or its Associates gave, or offered or agreed to give, a benefit to another person where the benefit was likely to induce the other person, or an associate of the other person, to:

- vote in favour of the Scheme; or
- dispose of AUSTAR Shares,

and where the benefit was not offered to all AUSTAR Shareholders, other than any benefits certain FOXTEL Group Members and their Associates have given, or offered to give, to certain LGI Group Members by virtue of their entry into the Transaction Documents.

## 10 Tax considerations

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The Board of Directors  
 Astar United Communications Limited  
 Level 1  
 46-52 Mountain Street  
 ULTIMO NSW 2007

8 December 2011

Dear Directors

### **Scheme of Arrangement Tax Report**

This Tax Report has been prepared for inclusion in the Scheme Booklet to be dated on or about 8 December 2011 and should be read in conjunction with the remainder of the Scheme Booklet. This Tax Report provides a general summary of the key Australian tax implications arising for certain individual Scheme Shareholders as a result of the Scheme. All capitalised terms in this letter have the meanings set out in the Glossary of the Scheme Booklet, unless noted otherwise.

The Australian tax implications provided in this Tax Report are general in nature, and should not be considered a substitute for independent tax advice to any particular Scheme Shareholder. The tax treatment may vary according to the individual circumstances of Scheme Shareholders, who are strongly recommended to seek their own independent taxation advice in respect of their participation in the Scheme.

The views expressed in this Tax Report:

- are based on the Australian tax law contained in the Income Tax Assessment Act 1936 (as amended), the Income Tax Assessment Act 1997 (as amended) and A New Tax Systems (Goods and Services Tax) Act 1999 (as amended), and the current interpretations of those laws as at the date of this letter. Any of those laws may change in the future without notice and legislation introduced to give effect to announcements may contain provisions that are currently not contemplated and which may impact the views expressed;
- are not intended to be an authoritative or exhaustive statement of the legislation applicable to all investors; and
- should not be relied upon by potential investors as a substitute for professional advice, as the taxation implications for a Scheme Shareholder may differ from those indicated in this letter, depending upon the Scheme Shareholder's particular circumstances.

**PricewaterhouseCoopers, ABN 52 780 433 757**  
 Darling Park Tower 2, 201 Sussex Street, GPO BOX 2650, SYDNEY NSW 1171  
 DX 77 Sydney, Australia  
 T +61 2 8266 0000, F +61 2 8266 9999, [www.pwc.com.au](http://www.pwc.com.au)

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Accordingly, any Scheme Shareholder should, before acting on this material, consider taking advice from a person who is licensed to provide financial product advice under the Corporations Act. Any Scheme Shareholder should, before acting on this material, also consider the appropriateness of this material having regard to their objectives, financial situation and needs and consider obtaining independent financial advice.

#### **Scheme Shareholders covered by this letter**

This letter applies only to those Scheme Shareholders that are individuals and hold their existing Austar Shares on capital account.

The tax implications arising for other Scheme Shareholders, or for individual Scheme Shareholders holding their Austar Shares on revenue account, as trading stock, or holding their existing Austar Shares as part of a business or profit making undertaking rather than on capital account, are not addressed in this letter. Where these circumstances apply, it is recommended the Scheme Shareholder seeks specific independent tax advice to confirm their tax position as a consequence of the Scheme.

#### **Australian Resident Individual Scheme Shareholders**

Should the Scheme be approved in accordance with the Scheme Booklet, Scheme Shareholders will receive cash consideration of \$1.52 per Austar Share.

The disposal under this Scheme of each Austar Share held by Scheme Shareholders will trigger a CGT event at the time the Austar Shares are disposed of, being the Implementation Date, which we understand will be on or around 13 February 2011.

On disposal of each Austar Share, the capital proceeds for the CGT event should equal the cash consideration received of \$1.52.

Whether a Scheme Shareholder incurs a capital gain or loss in relation to their disposal of Austar Shares will depend on their cost base and reduced cost base for each Austar Share. Scheme Shareholders should be advised that the cost base and reduced cost base will be reduced where the Scheme Shareholder received a return of capital in 2006 and / or 2007 from Austar in respect of their Austar share.

If the cost base a Scheme Shareholder has in each Austar Share is less than the capital proceeds, a capital gain will arise in respect of the CGT event. If the reduced cost base a Scheme Shareholder has in each Austar share exceeds the capital proceeds, a capital loss will arise.



A capital gain or capital loss made by a Scheme Shareholder in respect of their Austar Shares will be relevant for calculating the net capital gain or loss of the Scheme Shareholder for the relevant income year. When calculating the net capital gain or loss for an income year, capital gains are reduced by any capital losses made by a Scheme Shareholder.

In addition, where a certain Scheme Shareholder has held their Austar Shares for at least 12 months prior to their disposal of Austar Shares (excluding the day of acquisition and disposal) and makes a capital gain, they may be entitled to reduce their capital gain (after taking into account capital losses) by a CGT discount factor. The CGT discount factor is 50%.

Any overall net capital gain that a Scheme Shareholder has at the end of the income year should be included in their assessable income.

Any net capital loss that arises may be carried forward by the Scheme Shareholder and offset against future capital gains that may arise to the Scheme Shareholder.

#### **Foreign Resident Individual Scheme Shareholders**

Any capital gain made by a foreign resident Scheme Shareholder on disposal of their Austar Shares should not be subject to Australian tax. However, it is recommended that such Scheme Shareholders obtain their own Australian tax advice in respect of their participation in this Scheme.

Tax implications of the Scheme arising in foreign jurisdictions have not been considered in this letter.

#### **Australian Goods and Services Tax (GST)**

There should not be any specific GST consequences for Scheme Shareholders as a result of the disposal of their Austar Shares.

Scheme Shareholders who are GST registered should however obtain advice to confirm their individual GST positions as a consequence of the Scheme.

#### **Australian Stamp Duty**

Australian stamp duty should not be payable by Scheme Shareholders as a result of the disposal of their Austar Shares.

\* \* \* \* \*

Yours faithfully,  
PricewaterhouseCoopers

Derek Ivers  
Partner

Tony Clemens  
Partner

## 11 Information relating to AUSTAR Directors

### 11.1 Interests and dealings in AUSTAR securities

#### (a) AUSTAR Directors' interests in AUSTAR securities

As at the day before the date of this Scheme Booklet, the AUSTAR Directors had the following Relevant Interests in AUSTAR Shares (including AUSTAR Shares held by or on behalf of each AUSTAR Director):

AUSTAR Director	Direct interest in AUSTAR Shares	Indirect interest in AUSTAR Shares
Michael T Fries	-	-
Timothy D Downing	196,986	52,911
John C Porter	-	6,361,810
Roger M Amos	74,500	-
John W Dick	60,000	-
Balan Nair	-	-
Bernard Dvorak	-	-

#### (b) AUSTAR Directors' dealings in AUSTAR securities

No AUSTAR Director acquired or disposed of a Relevant Interest in AUSTAR Shares in the 4 month period ending on the day immediately before the date of this Scheme Booklet.

### 11.2 Interests and dealings in LGI securities

#### (a) Interests in LGI securities

As at the day before the date of this Scheme Booklet, the AUSTAR Directors had the following Relevant Interests in LGI securities (including LGI securities held by or on behalf of each AUSTAR Director):

AUSTAR Director	John W Dick	Michael T Fries	Balan Nair	Bernard Dvorak***
LGI Series A	12,444	396,758	68,160	147,050

Common				
LGI Series C Common	10,012	538,047	82,024	148,421
LGI Series A Restricted Share Units**	478	-	-	-
LGI Series C Restricted Share Units**	498	-	-	-
LGI Series A Option	75,358	869,815	37,500	-
LGI Series C Option	75,395	669,815	37,500	-
LGI Series A Stock Appreciation Rights*	-	296,086	65,616	128,064
LGI Series C Stock Appreciation Rights*	-	296,086	65,616	128,064
<p>* Upon exercise of Stock Appreciation Rights (<b>SARs</b>), the appreciation of the SAR, which is the difference between the base price of the SAR and the then-market value of the underlying series of LGI common stock, may be paid in shares of the applicable series of LGI common stock.</p> <p>** Restricted Share Units represent the right to receive shares of the specified series of LGI common stock following the end of a restriction period.</p> <p>*** Includes the following securities held by Mr Dvorak's spouse as to which Mr Dvorak has disclaimed beneficial ownership: (i) 41,529 LGI Series A Shares and 42,801 LGI Series C Shares; and (ii) 28,464 LGI Series A Shares and 28,464 LGI Series C Shares that are subject to SARs.</p>				

As at the day before the date of this Scheme Booklet no LGI Bidco securities were held by or on behalf of an AUSTAR Director. LGI Bidco is wholly owned by Aus Bidco 1.

**(b) Dealings in LGI securities**

No AUSTAR Director acquired or disposed of a Relevant Interest in any LGI securities in the 4 month period ending on the day immediately before the date of this Scheme Booklet, other than as follows:

<b>AUSTAR Director</b>	<b>Date</b>	<b>Nature of dealing</b>
Michael T Fries	30 September 2011	Vested in 113,252 LGI Series A shares
	30 September 2011	Vested in 109,475 LGI Series C shares
John W Dick	30 September 2011	Received 398 LGI Series A shares in lieu of LGI quarterly director fees paid in cash
	30 September 2011	Received 398 LGI Series C shares in lieu of LGI quarterly director fees paid in cash
Balan Nair	30 September 2011	Vested in 26,543 LGI Series A shares
	30 September 2011	Vested in 25,657 LGI Series C shares
	30 September 2011	Received 100 LGI Series C shares in 401(k) Plan account
	11 November 2011	Sold 5,000 LGI Series A shares
Bernard Dvorak	30 September 2011	Vested in 56,624** LGI Series A shares
	30 September 2011	Vested in 54,736** LGI Series C shares
	30 September 2011	Received 316* LGI Series C shares in 401(k) Plan accounts

\* Includes the following securities received by Mr Dvorak's spouse in her 401(k) Plan account: 158 LGI Series C shares on 30 September 2011. Mr Dvorak has disclaimed beneficial ownership of these shares.

\*\* Includes the following securities in which Mr Dvorak's spouse also vested: 12,386 LGI Series A shares and 11,973 LGI Series C shares. Mr Dvorak has disclaimed beneficial ownership of these shares.

### 11.3 Interests and dealings in FOXTEL Partner securities

#### (a) AUSTAR Directors' interests in FOXTEL Partner securities

As at the day before the date of this Scheme Booklet, the AUSTAR Directors do not have any Relevant Interests in securities of Consolidated Media Holdings, News Corporation or Telstra, other than as follows:

<b>AUSTAR Director</b>	<b>Direct interest in FOXTEL</b>	<b>Indirect interest in FOXTEL</b>
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	Partner securities	Partner securities
John C Porter	-	1,850 News Corporation shares

(b) **AUSTAR Directors' dealings in FOXTEL Partner securities**

No AUSTAR Director acquired or disposed of a Relevant Interest in any securities of Consolidated Media Holdings, News Corporation or Telstra in the 4 month period ending on the day immediately before the date of this Scheme Booklet.

## 11.4 Benefits and agreements

(a) **Benefits in connection with retirement from office**

There is no payment or other benefit that is proposed to be made or given to any director, secretary or executive officer of AUSTAR (or its Related Bodies Corporate) as compensation for the loss of or consideration for or in connection with his or her retirement from office in AUSTAR or any of its Related Bodies Corporate in connection with the Transaction.

The following AUSTAR Director, executive officers and secretaries are entitled to termination payments under their existing service contracts with AUSTAR if their employment is terminated.

Name	Termination benefits
John C Porter	<p>Termination for serious misconduct – only normal statutory benefits.</p> <p>Termination for cause relating to a non-rectified material breach of performance conditions – severance payment equal to one year's compensation.</p> <p>Termination without cause – one month's notice or payment of one month's salary. Also entitled to a severance payment equal to 2 years' compensation.</p>
Philip Knox Nikki Warburton Deanne Weir	<p>Termination for cause – only normal statutory benefits.</p> <p>Termination without cause – one month's notice or payment of one month's salary. Also entitled to a severance payment equal to 3 months' compensation for each full year of employment up to equivalent of 2 years' compensation.</p>

(b) **Agreements connected with or conditional on the Scheme**

There are no agreements or arrangements made between any AUSTAR Director and any other person in connection with, or conditional on, the outcome of the Scheme, other than in their capacity as AUSTAR Shareholders.

(c) **Interests of AUSTAR Directors in contracts with LGI or FOXTEL**

None of John C Porter, Timothy D Downing or Roger M Amos has any interest in any contract entered into by any LGI Group Member, other than in their capacity as an AUSTAR Shareholder.

Michael T Fries, John W Dick, Balan Nair and Bernard Dvorak are executives and/or directors of LGI and have contracts with LGI (including equity award contracts and indemnity agreements) in that capacity.

None of the AUSTAR Directors has any interest in any contract entered into by a FOTXEL Group Member, other than in their capacity as an AUSTAR Shareholder or a holder of LGI securities.

(d) **Benefits from LGI or FOXTEL**

None of the AUSTAR Directors has agreed to receive, or is entitled to receive, any benefit from an LGI Group Member or a FOXTEL Group Member, which is conditional on, or is related to, the Scheme, other than in their capacity as an AUSTAR Shareholder or by reason of their holding the LGI securities described in Section 11.2.

## 11.5 Intentions of AUSTAR Directors

If the Scheme is Implemented, the existing AUSTAR Board is likely to be reconstituted in accordance with the wishes of LGI and, following the transfer of all of LGI's interests in AUSTAR to the FOXTEL Group, the AUSTAR Board will be reconstituted in accordance with the wishes of FOXTEL.

Accordingly, it is not possible for the AUSTAR Directors to provide a statement of their intentions regarding:

- the continuation of the business of AUSTAR or how AUSTAR's existing business will be conducted;
- any major changes to be made to the business of AUSTAR, including any redeployment of the fixed assets of AUSTAR; or
- the future employment of the present employees of AUSTAR,

in each case, after the Scheme is Implemented.

If the Scheme is Implemented, until Completion of the Transaction, the LGI Group will own 100% of AUSTAR. The AUSTAR Directors have been advised that LGI's intentions are as set out in Section 8.7. On completion of the Transaction, AUSTAR will become wholly-owned by the FOXTEL Group. The AUSTAR Directors have been advised that the intentions of FOXTEL are as set out in Section 9.7.

If the Transaction is not implemented, and no Superior Proposal is received, the AUSTAR Board will continue with its existing business plan and may consider a number of strategic alternatives, which may take time to formulate and implement. Among other things, the AUSTAR Board may determine that it is appropriate for AUSTAR to implement either or both of a buy-back or a capital reduction, consistent with the approvals obtained at the 2011 Annual General Meeting.

## 12 Additional information

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### 12.1 Summary of Implementation Deed

The Implementation Deed governs, among other things, the steps that each of AUSTAR, LGI and FOXTEL must take to Implement the Scheme. The Implementation Deed is set out in Annexure D.

#### (a) **Conditions Precedent**

The Implementation Deed sets out a number of Conditions Precedent to the Scheme.

Other than the Conditions Precedent relating to Minority Shareholder approval of the Scheme, Court approval of the Scheme, there being no restraints in force preventing the Transaction, and regulatory approvals being obtained, the Conditions Precedent may be waived by any one or more of AUSTAR, LGI or FOXTEL Management.

The following is a summary of the Conditions Precedent (and which party may waive them, if any):

- (1) **Regulatory approvals:** Before 8:00am on the Second Court Date:
- necessary Australian competition law approval is obtained from the ACCC (or the Australian Competition Tribunal or the Federal Court of Australia);
  - Australian foreign investment approvals are obtained from the Treasurer (through FIRB);
  - an acceptable US taxation private letter ruling is obtained from the IRS and is not withdrawn, invalidated or modified in an adverse manner, and no representation, qualification or assumption made in obtaining that ruling ceases to apply as a result of changes in law, regulation or accounting standards announced or introduced between 11 July 2011 and 8:00am on the Second Court Date; and
  - any ASX or Government Agency relief, approvals or consents are obtained, and the ASX does such other acts, as are necessary to implement the Transaction.

This Condition Precedent cannot be waived, except that LGI may in its absolute discretion waive it insofar as it relates to the US taxation private letter ruling.

As at the date of this Scheme Booklet, a US taxation private letter ruling acceptable to LGI has been received.

Australian competition law and foreign investment approvals remain outstanding. If these approvals have not been obtained by 3 February 2012, unless AUSTAR, LGI and FOXTEL agree otherwise, AUSTAR will postpone the Shareholder Meetings until a date that is 10 Business Days after the date by which AUSTAR reasonably expects that those conditions will have been satisfied.

Subject to receipt of the noted competition and foreign investment approvals, and the IRS private letter ruling not being withdrawn, invalidated or modified in an adverse manner, and no representation, qualification or assumption made in obtaining that ruling ceasing to apply as a result of changes in law, regulation or accounting standards, prior to the Second Court Date, this Condition Precedent will be satisfied and no further relief, approvals or consents will be required from the ASX or any other Government Agency.

- (2) **Court approval:** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act. This Condition Precedent cannot be waived.

- (3) **Shareholder approval:** Minority Shareholders agree to the Scheme at the Scheme Meeting by the requisite majorities under the Corporations Act. This Condition Precedent cannot be waived.
- (4) **Resolutions:** Before 8:00am on the Second Court Date, AUSTAR Shareholders approve each of the Resolutions at the General Meeting by the requisite majorities. This Condition Precedent can only be waived by the written consent of all of the parties to the Implementation Deed.
- (5) **Restraints:** No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency or other material legal restraint or prohibition preventing the Transaction is in effect at 8:00am on the Second Court Date. This Condition Precedent cannot be waived.
- (6) **AUSTAR Material Adverse Change:** No AUSTAR Material Adverse Change occurs between 11 July 2011 and 8:00am on the Second Court Date. This Condition Precedent can only be waived by FOXTEL.
- (7) **AUSTAR Prescribed Occurrence:** No AUSTAR Prescribed Occurrence occurs between 11 July 2011 and 8:00am on the Second Court Date. This Condition Precedent can only be waived by FOXTEL.
- (8) **Independent Expert's Report:** The Independent Expert's Report is not withdrawn or varied adversely prior to 8:00am on the Second Court Date. This Condition Precedent can only be waived by the written consent of all of the parties to the Implementation Deed.

The Conditions Precedent are set out in full in clause 3.1 of the Implementation Deed.

As at the date of this Scheme Booklet, none of the AUSTAR Directors are aware of any circumstances which would cause any outstanding Condition Precedent not to be satisfied by the relevant time specified for each of them. If one or more of the Conditions Precedent are satisfied or waived before the Shareholder Meetings, or if changes are required to the timetable in connection with the Conditions Precedent, AUSTAR will make an announcement to the ASX (which will also be published on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au)).

AUSTAR, LGI and (if LGI has not given a Substitution Notice) FOXTEL Management will advise the Court of the nature and effect of any Conditions Precedent that have not been satisfied or waived on the Second Court Date, so that the Court may have regard to the implications of those Conditions Precedent in determining whether to approve the Scheme. The Scheme is set out in Annexure E.

(b) **Representations and warranties**

Under the Implementation Deed, AUSTAR, LGI and FOXTEL have given certain representations and warranties which are customary for an agreement of this type, as well as certain warranties relating to regulatory matters. Refer to clause 6 of the Implementation Deed for further details.

(c) **Exclusivity**

AUSTAR and LGI are obliged to comply with certain restrictions until the End Date, unless the Implementation Deed is terminated earlier. These include:

- (1) AUSTAR and LGI must not solicit or invite Competing Transactions.
- (2) AUSTAR must not participate in any discussions or negotiations, enter into any agreement, arrangement or understanding, or provide material confidential information about AUSTAR, in relation to a potential Competing Transaction unless the Independent Directors determine that:
  - the Competing Transaction is, or could reasonably be expected to become, a Superior Proposal; or
  - not doing so would involve a breach of the fiduciary duties owed by an AUSTAR Director or would otherwise be unlawful.

**(d) Reimbursement Fee**

AUSTAR must pay FOXTEL Management a Reimbursement Fee of approximately \$19.3 million in the circumstances described in Section 4.6: for full details of the Reimbursement Fee, see clause 11.2 of the Implementation Deed.

**(e) Termination**

The Implementation Deed provides for termination rights in specified circumstances. If a termination right is exercised, the Scheme will not proceed. The following is a summary of the termination rights under the Implementation Deed:

- (1) **Conditions Precedent:** Any party to the Implementation Deed may terminate if a Condition Precedent has not been, or cannot be, waived or satisfied by the End Date (including if the Court determines not to approve the Scheme) but only if they have complied with their obligations to endeavour to procure satisfaction of the relevant Condition Precedent.

Either AUSTAR or LGI can also terminate during a period of 14 days commencing on 11 December 2011, if either of them considers that the competition approval condition is unlikely to be satisfied by the End Date.

- (2) **End Date:** Any party to the Implementation Deed may terminate if the Scheme has not become Effective by the End Date.
- (3) **Independent Directors' recommendation withdrawn:** Any party to the Implementation Deed may terminate if the Independent Directors withdraw their recommendation of the Scheme following:
- a Superior Proposal; or
  - the Independent Expert varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

If either Independent Director withdraws his recommendation for other reasons, FOXTEL alone may terminate.

- (4) **AUSTAR or LGI default:** FOXTEL may terminate for an unremedied breach of any of AUSTAR's or LGI's warranties or material obligations in the Implementation Deed that is not remedied within 10 days of being notified to the relevant party.
- (5) **FOXTEL default:** AUSTAR or LGI may terminate for an unremedied breach of any of FOXTEL's warranties or material obligations in the Implementation Deed that is not remedied within 10 days of being notified to FOXTEL.
- (6) **AUSTAR insolvency:** LGI may terminate if an insolvency event occurs with respect to AUSTAR or certain material AUSTAR Subsidiaries.
- (7) **LGI insolvency:** AUSTAR or FOXTEL may terminate if an insolvency event occurs with respect to LGI. AUSTAR may also terminate where an insolvency event occurs with respect to LGI Bidco.
- (8) **FOXTEL insolvency:** AUSTAR or LGI may terminate if an insolvency event occurs with respect to FOXTEL.
- (9) **Failure to fund:** Unless LGI gives a Substitution Notice, AUSTAR or LGI may terminate if FOXTEL Finco does not deposit the estimated Total Scheme Consideration into the Escrow Account before the scheduled Second Court Date.

These termination rights are set out in full in clause 12 of the Implementation Deed.

## 12.2 Summary of Scheme Deeds Poll

Before the Scheme Meeting, LGI, LGI Bidco, FOXTEL and FOXTEL Finco (or, if LGI gives a Substitution Notice, LGI and LGI Bidco only) will execute the appropriate Scheme

Deed Poll, pursuant to which they undertake, subject to the Scheme becoming Effective, to take the steps necessary to ensure that each Scheme Shareholder is paid the Scheme Consideration.

If LGI does not give a Substitution Notice, the Scheme Deed Poll in Part A of Annexure F will be executed by LGI, LGI Bidco, FOXTEL and FOXTEL Finco. It provides for:

- FOXTEL Finco to deposit the estimated Total Scheme Consideration into the Escrow Account; and then
- LGI and LGI Bidco to procure the transfer of the lesser of the estimated Total Scheme Consideration and the Total Scheme Consideration from the Escrow Account to the Scheme Account in sufficient time to enable AUSTAR to despatch the Scheme Consideration to Scheme Shareholders on the Implementation Date.

If LGI gives a Substitution Notice, the Scheme Deed Poll in Part B of Annexure F will be executed by LGI and LGI Bidco. It provides for LGI Bidco to deposit the Total Scheme Consideration into the Scheme Account in sufficient time to enable AUSTAR to despatch the Scheme Consideration to Scheme Shareholders on the Implementation Date.

### 12.3 Summary of Restructure and Sale Deed

The Restructure and Sale Deed was entered into on 11 July 2011 by AUSTAR, LGI, UGC Australia, FOXTEL, FOXTEL Bidco and FOXTEL Finco. Copies of this deed were annexed to the substantial holder notices of the FOXTEL Group and the FOXTEL Partners released to the ASX on 12 July 2011.

The Restructure and Sale Deed provides for the following Transaction Steps:

- the LGI Group's restructure of its holdings of AUSTAR Shares before the Scheme is Implemented;
- FOXTEL's obligations in relation to financing the acquisition of AUSTAR Shares;
- after Implementation of the Scheme, the LGI Group's restructure of the way it holds AUSTAR Shares and novation of the funding for the Scheme;
- LGI's obligations from the Effective Date until Completion;
- Completion of the FOXTEL Acquisition; and
- FOXTEL's ongoing obligations in relation to the maintenance of the FOXTEL Funding after its acquisition of AUSTAR.

Each of AUSTAR, LGI, UGC Australia and FOXTEL have agreed to implement the various Transaction Steps in the Restructure and Sale Deed for which they are responsible in accordance with the agreed timetable.

#### (a) Restructuring before the Scheme is Implemented

After the Second Court Hearing but before the Scheme is implemented, the AUSTAR Shares held by United Austar Partners and United AUN, LLC will be transferred within the LGI Group so that all of the AUSTAR Shares owned by LGI Group Members (approximately 54.15% of AUSTAR) are held by UGC Australia.

UGC Australia will then transfer 682,218,242 of these AUSTAR Shares to Aus Bidco 1 and then on to Aus Bidco 2. UGC Australia will continue to hold 6,240,152 of the AUSTAR Shares.

#### (b) FOXTEL financing

FOXTEL is required to enter into definitive documents with its external financiers to finance the amounts payable on Completion at least one week before the Scheme Meeting. FOXTEL must then do everything necessary to satisfy the conditions precedent to its external debt documents at least 2 days before the Second Court Date (other than those conditions that reflect the Conditions Precedent in the Implementation Deed and

certain conditions which are procedural in nature or not capable of satisfaction before the Completion Date).

FOXTEL also provides various warranties in relation to availability of funding for the Scheme and the FOXTEL Acquisition.

**(c) Restructuring after the Scheme is Implemented**

AUSTAR will delist from the ASX as soon as practicable after the Implementation Date and lodge an application to change its status to a proprietary company limited by shares.

After Implementation of the Scheme, LGI Bidco will hold all the AUSTAR Shares acquired under the Scheme (approximately 45.85% of AUSTAR). Aus Bidco 1 will sell its shares in LGI Bidco to AUSTAR. LGI Bidco will then novate the FOXTEL Funding Agreement (or, if LGI has given a Substitution Notice, LGI Bidco's alternative funding) to AUSTAR in exchange for either a promissory note or the buy-back of the AUSTAR Shares that LGI Bidco holds. If AUSTAR buys-back the AUSTAR Shares from LGI Bidco, those shares will be cancelled and LGI Bidco will be wound-up. Certain AUSTAR subsidiaries will make certain elections for US federal income tax purposes. AUSTAR will then convert to a proprietary company limited by shares, following which UGC Australia and then AUSTAR will make certain elections for US federal income tax purposes.

If LGI has given a Substitution Notice, the Substitute Funding Agreement obtained by LGI Bidco as a substitute for the FOXTEL Funding will then be novated from AUSTAR to Aus Bidco 1 and on to UGC Australia. The liability associated with the alternative funding will therefore not be transferred to the FOXTEL Group at Completion.

**(d) LGI's obligations during the interim period**

Between the Effective Date and Completion, LGI will ensure that:

- AUSTAR carries on its business in the ordinary course and complies with certain restrictions relating to the conduct of its business; and
- no AUSTAR Prescribed Occurrence occurs, and Aus Bidco 1, Aus Bidco 2 and LGI Bidco do not incur any liabilities or own any assets except as contemplated in the Transaction Documents.

**(e) Completion of the FOXTEL Acquisition**

On the Completion Date, UGC Australia will sell:

- all the shares in Aus Bidco 1 (which will at the time hold the majority of its AUSTAR Shares) to FOXTEL Bidco for approximately \$1,037 million (plus, if a Substitution Notice has been given, the amount of the Total Scheme Consideration); and
- all the AUSTAR Shares it holds directly to FOXTEL for approximately \$9.5 million.

FOXTEL Group Members will then hold 100% of the AUSTAR Shares.

The Restructure and Sale Deed contains a number of other standard completion obligations.

**(f) Ongoing obligations in relation to the FOXTEL Funding**

FOXTEL will comply with certain requirements in relation to the FOXTEL Funding for 36 months following Completion. These include, among other matters, FOXTEL undertaking that:

- the terms of the FOXTEL Funding will not be materially varied or amended;
- the FOXTEL Funding will not be repaid by equity contributions;
- repayments of the FOXTEL Funding will be made from cash generated by AUSTAR Group Members or the sale of the assets of AUSTAR Group Members;
- no repayment obligations will be waived; and

- no reporting position will be taken by a FOXTEL Group Member (or, following Completion, an AUSTAR Group Member) that is inconsistent with the treatment of the FOXTEL Funding as a debt of the AUSTAR Group for financial reporting and tax purposes except with the prior consent of LGI or in circumstances where changes in law, regulation or accounting standards require otherwise.

FOXTEL also gives certain warranties to LGI as to its current intentions in relation to the repayment of the FOXTEL Funding consistent with these obligations and indemnifies LGI (up to a maximum amount of US\$350 million) against any taxes or losses arising out of a breach by FOXTEL of these warranties and undertakings for a period of 5 years.

Most of these obligations will cease to apply if LGI gives a Substitution Notice and the FOXTEL Funding is therefore not provided.

(g) **Termination, warranties and indemnities**

The Restructure and Sale Deed terminates if the Implementation Deed is terminated.

If Completion has not occurred on or before 30 June 2012 either of FOXTEL or UGC Australia may terminate the Restructure and Sale Deed, unless the failure to complete is a result of a breach of its obligations under the Restructure and Sale Deed or another Transaction Document.

LGI and FOXTEL also give other warranties and indemnities typical for a sale transaction.

## 12.4 Summary of FOXTEL Partner Deeds Poll

Each of Consolidated Media Holdings, News Australia and Telstra entered into a deed poll in favour of AUSTAR and LGI on 11 July 2011.

The FOXTEL Partner Deeds Poll contain restrictions on acquisition of AUSTAR Shares by the relevant FOXTEL Partner Group before the earlier of the End Date and Implementation of the Scheme, as well as undertakings to assist with obtaining certain regulatory consents.

## 12.5 Summary of FOXTEL Funding Agreement

LGI Bidco, AUSTAR and FOXTEL Finco entered into the FOXTEL Funding Agreement on 11 July 2011. The FOXTEL Funding Agreement sets out the terms on which FOXTEL Finco will lend LGI Bidco an amount equal to the estimated Total Scheme Consideration.

The FOXTEL Funding Agreement will be cancelled if LGI gives a Substitution Notice.

(a) **Conditions precedent**

FOXTEL Finco's obligation to make available the loan is subject to the following conditions:

- FOXTEL Finco receiving certain items including executed verification certificates, evidence that the AUSTAR Charge has been registered with ASIC, duly executed counterparts of each of the FOXTEL Funding Agreement and the AUSTAR Charge, evidence of title to the shares in AUH and signed blank transfers;
- as at the Business Day before the Second Court Date the Implementation Deed has not been terminated, AUSTAR remains the legal and beneficial owner of the shares in AUH and AUH's constitution does not restrict transfer of its shares to FOXTEL Finco or a receiver.

The FOXTEL Funding Agreement only binds AUSTAR from the AUSTAR Funding Date.

(b) **The loan**

The purpose of the loan is to fund LGI Bidco's acquisition of the Scheme Shares in accordance with the Implementation Deed.

The loan comprising the FOXTEL Funding will be taken to be drawn down by LGI Bidco from the date on which the Scheme becomes Effective. However, FOXTEL Finco must deposit the estimated Total Scheme Consideration into the Escrow Account before 2:00pm on the Business Day before the Second Court Date.

(c) **Repayment and interest**

The loan will have a 5 year term at which time the principal advanced will be repayable. Interest accrues at the rate of 12% per annum, payable on 30 June each year and at maturity. The loan may be prepaid in part or in full on 5 Business Days' notice to FOXTEL.

Interest accrues on amounts which are unpaid and which are due and payable, from the due date until the date of payment, at the rate of 15% per annum.

(d) **Guarantee**

AUSTAR guarantees the due and punctual payment of the Secured Money and indemnifies FOXTEL Finco against loss if any Secured Money is not recoverable from LGI Bidco.

AUSTAR has no liability under this guarantee until the AUSTAR Funding Date.

(e) **Warranties and undertakings**

AUSTAR and LGI Bidco give FOXTEL Finco warranties typical in this context. AUSTAR also gives a range of undertakings common in a loan transaction. These include, among others:

- complying with certain restrictions in relation to disposal of or creating encumbrances over its assets;
- complying with certain restrictions on entering into transactions and paying fees;
- ongoing information disclosure and financial reporting obligations; and
- maintaining appropriate insurance.

(f) **Novation**

After the Scheme is Implemented and AUSTAR has acquired LGI Bidco, AUSTAR will be substituted for LGI Bidco as the borrower under the FOXTEL Funding Agreement and will assume LGI Bidco's liabilities, obligations and rights. FOXTEL Finco will release LGI Bidco from its obligations and liabilities under the FOXTEL Funding Agreement.

(g) **Termination and events of default**

FOXTEL Finco's obligation to provide the loan will be cancelled if the loan has not been drawn down by the close of business on the End Date.

LGI Bidco, or after novation to AUSTAR, AUSTAR must repay the loan if:

- the Restructure and Sale Deed is terminated other than for breach by a FOXTEL Group Member; or
- the Restructure and Sale Deed is terminated for breach by a FOXTEL Group Member and either a final judgment in respect of the breach has been fully satisfied or can be satisfied simultaneously (including by way of set-off against the amount of the loan), or LGI has confirmed that it has abandoned or settled any claim in respect of the breach.

The FOXTEL Funding Agreement also sets out a list of common default events, including, among others, failure to pay; failure to comply with obligations under the FOXTEL Funding Agreement; and the occurrence of various insolvency type events.

FOXTEL Finco may not do any of the following (including in respect of an event of default) until at least one Business Day after Completion:

- exercise any right of cancellation, termination, recession or set-off which it may have in relation to the loan, the proceeds of the loan, the FOXTEL Funding Agreement or the AUSTAR Charge; or

- accelerate, request or cause repayment or prepayment of the loan or enforce the AUSTAR Charge,

except where the Restructure and Sale Deed is terminated in the circumstances described above.

## 12.6 Summary of the AUSTAR Charge

Unless LGI gives a Substitution Notice, AUSTAR will enter into the AUSTAR Charge in favour of FOXTEL Finco shortly before the date of the Shareholder Meetings although it will only take effect from the AUSTAR Funding Date. If LGI gives a Substitution Notice, AUSTAR will be relieved of its obligation to enter into the AUSTAR Charge (though in this case AUSTAR will be required, under the Implementation Deed, to provide the Substitute Security).

The AUSTAR Charge secures repayment of the Secured Money.

### (a) Charged property

FOXTEL Finco will have:

- a first ranking fixed charge over all present and future shares and marketable securities in AUH held by AUSTAR and assets, rights and proceeds arising out of these securities; and
- a floating charge over all AUSTAR's present and future assets and undertaking other than certain excluded assets. The floating charge will crystallise and operate as a fixed charge if an administrator is appointed to AUSTAR.

Except with FOXTEL Finco's consent, or as permitted in the FOXTEL Funding Agreement or the AUSTAR Charge, AUSTAR may not create other security interests over, dispose of, or release any other person's obligations in connection with, property that is subject to a fixed charge.

AUSTAR must maintain and protect all marketable securities forming part of the charged property and FOXTEL Finco's security interest in them.

### (b) Warranties and assurances

AUSTAR must duly and punctually pay the Secured Money. If an event of default occurs, AUSTAR must repay the Secured Money on demand.

AUSTAR also gives certain standard warranties in relation to the charged property.

### (c) Appointment of receivers and attorneys

If an event of default under the FOXTEL Funding Agreement subsists or an administrator is appointed to AUSTAR, FOXTEL Finco may appoint any person to be a receiver (or receiver and manager) of:

- on an event of default, the property subject to the fixed charge; and
- if an administrator is appointed, all or any of the charged property.

AUSTAR appoints each authorised officer of FOXTEL Finco to be its attorney if an event of default under the FOXTEL Funding Agreement subsists to do anything which AUSTAR is obliged to do but has not done or which FOXTEL Finco or a receiver is authorised to do.

### (d) Indemnity

AUSTAR indemnifies FOXTEL Finco, and each receiver and attorney against any loss, cost, liability or expense which they incur as a result of or in connection with events of defaults or breaches of the FOXTEL Funding Agreement or the AUSTAR Charge, the exercise of powers under the AUSTAR Charge or the charged property.

**(e) Interest**

Interest accrues on each unpaid amount which is due and payable by AUSTAR under the FOXTEL Funding Agreement or the AUSTAR Charge at the rate of 15% per annum.

**12.7 Summary of Commitment Deeds Poll**

Each of Consolidated Media Holdings, News Australia and Telstra entered into a deed poll in favour of LGI, LGI Bidco, UGC Australia and FOXTEL Management on 11 July 2011. The deeds poll contain undertakings in relation to the FOXTEL Funding.

Under each of their deeds poll, each of Consolidated Media Holdings (as to 25%), News Australia (as to 25%) and Telstra (as to 50%) commit to provide or procure the provision of funding for the estimated Total Scheme Consideration to:

- if LGI does not give a Substitution Notice, FOXTEL Finco so that it can pay the estimated Total Scheme Consideration into the Escrow Account by the Business Day before the Second Court Date; or
- if LGI gives a Substitution Notice, FOXTEL Bidco to be applied towards the total amount payable from FOXTEL Bidco to UGC Australia upon Completion in accordance with the Restructure and Sale Deed.

The commitment is subject only to the Implementation Deed not being terminated in accordance with its terms.

Each of Consolidated Media Holdings, News Australia and Telstra also undertakes not to require repayment by FOXTEL Finco of the amount provided while either:

- FOXTEL or FOXTEL Bidco has an obligation to Complete; or
- any LGI Group Member has an outstanding claim against FOXTEL as a result of a breach by a FOXTEL Group Member of its obligation to Complete (a **Completion Claim**) unless a final judgment which may not be further appealed has been handed down by a court of competent jurisdiction (including a final order for damages, if any) in respect of such Completion Claim and fully satisfied or LGI has confirmed in writing that it has finally abandoned the Completion Claim or the Completion Claim has otherwise been finally settled by LGI and FOXTEL.

**12.8 Summary of Escrow Deed**

The Escrow Agent, FOXTEL Finco and LGI Bidco will enter into the Escrow Deed before the Scheme Meeting, unless LGI gives a Substitution Notice. The Escrow Deed provides for establishment and operation of the Escrow Account into which FOXTEL Finco will pay the estimated Total Scheme Consideration.

Five Business Days before the Second Court Date the Escrow Agent will establish the Escrow Account and Scheme Account.

FOXTEL Finco must pay the estimated Total Scheme Consideration into the Escrow Account before 2:00pm on the Business Day before the Second Court Date.

While in the Escrow Account, the amount of the estimated Total Scheme Consideration will be held on behalf of FOXTEL Finco until the Effective Date and thereafter the lesser of the estimated Total Scheme Consideration and the Total Scheme Consideration will be held on behalf of LGI Bidco.

Amounts in the Escrow Account may only be dealt with as follows:

- **Scheme becomes Effective:** As soon as possible after the Scheme becomes Effective, AUSTAR will provide an instruction to the Escrow Agent. In accordance with this instruction, the Escrow Agent will transfer the lesser of the estimated Total Scheme Consideration and the Total Scheme Consideration to the Scheme Account to enable AUSTAR to pay the Scheme Consideration to each Scheme Shareholder.

- **Implementation Deed is terminated:** If the Escrow Agent receives an instruction signed by both FOXTEL Finco and LGI Bidco stating that the Implementation Deed has terminated, the Escrow Agent will transfer the balance in the Escrow Account back to FOXTEL Finco.
- **Scheme is not Effective:** If the Escrow Agent receives an instruction from FOXTEL Finco at least 15 Business Days after the Second Court Date stating that the Scheme has not become Effective, the Escrow Agent will transfer the balance in the Escrow Account back to FOXTEL Finco.

The Escrow Agent is authorised to deduct fees and charges from the interest on the Escrow Account.

## 12.9 Summary of Termination Agreement

AUSTAR, AUSTAR Entertainment and LGI Services entered into the Termination Agreement on 11 July 2011. This Agreement terminates the LGI Management Agreement between these parties dated 14 December 2010 with effect from Completion.

## 12.10 Effect of the Scheme on AUSTAR's material contracts

To the best of the knowledge of the AUSTAR Directors none of the material contracts to which AUSTAR is a party contain change of control provisions which may be triggered as a result of the Implementation of the Scheme and which may have a material adverse effect on the assets or liabilities, financial position or performance, profits and losses or prospects of AUSTAR.

## 12.11 Formal disclosures and consents

### (a) Consents

This Scheme Booklet contains statements made by, or statements said to be based on statements made by:

- FOXTEL in respect of the FOXTEL Information only;
- LGI in respect of the LGI Information only;
- Grant Samuel & Associates Pty Limited as the Independent Expert; and
- PricewaterhouseCoopers as the author of the Tax Report in Section 10.

Each of those persons named above has consented to the inclusion of each statement it has made in the form and context in which the statements appear and has not withdrawn that consent before the date of this Scheme Booklet.

The following parties have given and have not, before the date of this Scheme Booklet, withdrawn their consent to be named in this Scheme Booklet in the form and context in which they are named:

- Goldman Sachs Australia Pty Ltd as financial adviser to AUSTAR;
- Freehills as legal adviser to AUSTAR (other than in relation to taxation matters); and
- Computershare Investor Services Pty Limited as the AUSTAR Registry and the Escrow Agent.

### (b) Disclosures and responsibility

Further, each person named in Section 12.11(a):

- (1) has not authorised or caused the issue of this Scheme Booklet;
- (2) does not make, or purport to make, any statement in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based, other than:

- FOXTEL in respect of the FOXTEL Information only;
  - LGI in relation to the LGI Information only;
  - Grant Samuel & Associates Pty Limited in relation to its Independent Expert's Report; and
  - PricewaterhouseCoopers in relation to its Tax Report in Section 10; and
- (3) to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes no responsibility for, any part of this Scheme Booklet other than the statements (if any) included in this Scheme Booklet with the consent of that party as specified in this Section 12.11(b).

## 12.12 Fees

Grant Samuel & Associates Pty Limited, PricewaterhouseCoopers, Goldman Sachs Australia Pty Ltd, Freehills and Computershare Investor Services Pty Limited have performed a function in a professional, advisory or other capacity in connection with the preparation and distribution of this Scheme Booklet or implementation of the Transaction and will be entitled to receive professional fees charged in accordance with their respective normal bases of charging.

## 12.13 Status of regulatory approvals

The regulatory approvals that are Conditions Precedent are summarised in Section 12.1 of this Scheme Booklet and are set out in clause 3.1(a) of the Implementation Deed.

The necessary competition approvals from the ACCC and Australian foreign investment approvals from the Treasurer (through FIRB) are yet to be obtained. The ACCC is considering FOXTEL's application for informal clearance. On 28 November 2011, the ACCC suspended its timeline at the request of FOXTEL, to allow FOXTEL to make further submissions. The ACCC has delayed the former proposed decision date of 30 November 2011 and advised that it will announce a new proposed decision date in due course.

When these are obtained, and subject to the IRS private letter ruling not being withdrawn, invalidated or modified in an adverse manner, and no representation, qualification or assumption made in obtaining that ruling ceasing to apply, prior to the Second Court Date, this Condition Precedent will be satisfied.

In addition, as at the date of this Scheme Booklet, all ASX and Government Agency relief, approvals or consents have been obtained, and the ASX has done all acts, that AUSTAR has identified as necessary to implement the Transaction.

AUSTAR will make a statement regarding the status of the regulatory approvals (and the corresponding Condition Precedent) at the commencement of the Scheme Meeting.

## 12.14 Removal of AUSTAR from the ASX

If the Court approves the Scheme, AUSTAR will notify the ASX of the Court approval on the date that such orders are made. It is expected that suspension of trading on the ASX in AUSTAR Shares will occur as from the close of trading on the Effective Date.

AUSTAR will request the ASX to remove AUSTAR Shares from official quotation on the ASX with effect from the Business Day following the Implementation Date.

## 12.15 No relevant restrictions in the AUSTAR Constitution

There are no relevant restrictions on the right to transfer Scheme Shares in the constitution of AUSTAR.

## 12.16 ASIC relief

### (a) Retirement benefits

Clause 8302(d) of Part 3 of Schedule 8 to the Corporations Regulations requires this Scheme Booklet to disclose particulars of any payment or benefit that is proposed to be made or given to any director, secretary or executive officer of AUSTAR or a Related Body Corporate of AUSTAR (**Relevant Person**) as compensation for the loss of, or as consideration for or in connection with his or her retirement from, office in AUSTAR or any Related Body Corporate of AUSTAR.

ASIC has granted AUSTAR relief from this requirement so that AUSTAR is not required to disclose particulars of payments or benefits proposed to be made or given to a Relevant Person unless either:

- the Relevant Person may lose office or retire from office as a consequence of, or in connection with, the Scheme, and the benefit is payable in respect of the loss of such office; or
- the amount of any payment or benefit which may be made to the Relevant Person upon their loss of office or retirement from office may be materially affected by the Scheme.

### (b) Changes to financial position

Clause 8302(h) of Part 3 of Schedule 8 to the Corporations Regulations requires this Scheme Booklet to set out whether, within the knowledge of the AUSTAR Directors, the financial position of AUSTAR has materially changed since the date of the last balance sheet laid before AUSTAR's general meeting or sent to AUSTAR Shareholders, and if so, full particulars of any change.

ASIC has permitted AUSTAR to confine its disclosure to all material changes to AUSTAR's financial position between 30 June 2011, being the end of AUSTAR's half year (the results in respect of which were announced to the ASX on 29 July 2011), and the lodgement of the Scheme Booklet for registration by ASIC, on condition that:

- AUSTAR has complied with Division 2 of Part 2M.3 of the Corporations Act in respect of the half year ended 30 June 2011;
- the Scheme Booklet states that AUSTAR will give a copy of the documents referred to in section 302 of the Corporations Act for the half year ended 30 June 2011 free of charge to anyone who asks for them, before the Scheme is approved by order of the Court;
- all material changes in AUSTAR's financial position occurring after 30 June 2011 but prior to the date of the Scheme Booklet are disclosed in the Scheme Booklet. This information is provided in Section 7.7 of this Scheme Booklet; and
- the Scheme Booklet sent to members is substantially in the form given to ASIC.

A copy of AUSTAR's half year report for the period ended 30 June 2011 is available on AUSTAR's website at [www.austarunited.com.au](http://www.austarunited.com.au), or is available by contacting the AUSTAR Shareholder Information Line on 1300 706 158 (within Australia) or +61 3 9946 4459 (outside Australia) between 9:00am and 5:00pm (Sydney time), Monday to Friday.

### (c) Forecasts and valuations

For the purpose of clause 8305 of Part 3 of Schedule 8 to the Corporations Regulations, ASIC has consented to the Independent Expert's Report containing forecasts of AUSTAR's profitability and references to estimates of the market value of AUSTAR's assets.

### (d) Knowledge of directors of a related company

Clause 8302(i) of Part 3 of Schedule 8 to the Corporations Regulations requires that, in addition to each of the specified items that must be disclosed in that schedule, this Scheme Booklet must set out any other information that is material to the making of a decision in relation to the Scheme that is within the knowledge of any director, liquidator

or official manager of AUSTAR or a 'related company' (taken to include LGI and its subsidiaries) and that has not previously been disclosed to Minority Shareholders.

ASIC has granted AUSTAR approval to confine its disclosure under this clause to information that is within the knowledge of any director (or liquidator or official manager) of AUSTAR or of any Subsidiary of AUSTAR.

(e) **Lodgement period – Chapter 2E**

ASIC has approved a reduced lodgement period for the Scheme Booklet for the purposes of the related party transaction provisions of the Corporations Act.

(f) **Joint bid relief**

ASIC has granted relief from section 606 of the Corporations Act to entities including FOXTEL, FOXTEL Finco, FOXTEL Bidco, each of the FOXTEL Partners (and their Controlled Entities) and LGI (and its Controlled Entities) on certain conditions. This relief permits FOXTEL and the other FOXTEL Group Members to which the relief extends to acquire a Relevant Interest in AUSTAR Shares pursuant to the Implementation Deed and the Restructure and Sale Deed. The relief is necessary because LGI currently has a Relevant Interest in more than 20% of the issued AUSTAR Shares.

## 12.17 ASX waivers

No waivers of ASX Listing Rules have been sought or granted in relation to the Transaction.

## 12.18 No unacceptable circumstances

The AUSTAR Directors believe that the Transaction does not involve any circumstances in relation to the affairs of AUSTAR that could reasonably be characterised as constituting 'unacceptable circumstances' for the purposes of section 657A of the Corporations Act.

## 12.19 No other material information

Except as set out in this Scheme Booklet, so far as the AUSTAR Directors are aware, there is no information material to the making of a decision by an AUSTAR Shareholder in relation to the Scheme, being information that is within the knowledge of any AUSTAR Director or director of any AUSTAR Group Members, at the time of lodging this Scheme Booklet with ASIC for registration, which has not previously been disclosed to AUSTAR Shareholders.

## 12.20 Supplementary disclosure

AUSTAR will issue a supplementary document to this Scheme Booklet if it becomes aware of any of the following between the date of lodgement of this Scheme Booklet for registration by ASIC and the Effective Date:

- a material statement in this Scheme Booklet is false or misleading in a material respect;
- a material omission from this Scheme Booklet;
- a significant change affecting a matter included in this Scheme Booklet; or
- a significant new matter has arisen and it would have been required to be included in this Scheme Booklet if it had arisen before the date of lodgement of this Scheme Booklet for registration by ASIC.

Depending on the nature and timing of the changed circumstances, and subject to obtaining any relevant approvals, AUSTAR may circulate and publish any supplementary document by:

- making an announcement to the ASX;
- placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
- posting the supplementary document to AUSTAR Shareholders at their registered address as shown in the Register; or
- posting a statement on AUSTAR's website at <http://www.austarunited.com.au>,

as AUSTAR in its absolute discretion considers appropriate (subject to the discretion of the Court).

## 13 Glossary

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The meanings of the terms used in this Scheme Booklet are set out below.

<b>Term</b>	<b>Meaning</b>
<b>\$, A\$, AUD</b>	Australian dollars.
<b>2010 Annual Report</b>	AUSTAR's annual report for the year ended 31 December 2010, released to the ASX on 21 April 2011.
<b>ACCC</b>	Australian Competition and Consumer Commission.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>Associate</b>	has the meaning given in sections 10 to 17 of the Corporations Act.
<b>ASX</b>	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
<b>AUH</b>	AUSTAR United Holdings Pty Limited ACN 146 562 263, a wholly-owned Subsidiary of AUSTAR.
<b>Aus Bidco 1</b>	LGI Investments 1 Pty Limited ACN 151 765 007, a new indirect wholly-owned Subsidiary of LGI, which holds all of the shares in Aus Bidco 2 and LGI Bidco.
<b>Aus Bidco 2</b>	LGI Investments 2 Pty Limited ACN 151 767 421, a new indirect wholly-owned Subsidiary of LGI.
<b>AUSTAR</b>	AUSTAR United Communications Limited ACN 087 695 707.
<b>AUSTAR Board</b>	the board of directors of AUSTAR.
<b>AUSTAR Charge</b>	a fixed and floating charge to be granted by AUSTAR in favour of FOXTEL Finco before the date of the Shareholder Meetings, which is summarised in Section 12.6.
<b>AUSTAR Directors</b>	each member of the AUSTAR Board.

<b>AUSTAR Entertainment</b>	AUSTAR Entertainment Pty Limited ACN 068 104 530, a wholly-owned Subsidiary of AUSTAR.
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<b>AUSTAR Funding Date</b>	<p>the date that is the later of:</p> <ol style="list-style-type: none"> <li>1 the date that is 14 days after notice of the Resolutions being approved by the requisite majorities at the General Meeting is lodged with ASIC; and</li> <li>2 the date on which the lesser of the estimated Total Scheme Consideration and the Total Scheme Consideration is deposited in the Scheme Account.</li> </ol>
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<b>AUSTAR Group</b>	AUSTAR and each of its Subsidiaries and Controlled Entities and a reference to an <b>AUSTAR Group Member</b> is to any member of the AUSTAR Group.
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<b>AUSTAR Information</b>	<p>the information in this Scheme Booklet, other than:</p> <ol style="list-style-type: none"> <li>1 the LGI Information;</li> <li>2 the FOXTEL Information;</li> <li>3 the Independent Expert's Report; and</li> <li>4 the Tax Report.</li> </ol>
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<b>AUSTAR Material Adverse Change</b>	<p>an event or series of events which has or could reasonably be expected:</p> <ol style="list-style-type: none"> <li>1 to result in a diminution of the AUSTAR Group's adjusted operating cash flow (being revenue less operating expenses and stock-based compensation, excluding foreign exchange, impairment, depreciation, amortisation and transaction costs and expenses incurred or paid in connection with the Transaction) by more than \$50 million in each of the financial years ending 31 December 2012 and 31 December 2013; or</li> <li>2 to have a material adverse effect on the status of any approvals, licences or permits issued to an AUSTAR Group Member that are material to the AUSTAR Group's business,</li> </ol> <p>other than those events:</p> <ol style="list-style-type: none"> <li>3 notified to ASX or disclosed in a document lodged with ASIC by or on behalf of AUSTAR (in each case, provided the event and its effect on the AUSTAR Group's business is fully and fairly disclosed in the notification or document) prior to 11 July 2011;</li> <li>4 to which FOXTEL Management consents in writing (in its absolute discretion);</li> <li>5 required or expressly permitted by the Implementation Deed or any other Transaction Document (including as a result of the giving of a Substitution Notice);</li> <li>6 fully and fairly disclosed (together with its effect on the AUSTAR Group's business) in certain disclosure materials made available to FOXTEL and the FOXTEL Partners;</li> <li>7 that are, relate to or arise from general economic, regulatory or political conditions or changes in those conditions (including financial market fluctuations or changes in interest rates);</li> <li>8 that arise from any actual or proposed change in tax, law or</li> </ol>
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- accounting standards or mandatory policies or codes;
- 9 affecting the pay television industry as a whole; or
- 10 that are, relate to or arise from an act of terrorism, war (whether or not declared), natural disaster or the like.

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**AUSTAR Prescribed Occurrence**

other than:

- 1 as required by the Implementation Deed, any other Transaction Document or the Transaction Steps (including as a result of the giving of a Substitution Notice); or
  - 2 as agreed to in writing by FOXTEL Management,
- the occurrence of any of the following between 11 July 2011 and 8:00am on the Second Court Date:
- 3 AUSTAR converting all or any of its shares into a larger or smaller number of shares;
  - 4 an AUSTAR Group Member resolving to reduce its share capital in any way;
  - 5 an AUSTAR Group Member:
    - entering into a buy-back agreement; or
    - resolving to approve the terms of a buy-back agreement under the Corporations Act;
  - 6 an AUSTAR Group Member issuing shares, or granting an option over its shares, or agreeing to make such an issue or grant such an option other than to an AUSTAR Group Member;
  - 7 an AUSTAR Group Member issuing or agreeing to issue securities convertible into shares;
  - 8 an AUSTAR Group Member disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property other than to another AUSTAR Group Member;
  - 9 an AUSTAR Group Member creating, or agreeing to create, any Encumbrance (as that term is defined in clause 1.1 of the Implementation Deed) over the whole, or a substantial part, of its business or property other than a lien which arises by operation of law securing an obligation that is not yet due;
  - 10 an AUSTAR Group Member resolving that it be wound up;
  - 11 AUSTAR or an AUSTAR Group Member (as applicable) being under an obligation (whether or not conditional) to do any of the things set out in items 1 to 10; or
  - 12 an Insolvency Event (as that term is defined in clause 1.1 of the Implementation Deed) with respect to AUSTAR or any AUSTAR Material Subsidiary (as that term is defined in clause 1.1 of the Implementation Deed).

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**AUSTAR Registry**

Computershare Investor Services Pty Limited ABN 48 078 279 277.

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**AUSTAR Share**

a fully paid ordinary share in AUSTAR.

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**AUSTAR Shareholder**

a person who is registered as the holder of an AUSTAR Share at the relevant time.

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<b>AUSTAR Shareholder Information Line</b>	1300 706 158 (within Australia) or +61 3 9946 4459 (outside Australia).
<b>Business Day</b>	a business day as defined in the Listing Rules.
<b>CGT</b>	capital gains tax.
<b>Commitment Deeds Poll</b>	each of the deeds poll entered into by Consolidated Media Holdings, News Australia and Telstra, on 11 July 2011 in favour of LGI, LGI Bidco, UGC Australia and FOXTEL Management, which are summarised in Section 12.7.
<b>Competing Transaction</b>	has the meaning given to that term in clause 1.1 of the Implementation Deed.
<b>Completion</b>	completion of the FOXTEL Acquisition in accordance with the Restructure and Sale Deed.
<b>Completion Date</b>	the earlier of: <ol style="list-style-type: none"> <li>1 the third Business Day after the later of the date on which certain Transaction Steps under the Restructure and Sale Deed are completed and the day AUSTAR is notified by ASIC that it has changed its status into a proprietary company limited by shares; and</li> <li>2 30 June 2012,</li> </ol> or at such other date as LGI and FOXTEL Management may agree in writing.
<b>Conditions Precedent</b>	the conditions precedent set out in clause 3.1 of the Implementation Deed, and summarised in Section 12.1.
<b>Consolidated Media Holdings</b>	Consolidated Media Holdings Limited ACN 009 071 167.
<b>Controlled Entity</b>	of an entity, any entity which the first mentioned entity controls (as that term is defined in section 50AA of the Corporations Act).
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Corporations Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by

AUSTAR, FOXTEL Management and LGI.

<b>Effective</b>	the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under subsection 411(4)(b) in relation to the Scheme.
<b>Effective Date</b>	the date on which the Scheme becomes Effective.
<b>End Date</b>	29 February 2012 or such other date as AUSTAR, FOXTEL Management and LGI agree in writing.
<b>Escrow Account</b>	a corporate trust account in the name of the Escrow Agent as trustee under the Escrow Deed at Australia and New Zealand Banking Group Limited, or at such other bank agreed by the parties to the Escrow Deed from time to time.
<b>Escrow Agent</b>	Computershare Investor Services Pty Limited ABN 48 078 279 277 or such other person as AUSTAR, FOXTEL Management and LGI agree in writing.
<b>Escrow Deed</b>	an Escrow Deed to be entered into by FOXTEL Finco, LGI Bidco and the Escrow Agent before the date of the Shareholder Meetings (unless LGI gives a Substitution Notice), which is summarised in Section 12.8.
<b>Excluded Shareholder</b>	United Astar Partners, United AUN, LLC and any other AUSTAR Shareholder who, at any relevant time is a LGI Group Member or any AUSTAR Shareholder to the extent that, at any relevant time, it holds AUSTAR Shares on behalf of, or for the benefit of, any LGI Group Member.
<b>Financial Assistance Resolution</b>	the first resolution proposed in the Notice of General Meeting, being a resolution approving for the purposes of section 260A(1)(b) of the Corporations Act, subject to the Scheme becoming Effective, the grant of financial assistance by AUSTAR to LGI Bidco, FOXTEL and FOXTEL Bidco as contemplated by the Transaction Steps.
<b>FIRB</b>	Foreign Investment Review Board.
<b>FOXTEL</b>	Telstra Media and Sky Cable, when acting in their capacity as the partners of the FOXTEL Partnership, and FOXTEL Management, when acting in its capacity as agent for the FOXTEL Partnership, collectively.
<b>FOXTEL Acquisition</b>	the acquisition by FOXTEL and FOXTEL Bidco of all of the LGI Group's direct and indirect interests in the AUSTAR Group after the Scheme is Implemented, pursuant to the Restructure and Sale

Deed.

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<b>FOXTEL Bidco</b>	FOXTEL Australia Pty Limited ACN 151 691 753, a new Subsidiary wholly-owned by FOXTEL.
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<b>FOXTEL Finco</b>	FOXTEL Finance Pty Limited ACN 151 691 897, a new Subsidiary wholly-owned by FOXTEL.
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<b>FOXTEL Funding</b>	the funding by FOXTEL Finco of the estimated Total Scheme Consideration in accordance with the FOXTEL Funding Agreement.
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<b>FOXTEL Funding Agreement</b>	the Loan Agreement between AUSTAR, FOXTEL Finco and LGI Bidco dated 11 July 2011, which is summarised in Section 12.5.
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<b>FOXTEL Group</b>	<ol style="list-style-type: none"> <li>1 the FOXTEL Partnership;</li> <li>2 Sky Cable and Telstra Media, each in any capacity;</li> <li>3 any Subsidiary of the FOXTEL Partnership, Sky Cable or Telstra Media (each in any capacity), or any body in respect of which any two or more of them collectively (directly or indirectly): <ul style="list-style-type: none"> <li>• control the composition of the body's board;</li> <li>• are in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the body; or</li> <li>• hold more than one half of the issued share capital of the body (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);</li> </ul> </li> <li>4 any entity controlled by the FOXTEL Partnership, Sky Cable or Telstra Media (each in any capacity) or collectively controlled (as that term is defined in section 50AA of the Corporations Act, disregarding subsection (3)) by any two or more of them; and</li> <li>5 any partnership between two or more of the entities listed in items 1, 2, 3 or 4 above,</li> </ol> <p>including the FOXTEL Television Partnership, FOXTEL Management (in any capacity), FOXTEL Bidco, FOXTEL Finco, FOXTEL Holdings Pty Limited ACN 151 690 327, Customer Services Pty Limited ACN 069 272 117, FOXTEL Cable Television Pty Limited ACN 069 008 797, Artist Services Cable Management Pty Limited ACN 072 725 289 and The Racing Channel Cable-TV Pty Limited ACN 069 619 307, and a reference to a <b>FOXTEL Group Member</b> is to any member of the FOXTEL Group.</p>
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<b>FOXTEL Information</b>	<p>information in the Scheme Booklet regarding the FOXTEL Group or any FOXTEL Partner Group provided by FOXTEL to AUSTAR and/or LGI in writing for inclusion in the Scheme Booklet, including the information contained in Sections 6.4(b), 6.5(b) and 9, but excluding any information which FOXTEL obtained from or based on:</p> <ol style="list-style-type: none"> <li>1 LGI Information provided to FOXTEL, to the extent it accurately reflects that LGI Information; or</li> </ol>
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- 2 AUSTAR's public filings on ASX regarding the AUSTAR Group, to the extent that it accurately reflects those public filings.

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**FOXTEL Management** FOXTEL Management Pty Limited ACN 068 671 938 in its capacity as agent for the FOXTEL Partnership.

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**FOXTEL Partner** each of:

- 1 Consolidated Media Holdings;
- 2 News Corporation, a Delaware corporation; and
- 3 Telstra.

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**FOXTEL Partner Deeds Poll** each of the deeds poll entered into by Consolidated Media Holdings, News Australia and Telstra, on 11 July 2011 in favour of AUSTAR and LGI, which are summarised in Section 12.4.

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**FOXTEL Partner Group** in respect of each FOXTEL Partner, that FOXTEL Partner and its Subsidiaries and Controlled Entities (and in the case of the FOXTEL Partner Group of each of Consolidated Media Holdings and News Corporation, includes Premier Media Group Pty Limited ACN 065 445 418 and its Subsidiaries and Controlled Entities) but excluding any FOXTEL Group Member (other than Sky Cable and Telstra Media) and a reference to a **FOXTEL Partner Group Member** is to any member of the relevant FOXTEL Partner Group.

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**FOXTEL Partnership** the FOXTEL Partnership, a partnership between Telstra Media and Sky Cable under a partnership agreement dated 14 April 1997 (as amended and restated on 3 December 1998).

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**General Meeting** a general meeting of AUSTAR to be held immediately after the Scheme Meeting to consider and, if thought fit, approve the Resolutions.

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

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**GST** goods and services tax.

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**Implementation** the transfer of the Scheme Shares to LGI Bidco pursuant to the Scheme. A reference to **Implemented** has a corresponding meaning.

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**Implementation Date** the second Business Day after the Record Date or such other day as AUSTAR, FOXTEL Management and LGI agree in writing.

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<b>Implementation Deed</b>	the Implementation Deed between AUSTAR, LGI, Telstra Media, Sky Cable, FOXTEL Management, and LGI Bidco dated 11 July 2011 (as amended on 7 December 2011), which is summarised in Section 12.1 and a consolidated copy of which is contained in Annexure D.
<b>Independent Directors</b>	the independent directors of AUSTAR, being as at the date of this Scheme Booklet Messrs Timothy D Downing and Roger M Amos.
<b>Independent Expert</b>	Grant Samuel & Associates Pty Limited ABN 28 050 036 372.
<b>Independent Expert's Report</b>	the report prepared by the Independent Expert, a copy of which is contained in Annexure A.
<b>IPTV</b>	internet protocol television.
<b>IRS</b>	the United States Internal Revenue Service.
<b>LGI</b>	Liberty Global, Inc., a Delaware corporation.
<b>LGI Bidco</b>	LGI Bidco Pty Limited ACN 151 767 449, a new indirect wholly-owned Subsidiary of LGI.
<b>LGI Group</b>	LGI and each of its Subsidiaries and Controlled Entities, excluding the AUSTAR Group Members, and a reference to a <b>LGI Group Member</b> is to any member of the LGI Group.
<b>LGI Information</b>	<p>information in the Scheme Booklet regarding the LGI Group provided by LGI to AUSTAR in writing for inclusion in the Scheme Booklet, contained in Sections 8 and 6.5(b), but excluding any statement in Section 8.8(b) or 8.8(c) insofar as it relates to dealings by AUSTAR Group Members, and information which LGI obtained from or based on:</p> <ol style="list-style-type: none"> <li>1 FOXTEL Information provided to LGI, to the extent that it accurately reflects that FOXTEL Information; or</li> <li>2 AUSTAR's public filings on ASX regarding the AUSTAR Group, to the extent that it accurately reflects those public filings.</li> </ol>
<b>LGI Services</b>	Liberty Global Services, LLC, a Colorado limited liability company and an indirect wholly-owned Subsidiary of LGI.
<b>Listing Rules</b>	the official listing rules of the ASX.
<b>Minority Shareholders</b>	AUSTAR Shareholders, other than Excluded Shareholders, from time to time.

<b>NASDAQ</b>	The NASDAQ Stock Market, LLC and, where the context requires, a financial market that it operates.
<b>News Australia</b>	News Australia Holdings Pty Limited ACN 105 197 028.
<b>Notice of General Meeting</b>	the notice of meeting relating to the General Meeting, which is contained in Annexure H.
<b>Notice of Scheme Meeting</b>	the notice of meeting relating to the Scheme Meeting, which is contained in Annexure G.
<b>Record Date</b>	7:00pm on the fifth Business Day after the Effective Date or such other date as AUSTAR, FOXTEL Management and LGI agree in writing.
<b>Register</b>	the register of members of AUSTAR.
<b>Reimbursement Fee</b>	\$19,326,500.
<b>Related Body Corporate</b>	has the meaning set out in section 9 of the Corporations Act.
<b>Related Party Resolution</b>	the second resolution proposed in the Notice of General Meeting, being a resolution approving for the purposes of section 208(1)(a)(i) of the Corporations Act, subject to the Scheme becoming Effective, the giving of financial benefits to certain related parties of AUSTAR as contemplated by the Transaction Steps.
<b>Relevant Interest</b>	has the meaning given in sections 608 and 609 of the Corporations Act.
<b>Resolutions</b>	the following resolutions that are to be put to AUSTAR Shareholders at the General Meeting: <ol style="list-style-type: none"> <li>1 the Financial Assistance Resolution;</li> <li>2 the Related Party Resolution; and</li> <li>3 the Status Resolution,</li> </ol> as set out in the Notice of General Meeting.
<b>Restructure and Sale Deed</b>	the Restructure and Sale Deed among AUSTAR, LGI, Telstra Media, Sky Cable, FOXTEL Management, FOXTEL Finco, FOXTEL Bidco and UGC Australia dated 11 July 2011, which is summarised in Section 12.3.
<b>Scheme</b>	the scheme of arrangement under Part 5.1 of the Corporations Act

between AUSTAR and the Scheme Shareholders, in the form attached as Annexure E to this Scheme Booklet subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by AUSTAR, LGI and FOXTEL Management.

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<b>Scheme Account</b>	an Australian dollar denominated trust account operated by AUSTAR on behalf of Scheme Shareholders in accordance with the Scheme.
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<b>Scheme Booklet</b>	this scheme booklet, including the Annexures.
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<b>Scheme Consideration</b>	the consideration to be provided by LGI Bidco to each Scheme Shareholder for the transfer to LGI Bidco of each Scheme Share, being \$1.52 in cash.
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<b>Scheme Deed Poll</b>	<p>either:</p> <ol style="list-style-type: none"> <li>1 if LGI does not give a Substitution Notice, the deed poll to be executed by LGI, LGI Bidco, FOXTEL Management and FOXTEL Finco in favour of the Scheme Shareholders, which is summarised in Section 12.2 and a copy of which is set out in Part A of Annexure F; or</li> <li>2 if LGI gives a Substitution Notice, the deed poll to be executed by LGI and LGI Bidco in favour of the Scheme Shareholders, which is summarised in Section 12.2 and a copy of which is set out in Part B of Annexure F.</li> </ol>
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<b>Scheme Meeting</b>	the meeting of Minority Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act.
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<b>Scheme Resolution</b>	the resolution set out in the Notice of Scheme Meeting to agree to the terms of the Scheme.
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<b>Scheme Share</b>	an AUSTAR Share held by a Scheme Shareholder as at the Record Date.
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<b>Scheme Shareholder</b>	Minority Shareholders as at the Record Date.
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<b>Second Court Date</b>	the first day on which an application made to the Court for an order under subsection 411(4)(b) of the Corporations Act approving the Scheme is heard.
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<b>Second Court Hearing</b>	the hearing of the application made to the Court for orders pursuant to subsection 411(4)(b) of the Corporations Act approving the Scheme.
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<b>Secured Money</b>	all money that AUSTAR or LGI Bidco is or may become actually or contingently liable to pay to FOXTEL Finco in connection with the FOXTEL Funding Agreement and the AUSTAR Charge, including the FOXTEL Funding.
<b>Shareholder Meeting</b>	each of the Scheme Meeting and the General Meeting.
<b>Sky Cable</b>	Sky Cable Pty Limited ACN 069 799 640, a partner of the FOXTEL Partnership.
<b>Status Resolution</b>	the third resolution proposed in the Notice of General Meeting, being a resolution approving for the purposes of section 162(1)(a) of the Corporations Act, subject to the Scheme becoming Effective, AUSTAR changing its status from a public company limited by shares into a proprietary company limited by shares as contemplated by the Transaction Steps.
<b>Subsidiary</b>	has the meaning given to it in the Corporations Act and also includes an entity that would be a subsidiary (within the meaning given in the Corporations Act) of another entity were both entities bodies corporate.
<b>Substitute Funding Agreement</b>	a loan facility agreement for the provision of the Total Scheme Consideration by LGI Bidco's alternative financier(s) to LGI Bidco specified in the Substitution Notice.
<b>Substitute Security</b>	any guarantee, charge or other security provided by AUSTAR to secure to LGI Bidco's alternative financier(s) the payment of the Total Scheme Consideration, and any other obligations that AUSTAR agrees to incur in connection with that amount.
<b>Substitution Notice</b>	a notice given by LGI in accordance with clause 4.4 of the Implementation Deed setting out, among other things, a description of the Substitute Funding Agreement and any Substitute Security, which will substitute the FOXTEL Funding.
<b>Superior Proposal</b>	<p>a bona fide proposal for a Competing Transaction (not resulting from a breach by AUSTAR of its obligations under clause 10 of the Implementation Deed) which the Independent Directors, acting in good faith and in order to satisfy what they consider to be their fiduciary or statutory duties (having first taken written advice from their external financial and legal advisers), determine:</p> <ol style="list-style-type: none"> <li>1 can reasonably be valued and completed in a timely manner taking into account all aspects of the Competing Transaction; and</li> <li>2 is more favourable both to AUSTAR Shareholders as a whole and to the LGI Group than the Transaction taking into account all the terms of the Competing Transaction.</li> </ol> <p>In determining whether a Competing Transaction is a Superior Proposal, the Independent Directors will have regard to its price, structure, conditionality, availability of finance and likelihood of</p>

	success (including LGI's likely response to the Competing Transaction).
<b>Sydney time</b>	the local time in Sydney, Australia.
<b>Tax Report</b>	the tax letter contained in Section 10 of this Scheme Booklet.
<b>Telstra</b>	Telstra Corporation Limited ACN 051 775 556.
<b>Telstra Media</b>	Telstra Media Pty Limited ACN 069 279 027, a partner of the FOXTEL Partnership.
<b>Termination Agreement</b>	the Management Agreement Termination Agreement among AUSTAR, AUSTAR Entertainment and LGI Services, dated 11 July 2011, which is summarised in Section 12.9.
<b>Total Scheme Consideration</b>	an amount equal to the aggregate amount of Scheme Consideration payable to all Scheme Shareholders under the Scheme.
<b>Transaction</b>	the acquisition of AUSTAR by the FOXTEL Group in accordance with the Transaction Documents, comprising the acquisition of the Scheme Shares by LGI Bidco through Implementation of the Scheme, followed by the FOXTEL Acquisition.
<b>Transaction Document</b>	<p>the agreements and other binding documents relating to the Transaction, including each of:</p> <ol style="list-style-type: none"> <li>1 the Implementation Deed;</li> <li>2 the Scheme;</li> <li>3 the Scheme Deed Poll;</li> <li>4 the Restructure and Sale Deed;</li> <li>5 each of the FOXTEL Partner Deeds Poll;</li> <li>6 the FOXTEL Funding Agreement (or, if entered into, the Substitute Funding Agreement);</li> <li>7 the AUSTAR Charge (or, if entered into, any Substitute Security);</li> <li>8 the Commitment Deeds Poll;</li> <li>9 the Escrow Deed;</li> <li>10 the Termination Agreement;</li> <li>11 certain confidentiality deeds entered into between FOXTEL Management and AUSTAR and FOXTEL Management and LGI; and</li> <li>12 any document to be entered into in accordance with the terms of the above documents.</li> </ol>

**Transaction Steps** the steps required to implement the Transaction, as set out in the Implementation Deed and the Restructure and Sale Deed.

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**UGC Australia** UGC Australia BV, a company registered in the Netherlands, and an indirect wholly-owned Subsidiary of LGI.

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**US** United States of America.

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**Voting Power** has the meaning given in section 610 of the Corporations Act.

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## Interpretation

In this Scheme Booklet, unless the context otherwise requires:

- (a) Other words and phrases not in the glossary have the same meaning (if any) given to them in the Corporations Act.
- (b) Words of any gender include all genders.
- (c) Words in the singular include the plural and vice versa.
- (d) References to a Section or Annexure are references to a Section of or Annexure to this Scheme Booklet, as relevant.
- (e) References to a person includes any company, partnership, joint venture, association, corporation, other body corporate or Government Agency.
- (f) References to any legislation include all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (g) Headings and bold type are for convenience only and do not affect the interpretation of this Scheme Booklet.
- (h) References to time are references to the time in Sydney, Australia.

Independent Expert's Report

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8 December 2011

The Directors  
AUSTAR United Communications Limited  
Level 1, 46-52 Mountain Street  
Ultimo NSW 2007

Dear Directors

## FOXTEL Proposal

### 1 Introduction

On 26 May 2011, AUSTAR United Communications Limited (“AUSTAR”) announced that it had received a conditional proposal from FOXTEL Management Pty Limited (“FOXTEL”) as agent for the FOXTEL Partnership to acquire AUSTAR at a price of \$1.52 per share subject to a number of conditions including due diligence and further negotiations.

On 11 July 2011, AUSTAR announced that it had signed definitive transaction documentation with Liberty Global, Inc. (“Liberty Global”) (which owns 54.15% of AUSTAR) and FOXTEL pursuant to which AUSTAR will be acquired by FOXTEL and FOXTEL Australia Pty Limited (“FOXTEL Bidco”) (“the Proposal”).

The Proposal is to be implemented by way of a series of transactions as follows:

- Liberty Global will acquire all of the shares in AUSTAR that it does not already own for \$1.52<sup>1</sup> cash per AUSTAR share through a scheme of arrangement under Section 411 of the Corporations Act, 2001 (“the Scheme”). Only AUSTAR shareholders not associated with Liberty Global (“the minority shareholders”) will vote on the Scheme. It is anticipated that a FOXTEL entity will lend a Liberty Global entity the consideration payable to the minority shareholders, although Liberty Global may elect to fund the consideration itself or use a third party funding source;
- following implementation of the Scheme, Liberty Global’s interest in AUSTAR will be restructured; and
- FOXTEL and FOXTEL Bidco will then acquire Liberty Global’s interest in AUSTAR for \$1.52<sup>1</sup> cash per share (“the FOXTEL Acquisition”). This transaction is expected to complete six to eight weeks after the Scheme is implemented.

The directors of AUSTAR have engaged Grant Samuel & Associates Pty Limited (“Grant Samuel”) to prepare an independent expert’s report setting out whether, in its opinion:

- the Scheme is in the best interests of AUSTAR shareholders; and
- the Scheme is in the best interests of, and the acquisition of AUSTAR by FOXTEL and FOXTEL Bidco is fair to, the minority shareholders<sup>2</sup>,

and to state reasons for those opinions. A copy of the report (including this letter) will accompany the Notice of Meeting and Explanatory Memorandum (“Scheme Booklet”) to be sent to shareholders by AUSTAR. This letter contains a summary of Grant Samuel’s opinion and main conclusions.

<sup>1</sup> Less the cash amount of any dividend or other distribution by AUSTAR between 11 July 2011 and implementation of the Scheme. No amounts have been distributed since the Proposal was announced or are expected to be distributed before implementation of the Scheme.

<sup>2</sup> The second opinion sought from Grant Samuel is required as a condition of the relief granted by the Australian Securities & Investment Commission to Liberty Global, FOXTEL and the owners of FOXTEL from Section 606 of the Corporations Act, 2001 (see Section 2.1 of the full report).



## 2 Opinion

### In Grant Samuel's opinion:

- the Scheme is in the best interests of AUSTAR shareholders, in the absence of a superior proposal;
- the Scheme is in the best interests of the minority shareholders, in the absence of a superior proposal; and
- the FOXTEL Acquisition is fair to the minority shareholders.

## 3 Key Conclusions

- **The Scheme is in the best interests of AUSTAR shareholders**

Grant Samuel has estimated the full underlying value of AUSTAR, including a premium for control, to be in the range \$1,558-1,778 million which corresponds to a value of \$1.23-1.40 per share. This value was assessed by aggregating the estimated market value of AUSTAR's operating business together with the realisable value of non-trading assets and deducting external borrowings and non-trading liabilities. It exceeds the price at which AUSTAR shares would be expected to trade on the stock exchange in the absence of the Proposal or some similar transaction.

The offer price under the Scheme is \$1.52 for each AUSTAR share. The consideration exceeds the range that Grant Samuel has assessed as the full underlying value of AUSTAR and, accordingly, the Scheme is fair. As the Scheme is fair, it is also reasonable. As the Scheme is fair and reasonable, it is in the best interests of shareholders.

The consideration under the Scheme exceeds the top end of the estimated full underlying value of AUSTAR by 8.6%. While this outcome is unusual, in this case it reflects the extent of synergies that are available from merging AUSTAR and FOXTEL and the extent to which FOXTEL is willing to "pay away" some of the value of these synergies to AUSTAR shareholders.

The estimated full underlying value of \$1.23-1.40 per share reflects only the synergies that are available to any purchaser of AUSTAR (i.e. listed company costs and the Liberty Global management fee) and implies multiples of 7.7-8.5 times 2012 EBITDA<sup>3</sup> (refer Section 5.3.3). However, the combination of AUSTAR and FOXTEL provides a unique opportunity to realise substantial cost savings which FOXTEL management has estimated to be in the order of \$55-60 million per annum (although market commentators have generally predicted higher cost savings, in the order of \$60-75 million per annum).

The offer price of \$1.52 per share equates to a value for the AUSTAR business operations of around \$2,365 million<sup>4</sup> which is \$165-365 million higher than Grant Samuel's estimated value range for the business (\$2,000-2,200 million) and implies multiples in excess of 9 times 2012 EBITDA<sup>5</sup>. Assuming an EBITDA multiple of 8 times<sup>6</sup>, FOXTEL is "paying away" \$21-46 million of annual synergies (38-77% of FOXTEL's estimate of synergies). In Grant Samuel's opinion, this premium is attributable to the strong negotiating position of 54.15% shareholder Liberty Global and the possibility that potential merger synergies may exceed those publicly contemplated.

<sup>3</sup> EBITDA is earnings before net interest, tax, depreciation and amortisation, other income and expenses (including stock based compensation) and significant and non-recurring items. EBITDA approximates Operating Cash Flow as disclosed by AUSTAR except for additional non-recurring items identified by Grant Samuel.

<sup>4</sup> Calculated by multiplying the \$1.52 offer price by 1,271.5 million fully diluted shares on issue, then deducting \$50-70 million other assets/(liabilities) and adding \$492.2 million net borrowings at 30 September 2011.

<sup>5</sup> If \$55 million in additional annual savings are allowed for the offer price implies multiples of 7.5 times 2012 EBITDA which is consistent with recent transactions involving significant synergy benefits.

<sup>6</sup> Based on the multiples of 2012 EBITDA implied by Grant Samuel's estimate of full underlying value of 7.7-8.5 times.



■ **A significant premium over prevailing share prices is being paid**

The consideration of \$1.52 per share represents a 54.3% premium to the price at which AUSTAR shares traded on 17 February 2011, being the last trading day prior to publication in the media of speculation in relation to the Proposal:

<b>AUSTAR – Premium over Pre-announcement Prices</b>		
<b>Period</b>	<b>Share Price (\$)</b>	<b>Premium</b>
10 July 2011 – pre-announcement price	1.315	15.6%
25 May 2011 – price prior to conditional proposal	1.265	20.2%
17 February 2011 – unaffected share price	0.985	54.3%
1 month prior to 17 February 2011 – VWAP <sup>7</sup>	0.975	55.8%
3 months prior to 17 February 2011 – VWAP	0.970	56.8%
6 months prior to 17 February 2011 – VWAP	0.947	60.5%
12 months prior to 17 February 2011 – VWAP	1.028	47.8%

The level of premiums observed in takeovers varies depending on the circumstances of the target and other factors (such as the potential for competing offers) but tend to fall in the range 20-35%. The premium over unaffected AUSTAR share prices is high relative to those normally seen in takeover offers reflecting the extent to which FOXTEL is willing to “pay away” the value of potential synergies to AUSTAR shareholders. This view is supported by the lower, but not insignificant (at 20%), premium over the price on 25 May 2011, the day prior to receipt of an indicative, non-binding and conditional proposal from FOXTEL.

■ **The price of shares in AUSTAR is likely to fall below \$1.52 in the absence of the Proposal**

In the absence of the Proposal or a similar transaction, it is likely that AUSTAR shares, under current market conditions and its current ownership structure, would trade at prices below \$1.52. In fact, the downturn and increased volatility in the stockmarket since July 2011 and the associated investor uncertainty suggests that AUSTAR shares could trade at significantly lower prices.

■ **An alternative superior proposal is unlikely**

In Grant Samuel’s opinion, there is no alternative acquirer able to derive the level of synergies available to FOXTEL and therefore it is unlikely that alternative bidders would be prepared to offer a price higher than \$1.52 per share.

While AUSTAR has agreed to no-talk, no-shop and no-due diligence provisions, there is no impediment to an alternative acquisition proposal being put by any other party. However, as Liberty Global owns 54.15% of, and controls, AUSTAR, an acquisition proposal by a third party could not succeed without its agreement. Liberty Global is a party to the Proposal and has agreed both the price and the transaction structure (which achieves an efficient transaction outcome for Liberty Global). Therefore, an alternative acquirer would need to make a superior offer in terms of price and facilitate a similar transaction structure to gain the support of Liberty Global. Furthermore, although there has been opportunity for any other interested party to make a superior offer since announcement of the Proposal, no such offer has been made although the opportunity to do so remains until the shareholder meeting.

Given the significant synergies available from combining AUSTAR and FOXTEL, it would be open to shareholders to vote against the Scheme in the hope that FOXTEL would make a subsequent higher offer. However, there is no evidence that FOXTEL would be prepared to pay a higher price. Furthermore, since the Proposal was announced there has been a significant decline and increased volatility in global equities markets. It is therefore possible that any subsequent offer would be on less favourable terms if negotiated in current market conditions.

<sup>7</sup> VWAP is volume weighted average price.



■ **There are few issues other than price with a cash offer**

There are few issues other than price when shareholders are faced with a cash offer. Other factors that shareholders should take into consideration are:

- the Proposal enables shareholders to realise their investment in AUSTAR at a certain cash price which incorporates a significant premium. In the absence of the Proposal or a similar transaction, shareholders could only realise their investment by selling on market at a price which does not include any premium and would incur transaction costs (e.g. brokerage);
- shareholders will be treated as having disposed of their AUSTAR shares for tax purposes. A capital gain or loss may arise on disposal depending on the cost base for the AUSTAR shares, the length of time held, whether the shares are held on capital or revenue account and whether the shareholder is an Australian resident for taxation purposes;
- AUSTAR will incur transaction costs of approximately \$5 million prior to the shareholder meeting. If the Proposal is not implemented, AUSTAR will meet these costs as a standalone company. Furthermore, in certain circumstances, AUSTAR will also be liable to pay a \$19.3 million break fee to FOXTEL; and
- even if the Scheme is approved by shareholders, it is possible that the Proposal may not proceed if any of the other resolutions are not approved by shareholders (unless AUSTAR, FOXTEL and Liberty Global agree to waive the corresponding conditions precedent). In this case, AUSTAR would remain listed with a 54.15% controlling shareholder.

■ **The FOXTEL Acquisition is fair to minority shareholders**

Approval of all resolutions associated with the Proposal means that, subject to satisfaction or waiver of all conditions precedent, FOXTEL will acquire 100% of AUSTAR at a cost of \$1.52 per share (\$1,932.7 million). In Grant Samuel’s opinion, the Scheme is in the best interests of AUSTAR shareholders, in the absence of a superior proposal. By definition, therefore, the Scheme is also in the best interests of the minority shareholders, in the absence of a superior proposal. However, Liberty Global agreed to the Proposal subject to achieving an efficient transaction outcome and the transaction structure accommodates this objective<sup>8</sup>. This could be considered to disadvantage the minority shareholders. However:

- minority shareholders will receive the same gross consideration (\$1.52 cash per share) as Liberty Global is to receive from FOXTEL. Liberty Global will not derive a profit from the sale under the FOXTEL Acquisition of the AUSTAR shares acquired from the minority shareholders under the Scheme. In fact, relative to Liberty Global, minority shareholders benefit marginally (around 0.8-1.1 cents per share) as a result of the time value of money (i.e. minority shareholders will be able to reinvest the proceeds received under the Scheme earlier than Liberty Global which will receive the proceeds under the FOXTEL Acquisition on completion which is expected six to eight weeks after the Scheme is implemented);
- the consideration of \$1.52 per share under the Scheme exceeds Grant Samuel’s estimate of full underlying value of AUSTAR and is therefore fair;
- minority shareholders will receive a substantial premium under the Scheme. This premium reflects the strong negotiating position of Liberty Global and the extent to which FOXTEL is willing to “pay away” some of the value of the synergies that are available from merging with AUSTAR;
- if Liberty Global separately made an offer for the shares that it does not already own in AUSTAR, minority shareholders are unlikely to have been offered a premium of the magnitude offered under the Scheme due to the lack of significant synergies and as Liberty Global already controls AUSTAR. In that case, minority shareholders would also not participate in any profit that Liberty Global could subsequently derive from a sale of AUSTAR to FOXTEL; and

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<sup>8</sup> For example, receipt of an acceptable private letter ruling by Liberty Global from the United States Internal Revenue Service is a condition of the Proposal and can only be waived by Liberty Global.



- evaluation of fairness does not (and cannot) take into account the objectives, financial situation or needs of individual shareholders. In particular, the taxation consequences of the Proposal (and therefore the net proceeds) will vary from shareholder to shareholder.

Therefore, although the Proposal is structured to achieve an efficient transaction outcome for Liberty Global, there are no detrimental impacts for minority shareholders as a result of the FOXTEL Acquisition. Accordingly, in Grant Samuel's opinion, the FOXTEL Acquisition is fair to the minority shareholders.

#### 4 Other Matters

This report is general financial product advice only and has been prepared without taking into account the objectives, financial situation or needs of individual AUSTAR shareholders. Accordingly, before acting in relation to their investment, shareholders should consider the appropriateness of the advice having regard to their own objectives, financial situation or needs. Shareholders should read the Scheme Booklet issued by AUSTAR in relation to the Proposal.

The decision whether to vote for or against the Proposal is a matter for individual shareholders based on each shareholder's views as to value, their expectations about future market conditions and their particular circumstances including risk profile, liquidity preference, investment strategy, portfolio structure and tax position. In particular, taxation consequences may vary from shareholder to shareholder. If in any doubt as to the action they should take in relation to the Proposal, shareholders should consult their own professional adviser.

Similarly, it is a matter for individual shareholders as to whether to buy, hold or sell securities in AUSTAR. This is an investment decision independent of a decision on whether to vote for or against the Proposal upon which Grant Samuel does not offer an opinion. Shareholders should consult their own professional adviser in this regard.

Grant Samuel has prepared a Financial Services Guide as required by the Corporations Act, 2001. The Financial Services Guide is included at the beginning of the full report.

This letter is a summary of Grant Samuel's opinion. The full report from which this summary has been extracted is attached and should be read in conjunction with this summary.

The opinion is made as at the date of this letter and reflects circumstances and conditions as at that date.

Yours faithfully  
**GRANT SAMUEL & ASSOCIATES PTY LIMITED**

*Grant Samuel & Associates*



**Financial Services Guide  
and  
Independent Expert's Report  
in relation to the Proposal by FOXTEL**

**Grant Samuel & Associates Pty Limited**  
(ABN 28 050 036 372)

**8 December 2011**



## Financial Services Guide

Grant Samuel & Associates Pty Limited ("Grant Samuel") holds Australian Financial Services Licence No. 240985 authorising it to provide financial product advice on securities and interests in managed investments schemes to wholesale and retail clients.

The Corporations Act, 2001 requires Grant Samuel to provide this Financial Services Guide ("FSG") in connection with its provision of an independent expert's report ("Report") which is included in a document ("Disclosure Document") provided to members by the company or other entity ("Entity") for which Grant Samuel prepares the Report.

Grant Samuel does not accept instructions from retail clients. Grant Samuel provides no financial services directly to retail clients and receives no remuneration from retail clients for financial services. Grant Samuel does not provide any personal retail financial product advice to retail investors nor does it provide market-related advice to retail investors.

When providing Reports, Grant Samuel's client is the Entity to which it provides the Report. Grant Samuel receives its remuneration from the Entity. In respect of the Report for AUSTAR in relation to a proposal by Liberty Global, Inc. and FOXTEL ("the AUSTAR Report"), Grant Samuel will receive a fixed fee of \$300,000 plus reimbursement of out-of-pocket expenses for the preparation of the Report (as stated in Section 8.3 of the AUSTAR Report).

No related body corporate of Grant Samuel, or any of the directors or employees of Grant Samuel or of any of those related bodies or any associate receives any remuneration or other benefit attributable to the preparation and provision of the AUSTAR Report.

Grant Samuel is required to be independent of the Entity in order to provide a Report. The guidelines for independence in the preparation of Reports are set out in Regulatory Guide 112 issued by the Australian Securities & Investments Commission on 30 March 2011. The following information in relation to the independence of Grant Samuel is stated in Section 8.3 of the AUSTAR Report:

*"Grant Samuel and its related entities do not have at the date of this report, and have not had within the previous two years, any business or professional relationship with AUSTAR or FOXTEL or any financial or other interest that could reasonably be regarded as capable of affecting its ability to provide an unbiased opinion in relation to the Proposal. Grant Samuel advises that it prepared an independent expert's report dated 31 August 2011 for inclusion in the Explanatory Memorandum sent to Telstra shareholders in relation to the arrangements with NBN Co Limited to participate in the roll out of the National Broadband Network.*

*Grant Samuel had no part in the formulation of the Proposal. Its only role has been the preparation of this report.*

*Grant Samuel will receive a fixed fee of \$300,000 for the preparation of this report. This fee is not contingent on the outcome of the Proposal. Grant Samuel's out of pocket expenses in relation to the preparation of the report will be reimbursed. Grant Samuel will receive no other benefit for the preparation of this report.*

*Grant Samuel considers itself to be independent in terms of Regulatory Guide 112 issued by the ASIC on 30 March 2011."*

Grant Samuel has internal complaints-handling mechanisms and is a member of the Financial Ombudsman Service, No. 11929. If you have any concerns regarding the AUSTAR Report, please contact the Compliance Officer in writing at Level 19, Governor Macquarie Tower, 1 Farrer Place, Sydney NSW 2000. If you are not satisfied with how we respond, you may contact the Financial Ombudsman Service at GPO Box 3 Melbourne VIC 3001 or 1300 780 808. This service is provided free of charge.

Grant Samuel holds professional indemnity insurance which satisfies the compensation requirements of the Corporations Act, 2001.

Grant Samuel is only responsible for the AUSTAR Report and this FSG. Complaints or questions about the Disclosure Document should not be directed to Grant Samuel which is not responsible for that document. Grant Samuel will not respond in any way that might involve any provision of financial product advice to any retail investor.



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## 1 Details of the Proposal

On 26 May 2011, AUSTAR United Communications Limited (“AUSTAR”) announced that it had received a conditional proposal from FOXTEL Management Pty Limited (“FOXTEL”) as agent for the FOXTEL Partnership to acquire AUSTAR at a price of \$1.52 per share subject to a number of conditions including due diligence and further negotiations.

AUSTAR provides subscription television services via satellite throughout rural and regional Australia (excluding Western Australia but including Hobart and Darwin) and is owned 54.15% by Liberty Global, Inc. (“Liberty Global”). FOXTEL provides subscription television services via cable and satellite in Australia’s five major metropolitan areas (Sydney, Melbourne, Brisbane, Perth and Adelaide), Canberra and certain regional markets (Gold Coast and all of Western Australia) and is owned by entities controlled by Telstra Corporation Limited (“Telstra”) (50%), News Corporation (“News”) (25%) and Consolidated Media Holdings Limited (“Consolidated Media”) (25%).

On 11 July 2011, AUSTAR announced that it had signed definitive transaction documentation with Liberty Global and FOXTEL under which AUSTAR will be acquired by FOXTEL and FOXTEL Australia Pty Limited (“FOXTEL Bidco”) (“the Proposal”).

The Proposal is to be implemented by way of a series of transactions as follows:

- a Liberty Global entity will acquire all of the shares in AUSTAR that Liberty Global does not already own for \$1.52<sup>1</sup> cash per AUSTAR share through a scheme of arrangement under Section 411 of the Corporations Act, 2001 (“Corporations Act”) (“the Scheme”). Only AUSTAR shareholders not associated with Liberty Global (“the minority shareholders”) will vote on the Scheme. It is anticipated that a FOXTEL entity will lend a Liberty Global entity the consideration payable to the minority shareholders, although Liberty Global may elect to arrange alternative financing for the Liberty Global entity;
- following implementation of the Scheme, the Liberty Global entity that holds the AUSTAR shares acquired from the minority shareholders will be transferred to AUSTAR and Liberty Global’s interest in AUSTAR will be restructured; and
- FOXTEL and FOXTEL Bidco will then acquire Liberty Global’s interest in AUSTAR for \$1.52<sup>1</sup> cash per share (“the FOXTEL Acquisition”). This transaction is expected to complete six to eight weeks after the Scheme is implemented.

The Proposal is subject to the satisfaction of a number of conditions which are set out in full in the Notice of Meeting and Explanatory Memorandum (“Scheme Booklet”) to be sent by AUSTAR to shareholders. In summary, the key conditions include that:

- an independent expert concludes that the Scheme is in the best interests of the minority shareholders;
- the Scheme is approved by the requisite majorities of the minority shareholders;
- AUSTAR shareholders approve by the requisite majorities the other resolutions necessary to implement the Proposal;
- Liberty Global receives a private ruling from the United States Internal Revenue Service relating to the United States federal income tax treatment of the Proposal<sup>2</sup>; and
- all regulatory approvals (including from the Australian Competition and Consumer Commission (“ACCC”) and under the Foreign Acquisitions and Takeovers Act, 1975) are obtained by the second court hearing.

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<sup>1</sup> Less the cash amount of any dividend or other distribution by AUSTAR between 11 July 2011 and implementation of the Scheme. No amounts have been distributed since the Proposal was announced or are expected to be distributed before implementation of the Scheme.

<sup>2</sup> On 24 November 2011 it was announced that Liberty Global had received an acceptable ruling and that, subject to certain ongoing conditions (including that the ruling is not withdrawn, invalidated or adversely amended), the ruling will satisfy this condition.



Other elements of the Proposal include:

- AUSTAR and Liberty Global have agreed to certain exclusivity restrictions including no-talk, no-shop and no-due diligence provisions. The no-talk and no-due diligence restrictions apply unless AUSTAR's independent directors determine that a competing transaction is, or could reasonably be expected to become, a superior proposal or that failing to respond to a competing transaction would or would likely involve a breach of the fiduciary duties of any AUSTAR director or would otherwise be unlawful;
- a break fee of approximately \$19.3 million is payable by AUSTAR to FOXTEL in certain circumstances including if either independent director changes adversely or withdraws his recommendation in favour of, or voting intentions in relation to, the Proposal or if before 29 February 2012 a third party announces a superior proposal and Liberty Global sells its interest in AUSTAR into that proposal within 12 months of that announcement; and
- a sunset date of 29 February 2012 (unless extended by agreement of AUSTAR, FOXTEL and Liberty Global).

The Proposal is subject to the approval of AUSTAR shareholders. Shareholders will be asked to approve four resolutions as follows:

- a resolution to approve the Scheme;
- a special resolution to approve the giving of financial assistance by AUSTAR to Liberty Global and FOXTEL under the funding and other arrangements associated with the Proposal;
- an ordinary resolution to approve the giving of financial benefits by AUSTAR to Liberty Global and FOXTEL under the funding and other arrangements associated with the Proposal; and
- a special resolution to approve the change of status by AUSTAR to a proprietary company and to change its name to AUSTAR United Communications Pty Limited.

Failure to approve the Scheme will result in the Proposal not proceeding. If the Scheme is approved but any of the other resolutions not approved, the Proposal will not proceed unless AUSTAR, FOXTEL and Liberty Global agree to waive the corresponding condition precedent.



## 2 Scope of the Report

### 2.1 Purpose of the Report

The Proposal is subject to the approval of AUSTAR shareholders in accordance with:

- Section 411 of the Corporations Act (“Section 411”);
- Section 260A of the Corporations Act (“Section 260A”);
- Section 208 of the Corporations Act (“Section 208”); and
- Section 162(1)(a) of the Corporations Act (“Section 162”).

Under Section 411 the Scheme must be approved by a majority in number (i.e. more than 50%) of each class of shareholders present and voting (either in person or by proxy) at the meeting, representing at least 75% of the votes cast on the resolution. In this case, only the minority shareholders will vote on the Scheme. If approved by the minority shareholders, the Scheme will then be subject to approval by the Federal Court of Australia.

Part 3 of Schedule 8 to the Corporations Regulations prescribes the information to be sent to shareholders in relation to schemes of arrangement pursuant to Section 411. Part 3 of Schedule 8 requires an independent expert’s report in relation to a scheme of arrangement to be prepared when a party to a scheme of arrangement has a prescribed shareholding in the company subject to the scheme, or where any of its directors are also directors of the company subject to the scheme. In those circumstances, the independent expert’s report must state whether the scheme of arrangement is in the best interests of shareholders and must state reasons for that opinion. In this case, Liberty Global is a party to the Scheme and has a 54.15% interest in AUSTAR and Mr Michael Fries, Mr Balan Nair, Mr John Dick and Mr Bernard Dvorak are directors of AUSTAR and also directors and/or executives of Liberty Global. Accordingly, an independent expert’s report is required for the purposes of Section 411.

Section 260A prohibits a company providing financial assistance to a person to acquire shares in the company or a holding company unless the giving of the assistance is approved by shareholders or it falls within specified exceptions. The Proposal involves the provision of financial assistance by AUSTAR to a Liberty Global entity, FOXTEL and FOXTEL Bidco including through the grant of a guarantee and other obligations under the funding and other arrangements associated with the Proposal. Therefore, AUSTAR is seeking approval of shareholders under Section 260B for the giving of that financial assistance. An independent expert’s report is not required for the purpose of Section 260B.

Section 208 prohibits a public company giving a financial benefit to a related party unless the giving of the benefit is approved by shareholders or it falls within specified exceptions. The Proposal involves the provision of financial benefits by AUSTAR to Liberty Global, FOXTEL and certain of their subsidiaries including through the grant of a guarantee and other obligations under the funding and other arrangements associated with the Proposal. Therefore, AUSTAR is seeking the approval of shareholders under Section 208(1) for the giving of those financial benefits. An independent expert’s report is not required by law for the purposes of Section 208(1).

Section 162 enables a company to convert to a company of a different type (within specified parameters) provided shareholder approval is obtained. Under the Proposal, subject to the Scheme becoming effective, AUSTAR will change its status from a public company limited by shares to a proprietary company limited by shares. Therefore, AUSTAR is seeking the approval of shareholders under Section 162 for the change of company type. An independent expert’s report is not required for the purpose of Section 162.

In addition, on 11 July 2011 the Australian Securities & Investments Commission (“ASIC”) issued ASIC Instrument [11-0696] exempting entities including Liberty Global and its controlled entities, FOXTEL, certain FOXTEL companies and the owners of FOXTEL and their controlled entities from Section 606 of the Corporations Act in relation to the Proposal providing certain conditions are met. Section 606 effectively prohibits a person from acquiring a relevant interest in a listed



company where that person’s voting power increases from 20% or below to in excess of 20% or, if that person already has voting power in excess of 20%, their voting power increases further, except in certain limited circumstances. In this case, execution of the transaction documentation on 11 July 2011 means that FOXTEL and the owners of FOXTEL acquired a relevant interest in Liberty Global’s 54.15% of AUSTAR which would have constituted a breach of Section 606 but for the relief granted by the ASIC. One of the conditions of the ASIC’s relief which must be met is that AUSTAR engage an independent expert to prepare a report on whether:

- the Scheme is in the best interests of holders of ordinary shares in AUSTAR other than Liberty Global; and
- the acquisition of AUSTAR by FOXTEL and FOXTEL Bidco is fair to the holders of ordinary shares in AUSTAR other than Liberty Global.

Accordingly, the directors of AUSTAR have engaged Grant Samuel & Associates Pty Limited (“Grant Samuel”) to prepare an independent expert’s report. The report is to set out Grant Samuel’s opinion as to whether:

- the Scheme is in the best interests of AUSTAR shareholders; and
- the Scheme is in the best interests of, and the acquisition of AUSTAR by FOXTEL and FOXTEL Bidco is fair to, the minority shareholders,

and to state reasons for those opinions. A copy of the report will accompany the Scheme Booklet to be sent to shareholders by AUSTAR.

This report is general financial product advice only and has been prepared without taking into account the objectives, financial situation or needs of individual AUSTAR shareholders. Accordingly, before acting in relation to their investment, shareholders should consider the appropriateness of the advice having regard to their own objectives, financial situation or needs. Shareholders should read the Scheme Booklet issued by AUSTAR in relation to the Proposal.

Voting for or against the Proposal is a matter for individual shareholders based on their views as to value, their expectations about future market conditions and their particular circumstances including risk profile, liquidity preference, investment strategy, portfolio structure and tax position. Shareholders who are in doubt as to the action they should take in relation to the Proposal should consult their own professional adviser.

## **2.2 Basis of Evaluation**

There is no legal definition of the expression “in the best interests”. However, the ASIC has issued Regulatory Guide 111 which establishes guidelines in respect of independent expert’s reports. ASIC Regulatory Guide 111 differentiates between the analysis required for control transactions and other transactions. In the context of control transactions (whether by takeover bid, by scheme of arrangement, by the issue of securities or by selective capital reduction or buyback), the expert is required to distinguish between “fair” and “reasonable”. A proposal that was “fair and reasonable” or “not fair but reasonable” would be in the best interests of shareholders. For most other transactions the expert is to weigh up the advantages and disadvantages of the proposal for shareholders. If the advantages outweigh the disadvantages, a proposal would be in the best interests of shareholders.

The Scheme is economically the same as a takeover offer. Accordingly, Grant Samuel has evaluated the Scheme as a control transaction and formed a judgement as to whether it is “fair and reasonable” (see Section 6).

Fairness involves a comparison of the offer price with the value that may be attributed to the securities that are the subject of the offer based on the value of the underlying businesses and assets. For this comparison, value is determined assuming 100% ownership of the target and a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm’s length. Reasonableness involves an analysis of other factors that shareholders might consider prior to accepting an offer such as:



- the offeror’s existing shareholding;
- other significant shareholdings;
- the probability of an alternative offer; and
- the liquidity of the market for the target company’s shares.

An offer could be considered “reasonable” if there were valid reasons to accept the offer notwithstanding that it was not “fair”.

Fairness is a more demanding criteria. A “fair” offer will always be “reasonable” but a “reasonable” offer will not necessarily be “fair”. A fair offer is one that reflects the full market value of a company’s businesses and assets. An offer that is in excess of the pre-bid market prices but less than full value will not be fair but may be reasonable if shareholders are otherwise unlikely in the foreseeable future to realise an amount for their shares in excess of the offer price. This is commonly the case where the bidder already controls the target company. In that situation the minority shareholders have little prospect of receiving full value from a third party offeror unless the controlling shareholder is prepared to sell its controlling shareholding.

Grant Samuel has determined whether the Scheme is fair by comparing the estimated underlying value range of AUSTAR with the offer price. The Scheme will be fair if it falls within or exceeds the estimated underlying value range. In considering whether the Scheme is reasonable, the factors that have been considered include:

- the existing shareholding structure of AUSTAR;
- the likelihood of an alternative offer and alternative transactions that could realise fair value;
- the likely market price and liquidity of AUSTAR shares in the absence of the Proposal; and
- other advantages and disadvantages for AUSTAR shareholders of approving the Proposal.

Grant Samuel has determined whether the acquisition of AUSTAR by FOXTEL and FOXTEL Bidco from Liberty Global is fair to the minority shareholders by comparing the estimated consideration received by Liberty Global with the consideration received by the minority shareholders (see Section 7).

### 2.3 Sources of the Information

The following information was utilised and relied upon, without independent verification, in preparing this report:

#### *Publicly Available Information*

- the Scheme Booklet (including earlier drafts);
- annual reports of AUSTAR for the six years ended 31 December 2010;
- half year announcement of AUSTAR for the six months ended 30 June 2011;
- third quarter announcement of AUSTAR for the nine months ended 30 September 2011;
- press releases, public announcements, media and analyst presentation material and other public filings by AUSTAR including information available on its website;
- brokers’ reports and recent press articles on AUSTAR and the television industry; and
- sharemarket data and related information on Australian and international listed companies engaged in the subscription television industry and on acquisitions of companies and businesses in this industry.

#### *Non Public Information provided by AUSTAR*

- the budget for AUSTAR for the year ending 31 December 2011 prepared by management;
- the long range business plan for AUSTAR to 31 December 2015 prepared by management in May 2011 including the actual results for the four months ended 30 April 2011;



- management accounts for AUSTAR for two years ended 31 December 2010 and the eight months ended 31 August 2011; and
- other confidential documents, board papers, presentations and working papers.

Grant Samuel has also held discussions with, and obtained information from, senior management of AUSTAR and its advisers.

#### **2.4 Limitations and Reliance on Information**

Grant Samuel believes that its opinion must be considered as a whole and that selecting portions of the analysis or factors considered by it, without considering all factors and analyses together, could create a misleading view of the process underlying the opinion. The preparation of an opinion is a complex process and is not necessarily susceptible to partial analysis or summary.

Grant Samuel's opinion is based on economic, sharemarket, business trading, financial and other conditions and expectations prevailing at the date of this report. These conditions can change significantly over relatively short periods of time. If they did change materially, subsequent to the date of this report, the opinion could be different in these changed circumstances.

This report is also based upon financial and other information provided by AUSTAR and its advisers. Grant Samuel has considered and relied upon this information. AUSTAR has represented in writing to Grant Samuel that to its knowledge the information provided by it was complete and not incorrect or misleading in any material aspect. Grant Samuel has no reason to believe that any material facts have been withheld.

The information provided to Grant Samuel has been evaluated through analysis, inquiry and review to the extent that it considers necessary or appropriate for the purposes of forming an opinion as to whether the Scheme is in the best interests of AUSTAR shareholders and the FOXTEL Acquisition is fair to the minority shareholders. However, Grant Samuel does not warrant that its inquiries have identified or verified all of the matters that an audit, extensive examination or "due diligence" investigation might disclose. While Grant Samuel has made what it considers to be appropriate inquiries for the purposes of forming its opinion, "due diligence" of the type undertaken by companies and their advisers in relation to, for example, prospectuses or profit forecasts, is beyond the scope of an independent expert. In this context, Grant Samuel advises that it is not in a position nor is it practicable to undertake its own "due diligence" investigation of the type undertaken by accountants, lawyers or other advisers. Accordingly, this report and the opinions expressed in it should be considered more in the nature of an overall review of the anticipated commercial and financial implications rather than a comprehensive audit or investigation of detailed matters.

An important part of the information used in forming an opinion of the kind expressed in this report is comprised of the opinions and judgement of management. This type of information was also evaluated through analysis, inquiry and review to the extent practical. However, such information is often not capable of external verification or validation.

Preparation of this report does not imply that Grant Samuel has audited in any way the management accounts or other records of AUSTAR. It is understood that the accounting information that was provided was prepared in accordance with generally accepted accounting principles and in a manner consistent with the method of accounting in previous years (except where noted).

The information provided to Grant Samuel included:

- the budget for AUSTAR for the year ending 31 December 2011 ("2011 Budget") prepared by management and adopted by the directors of AUSTAR; and
- a financial model reflecting the long range business plan for AUSTAR's operations for the period commencing 1 January 2011 to 31 December 2015 including the actual results for the four months ended 30 April 2011 ("Long Range Plan"). The model and the long range business plan were prepared by management.

## GRANT SAMUEL



AUSTAR is responsible for the information contained in the 2011 Budget and the Long Range Plan (“the forward looking information”). Grant Samuel has considered and, to the extent deemed appropriate, relied on this information for the purposes of its analysis. In relation to the cash flow models Grant Samuel has made adjustments to reflect its judgement on certain matters and to ensure consistent application of assumptions. The major assumptions underlying the forward looking information were reviewed by Grant Samuel in the context of current economic, financial and other conditions. It should be noted that the forward looking information and the underlying assumptions have not been reviewed (nor is there a statutory or regulatory requirement for such a review) by an investigating accountant for reasonableness or accuracy of compilation and application of assumptions.

Subject to these adjustments and limitations, Grant Samuel considers that, based on the inquiries it has undertaken and only for the purposes of its analysis for this report (which do not constitute, and are not as extensive as, an audit or accountant’s examination), there are reasonable grounds to believe that the forward looking information has been prepared on a reasonable basis. In forming this view, Grant Samuel has taken into account that:

- the 2011 Budget has been adopted by the Directors of AUSTAR;
- the Long Range Plan is based on actual operating results for AUSTAR for the four months ended 30 April 2011 and is used for a range of operational purposes by AUSTAR; and
- AUSTAR has sophisticated management and financial reporting processes. The forward looking information has been prepared through a detailed process involving preparation of “ground up” forecasts by the management and is subject to ongoing analysis and revision to reflect the impact of actual performance or assessments of likely future performance.

The directors of AUSTAR have decided not to include the forward looking information in the Scheme Booklet and therefore this information has not been disclosed in this report.

In order to provide an indication of the expected financial performance of AUSTAR, Grant Samuel has considered brokers’ forecasts for AUSTAR (see Appendix 1). Grant Samuel has used the median of the brokers’ forecasts to review the parameters implied by its valuation of AUSTAR. These forecasts are sufficiently close to the forward looking information to be useful for analytical purposes.

Grant Samuel has no reason to believe that the forward looking information reflects any material bias, either positive or negative. However, the achievability of the forward looking information is not warranted or guaranteed by Grant Samuel. Future profits and cash flows are inherently uncertain. They are predictions by management of future events that cannot be assured and are necessarily based on assumptions, many of which are beyond the control of the company or its management. Actual results may be significantly more or less favourable.

As part of its analysis, Grant Samuel has reviewed the sensitivity of net present values to changes in key variables. The sensitivity analysis isolates a limited number of assumptions and shows the impact of variations to those assumptions. No opinion is expressed as to the probability or otherwise of those variations occurring. Actual variations may be greater or less than those modelled. In addition to not representing best and worst outcomes, the sensitivity analysis does not, and does not purport to, show the impact of all possible variations to the business model. The actual performance of the business may be negatively or positively impacted by a range of factors including, but not limited to:

- changes to the assumptions other than those considered in the sensitivity analysis;
- greater or lesser variations to the assumptions considered in the sensitivity analysis than those modelled; and
- combinations of different variations to a number of different assumptions that may produce outcomes different to the combinations modelled.

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In forming its opinion, Grant Samuel has also assumed that:

- matters such as title, compliance with laws and regulations and contracts in place are in good standing and will remain so and that there are no material legal proceedings, other than as publicly disclosed;
- the information set out in the Scheme Booklet sent by AUSTAR to its shareholders is complete, accurate and fairly presented in all material respects;
- the publicly available information relied on by Grant Samuel in its analysis was accurate and not misleading;
- the Proposal will be implemented in accordance with its terms; and
- the legal mechanisms to implement the Proposal are correct and will be effective.

To the extent that there are legal issues relating to assets, properties, or business interests or issues relating to compliance with applicable laws, regulations, and policies, Grant Samuel assumes no responsibility and offers no legal opinion or interpretation on any issue.



### 3 The Australian Subscription Television Sector

#### 3.1 Overview

Television broadcasting involves the distribution of content (including news, programmes, films, sports and advertising) to consumers via terrestrial transmission, cable networks, satellite or the internet.

Terrestrial television is transmitted free-to-air with unencrypted signals broadcast for viewing by any television receiver within a distribution region. It is typically funded by commercial advertising and/or government subsidy. Free-to-air broadcasting was originally restricted to individual channels each transmitting within a narrow analogue spectrum range but is now shifting to digital technology that makes more efficient use of the available bandwidth. This move has allowed for improvements in audio-visual quality, simultaneous transmission of data with content and multiple channel (“multi-channel”) broadcasting.

Cable and satellite television transmissions are encoded at source and not accessible without the requisite infrastructure such as cabling, a satellite dish and a set top decoder box. Consequently, operators rely on a revenue model focused on subscription fees rather than advertising revenue. Fees charged by subscription television operators include:

- upfront fees for the supply and installation of the infrastructure;
- a monthly fee for access to a pre-agreed set of basic channels;
- monthly fees for upgraded features such as an expanded set of channels or high definition; and
- one-off fees for access to specific content (e.g. pay-per-view films or sports events).

Subscription television services provide consumers with access to multiple channels with individual channels themed to target a particular audience. This allows advertisers to focus on a target audience and, although advertising is not a key revenue driver, it delivers additional cash flow to invest in programming to compile the channels.

The move to digital multi-channels by free-to-air broadcasters will be completed in Australia in 2013. The free-to-air broadcasters in Australia formed Freeview in late 2008 to publicise the digital switchover and present a single brand for non-subscription digital television. This has increased competition for audience share and advertising revenue in the television sector generally and placed additional pressure on the cost of securing popular content.

Internet distribution of television programming is a more recent phenomenon and no revenue model dominates as yet. Free-to-air broadcasters offer repeats of previously broadcast programmes for free on their websites, although this service is not strictly free to the consumer as access to the internet is charged separately by internet providers. Some internet providers also offer online television and telephone services in a bundled package known as “triple play” while other online companies provide pay-per-view access to films and sports events.

#### 3.2 Subscription Television Services

The delivery of subscription television services to private homes was prohibited in Australia before the October 1992 enactment of the *Broadcasting Services Act*, which permitted the delivery of narrowcast subscription television services and established a framework for the development of a broadcast subscription television industry.

Early industry participants suffered substantial losses as growth in subscriber numbers was significantly lower than expected. These conditions resulted in the insolvency of Australia’s first subscription television operator, Australis Media Limited (“Australis”) and its Galaxy satellite service in 1998 after the ACCC twice disallowed a takeover of Australis by FOXTEL.

In November 2002 the ACCC approved a set of industry restructures involving FOXTEL, AUSTAR, SingTel Optus Pty Ltd (“Optus”) and Telstra by which each operator gained access to a more comprehensive range of programming and infrastructure:



- AUSTAR dissolved its satellite joint venture with Optus and became a customer of FOXTEL's satellite platform, resulting in lower infrastructure costs;
- Telstra was allowed to bundle FOXTEL's and AUSTAR's subscription television services into its telephony and internet product offerings;
- Optus agreed to resell FOXTEL's programming in exchange for FOXTEL assuming Optus' programming commitments;
- XYZnetworks Pty Limited ("XYZ") (50% owned by AUSTAR and 50% owned by FOXTEL) programming was made available to Optus and Telstra; and
- AUSTAR renewed its programming arrangements for FOXTEL produced channels on a cost share +10% basis, with sub-licensing rights giving exclusivity in rural and regional Australia except for the Gold Coast.

The industry restructures resulted in further sector consolidation with the merging of platforms and services. For example, the subscription television packages offered by Optus and Telstra became repackaged FOXTEL offerings and other subscription television operators servicing niche markets altered their business models to compete with internet bundling forms (e.g. TransACT).

Today, there are two major subscription television broadcast operators in Australia:

- FOXTEL, distributing to metropolitan areas via the Optus and Telstra cable networks (Sydney, Melbourne, Brisbane, Adelaide, Canberra, Perth and the Gold Coast) and the Optus satellites (uncabled metropolitan areas and regional Western Australia); and
- AUSTAR, distributing to rural and regional Australia (excluding Western Australia but including Hobart and Darwin) via the Optus satellites.

AUSTAR and FOXTEL both offer services in the Gold Coast, AUSTAR via satellite and FOXTEL via cable. AUSTAR and FOXTEL have a working relationship in relation to parts of their businesses (including programming, infrastructure and production) and undertake joint promotional activity and on air cross branding.

Subscriber numbers grew quickly in the early years of subscription television in Australia (14% per annum in the five years to 2002) but growth has moderated more recently (6.4% per annum in the five years to 2010 but only 1.8% per annum in the two years to 2010). At 31 December 2010, AUSTAR had approximately 764,000 subscribers and FOXTEL had approximately 1.63 million subscribers. This is estimated to represent 29%<sup>3</sup> penetration which is low by international standards (United States: 89%, United Kingdom: 58%, New Zealand: 51%) and generally considered to be the result of both strong competition from free-to-air broadcasters and the extent of industry regulation (see Section 3.3).

As a percentage of television viewed, subscription television has increased its share of the total market at the expense of free-to-air services (up from 10% to 23% in the past decade)<sup>4</sup>, although this has been impacted in the last two years by the introduction of free-to-air multi-channel services. This is also reflected in its advertising revenues, which grew at twice the rate of advertising in the free-to-air market in the year ended June 2010. However, as under the subscription fee revenue model the availability of advertising slots is limited, subscription television accounts for only 3% of Australia's total media advertising expenditure, compared to 29% for free-to-air broadcasters<sup>5</sup>.

### 3.3 Regulation

The Australian television industry is highly regulated although, since the industry restructure of 2002, the trend has been for legislation to become less restrictive. However, regulation still provides a clear barrier to new entrants, above and beyond the high cost of infrastructure setup and

<sup>3</sup> "Penetration of Satellite/Cable Services", Australian Subscription Television and Radio Association ("ASTRA"), [astra.org.au](http://astra.org.au), 2011.

<sup>4</sup> "STV and Commercial Networks Share of All TV, Total People 2am-2am Metro", ACNielsen / ASTRA website ([astra.org.au](http://astra.org.au)), 2011.

<sup>5</sup> "Year in Review: 2010", Free TV Australia ([thinktv.com.au](http://thinktv.com.au)), 2010.



limited availability and high cost of content. Legislation and regulatory policy impacting subscription television operators includes:

- restrictions on when subscription television operators may bid for major sporting events (“anti-siphoning” legislation);
- requirements for a minimum level of locally produced content;
- licensing of the broadcast spectrum to specific broadcasters;
- competition from government funded broadcasters;
- restrictions on ownership or control by foreigners; and
- increased restrictions on sales activities (e.g. “do not call” register, limitations on door to door sales activities).

Spectrum licensing, public broadcaster rights and crossholding limits are fairly common in comparable markets and are not exceptionally onerous in Australia. The foreign ownership regime, though unusual, affects free-to-air and subscription broadcasters alike. It is the content based restrictions (i.e. anti-siphoning legislation and local content requirements) that have the greatest impact on the subscription television industry in Australia.

Key to the success or failure of a broadcaster is its ability to secure rights to popular content particularly, in the Australian context, major sporting events. Since 1994 subscription television services have been restricted from “siphoning off” a list of key sporting events reserved for free-to-air television with the effect of reducing the ability of the subscription television operators to attract viewers away from free-to-air broadcasters. The number of events on the list has been reduced over the years and certain obligations have been put on the free-to-air channels to reduce the anti-competitive impact of the legislation. The most recent changes proposed to the anti-siphoning legislation (to be effective from January 2011 to December 2015 when the legislation is passed) include:

- a two-tier listing system of nationally iconic A-list events and less significant B-list events;
- “use it or lose it” provisions whereby free-to-air broadcasters must offer unused rights to other broadcasters; and
- automatic “delisting” of unused rights 26 weeks before the event.

Subscription television broadcasters must spend at least 10% of their total drama-channel programming expenditure on Australian drama programmes – expenditure on news, lifestyle shows, children’s entertainment, sports and the like do not count towards this amount. While commercial free-to-air channels are also subject to local content regulations<sup>6</sup> (i.e. they must have at least 55% Australian programming on their primary channels between 6am and midnight<sup>7</sup>), no such restrictions apply to internet television broadcasts or other online/mobile content.

### 3.4 National Broadband Network

Enhanced access to high speed broadband services throughout Australia has been an objective of public policy for much of the past decade. The change in Commonwealth Government in 2007 resulted in a new approach to the delivery of broadband services and, in 2008, a plan to develop a national broadband network in conjunction with the private sector was announced. Six parties tendered proposals to provide the network infrastructure but the Commonwealth Government decided not to proceed with this process in April 2009. Instead, it announced a plan to proceed with the development of its own high speed broadband network, the National Broadband Network (“NBN”).

The NBN has adopted a fibre to the premises model to reach 93% of premises across Australia, with the remaining 7% to be serviced by fixed wireless or satellite services. NBN Co Limited (“NBN Co”) has been established to roll out and operate the NBN. It will operate only at a

<sup>6</sup> ABC and SBS are regulated by their specific legislation regarding their charters and content requirements.

<sup>7</sup> This is the also the maximum percentage allowed to be legislated under the Australia-United States Free Trade Agreement.



wholesale level, selling network access to retail service providers which will, in turn, offer internet, telephony and other services to residential, business and institutional customers. The total cost of the NBN was estimated to be \$43 billion with the roll out is expected to take ten years. Testing began in mid-2010 in Tasmania and the roll out of the network at 12 sites on the mainland has commenced. Due to the long term nature of the NBN roll out, it is unlikely that the majority of the areas within AUSTAR’s service footprint will be connected prior to 2016.

While the NBN is recognised as both a challenge and opportunity for the existing subscription and free-to-air television operators, the timing and impact on particular companies is not clear. Furthermore, the roll out of the NBN itself remains uncertain being dependent on political processes at the Commonwealth level where opposing policy positions exist between the major political parties.

**3.5 Outlook**

The outlook for the subscription television sector in Australia is dependent on a wide range of factors many of which are outside of the control of market participants including:

- the macroeconomic environment, population growth and demographics;
- changes in regulation;
- access to geographically exclusive content;
- competitive actions by free-to-air television broadcasters;
- changing consumer preferences;
- changes in technology; and
- the roll out of high speed broadband.

In the short to medium term moderate growth in subscribers is expected. However, the longer term outlook is less certain. In particular, the advent of high speed broadband services throughout Australia, whether as a result of the full or partial roll out of the NBN or through other means, is considered both a critical challenge and opportunity for the industry.

Recent experience in the United States and other mature subscription television markets indicates that a significant number of subscribers may cancel subscriptions in favour of internet-delivered services (either for internet television or simply for access to other forms of internet entertainment, such as online gaming and video downloads). However, market commentators have observed increased internet usage to be correlated to increased television viewing in Australia. Therefore, as internet access via broadband connections in Australia has risen from approximately 50% to over 90% since June 2006, some commentators argue that the competition for subscribers could change significantly once high speed broadband is in place.

If delivery of high speed broadband reinforces the content focused “themed channels” of current television networks, then the existing free-to-air and subscription television companies appear well placed to extend their viewer base. The benefits of pre-existing, often exclusive content contracts and local industry know-how would allow them to compete strongly against new domestic entrants and foreign competition (absent any legislation covering internet broadcasting of programmes). However, if consumer tastes alter over time to a preference for self-selected, pay-per-view events, then content producers might bypass the existing distribution networks and interact directly with consumers.

Consequently, high speed broadband services are expected to have significant, and as yet uncertain, implications for the free-to-air and subscription television sectors. Questions remain as to the impact high speed broadband will have on existing cost structures, revenue models and competitive environment and this has resulted in significant competitive positioning by market participants.



## 4 Profile of AUSTAR

### 4.1 Background

AUSTAR's core operations were acquired by a predecessor company of Liberty Global in 1994 and commercial subscription television operations commenced in August 1995. By mid 1999 the business had more than 340,000 subscribers and was focussed on rapid subscriber growth to develop critical mass in the provision of subscription television services to rural and regional areas.

AUSTAR was incorporated in June 1999 as a holding company and was listed on the Australian Securities Exchange ("ASX") in July 1999, diluting Liberty Global's interest. The proceeds of the listing and subsequent equity issues during 2000 and 2001 were used by AUSTAR to fund expansion.

In August 2001, as a consequence of a slowdown in subscriber growth, the impact of adverse foreign exchange movements on programming costs and changes in investor sentiment, AUSTAR refocussed its strategy to concentrate on profitable growth of its core business. At 31 December 2001 AUSTAR was in breach of certain financial and operating debt covenants and, consequently, it announced a major business restructuring to reduce operating costs and capital expenditure (including the divestment or scaling back of non-core businesses) and undertook a refinancing.

For a number of years, AUSTAR actively pursued a "triple play" product strategy. To this end, during 2000 and 2001, it acquired spectrum licences in the 2.3GHz and 3.5GHz bands which (after several transactions and spectrum swaps with Unwired Group Limited ("Unwired")) broadly matched its subscription television coverage footprint for the purposes of building a regional wireless broadband network. In 2006, AUSTAR commenced via two trial markets in Wagga Wagga and Tamworth a \$50 million phased roll out of wireless broadband services but shortly after, due to the announcement by the Commonwealth Government of its "Broadband Connect" network subsidy programme for regional areas, paused the deployment.

Subsequently, AUSTAR formed the *AUSalliance* Consortium with Unwired and SP Telemedia Limited and submitted a regional broadband solution but in 2007 another consortium was selected as the preferred provider and the *AUSalliance* Consortium was dissolved. With the announcement of the NBN in 2009, AUSTAR actively sought to monetise its wireless spectrum holdings and on 17 February 2011 announced the \$120 million sale of its spectrum licence holdings to NBN Co in order to facilitate the wireless component of the NBN.

From 1999 AUSTAR offered dial-up internet services via the AUSTARnet brand and in 2000 established AUSTAR Mobile under reseller agreements with Optus and Telstra. AUSTAR sold its mobile customer base in February 2011 and shut down its dial-up internet service (which had approximately 8,000 customers) by September 2011.

Today, AUSTAR provides subscription television services throughout rural and regional Australia (excluding Western Australia but including Hobart and Darwin) via digital satellite. It is the second largest subscription television operator in Australia with over 765,000 subscribers and the only operator focused on rural and regional Australia.

### 4.2 Business Operations

#### *Satellite Platform*

AUSTAR's subscription television services are provided exclusively via a satellite distribution platform owned and operated by FOXTEL. AUSTAR pays a fixed fee for access under an agreement that extends until 2018. The platform utilises the Optus C1 satellite (launched in 2003) and the Optus D3 satellite (launched in 2009). Improved coverage provided by these satellites enabled AUSTAR to close its wireless cable network in 2004 and decommission its cable network in Darwin in 2009. In addition, increased bandwidth provided by the D3 satellite enabled AUSTAR to expand its channel offering and to launch high definition channels. The satellite signal covers Australia but AUSTAR does not service the metropolitan areas of Sydney,



Melbourne, Brisbane, Adelaide and Canberra or Western Australia and only overlaps with FOXTEL in the Gold Coast.

***Programming***

AUSTAR offers a premium subscription television service, investing in and marketing high quality exclusive channels, strong channel brands and local productions. AUSTAR offers more than 180 standard definition channels, 17 high definition channels, 17 timeshift channels and a near video-on-demand service. Its channels cover a range of genres including entertainment, sport, news, documentaries, movies, children and lifestyle. AUSTAR accesses Australian and international programming content from a number of sources:

- via its 50% interest in XYZ, which owns and/or produces 13 channels. XYZ is discussed in more detail in Section 4.3;
- exclusive agreements with FOXTEL for eight channels owned and produced by FOXTEL (e.g. The Comedy Channel, The History Channel, W) and a near video-on-demand service (BOX Office) and sport programming (e.g. Australian Football League (“AFL”));
- exclusive sub-licences from FOXTEL to third party channels (e.g. Fox News and Fashion TV);
- exclusive distribution agreements with Australian and international production companies (e.g. Premier Media Group<sup>8</sup> (which produces Fox Sports), Showtime and TV1);
- non-exclusive distribution agreements with Australian and international production companies (e.g. Sky News, Movie Network, Disney Channel, TCM); and
- a 33.3% interest in Main Event Television Pty Limited (“Main Event”), which provides pay-per-view sporting events and an adult entertainment channel (see Section 4.3).

Typically, where rights are granted exclusively they are limited to the territory which AUSTAR serves while non-exclusive rights are not limited by territory. Agreements are renewable at staggered intervals generally from 2011 to 2014. Programming fees are typically paid on a per subscriber basis and all fees are denominated in Australian dollars.

***Products and Services***

AUSTAR’s basic service (“Starter Pack”) comprises 53 channels and includes retransmission of the free-to-air ABC and SBS channels but excludes commercial free-to-air services.

Additional general entertainment, sport and movie channels are available at an additional monthly charge through an optional tiered system. General entertainment options comprise three tiers: Living (13 channels of varied programming including drama and lifestyle programs), Fun (12 channels of children’s and family programming) and Quest (14 channels of news and documentaries). Sport options include Sports (14 channels<sup>9</sup>), Sports Extra (1 channel) and Sky Racing (2 channels). Movie channels include Movie Network (11 channels) and Showtime Movies (11 channels). In addition, selected individual channels are available at monthly rates (e.g. World Movies and The History Channel) while other services are available on a pay-per-view basis, including BOX OFFICE Movie, Main Event and Adults Only channels.

AUSTAR’s early product enhancements focussed on the development of interactive television services including an electronic program guide and enhancements to The Weather Channel and Sky News. More recently AUSTAR has enhanced its product offering by personalising the viewing experience and providing viewer control across multiple platforms. This has included launching:

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<sup>8</sup> Premier Media Group is jointly owned by News and Consolidated Media.

<sup>9</sup> A dedicated AFL channel will be added in 2012.



- MyStar, a personal digital recorder, enabling subscribers to record via live pause, live rewind and recording functionality (February 2008);
- MyStar HD, a personal digital recorder with 13 high definition channels<sup>10</sup> and eight additional timeshift channels (November 2009);
- the first 3D broadcast in regional Australia (May 2010);
- AUSTAR AnyWhere which provides online content via both download and streaming to be accessed from a personal computer (June 2010); and
- a TV Guide iPhone application which enables remote booking of television programmes (early 2011).

Installation fees vary depending on a range of factors such as whether performed by AUSTAR or by the subscriber, whether the subscriber is new or existing, the location of the installation, type of service and whether the installation is a first or additional outlet.

Monthly subscription fees vary according to the channel line up, starting at \$43.00 for the Starter Pack. Additional monthly fees are payable for the general entertainment, sports and movie options, MyStar, MyStar HD and additional outlets. Currently around 63% of subscribers are on three or more tiers and around 32% of subscribers have additional outlets.

At 30 September 2011, AUSTAR had 765,578 subscribers<sup>11</sup>, which is estimated to represent 30% penetration. At 30 September 2011, 39% of AUSTAR's residential subscribers had MyStar and 54% of MyStar subscribers had MyStar HD, with all future MyStar decoders to be high definition ready. AUSTAR considers customer take up of MyStar HD will assist it to compete with an increase in internet distribution of television programming which will become more accessible to regional households with increased penetration of high speed broadband in its markets.

### ***Operations***

The majority of AUSTAR's 800 staff are based at the National Customer Operations Centre in Robina on the Gold Coast in Queensland. This 10,000 square metre facility was purpose built for AUSTAR in early 2001. It houses AUSTAR's computer and telecommunications equipment and centralised operations and customer support. AUSTAR also has a head office in Sydney. Several functions have been outsourced to third parties, including field and outbound sales, installations and part of the call centre handling customer support (e.g. technical and billing enquiries). Recent operational improvement initiatives include increased utilisation of self service (online and phone), automation of processes (e.g. full automation of bad debt and collections activities) and improved service call performance.

AUSTAR's sales and marketing strategy is focused on the acquisition and retention of quality customers. AUSTAR's traditional sales channels include inbound calls through its call centre, field sales, online sales and outbound sales. AUSTAR has diversified its sales channels through the launch of (outsourced) kiosks in 2008 and more recently through retail channels (e.g. Harvey Norman) from 2010. AUSTAR has also focused on targeted marketing campaigns based on customer segmentation.

AUSTAR proactively manages customer churn. It has reduced voluntary churn with discounting offers and the increasing penetration of MyStar has increased customer satisfaction levels whilst also reducing non-payment related churn through increasing the reliance on credit card sales and enhanced credit checking processes. Most subscribers are not "in contract" reflecting their long average tenure (most are over two years) and the use of contract free promotions.

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<sup>10</sup> Since expanded to 17 channels.

<sup>11</sup> Subscribers are calculated as residential television subscribers plus commercial equivalent basic units (calculated by dividing recurring monthly commercial revenue by a basic residential reference rate of \$40.86).



### 4.3 Other Interests

- ***XYZnetworks Pty Limited***

AUSTAR owns a 50% interest in XYZ, a joint venture with FOXTEL. XYZ is the largest Australian producer of subscription television channels. It owns and produces nine channels, including LifeStyle Channel, LifeStyle You, LifeStyle Food, LifeStyle Home, Channel [V], [V] Hits, MAX, Country Music Channel and The Weather Channel. XYZ also owns Arena, which is produced by FOXTEL (since October 2007). It also has long term exclusive distribution rights in Australia to the Discovery Channel and has a 35% interest in the Nickelodeon Australia joint venture (with Viacom International, Inc.) to produce and distribute Nickelodeon and Nick Jr. These 13 channels are available on both AUSTAR and FOXTEL.

AUSTAR has the exclusive Australian program distribution rights for the ‘A Licence Channels’ (currently Arena, Discovery, Nickelodeon and Channel [V]). AUSTAR has contracted XYZ to produce (or acquire) the channels until June 2020. In return for producing these channels XYZ receives a monthly fee per subscriber from AUSTAR.

- ***Main Event Television Pty Limited***

AUSTAR owns a 33.3% interest in Main Event (a joint venture with Optus and FOXTEL) which provides AUSTAR and FOXTEL subscribers with pay-per-view sporting and entertainment events and an adult entertainment channel.

- ***MultiChannel Network Pty Limited***

AUSTAR owns a 25% interest in MultiChannel Network Pty Limited (“MultiChannel Network”), a joint venture with FOXTEL, XYZ and Premier Media Group (which is jointly owned by News and Consolidated Media), which provides a multiplatform advertising sales service.

#### 4.4 Operating Performance

Following an initial period of rapid growth and business expansion, in 2001 AUSTAR refocused its strategy on profitable growth and has subsequently traded profitably at EBITDA and EBIT levels. The operating performance of AUSTAR for the five years and nine months ended 30 September 2011 is summarised below:

<b>AUSTAR - Financial Performance (\$ millions)</b>						
	Year ended 31 December					Nine mths ended 30 Sept 2011
	2006 actual	2007 actual	2008 actual	2009 actual	2010 actual	2011 actual
<b>Operating statistics</b>						
Subscribers <sup>11</sup>	601,126	668,786	720,270	741,647	764,219	765,578
Subscriber growth	12.6%	11.3%	7.7%	3.0%	3.0%	0.2%
Average monthly churn <sup>12</sup>	1.30%	1.23%	1.36%	1.29%	1.30%	1.48%
ARPU <sup>13</sup>	\$74.23	\$75.89	\$78.85	\$81.68	\$85.10	\$85.55
ARPU growth	4.9%	2.2%	3.9%	3.6%	4.2%	0.5%
<b>Sales revenue</b>						
Subscription services	485.8	545.9	606.8	650.3	686.1	
Guide sales, advertising and other revenue	17.0	22.1	25.2	24.3	25.1	
<b>Total sales revenue</b>	<b>502.8</b>	<b>568.0</b>	<b>632.0</b>	<b>674.6</b>	<b>711.2</b>	<b>531.9</b>
<b>EBITDA<sup>14</sup></b>	<b>141.9</b>	<b>171.9</b>	<b>208.0</b>	<b>232.4</b>	<b>245.2</b>	<b>189.9</b>
Depreciation and amortisation	(60.5)	(62.7)	(83.6)	(98.5)	(115.8)	(84.7)
<b>EBIT<sup>15</sup></b>	<b>81.4</b>	<b>109.2</b>	<b>124.4</b>	<b>133.9</b>	<b>129.4</b>	<b>105.2</b>
Net interest expense	(32.0)	(45.4)	(65.7)	(63.0)	(61.3)	(41.6)
Net gain/(loss) on fair value interest derivatives	3.7	20.6	(80.3)	35.0	8.6	(8.7)
Share of net profit/(loss) of equity accounted associates	5.4	6.5	2.4	1.2	(0.3)	(0.7)
Other income/(expenses) and non-recurring items (net)	(91.4)	(6.2)	(18.1)	(19.2)	5.3	89.0
<b>Profit/(loss) before income tax expense</b>	<b>(32.9)</b>	<b>84.7</b>	<b>(37.3)</b>	<b>87.9</b>	<b>81.7</b>	<b>143.2</b>
Income tax benefit/(expense)	243.1	(7.4)	(37.4)	(29.1)	17.9	(43.1)
<b>Net profit/(loss) attributable to shareholders</b>	<b>210.2</b>	<b>77.3</b>	<b>(74.7)</b>	<b>58.8</b>	<b>99.6</b>	<b>100.1</b>
<b>Statistics</b>						
Basic earnings per share	16.8¢	6.1¢	(5.8)¢	4.7¢	7.9¢	7.9c
Sales revenue growth	11.6%	13.0%	11.3%	6.7%	5.4%	
EBITDA growth	13.0%	21.1%	21.0%	11.7%	5.5%	
EBIT growth	32.2%	34.3%	13.9%	7.6%	(3.4)%	
EBITDA margin	28.2%	30.3%	32.9%	34.4%	34.5%	35.7%
EBIT margin	16.2%	19.2%	19.7%	19.8%	18.2%	19.8%
Interest cover <sup>16</sup>	2.5x	2.4x	1.9x	2.1x	2.1x	2.5x

Source: AUSTAR reports and Grant Samuel analysis

<sup>12</sup> Churn is the number of accountholders whose service is terminated during the period (net of restarts) divided by the average number of subscribers for the period, divided by the number of months in the period.

<sup>13</sup> ARPU is total television residential revenue (excluding installation revenue) divided by the average number of subscribers, divided by the number of months in the period.

<sup>14</sup> EBITDA is earnings before net interest, tax, depreciation and amortisation, other income and expenses (including stock based compensation) and significant and non-recurring items. EBITDA approximates Operating Cash Flow as disclosed by AUSTAR except for additional non-recurring items identified by Grant Samuel.

<sup>15</sup> EBIT is earnings before net interest, tax, other income and expenses (including stock based compensation) and significant and non-recurring items.

<sup>16</sup> Interest cover is EBIT divided by net interest.

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AUSTAR has experienced strong earnings growth reflecting its focus on its core business. Despite challenging business conditions since 2009, revenue has continued growing, albeit at a slower rate. The subscriber growth rate has declined over the period but still exceeds population growth in AUSTAR's serviceable area (estimated at 1% per annum). Average monthly churn has been managed to remain relatively constant at around 1.3% per month. Although ARPU growth slowed in 2007, AUSTAR has subsequently achieved ARPU growth of around 4% (until 2011) as a result of the take up of additional products (i.e. MyStar, MyStar HD and additional outlets) and modest price increases. The average number of tiers purchased by subscribers has remained fairly constant.

The major flood and cyclone events in eastern Australia in the three months to 31 March 2011 resulted in higher churn and lower ARPU associated with promotions and credits to subscribers in affected areas. However, by 30 June 2011 AUSTAR's subscriber numbers exceeded December 2010 levels and ARPU in the three months to 30 June 2011 (\$86.30) had exceeded 2010 levels.

Despite slower revenue growth, EBITDA margins have increased reflecting operational improvements. Non-marketing related operating costs have been relatively constant since 2006 while marketing costs increased during 2008-10 primarily due to the launch of MyStar and MyStar HD. Since 2010, margin growth has been constrained by higher satellite transmission costs. EBIT margin declined in 2010 as a result of higher depreciation expense related to the purchase of relatively more expensive MyStar set top boxes and associated installation costs and in 2010 an increase in the depreciation rate for installation costs (i.e. from 20% to 25%).

EBITDA is after payment of a fixed US\$2.4 million management fee to Liberty Global for the provision of finance, management, technical, procurement, programming and other services to AUSTAR.

The increase in net interest expense since 2007 primarily reflects increased debt levels following the capital returns in 2006 and 2007. AUSTAR uses derivative financial instruments to manage its exposure to movements in interest and foreign exchange rates. Changes in the fair value of interest rate derivatives have had a significant impact on AUSTAR's profitability in recent years, particularly since 2007 with a decline in interest rates and interest rate expectations.

Share of net profit/(loss) of equity accounted associates relates only to XYZ since 2006.

Other income/(expenses) and non-recurring items (net) include:

<b>AUSTAR – Other Income/(Expenses) and Non-Recurring Items (net) (\$ millions)</b>						
	Year ended 31 December					Nine mths ended 30 Sept
	2006 actual	2007 actual	2008 actual	2009 actual	2010 actual	2011 actual
<b>Other income/(expenses)</b>						
Gain/(loss) on foreign exchange	(2.4)	(1.4)	4.9	(1.1)	(2.5)	(0.5)
Gain on disposal of assets	-	-	-	-	3.7	-
Share based compensation expenses	(0.2)	(10.2)	(18.9)	(18.1)	(12.0)	(3.2)
	<b>(2.6)</b>	<b>(11.6)</b>	<b>(14.0)</b>	<b>(19.2)</b>	<b>(10.8)</b>	<b>(3.7)</b>
<b>Non-recurring items (net)</b>						
Gain on sale of spectrum licences	-	-	-	-	-	95.8
Transaction costs related to the Proposal	-	-	-	-	-	(3.1)
Reversal of spectrum licence impairment	-	5.0	-	-	16.1	-
Gain on sale of TVSN and Expo	-	0.4	-	-	-	-
Impairment of broadband assets	-	-	(4.1)	-	-	-
Goodwill adjustment on recognition of deferred income tax losses	(84.1)	-	-	-	-	-
Write off of capitalised borrowing costs	(4.7)	-	-	-	-	-
	<b>(88.8)</b>	<b>5.4</b>	<b>(4.1)</b>	<b>-</b>	<b>16.1</b>	<b>92.7</b>
<b>Total</b>	<b>(91.4)</b>	<b>(6.2)</b>	<b>(18.1)</b>	<b>(19.2)</b>	<b>5.3</b>	<b>89.0</b>

Source: AUSTAR reports

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Share based compensation expenses since 31 December 2006 relate to entitlements of 25 senior executives for achieving maximum performance targets in the two years ended 31 December 2008 under the 2007 Long Term Incentive Plan. These entitlements can be settled in shares or cash at the option of AUSTAR and vest over the three year period to September 2011. During 2009 AUSTAR paid cash and during 2010 paid cash and shares in respect of these entitlements.

On 17 February 2011 AUSTAR announced the sale of 2.3GHz and 3.4GHz spectrum licence holdings to NBN Co for \$120 million, deriving a profit on sale before tax of \$95.8 million.

Income tax expense has fluctuated significantly primarily due to the recognition of carried forward income tax losses in 2006 and 2010, the recognition of broadband tax assets in 2007 and the write off of deferred tax assets in 2008.

Under the Australian tax consolidation regime, AUSTAR and its wholly owned Australian resident entities have elected to be taxed as a single entity. At 30 June 2011, AUSTAR had carried forward income tax losses of approximately \$500 million (all of which are recognised in the balance sheet) and does not expect to pay income tax until 2013. AUSTAR has no carried forward Australian capital losses and no accumulated franking credits.

AUSTAR's net operating cash flow has increased significantly over the period reflecting revenue growth, improving profit margins and decreasing capital costs (including a decline in the cost of set top boxes):

<b>AUSTAR - Cash Flow (\$ millions)</b>						
	Year ended 31 December					Nine mths ended 30 Sept
	2006 actual	2007 actual	2008 actual	2009 actual	2010 actual	2011 actual
<b>EBITDA</b>	<b>141.9</b>	<b>171.9</b>	<b>208.0</b>	<b>232.4</b>	<b>245.2</b>	<b>189.9</b>
Changes in working capital and other adjustments	0.7	3.9	(6.6)	9.8	(7.0)	(1.5)
2007 Long Term Incentive Plan payments	-	-	-	(22.4)	(2.6)	(17.1)
Capital expenditure (net)	(91.6)	(109.9)	(112.7)	(113.2)	(98.8)	(74.3)
<b>Operating cash flow</b>	<b>51.0</b>	<b>65.9</b>	<b>88.7</b>	<b>106.6</b>	<b>136.8</b>	<b>97.0</b>
Net interest paid	(38.0)	(37.4)	(58.5)	(65.7)	(70.9)	(42.4)
Proceeds from the issue of shares (net)	7.3	0.2	7.7	0.2	0.1	0.1
Proceeds from sale of spectrum licences	-	-	-	-	-	121.2
Share buyback / return of capital	(201.7)	(300.1)	(55.2)	(17.0)	-	-
Other (net)	3.0	4.8	3.3	2.8	(0.7)	(1.8)
<b>Net cash generated/(used)</b>	<b>(178.4)</b>	<b>(266.6)</b>	<b>(14.1)</b>	<b>26.9</b>	<b>65.3</b>	<b>174.1</b>
<i>Net cash (borrowings)<sup>17</sup> – opening</i>	<i>(299.4)</i>	<i>(477.8)</i>	<i>(744.4)</i>	<i>(758.5)</i>	<i>(731.6)</i>	<i>(666.3)</i>
<i>Net cash (borrowings)<sup>17</sup> – closing</i>	<i>(477.8)</i>	<i>(744.4)</i>	<i>(758.5)</i>	<i>(731.6)</i>	<i>(666.3)</i>	<i>(492.2)</i>

Source: AUSTAR reports and Grant Samuel analysis

Capital expenditure primarily reflects the acquisition of subscriber equipment and the cost of installation.

During the period AUSTAR has managed the capital efficiency of its balance sheet. To this end, it has paid two capital returns to shareholders (16 cents per ordinary share in 2006 and 23.68 cents per ordinary share in 2007) and conducted a stock repurchase plan during 2008 and 2009. In the absence of any capital management programme since 2009, AUSTAR's net borrowings have decreased.

<sup>17</sup> Gross of capitalised borrowing costs.



### Outlook

AUSTAR has not publicly released earnings forecasts for the year ending 31 December 2011 or beyond. In order to provide an indication of the expected future financial performance of AUSTAR, Grant Samuel has considered brokers' forecasts for AUSTAR (see Appendix 1) as follows:

<b>AUSTAR – Financial Performance (\$ millions)</b>			
	Year end 31 December		
	2010 actual	Broker Consensus (Median)	
		2011	2012
Sales revenue	711.2	712.4	745.3
EBITDA	245.2	253.4	254.1
EBIT	129.4	143.1	149.1
Net profit after tax (as reported)	99.6	120.1	73.4

Source: AUSTAR reports and Grant Samuel analysis (see Appendix 1).

The broker consensus forecasts are sufficiently close to the Long Range Plan to be useful for analytical purposes.

### 4.5 Financial Position

The financial position of AUSTAR as at 31 December 2010 and 30 June 2011 is summarised below:

<b>AUSTAR - Financial Position (\$ millions)</b>		
	As at 31 December 2010 actual	As at 30 June 2011 actual
Debtors and prepayments	31.0	25.2
Creditors and provisions	(100.2)	(90.7)
<b>Net working capital</b>	<b>(69.2)</b>	<b>(65.5)</b>
Property, plant and equipment (net)	221.8	207.9
Goodwill and other intangible assets (net)	17.8	17.5
Investment in equity accounted associates	42.7	43.8
Deferred tax assets (net)	215.3	180.2
Deferred borrowing costs	21.4	18.6
Assets held for sale	21.3	-
Derivative financial instruments (net)	(20.2)	(29.4)
Liability for share compensation expenses	(18.4)	(8.4)
Provisions and other non current assets and liabilities	(11.5)	(11.5)
<b>Total funds employed</b>	<b>421.0</b>	<b>353.2</b>
Cash and deposits	108.6	210.2
Bank loans	(775.0)	(725.0)
<b>Net borrowings</b>	<b>(666.3)</b>	<b>(514.8)</b>
<b>Equity attributable to AUSTAR shareholders</b>	<b>(245.3)</b>	<b>(161.6)</b>
<i>Statistics</i>		
Shares on issue at period end (million)	1,271.3	1,271.5
Net assets per share	\$(0.19)	\$(0.13)
NTA <sup>18</sup> per share	\$(0.21)	\$(0.14)
Net debt/EBITDA	2.7x	2.1x
Gearing <sup>19</sup>	158.3%	145.8%

Source: AUSTAR reports and Grant Samuel analysis

<sup>18</sup> NTA is net tangible assets, which is calculated as net assets less intangible assets.

<sup>19</sup> Gearing is net borrowings divided by net assets plus net borrowings.



Property, plant and equipment (net) includes leasehold improvements, plant and equipment, furniture and fittings, subscriber equipment and installation costs. Subscriber equipment (comprising set top boxes) remains the property of AUSTAR after installation as it is recovered if the subscriber contract is terminated. Subscriber equipment is depreciated over five years while installation costs are depreciated over four years.

Other intangible assets include software, capitalised development costs and a customer list. Investments in equity accounted associates relate to AUSTAR's 50% interest in XYZ while there is no carrying value for its 33.3% interest in Main Event and 25% interest in MultiChannel Network.

Deferred tax assets (net) include approximately \$150 million for AUSTAR's carried forward income tax losses.

Derivative financial instruments (net) include interest rate derivatives (\$28.1 million) and foreign exchange rate derivatives (\$1.3 million) to hedge AUSTAR's exposure to movements in the A\$/US\$ exchange rate in relation to subscriber equipment. The liability for share compensation expenses represents the final payment under the 2007 Long Term Incentive Plan which was settled in September 2011. Non-current provisions include office premises make good obligations (\$5.3 million).

Bank loans reflect the amount drawn on the \$850 million secured senior debt facility. The senior debt facility was amended in December 2010 such that lenders responsible for \$665 million of the facility agreed to extend payment until December 2015. At 30 June 2011, approximately \$50 million of the amount drawn was repaid in August 2011.

As a consequence of the substantial losses incurred while building its business (which peaked at \$1.24 billion at 31 December 2003), AUSTAR has a deficiency in net assets. In the absence of any recent capital management programmes, the deficiency has reduced since 2009.

#### 4.6 Capital Structure and Ownership

AUSTAR has 1,271,505,737 ordinary shares on issue and around 6,200 registered shareholders. Other than Liberty Global, the top ten registered shareholders are principally institutional nominee or custodian companies and account for around 35.5% of the shares on issue. AUSTAR has a significant retail investor base with 70% of registered shareholders holding 5,000 or less shares although this represents less than 1% of shares on issue. AUSTAR shareholders (other than Liberty Global) are predominantly Australian based investors (over 97% of registered shareholders and 45% of securities on issue). Senior executives of AUSTAR account for approximately 2% of shares on issue.

AUSTAR has received notices from the following substantial shareholders:

<b>AUSTAR – Substantial Shareholders as at 25 November 2011</b>			
Shareholder	Date of Notice	Number of Shares	Interest
Liberty Global	3 July 2008	688,458,394	54.15%
BNP Paribas Investment Partners (Australia) Limited	1 September 2011	70,944,179	5.58%
FOXTEL <sup>20</sup>	11 July 2011	688,458,394	54.15%
News <sup>20</sup>	11 July 2011	688,458,394	54.15%
Consolidated Media <sup>20</sup>	11 July 2011	688,458,394	54.15%
Telstra <sup>20</sup>	11 July 2011	688,458,394	54.15%
James Douglas Packer and Consolidated Press Holdings Limited <sup>20</sup>	14 July 2011	688,458,394	54.15%

Source: AUSTAR

<sup>20</sup> As a result of the Proposal, FOXTEL and the owners of FOXTEL each have a relevant interest in the shares held by Liberty Global.



#### 4.7 Share Price Performance

AUSTAR shares listed in July 1999 at \$4.70 and rose to peak at \$9.90 in March 2000 on strong subscriber growth. Following the downward re-rating of media and technology stocks in April 2000, AUSTAR's share price declined sharply to trade around \$2.00 by the end of the year. The decline continued in 2001 reflecting negative market sentiment to the sector and concerns as to AUSTAR's future performance (including the ability to refinance its senior debt facility). During 2002, the shares traded in a range of 12-39 cents. In early 2003, Liberty Global's interests in AUSTAR were reorganised and investment funds associated with CHAMP Group acquired a 51% indirect interest, diluting Liberty Global's interest to 30%. Notwithstanding the low free float, AUSTAR's share price increased from March 2003 to December 2005 reflecting profitable growth and the implementation of the ACCC approved industry restructure from 2002. The sell down of CHAMP Group's interest in December 2005 increased Liberty Global's interest to 55% but also increased AUSTAR's free float to 45%.

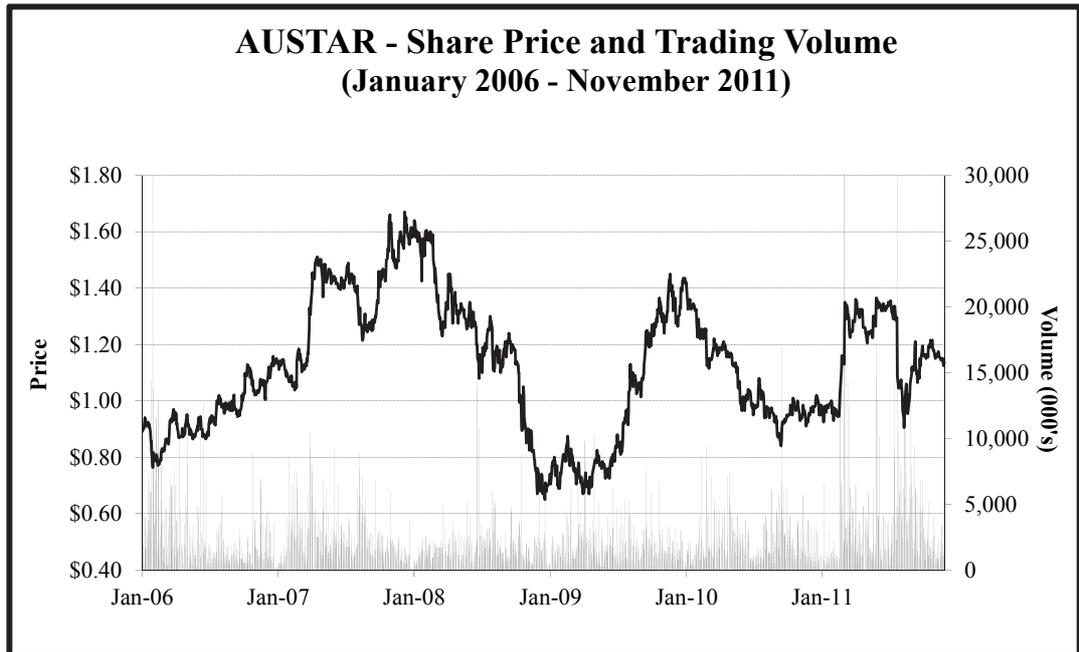
A summary of the price and trading history of AUSTAR since 1 January 2006 is set out below:

<b>AUSTAR - Share Price History</b>					
	Share Price (\$)			Average Weekly Volume (000's)	Average Weekly Transactions
	High	Low	Close		
<b>Year ended 31 December</b>					
2006	1.16	0.76	0.91	16,685	890
2007	1.70	1.01	1.59	13,732	2,202
2008	1.65	0.60	0.74	10,445	3,378
2009	1.47	0.65	1.42	11,533	3,543
2010	1.44	0.84	0.96	13,244	4,080
<b>Quarter ended</b>					
31 March 2011	1.46	0.93	1.32	20,207	4,628
30 June 2011	1.40	1.18	1.35	17,188	4,771
<b>Month ended</b>					
31 July 2011	1.37	1.03	1.05	31,338	4,784
31 August 2011	1.13	0.87	1.11	32,362	6,844
30 September 2011	1.23	1.06	1.16	20,433	6,437
31 October 2011	1.22	1.13	1.16	9,982	4,643
30 November 2011 (to 25 November)	1.19	1.10	1.14	7,808	4,053

Source: IRESS

Note: Share prices on an adjusted basis reflecting rights issues and capital returns.

The following graph illustrates the movement in AUSTAR's share price and trading volumes since January 2006:



Source: IRESS

Note: On three days in this period more than 30 million shares have traded but are not shown on the graph (30 January 2006 when AUSTAR provided market guidance not materially different from consensus forecasts, 1 March 2011 when it was confirmed that FOXTEL and Liberty Global were in discussions regarding acquisition of AUSTAR and 22 July 2011 when the ACCC issued its statement of issues on the Proposal).

Since 2006 trading volumes in AUSTAR shares have been relatively stable. However, AUSTAR shares have traded in a relatively wide range of \$0.60 to \$1.70 reflecting:

- movements in the stockmarket generally;
- periods of market speculation of corporate activity including the potential to merge with FOXTEL (in April-May 2007 and again in February 2011) as well as other potential transactions;
- market speculation as to AUSTAR's role in the provision of high speed broadband services in rural and regional Australia;
- the impact of AUSTAR's capital management programme including capital returns to shareholders in 2006 and 2007 and share buybacks during 2008 and 2009; and
- the low free float.

AUSTAR shares closed at \$0.985 on 17 February 2011, the last trading day prior to publication in the media of speculation in relation to the Proposal. From then until the definitive transaction documentation was signed on 11 July 2011 AUSTAR shares traded in the range \$0.995 to \$1.46, at a volume weighted average price of \$1.29.

Since announcement of the Proposal on 11 July 2011 until 25 November 2011, AUSTAR shares have traded in the range of \$0.865 to \$1.35, at a volume weighted average price of \$1.11. During this period, AUSTAR shares have been subject to substantial volatility reflecting:

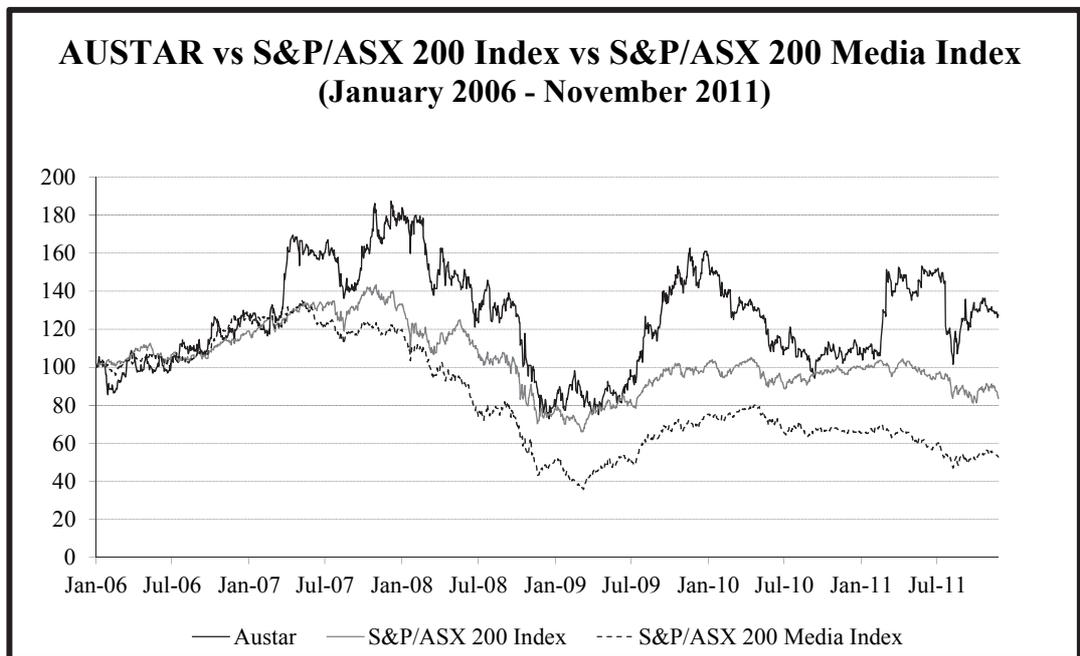
- the ACCC's statement of issues in relation to the Proposal released on 22 July 2011, which resulted in a 15% decrease in the AUSTAR share price on the day (from \$1.29 to \$1.09);
- the downturn in global equities markets which commenced on 1 August 2011. The AUSTAR share price decreased from around \$1.06 to a low of \$0.865 on 9 August 2011 but subsequently recovered to trade around \$1.00; and
- the announcement on 25 August 2011 of the Federal Court of Australia's dismissal of the ACCC's application to prevent Metcash Trading Limited from acquiring the Franklins supermarket business ("the Metcash Case") and the ACCC's decision on 9 September 2011



to appeal that decision. As this matter involves the ACCC’s approach to the definition of markets it is considered to have implications for the Proposal. Subsequent to these announcements AUSTAR shares have traded in the range \$1.06 and \$1.22.

AUSTAR’s free float is restricted (45.8% of shares). As a result, AUSTAR is not a highly liquid stock with average weekly volume over the twelve months prior to 17 February 2011 representing approximately 0.9% of average shares on issue or annual turnover of around 45.0% of total average issued capital (98.9% of free float).

AUSTAR is a member of various indices including the S&P/ASX 200 Index and S&P/ASX 200 Media Index. Its weighting in these indices is approximately 0.14% and 7.08% respectively. The following graph illustrates the performance of AUSTAR shares since January 2006 relative to the S&P/ASX 200 Index and S&P/ASX 200 Media Index:



Source: IRESS

AUSTAR has outperformed both indices at various times since 2006 primarily due to market speculation of corporate activity but also as a result of its resilient earnings (due to a low reliance on advertising revenue) during 2008-2009. However, it underperformed both indices during 2010 until market speculation of the Proposal in February 2011. Subsequently, AUSTAR’s relative performance has been volatile reflecting speculation in relation to the Proposal, the ACCC statement of issues and the Metcash Case decision but since early September 2011 movements in the AUSTAR share price have generally mirrored the market.



## 5 Valuation of AUSTAR

### 5.1 Summary

AUSTAR has been valued in the range \$1,558-1,778 million which corresponds to a value of \$1.23-1.40 per share. The valuation represents the estimated full underlying value of AUSTAR assuming 100% of the company was available to be acquired and includes a premium for control. The value exceeds the price at which, based on current market conditions, Grant Samuel would expect AUSTAR's shares to trade on the ASX in the absence of a takeover offer.

The value for AUSTAR is the aggregate of the estimated market value of AUSTAR's operating business and other assets less external borrowings and non-trading liabilities. The valuation is summarised below:

<b>AUSTAR - Valuation Summary (\$ millions)</b>			
	Report Section Reference	Value Range	
		Low	High
Business operations <sup>21</sup>	5.3	2,000.0	2,200.0
Other assets and liabilities	5.4	50.0	70.0
Net borrowings	5.5	(492.2)	(492.2)
<b>Value of equity</b>		<b>1,557.8</b>	<b>1,777.8</b>
Fully diluted shares on issue (millions)	4.6	1,271.5	1,271.5
<b>Value per share</b>		<b>\$1.23</b>	<b>\$1.40</b>

The value attributed to the operating business of \$2,000-2,200 million (which includes an allowance for cost savings related to listed company costs and the Liberty Global management fee, both of which are available to acquirers of 100% of the business) is an overall judgement having regard to a number of valuation methodologies and parameters, including discounted cash flow ("DCF") analysis, capitalisation of earnings (multiples of EBITDA) and multiples of subscribers. The specific factors taken into consideration in reaching this judgement are set out in Sections 5.3 of this report.

The value for AUSTAR's business operations includes a premium for control. The premia implied by the value range over the \$0.985 share price prevailing on 17 February 2011 (the last trading day prior to publication in the media of speculation in relation to the Proposal) are in the range of 25-42%. Takeover premiums are typically in the range 20-35% depending on the individual circumstances. Synergies available to acquirers such as cost savings through merging operations are normally a significant factor in justifying their ability to pay a meaningful premium over market prices. In this case, direct synergies available to any acquirer of AUSTAR are limited to listed company costs and the Liberty Global management fee. Accordingly, the level of premium for control would be expected to be similar to other takeover situations.

The value attributed to the business operations includes AUSTAR's interests in XYZ, Main Event and MultiChannel Network but the value estimated for these interests is not separately identifiable. At 30 June 2011, AUSTAR's carrying value for these interests was \$43.8 million on an equity accounted basis. On this basis, the carrying value represents the historical cost of the investments adjusted for profits and dividends over time and may not be directly comparable to the value of future cash flows.

<sup>21</sup> After cost savings (i.e. listed company costs and the Liberty Global management fee (refer Section 5.6)) but including AUSTAR's interests in XYZ, Main Event and MultiChannel Network.



## 5.2 Methodology

### 5.2.1 Overview

Grant Samuel's valuation of AUSTAR has been estimated by aggregating the estimated market value of its operating business together with the realisable value of non-trading assets and deducting external borrowings and non-trading liabilities. The value of the operating business has been estimated on the basis of fair market value as a going concern, defined as the maximum price that could be realised in an open market over a reasonable period of time assuming that potential buyers have full information.

The valuation of AUSTAR is appropriate for the acquisition of the company as a whole and, accordingly, incorporates a premium for control. The value is in excess of the level at which, under current market conditions, shares in AUSTAR could be expected to trade on the sharemarket. Shares in a listed company normally trade at a discount of 15-25% to the underlying value of the company as a whole (but this discount does not always apply).

The most reliable evidence as to the value of a business is the price at which the business or a comparable business has been bought and sold in an arm's length transaction. In the absence of direct market evidence of value, estimates of value are made using methodologies that infer value from other available evidence. There are four primary valuation methodologies that are commonly used for valuing businesses:

- capitalisation of earnings or cash flows;
- discounting of projected cash flows;
- industry rules of thumb; and
- estimation of the aggregate proceeds from an orderly realisation of assets.

Each of these valuation methodologies has application in different circumstances. The primary criterion for determining which methodology is appropriate is the actual practice adopted by purchasers of the type of business involved.

Nevertheless, valuations are generally based on either or both discounted cash flow or multiples of earnings and Grant Samuel has had regard to both methodologies in the valuation of AUSTAR. In addition, some weight has been given to multiples of subscribers which is a metric utilised by the subscription television industry.

### 5.2.2 Discounted Cash Flow

Discounting of projected cash flows has a strong theoretical basis. It is the most commonly used method for valuation in a number of industries, including resources, and for the valuation of start-up projects where earnings during the first few years can be negative but it is also widely used in the valuation of established industrial businesses. DCF valuations involve calculating the net present value of projected cash flows. This methodology is able to explicitly capture depleting resources, development projects and fixed terms contracts (which are typical in the resources sector), the effect of a turnaround in the business, the ramp up to maturity or significant changes expected in capital expenditure patterns. The cash flows are discounted using a discount rate which reflects the risk associated with the cash flow stream.

Considerable judgement is required in estimating future cash flows and it is generally necessary to place great reliance on medium to long term projections prepared by management. The discount rate is also not an observable number and must be inferred from other data (usually only historical). None of this data is particularly reliable so estimates of the discount rate necessarily involve a substantial element of judgement. In addition, even where cash flow forecasts are available, the terminal or continuing value is usually a high proportion of value. Accordingly, the multiple used in assessing this terminal value becomes the critical determinant in the valuation (i.e. it is a "de facto" cash flow capitalisation valuation).



The net present value is typically extremely sensitive to relatively small changes in underlying assumptions, few of which are capable of being predicted with accuracy, particularly beyond the first two or three years. The arbitrary assumptions that need to be made and the width of any value range mean the results are often not meaningful or reliable. Notwithstanding these limitations, DCF valuations are commonly used and can at least play a role in providing a check on alternative methodologies, not least because explicit and relatively detailed assumptions as to expected future performance need to be made.

A financial model of the operating business has been developed by Grant Samuel based on the Long Range Plan. The model allows the key drivers of revenues, costs and capital expenditure to be modelled. The model is based on a large number of assumptions and is subject to significant uncertainty and contingencies, many of which are outside the control of AUSTAR. A number of different scenarios have been developed and analysed to reflect the impact on value of various key assumptions relating to pricing, subscriber levels, capital expenditure and other factors. The financial model is discussed in more detail in Section 5.3.2 of this report.

### **5.2.3 Capitalisation of Earnings or Cash Flows**

Capitalisation of earnings or cash flows is the most commonly used method for valuation of industrial businesses. This methodology is most appropriate for industrial businesses with a substantial operating history and a consistent earnings trend that is sufficiently stable to be indicative of ongoing earnings potential. This methodology is not particularly suitable for start-up businesses, businesses with an erratic earnings pattern or businesses that have unusual capital expenditure requirements. This methodology involves capitalising the earnings or cash flows of a business at a multiple that reflects the risks of the business and the stream of income that it generates. These multiples can be applied to a number of different earnings or cash flow measures including EBITDA, EBIT or net profit after tax. These are referred to respectively as EBITDA multiples, EBIT multiples and price earnings multiples. Price earnings multiples are commonly used in the context of the sharemarket. EBITDA and EBIT multiples are more commonly used in valuing whole businesses for acquisition purposes where gearing is in the control of the acquirer but are also used extensively in sharemarket analysis.

Where an ongoing business with relatively stable and predictable cash flows is being valued, Grant Samuel uses capitalised earnings or operating cash flows as a primary reference point.

Application of this valuation methodology involves:

- estimation of earnings or cash flow levels that a purchaser would utilise for valuation purposes having regard to historical and forecast operating results, non-recurring items of income and expenditure and known factors likely to impact on operating performance; and
- consideration of an appropriate capitalisation multiple having regard to the market rating of comparable businesses, the extent and nature of competition, the time period of earnings used, the quality of earnings, growth prospects and relative business risk.

The choice between parameters is usually not critical and should give a similar result. All are commonly used in the valuation of industrial businesses. EBITDA can be preferable to EBIT if depreciation or non-cash charges distort earnings or make comparisons between companies difficult. On the other hand, EBIT can better adjust for differences in relative capital expenditure intensity.

In determining a value for AUSTAR's business, Grant Samuel has placed particular reliance on the EBITDA multiples implied by the valuation range compared to the EBITDA multiples derived from an analysis of comparable listed companies and transactions involving comparable businesses.



Determination of the appropriate earnings multiple is usually the most judgemental element of a valuation. Definitive or even indicative offers for a particular asset or business can provide the most reliable support for selection of an appropriate earnings multiple. In the absence of meaningful offers it is necessary to infer the appropriate multiple from other evidence.

The primary approach used by valuers is to determine the multiple that other buyers have been prepared to pay for similar businesses in the recent past. However, each transaction will be the product of a unique combination of factors, including:

- economic factors (e.g. economic growth, inflation, interest rates) affecting the markets in which the company operates;
- strategic attractions of the business - its particular strengths and weaknesses, market position of the business, strength of competition and barriers to entry;
- rationalisation or synergy benefits available to the acquirer;
- the structural and regulatory framework;
- investment and sharemarket conditions at the time; and
- the number of competing buyers for a business.

A pattern may emerge from transactions involving similar businesses with sales typically taking place at prices corresponding to earnings multiples within a particular range. This range will generally reflect the growth prospects and risks of those businesses. Mature, low growth businesses will, in the absence of other factors, attract lower multiples than those businesses with potential for significant growth in earnings.

An alternative approach in valuing businesses is to review the multiples at which shares in listed companies in the same industry sector trade on the sharemarket. This gives an indication of the price levels at which portfolio investors are prepared to invest in these businesses. Share prices reflect trades in small parcels of shares (portfolio interests) rather than whole companies and it is necessary to adjust for this factor. To convert sharemarket data to meaningful information on the valuation of companies as a whole, it is market practice to add a “premium for control” to allow for the premium which is normally paid to obtain control through a takeover offer. This premium is typically in the range 20-35%.

The premium for control paid in takeovers is observable but caution must be exercised in assessing the value of a company or business based on the market rating of comparable companies or businesses. The premium for control is an outcome of the valuation process, not a determinant of value. Premiums are paid for reasons that vary from case to case and may be substantial due to synergy or other benefits available to the acquirer. In other situations premiums may be minimal or even zero. It is inappropriate to apply an average premium of 20-35% without having regard to the circumstances of each case. In some situations there is no premium. There are transactions where no corporate buyer is prepared to pay a price in excess of the prices paid by institutional investors through an initial public offering.

Acquisitions of listed companies in different countries can be analysed for comparative purposes, but it is necessary to give consideration to differences in overall sharemarket levels and ratings between countries, economic factors (economic growth, inflation, interest rates) and market structures and the regulatory framework. It is not appropriate to adjust multiples in a mechanistic way for differences in interest rates or sharemarket levels.

The analysis of comparable transactions and sharemarket prices for comparable companies will not always lead to an obvious conclusion as to which multiple or range of multiples will apply. There will often be a wide spread of multiples and the application of judgement becomes critical. Moreover, it is necessary to consider the particular attributes of the business being valued and decide whether it warrants a higher or lower multiple than the comparable companies. This assessment is essentially a judgement.



#### 5.2.4 Industry Rules of Thumb

Industry rules of thumb are commonly used in some industries. These are generally used as a “cross check” of the result determined by a capitalised earnings valuation or by discounting cash flows. While they are only used as a cross check in most cases, industry rules of thumb can be the primary basis on which buyers determine prices in some industries. In the case of AUSTAR, value per subscriber multiples are commonly used in the subscription television industry as an indicator of value. However, it should be recognised that rules of thumb are usually relatively crude and prone to misinterpretation.

#### 5.2.5 Net Assets/Realisation of Assets

Valuations based on an estimate of the aggregate proceeds from an orderly realisation of assets are commonly applied to businesses that are not going concerns. They effectively reflect liquidation values and typically attribute no value to any goodwill associated with ongoing trading. Such an approach is not appropriate in AUSTAR’s case.

### 5.3 Value of Business Operations

#### 5.3.1 Overview

Grant Samuel estimates the value of AUSTAR’s business operations to be in the range \$2,000-2,200 million. This valuation is an overall judgement having regard to both DCF analysis and earnings multiple analysis. The value range selected is a judgement derived through an iterative process. The objective is to determine a value that is both consistent with the market evidence as to multiples and fits with the output of DCF analysis in terms of the various scenarios and their likelihood. Multiples of subscribers were given much less emphasis.

#### 5.3.2 DCF Analysis

Grant Samuel has developed a DCF model based on the Long Range Plan. The Long Range Plan is a key operational tool utilised in the management of AUSTAR’s business. Initially developed in 1999, it has been adapted over time as the business has evolved and is updated semi-annually by financial, operational and marketing executives. Grant Samuel has made adjustments to the Long Range Plan to reflect its judgement on certain matters and to extend the cash flows to 30 June 2021.

The DCF model forecasts nominal after tax cash flows from 1 July 2011 to 30 June 2021 with a terminal value calculated to represent the value of cash flows in perpetuity by capitalising net after tax cash flows based on a 2.5% perpetual growth assumption. A discount rate (weighted average cost of capital) in the range 9.5-10.5% has been used. The rationale for selection of this discount rate range is set out in Appendix 2. A corporate tax rate of 30% has been assumed. The ungeared after tax cash flows assume that tax is paid in cash and AUSTAR’s carried forward income tax losses have been valued separately (see Section 5.4).

The base DCF model (Scenario A) assumes the business operates on an “as is” basis. It:

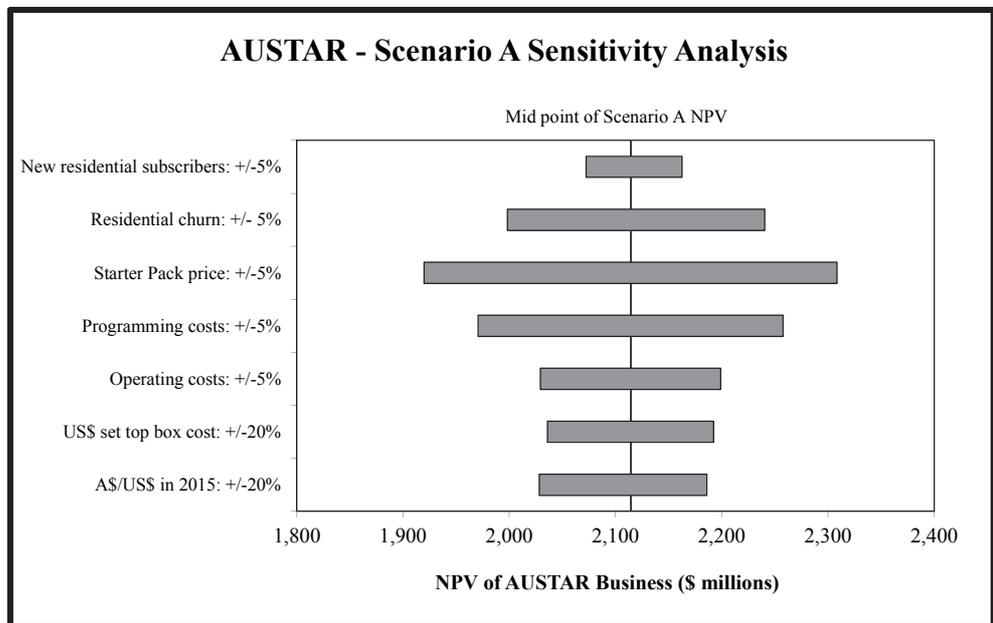
- assumes no changes in the regions or markets in which AUSTAR operates;
- does not assume competitive pressures over and above the level that already exists (e.g. incorporates competitive pressure in regional and rural Australia from digital multi-channels offered by free-to-air broadcasters but not from internet-delivered television services);
- does not assume changes to the business as a consequence of the proposed roll out of the NBN;
- assumes no fundamental changes in technology, regulations or legislation;
- does not assume any major product developments beyond those already in the pipeline; and
- assumes no material win or loss of key content.



The key general and specific operational assumptions underlying Scenario A are set out in Appendix 3.

Grant Samuel has analysed Scenario A to examine the sensitivity of the net present value to changes in the following variables:

- new residential subscribers: +/- 5% (i.e. 105% and 95% of Scenario A);
- residential churn: +/- 5% (i.e. equates to monthly churn of 1.38% and 1.22%);
- Starter Pack price: +/-5% (i.e. 105% and 95% of Scenario A);
- programming costs: +/-5% (i.e. 105% and 95% of Scenario A);
- operating costs: +/-5% (i.e. 105% and 95% of Scenario A);
- US\$ cost of a MyStar set top box: +/-20% (i.e. 120% and 80% of Scenario A); and
- A\$/US\$ rate in 2015: +/-20% (i.e. A\$1 = US\$1.08 or A\$1 = US\$0.75 by 2015).



These sensitivities do not, and do not purport to, represent the range of potential value outcomes for AUSTAR’s business operations. They are simply theoretical indicators of the sensitivity of the net present values derived from the DCF analysis. In this regard, the net present value (“NPV”) outcomes show a relatively wide range across the different scenarios, highlighting the sensitivity to relatively small changes in assumptions. In particular, the NPV of Scenario A:

- is more sensitive to changes in churn than to an equivalent change in new additions as a result of upfront sales and marketing costs and capital expenditure associated with new subscribers;
- is more sensitive to the Starter Pack price than an equivalent change in subscriber numbers as programming costs (which represent approximately 60% of expenses) are incurred on a per subscriber basis; and
- is sensitive to changes in the Australian dollar cost of the MyStar set top box which is influenced by the US dollar cost of the box and the A\$/US\$ exchange rate.

However, the sensitivity analysis fails to take into account the operational flexibility that management has to react to changes in markets in which AUSTAR operates. For example, foreign exchange exposure can be hedged or movements in subscriber numbers can be managed by changes in marketing strategy and sales channels, by offering credits, through



new promotions or enhancing product offerings. Furthermore, higher programming costs for existing content is unlikely given AUSTAR's prior experience. An increase in the US dollar cost of set top boxes may also be unrealistic given recent trends of declining technology costs.

As with any long term projections, there are inherent uncertainties about future events and outcomes and, as shown above, small changes in certain assumptions can have disproportionate impacts on the calculated values. The DCF model is based on a large number of assumptions which are subject to significant uncertainty, many of which are outside the control of AUSTAR:

- the subscription television industry is reliant on technology, which has experienced fundamental shifts over time. It is difficult, if not impossible, to predict how technology will change beyond the next few years and what impact that would have on AUSTAR's business;
- uncertainty remains as to the final form and timing of the NBN and its impact on AUSTAR's business;
- the subscription television industry is subject to regulation (e.g. anti-siphoning legislation) which is subject to the political process and is, therefore, uncertain;
- although content arrangements are contractual and the likelihood of renewal is high, it is not assured;
- the actions of competitors are unknown; and
- the business is exposed to the A\$/US\$ exchange rate which has been volatile, and hedging typically does not extend beyond 12 months.

As a result of these uncertainties, there is a wide range of potential outcomes that could occur, both positive and negative (and an even greater number of possible combinations of those outcomes) including:

- higher or lower than expected competition from digital free-to-air television operators;
- the NBN enables new or existing online pay-per-view competitors to expand their footprint in rural and regional areas, results in greater competition in the form of internet subscription television and enables AUSTAR to enhance existing products;
- new technology is introduced which facilitates additional competition;
- there is strengthening or relaxing of anti-siphoning legislation; and
- the loss or win of key content.

Most of the potential negative scenarios would increase competitive pressures and therefore likely decrease ARPU and/or subscriber numbers, potentially requiring an increase in marketing costs to mitigate the impact. However, the effect of a loss of key content would be partially offset by lower programming costs. Conversely, most positive scenarios would increase ARPU and/or increase subscriber numbers, although the impact of additional key content would be partially offset by higher programming costs. On the other hand, the enhancement of existing products or entering into new content agreements could enable AUSTAR to increase prices further.

Accordingly, Grant Samuel has analysed a number of scenarios that represent differing combinations of Starter Pack price, churn, marketing costs and programming costs. While these scenarios are indicative of a wide range of potential outcomes that could be faced by AUSTAR, the magnitude of the impact of each outcome on key assumptions and exact combination of assumptions that would be impacted is unknown and, therefore, the scenarios are arbitrary. Furthermore, outcomes more or less extreme are quite conceivable.

Other opportunities have not been modelled as they are regarded as purely hypothetical (e.g. NBN enables AUSTAR to bundle subscription television with high-speed broadband and voice-over-internet-protocol offerings in rural and regional Australia or to launch

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internet television) or are regarded as unlikely given factors such as exclusive content arrangements (e.g. AUSTAR enters metropolitan markets or FOXTEL enters rural and regional markets).

Each scenario assumes as a starting point that the projection for 2011 in Scenario A will be achieved. Longer term assumptions have been made by Grant Samuel with reference to the Long Range Plan and following discussion with AUSTAR management. A description of each scenario is outlined in the table below.

<b>AUSTAR - DCF Scenarios</b>	
<b>Scenario</b>	<b>Description</b>
Scenario A	As set out in Appendix 3. Business operates on an “as is” basis. ARPU grows by approximately 23% by 2015. Average monthly churn declines gradually from 1.30%. Programming contracts are renewed on existing terms. A\$/US\$ exchange rate reverts to \$0.90 by 2015 and MyStar US\$ cost remains constant
Scenario B	Scenario A except basic package price declines by 5%
Scenario C	Scenario A except basic package price increases by 5%
Scenario D	Scenario A with 0.1% higher churn
Scenario E	Scenario A with 0.1% lower churn
Scenario F	Scenario B with 0.1% higher churn and 5% higher marketing costs
Scenario G	Scenario F with 5% lower programming costs
Scenario H	Scenario C with 0.1% lower churn and 5% higher programming costs
Scenario I	Scenario A with higher capital expenditure as the A\$/US\$ exchange rate weakens to A\$1 = US\$0.75 by 2015
Scenario J	Scenario A with lower capital expenditure as the A\$/US\$ exchange rate strengthens to A\$1 = US\$1.08 by 2015 plus a 20% decline in the US dollar cost of set top boxes

The output of the DCF analysis is summarised below:

<b>AUSTAR – NPV Analysis (\$ millions)</b>					
<b>Scenario</b>	<b>Discount Rate</b>				
	<b>9.0%</b>	<b>9.5%</b>	<b>10.0%</b>	<b>10.5%</b>	<b>11.0%</b>
Scenario A	2,432	2,257	2,105	1,972	1,855
Scenario B	2,208	2,049	1,911	1,791	1,685
Scenario C	2,656	2,464	2,298	2,153	2,025
Scenario D	2,271	2,108	1,967	1,843	1,734
Scenario E	2,612	2,423	2,259	2,116	1,990
Scenario F	2,032	1,886	1,760	1,649	1,552
Scenario G	2,191	2,034	1,898	1,779	1,674
Scenario H	2,509	2,328	2,171	2,034	1,913
Scenario I	2,332	2,164	2,019	1,892	1,781
Scenario J	2,591	2,403	2,241	2,099	1,974

As discussed above, net present values from DCF analyses are subject to significant limitations and should always be treated with considerable caution. The following factors are relevant to consideration of the NPV outcomes:

- the outcomes are sensitive to small changes in individual assumptions (Scenarios B through E) and small changes in a number of key variables have a substantial impact on NPV (Scenario F);
- scenarios B (lower ARPU) and D (higher churn) represents the impact of a moderate increase in competition, while Scenario F (a combination of lower ARPU, higher

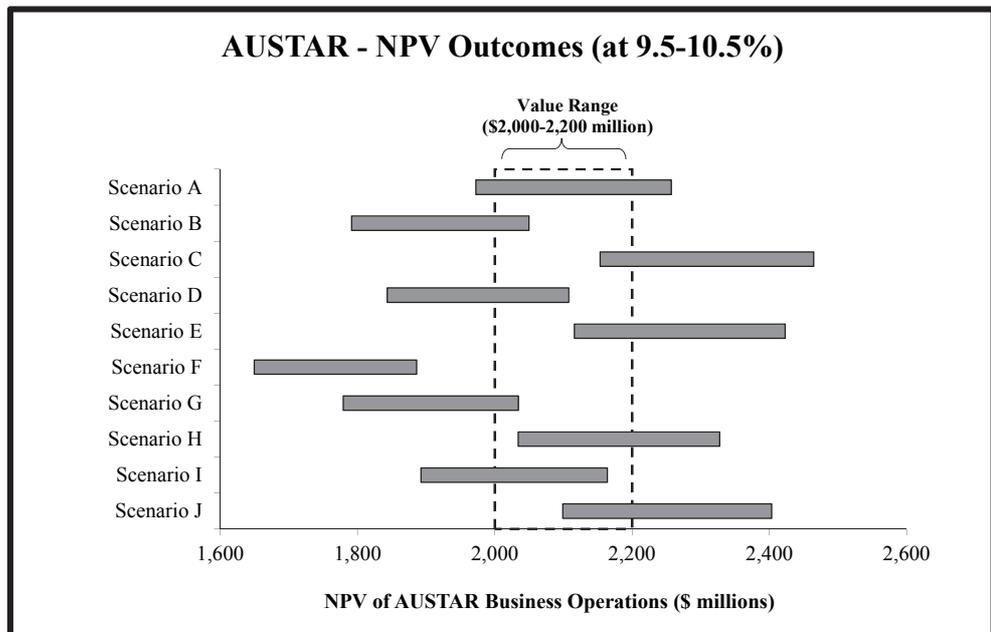
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churn and higher marketing costs) is intended to represent more substantial competitive pressures;

- while there is a wide range of potential events which could increase competitive pressure, the range of events which could lessen competition or otherwise result in higher ARPU (Scenario C) or lower churn (Scenario E) is more limited (e.g. product enhancements);
- on the other hand, the DCF model may be conservative as Scenario A does not include any new product initiatives. Furthermore, a decrease in the US dollar cost of MyStar set top boxes is quite conceivable given recent trends (Scenario J); and
- the impact on NPV outcomes of losing a key programming contract (Scenario G) or winning a key programming contract (Scenario H) is moderated by the offsetting effects of lower/higher revenue and lower/higher programming costs.

Grant Samuel’s selected value range of \$2,000-2,200 million for AUSTAR’s business operations reflects a subjective balancing of the scenarios and a view that the appropriate discount rate to apply is 9.5-10.5%. This is depicted diagrammatically below:



AUSTAR is well positioned to take advantage of a triple play opportunity presented by the NBN. The MyStar technology platform seamlessly integrates with high-speed broadband and voice-over-internet-protocol and may allow AUSTAR to be viewed as a “one stop shop” for the delivery of media to the home. In addition, AUSTAR’s strong brand recognition, existing customer relationships (and “customer stickiness”), scalable customer service infrastructure, content aggregation skills and relationships with key content providers may enable it to benefit from the convergence of technologies. Therefore, the selected value range of \$2,000-2,200 million is closer to Scenario A which does not allow for increases in competition.



### 5.3.3 Earnings Multiple Analysis

#### *Summary of Implied Multiples*

The value range of \$2,000-2,200 million implies the following multiples of earnings and subscribers for the AUSTAR business operations:

<b>AUSTAR – Implied Valuation Parameters</b>			
	Variable	Value Range	
		Low	High
<b>Value Range (\$ million)</b>		<b>2,000</b>	<b>2,200</b>
<b>Multiple of EBITDA</b>			
Year ended 31 December 2010 (adjusted actual) <sup>22</sup>	248.3	8.1	8.9
Year ending 31 December 2011 (adjusted broker median) <sup>23</sup>	256.7	7.8	8.6
Year ending 31 December 2012 (adjusted broker median) <sup>23</sup>	257.4	7.7	8.5
<b>Value per Subscriber</b>			
As at 30 September 2011 (actual)	765,578	\$2,612	\$2,874

The directors of AUSTAR have decided not to include the 2011 Budget and Long Range Plan in the Scheme Booklet and therefore that information has not been disclosed in this report. Accordingly, the implied prospective multiples set out above are based on the median of brokers' forecasts for AUSTAR (see Appendix 1 for details). These forecasts are sufficiently close to the Long Range Plan to be useful for analytical purposes.

Cable television broadcasters usually install and maintain their own local cable networks. Satellite television broadcasters either own satellites or lease satellite transmission rights. Where satellite networks are owned, capital outlays are usually lower than that of cable operators. Therefore, satellite broadcasters generally have lower depreciation and interest charges relative to cable broadcasters and multiples of EBIT are not useful for comparison purposes. Consequently, Grant Samuel has reviewed the implied multiples having regard to EBITDA multiples and value per subscriber for comparable listed companies and transactions involving subscription television businesses.

#### *Sharemarket Evidence*

As there are no listed subscription television broadcasters in Australia other than AUSTAR, Grant Samuel has had regard to the sharemarket ratings of international subscription television broadcasters operating in developed, technologically advanced markets. Canadian subscription television broadcasters (e.g. Shaw Communications, Cogeco Cable Inc.) have been excluded from the analysis due to the extent of restrictions placed on foreign ownership of holders of broadcasting licences. In addition, Japanese broadcasters (e.g. Jupiter Telecommunications Co., Ltd ("Jupiter Telecommunications")) have been excluded as the Japanese market is at a more advanced technological stage.

The following table sets out EBITDA multiples and value per subscriber for the selected listed comparable companies based on share prices as at 25 November 2011:

<sup>22</sup> Based on the actual result of AUSTAR for the year ended 31 December 2010 (see Section 4.4) adjusted to eliminate listed company costs of \$0.9 million and the Liberty Global management fee of \$2.6 million and to include AUSTAR's share of pre tax profits of associates.

<sup>23</sup> Median of brokers' forecasts for AUSTAR as set out in Appendix 1 adjusted to eliminate listed company costs of \$0.9 million (2011 dollars) and Liberty Global management fee of \$2.4 million in 2011 and 2012 (i.e. fixed fee of US\$2.4 million, converted at A\$1 = US\$1.02 in 2011 and A\$1 = US\$1.00 in 2012) (see section 5.6).



Sharemarket Ratings of Selected Listed Subscription Television Companies						
Company	Cable/ Satellite Operator <sup>24</sup>	Market Capitalisation (millions)	EBITDA Multiple (times)			Value per Subscriber (A\$)
			Historical	Forecast Year 1	Forecast Year 2	
<b>New Zealand</b>						
SKY NZ	S	NZ\$2,113	7.9	7.4	7.0	2,348
<b>Europe</b>						
BSkyB	S	£12,726	9.3	8.1	7.6	2,043
Kabel Deutschland	C	€3,590	8.9	8.1	7.4	1,036
<b>United States</b>						
Comcast	C	US\$57,103	6.9	5.6	5.3	4,718
DirecTV	S	US\$31,982	7.0	6.4	5.7	2,311
Time Warner Cable	C	US\$18,508	6.0	5.9	5.6	3,365
Liberty Global	C/S	US\$11,187	7.7	6.6	6.0	3,765
DISH	S	US\$10,816	5.3	4.1	4.4	1,149
Charter	C	US\$5,821	7.1	6.8	6.6	4,156
Cablevision	C	US\$4,199	5.6	6.5	6.3	4,534

Source: Grant Samuel analysis (see Appendix 4)

A detailed analysis of these entities is set out in Appendix 4. The following factors are relevant to consideration of the comparable company multiples:

- the multiples shown above are based on sharemarket prices and therefore do not reflect a premium for control. All of the companies have a 31 December year end except British Sky Broadcasting Group plc. (“BSkyB”) and Sky Network Television Limited (“SKY NZ”) which have a 30 June year end and Kabel Deutschland Holding AG (“Kabel Deutschland”) which has a 31 March year end;
- all subscription television broadcasters in the United States own transmission infrastructure, whereas SKY NZ, BSkyB and Kabel Deutschland lease transmission equipment. Liberty Global’s transmission infrastructure is generally owned, with the exception of AUSTAR and the Unitymedia GmbH (“Unitymedia”) German operations;
- multiples are broadly in the range 5.5-8 times Year 1 forecast EBITDA and primarily reflect the competitive environment in which the companies operate:
  - SKY NZ and BSkyB face strong competition from free-to-air broadcasting (similar to AUSTAR) but moderate or no competition from subscription television broadcasters and their multiples are towards the high end of the range. Market penetration for BSkyB is lower than for SKY NZ, possibly as anti-siphoning legislation exists in the United Kingdom as due to competition from the digital television services of Virgin Media, Inc.<sup>25</sup>;
  - in Germany, subscription television broadcasters operate primarily on a regional basis and, therefore, to a large extent do not compete. They also face limited competition from free-to-air broadcasting, although anti-siphoning legislation exists. Kabel Deutschland captures a substantial share of its market (56%) and its earnings multiples are relatively high;
  - United States broadcasters face strong competition from other subscription television broadcasters and their earnings multiples are at the low end of the range;
  - although Liberty Global is listed in the United States, it operates as an international holding company and its European operations accounted for 87% of

<sup>24</sup> C = cable, S = satellite

<sup>25</sup> Virgin Media, Inc. is a United States company listed in the United States and the United Kingdom. It is a “quad play” provider of broadband internet, television, mobile telephony and fixed line telephone services throughout the United Kingdom. It has been excluded from the analysis due to the range of its business activities.



profit before tax in 2010. Therefore, it is not directly comparable to its United States peers being substantially more geographically diversified and managerially decentralised. Its multiples reflect a blend of its operations; and

- the relatively low EBITDA multiples for DISH Network Corporation (“DISH”) may reflect its recent acquisition of companies in Chapter 11 bankruptcy protection and its limited free float; and
- value per subscriber is a common rule of thumb used for subscription television businesses. This metric is primarily influenced by the level of subscription fees (i.e. ARPU) which is influenced by the quality of content and features offered and level of competition from free-to-air broadcasting. However, value per subscriber is an imprecise measure as it is influenced by the definition of subscribers reported and the extent of non subscription television activities (e.g. internet and telephony). In addition, value per subscriber fails to take into account differing operating margins. Nevertheless, the following trends can be observed:
  - strong competition from free-to-air broadcasting in New Zealand and the United Kingdom limits the level of subscription fees that can be charged and SKY NZ and BSkyB primarily offer standard definition content. Value per subscriber for SKY NZ and BSkyB is at the low end of the range for premium broadcasters;
  - in the United States and many European countries, digital switchover is complete and many broadcasters primarily offer high definition content. Furthermore, limited competition from free-to-air broadcasters allows subscription television broadcasters to charge higher fees. Value per subscriber for United States companies and Liberty Global is at the high end of the range; and
  - Kabel Deutschland and DISH primarily offer low cost subscription television content bundled with broadly available, non-exclusive channels, therefore, value per subscriber is substantially lower than that for premium broadcasters.

The multiples implied by sharemarket trading indicate that companies which have little competition from subscription television operators (although they may face competition from free-to-air broadcasting) trade at multiples of 7.4-8.1 times prospective EBITDA. Value paid per subscriber for broadcasters of premium content predominantly via standard definition technology but which face strong competition from free-to-air television are in the range \$2,000-2,400, with the high end of the range represented by SKY NZ, possibly as New Zealand does not have anti-siphoning legislation.

***Transaction Evidence***

There have been no recent transactions in Australia involving the acquisition of controlling interests in businesses in the subscription television industry. The following table sets out the EBITDA and price per subscriber multiples implied by selected transactions since June 2007 involving the acquisition of subscription television broadcasters operating in developed, technologically advanced markets:



<b>Recent Transaction Evidence – Subscription Television Companies</b>						
Date	Target	Cable/ Satellite Operator <sup>24</sup>	Consid- eration <sup>26</sup> (millions)	EBITDA Multiple (times)		Price per Subscriber (A\$)
				Historical	Forecast	
<b>Europe</b>						
Mar 11 (pending)	Kabel BW	C	€910.0	10.6	8.9	1,929
Nov 09	Unitymedia	C	€2,000.0	7.7	7.7	1,241
Dec 07	Remaining 52.9% of Sogecable	S	€3,876.1	15.2	12.1	3,831
Jul 07	Remaining 74.7% of PrimaCom	C	€198.7	10.6	13.1	976
<b>United States</b>						
Aug 11 (pending)	Insight Communications	C	US\$1,330.8	9.4	8.3	4,265
Nov 10	Remaining 60.4% of Mediacom	C	US\$643.6	6.4	6.1	3,270
Mar 10	RCN Corporation	C	US\$567.3	5.6	5.3	3,129
<b>Japan</b>						
Jan 10	37.8% of Jupiter Telecommunications	C	¥957,716.3	8.0	7.4	5,459

Source: Grant Samuel analysis (see Appendix 4)

Further details on these transactions are set out in Appendix 4. The following factors are relevant to consideration of the transaction evidence:

- all of the subscription television broadcasters utilise cable transmission except Sogecable S.A. (“Sogecable”). Unitymedia, PrimaCom AG (“PrimaCom”) and Jupiter Telecommunications mainly lease transmission infrastructure whereas other broadcasters own their infrastructure;
- multiples implied by transactions which were announced prior to the global economic downturn (i.e. PrimaCom and Sogecable) are substantially higher than those more recently. Furthermore, substantial synergies were expected in the PrimaCom transaction and the Sogecable transaction reflects a mandatory follow on offer which was not expected to be taken up but which most investors accepted following the economic downturn;
- more recent transactions have taken place at multiples broadly in the range 5.5-9 times forecast EBITDA and primarily reflect the competitive environment in which the target companies operate as well as anticipated strategic benefits:
  - Liberty Global’s acquisitions of Kabel BW Erste Beteiligungs GmbH (“Kabel BW”) (pending) and Unitymedia occurred at relatively high multiples, possibly reflecting Liberty Global’s growth strategy, Germany’s attractiveness as a market with relatively limited competition from free-to-air broadcasting and other subscription television broadcasters (although Germany does have anti-siphoning legislation) as well as anticipated synergy benefits. Allowing for expected synergies, the multiples are lower at 8.1 and 6.6 times forecast EBITDA, respectively. The higher multiple paid for the more recent transaction may also reflect Liberty Global’s existing presence in Germany;
  - multiples implied by acquisitions of companies in the United States are generally lower than those in Europe, likely as a result of strong competition from subscription television broadcasters. However, the pending acquisition of Insight Communications Company, Inc. (“Insight Communications”) by Time Warner Cable is expected to result in substantial synergies and, therefore, the historical EBITDA multiple is high; and
  - although the Jupiter Telecommunications transaction did not involve a controlling interest, it was for a strategic 37.8% interest; and

<sup>26</sup> Implied equity value if 100% of the company or business had been acquired.



- price per subscriber shows a wide range and reflects the level of competition from free-to-air broadcasting as well as the quality of content and features offered:
  - for German companies (i.e. Kabel BW, Unitymedia and PrimaCom), a large proportion of customers subscribe to a basic, analogue service. Therefore, price per subscriber is relatively low; and
  - broadcasters in the United States and Japan have a higher take up of premium content (e.g. high definition and pay-per-view channels) and also face limited competition from free-to-air broadcasting. Therefore, price per subscriber is towards the high end of the range.

No transactions have occurred after the onset of the global economic downturn in markets which are directly comparable to Australia. Although subscription television broadcasters in Germany face limited competition from other subscription television broadcasters, they generally face less competition from free-to-air broadcasting (although Germany also has anti-siphoning legislation). Recent transactions in Germany have taken place at multiples of 6.6-8.1 times forecast EBITDA (after synergies).

There are no acquisitions of broadcasters of premium content predominantly using standard definition digital technology in markets where there is strong competition from free-to-air broadcasting (similar to AUSTAR). Transactions in the United States and Japan occurred at a price per subscriber in the range \$3,100-5,500. However, these companies face little competition from free-to-air broadcasting and primarily broadcast via high definition digital technology.

***Analysis and Commentary***

In Grant Samuel’s opinion, the valuation parameters implied by the selected value range of \$2,000-2,200 million are appropriate given the market evidence discussed above and the particular attributes of the AUSTAR business operations. In this context:

- AUSTAR offers premium content, although mainly using standard definition technology. While it faces limited competition from subscription television broadcasting, it faces substantial competition from free-to-air television and anti-siphoning legislation exists in Australia;
- many of the risks and opportunities faced by AUSTAR differ from those in other regions, however, this is not always the case (e.g. New Zealand and Germany are also building national broadband infrastructure network); and
- many of the transactions (e.g. Sogecable) included substantial synergies or strategic value and, therefore, the implied multiples are higher than those implied by Grant Samuel’s value range for AUSTAR (which only incorporates synergies available to all potential purchasers and not those specific to a particular purchaser).

**5.4 Other Assets and Liabilities**

AUSTAR’s other assets and liabilities have been valued in the range of \$50-70 million and include:

- carried forward revenue tax losses of \$510.3 million (\$153.1 million tax shield). Grant Samuel has attributed a present value to the losses based on the expected utilisation and discounted this value to reflect that an acquirer is unlikely to pay full face value; and
- the mark to market loss in relation to interest rate and foreign exchange hedges as at 30 September 2011 of \$48.7 million.

AUSTAR has other assets and liabilities on its balance sheet that have not been included in other assets and liabilities, including its 50% interest in XYZ, 33.3% interest in Main Event and 25% interest in MultiChannel Network. The value of these investments is reflected in the value of the AUSTAR business operations in Section 5.3.



### **5.5 Net Borrowings**

Net borrowings for valuation purposes are \$492.2 million. This amount reflects AUSTAR's drawn borrowings of \$676.5 million and cash holdings of \$184.3 million as at 30 September 2011.

### **5.6 Corporate Costs**

AUSTAR incurs corporate costs of approximately \$19 million per annum. These represent the costs of managing AUSTAR including those associated with:

- AUSTAR's Sydney head office including the senior executive team, company secretarial and legal, planning and development, corporate affairs, treasury and taxation;
- being a listed company (such as directors fees, annual reports and shareholder communications, share registry and listing fees and dividend processing); and
- certain group shared services (such as human resources, information technology).

In addition, AUSTAR pays an annual US\$2.4 million management fee to Liberty Global for the provision of various technical and management services.

Any acquirer of 100% of AUSTAR would be able to save the costs associated with being a publicly listed company (estimated at \$1.0 million (2011 dollars)) and the Liberty Global management fee. Consequently, for valuation purposes Grant Samuel has reduced corporate costs by \$1 million per annum (to \$18 million per annum) and eliminated the Liberty Global management fee in the DCF model in Section 5.3.2.



## 6 Evaluation of the Scheme

### 6.1 Conclusion

In Grant Samuel's opinion, the Scheme is in the best interests of AUSTAR shareholders, in the absence of a superior proposal.

Accordingly, by definition, the Scheme is in the best interests of the minority shareholders, in the absence of a superior proposal.

### 6.2 Fairness

Grant Samuel has estimated the full underlying value of AUSTAR, including a premium for control, to be in the range \$1.23-1.40 per share. This value was assessed by aggregating the estimated market value of AUSTAR's operating business together with the realisable value of non-trading assets and deducting external borrowings and non-trading liabilities. It exceeds the price at which AUSTAR shares would be expected to trade on the stock exchange in the absence of the Proposal or some similar transaction. The valuation is set out in Section 5 of this report.

The offer price under the Scheme is \$1.52 for each AUSTAR share. The consideration exceeds the range that Grant Samuel has assessed as the full underlying value of AUSTAR and, accordingly, the Scheme is fair. As the Scheme is fair, it is also reasonable. As the Scheme is fair and reasonable, it is in the best interests of shareholders.

The consideration under the Scheme exceeds the top end of the estimated full underlying value of AUSTAR by 8.6%. While this outcome is unusual, in this case it reflects the extent of synergies that are available from merging AUSTAR and FOXTEL and the extent to which FOXTEL is willing to "pay away" some of the value of these synergies to AUSTAR shareholders.

The estimated full underlying value of \$1.23-1.40 per share reflects only the synergies that are available to any purchaser of AUSTAR (i.e. listed company costs and the Liberty Global management fee) and implies multiples of 7.7-8.5 times 2012 EBITDA (refer Section 5.3.3). However, the combination of AUSTAR and FOXTEL provides a unique opportunity to realise substantial cost savings which FOXTEL management has estimated to be in the order of \$55-60 million per annum. Expected cost savings include savings in relation to salaries, call centres, set-top box design and installation, head office costs and listing costs. Market commentators have generally predicted higher cost savings (in the order of \$60-75 million per annum) with some referencing the potential for further programming efficiencies and revenue synergies resulting from improved customer access to new products and lower churn from household movements between rural or regional and metropolitan areas.

The offer price of \$1.52 per share equates to a value for the AUSTAR business operations of around \$2,365 million<sup>27</sup> which is \$165-365 million higher than Grant Samuel's estimated value range for the business (\$2,000-2,200 million) and implies multiples in excess of 9 times 2012 EBITDA<sup>28</sup>. Assuming an EBITDA multiple of 8 times<sup>29</sup>, FOXTEL is "paying away" \$21-46 million of annual synergies (38-77% of FOXTEL's estimate of synergies). In Grant Samuel's opinion, this premium is attributable to the strong negotiating position of 54.15% shareholder Liberty Global and the possibility that potential merger synergies may exceed those publicly contemplated.

<sup>27</sup> Calculated by multiplying the \$1.52 offer price by 1,271.5 million fully diluted shares on issue, then deducting \$50-70 million other assets/(liabilities) and adding \$492.2 million net borrowings at 30 September 2011.

<sup>28</sup> If \$55 million in additional annual savings are allowed for the offer price implies multiples of 7.5 times 2012 EBITDA which is consistent with recent transactions involving significant synergy benefits (see Section 5.3.3).

<sup>29</sup> Based on the multiples of 2012 EBITDA implied by Grant Samuel's estimate of full underlying value of 7.7-8.5 times.



### 6.3 Reasonableness

#### 6.3.1 Premium for Control

The consideration of \$1.52 per share represents a 54.3% premium to the price at which AUSTAR shares traded on 17 February 2011, being the last trading day prior to publication in the media of speculation in relation to the Proposal:

AUSTAR – Premium over Pre-announcement Prices		
Period	Share Price (\$)	Premium
10 July 2011 – pre-announcement price	1.315	15.6%
25 May 2011 – price prior to conditional proposal	1.265	20.2%
17 February 2011 – unaffected share price	0.985	54.3%
1 month prior to 17 February 2011 – VWAP <sup>30</sup>	0.975	55.8%
3 months prior to 17 February 2011 – VWAP	0.970	56.8%
6 months prior to 17 February 2011 – VWAP	0.947	60.5%
12 months prior to 17 February 2011 – VWAP	1.028	47.8%

The level of premiums observed in takeovers varies depending on the circumstances of the target and other factors (such as the potential for competing offers) but tend to fall in the range 20-35%. The premium over unaffected AUSTAR share prices is high relative to those normally seen in takeover offers reflecting the extent to which FOXTEL is willing to “pay away” the value of potential synergies to AUSTAR shareholders. This view is supported by the lower, but not insignificant (at 20%), premium over the price on 25 May 2011, the day prior to receipt of the conditional proposal from FOXTEL.

It could be argued that the AUSTAR share price may not be a particularly good indicator of value as it has historically been volatile. However, in Grant Samuel’s view, since 2009 the market in AUSTAR shares has been relatively liquid (notwithstanding the restricted free float) and a reasonable indicator of value. In this context, Grant Samuel’s estimate of the full underlying value for AUSTAR (\$1.23-1.40 per share) implies premiums in the range of 24-42% over the share price prevailing at 17 February 2011 which is consistent with premiums typically seen in takeovers.

#### 6.3.2 Share Trading in the Absence of the Proposal

The Proposal enables shareholders to realise their investment in AUSTAR at a cash price which incorporates a significant premium. In the absence of the Proposal or a similar transaction, shareholders could only realise their investment by selling on market at a price which does not include any premium and would incur transaction costs (e.g. brokerage). In these circumstances (and assuming there was no speculation as to an alternative or revised proposal), it is likely that AUSTAR shares, under current market conditions and its current ownership structure, would trade at prices below \$1.52. In fact, the downturn in the stockmarket since July 2011 and the associated investor uncertainty suggests that AUSTAR shares could trade at significantly lower prices in the foreseeable future.

In this regard:

- since 2001 AUSTAR shares have only traded above \$1.52 in the period from mid 2007 to early 2008 which corresponded with earlier speculation of a potential merger with FOXTEL;
- in the 12 months prior to 17 February 2011 (being the last trading day prior to publication in the media of speculation in relation to the Proposal) AUSTAR shares traded at a VWAP of \$1.026;

<sup>30</sup> VWAP is volume weighted average price.



- from 17 February 2011 to 10 July 2011 (the day prior to announcement of the Proposal) AUSTAR shares traded at a VWAP of \$1.29;
- since the announcement of the Proposal the AUSTAR share price has been below \$1.52 (at a VWAP of \$1.11) and subject to significant fluctuations as a result of:
  - the publishing of the ACCC’s statement of issues on the Proposal on 22 July 2011 (the share price fell by 19% in the following two trading days);
  - the downturn and increased volatility in equities markets since July 2011 due to the deterioration in global economic conditions and increased investor uncertainty (e.g. since July 2011 the S&P/ASX 200 has declined by as much as 14.9% with the decline around 10% at 25 November 2011); and
  - the decision of the Federal Court of Australia in the Metcash Case and the ACCC’s decision to appeal that decision; and
- although the earnings outlook for AUSTAR is positive, the future for the subscription television sector is uncertain and dependent on a wide range of factors many of which are outside the control of operators including the impact of the roll out of the NBN.

Accordingly, the prospect of AUSTAR shares trading above \$1.52 in the foreseeable future is remote. In any event, it should be noted that the consideration under the Scheme provides a significant premium over unaffected trading prices.

**6.3.3 Prospect of an Alternative Proposal**

In Grant Samuel’s opinion, there is no alternative acquirer able to derive the level of synergies available to FOXTEL and therefore it is unlikely that alternative bidders would be prepared to offer a price higher than \$1.52 per share. Accordingly, there is little likelihood that an alternative bidder would make a more attractive offer for AUSTAR.

Nonetheless, while AUSTAR has agreed to no-talk, no-shop and no-due diligence provisions, there is no impediment to an alternative acquisition proposal being put by any other party. The \$19.3 million break fee (approximately 1.5 cents per share) is not of a magnitude to represent a barrier to alternative proposals. However, as Liberty Global owns 54.15% of, and controls, AUSTAR, an acquisition proposal by a third party could not succeed without its agreement. Liberty Global is a party to the Proposal and has agreed both the price and the transaction structure (which achieves an efficient transaction outcome for Liberty Global). Therefore, an alternative acquirer would need to make a superior offer in terms of price and facilitate a similar transaction structure to gain the support of Liberty Global.

Grant Samuel is not aware of any alternative acquisition proposals for AUSTAR. Since the announcement of FOXTEL’s conditional proposal on 26 May 2011 there has been ample opportunity for any interested party to make a superior offer. No such offer has been made although the opportunity to do so remains until the shareholder meeting.

Given the significant synergies available from combining AUSTAR and FOXTEL, it would be open to shareholders to vote against the Scheme in the hope that FOXTEL would make a subsequent higher offer. However, this involves significant risks. There is no evidence that FOXTEL would be prepared to pay a higher price:

- the Proposal involves a scheme of arrangement and therefore FOXTEL is demonstrating an unwillingness to acquire an interest in AUSTAR unless shareholder approval is obtained for it to acquire all of the issued shares;
- the Proposal is the outcome of detailed negotiations involving AUSTAR, FOXTEL and Liberty Global;
- the consideration under the Scheme reflects a significant premium to AUSTAR shareholders over trading prices; and



- since the Proposal was announced there has been a significant decline and increased volatility in global equities markets. There is no evidence that equities markets will return to pre August 2011 levels in the near future. It is therefore possible that any subsequent offer would be on less favourable terms if negotiated in current market conditions.

Rejecting the Scheme involves significant risk that shareholders would not be able to realise a price as high as \$1.52 if they wish to sell at a later date.

#### 6.3.4 Other Matters

There are few issues other than price when shareholders are faced with a cash offer. Other factors that shareholders should take into consideration are:

- if the Scheme is approved, AUSTAR shareholders will be treated as having disposed of their AUSTAR shares for tax purposes. A capital gain or loss may arise on disposal depending on the cost base for the AUSTAR shares, the length of time held, whether the shares are held on capital or revenue account and whether the shareholder is an Australian resident for taxation purposes. Details of the taxation consequences are set out in Section 10 of the Scheme Booklet. If in any doubt, shareholders should consult their own professional adviser;
- AUSTAR will incur transaction costs of approximately \$5 million prior to the shareholder meeting. These costs include legal and other adviser's fees, as well as communications, share registry, printing and mailing costs. If the Proposal is not implemented, AUSTAR will meet these costs as a standalone company. Furthermore, in certain circumstances, AUSTAR will also be liable to pay a \$19.3 million break fee to FOXTEL; and
- even if the Scheme is approved by shareholders, it is possible that the Proposal may not proceed if any of the other resolutions are not approved by shareholders (unless AUSTAR, FOXTEL and Liberty Global agree to waive the corresponding conditions precedent). In this case, AUSTAR would remain listed with a 54.15% controlling shareholder and, in the absence of the Proposal or a similar transaction, it is likely that AUSTAR shares under current market conditions would trade at prices well below \$1.52 (see Section 6.3.2).

#### 6.4 Shareholder Decision

The decision whether to vote for or against the Scheme is a matter for individual shareholders based on each shareholder's views as to value, their expectations about future market conditions and their particular circumstances including risk profile, liquidity preference, investment strategy, portfolio structure and tax position. In particular, taxation consequences may vary from shareholder to shareholder. If in any doubt as to the action they should take in relation to the Scheme, shareholders should consult their own professional adviser.

Similarly, it is a matter for individual shareholders as to whether to buy, hold or sell securities in AUSTAR. This is an investment decision independent of a decision on whether to vote for or against the Scheme upon which Grant Samuel does not offer an opinion. Shareholders should consult their own professional adviser in this regard.



## 7 Evaluation of the FOXTEL Acquisition

### 7.1 Background

The Proposal is to be implemented by way of a series of transactions. In summary:

- a Liberty Global entity will acquire all of the shares in AUSTAR that Liberty Global does not already own for \$1.52 cash per share under the Scheme;
- Liberty Global's interests in AUSTAR will then be restructured; and
- FOXTEL and FOXTEL Bidco will then acquire Liberty Global's interests in AUSTAR for \$1.52 cash per share. The FOXTEL Acquisition is expected to complete six to eight weeks after the Scheme is implemented.

Elements of the Proposal are subject to the approval of AUSTAR shareholders. In addition to the resolution relating to the Scheme, AUSTAR shareholders will be asked to approve three resolutions to approve aspects of the subsequent steps of the Proposal. Failure to approve the Scheme will result in the Proposal not proceeding. If the Scheme is approved but any of the other resolutions not approved, the Proposal will not proceed unless AUSTAR, FOXTEL and Liberty Global agree to waive the corresponding condition precedent.

For the purposes of the Proposal, an independent expert's report is required only in relation to the Scheme (see Section 2.1). However, FOXTEL and the owners of FOXTEL acquired a relevant interest in Liberty Global's 54.15% interest in AUSTAR when they executed the transaction documentation on 11 July 2011 which would have constituted a breach of Section 606 of the Corporations Act but for the relief granted by the ASIC. The ASIC has exempted FOXTEL and the owners of FOXTEL from Section 606 provided certain conditions are met including that AUSTAR engage an independent expert to prepare a report on whether:

- the Scheme is in the best interests of holders of ordinary shares in AUSTAR other than Liberty Global; and
- the FOXTEL Acquisition is fair to the holders of ordinary shares in AUSTAR other than Liberty Global.

For the purposes of this report, the holders of ordinary shares in AUSTAR other than Liberty Global are referred to as "the minority shareholders".

### 7.2 Analysis and Conclusion

Approval of all resolutions associated with the Proposal means that, subject to satisfaction or waiver of all conditions precedent, FOXTEL will acquire 100% of AUSTAR at a cost of \$1.52 per share (\$1,932.7 million). As discussed in Section 6, in Grant Samuel's opinion, the Scheme is in the best interests of AUSTAR shareholders, in the absence of a superior proposal. However, Liberty Global agreed to the Proposal subject to achieving an efficient transaction outcome and the transaction structure accommodates this objective<sup>31</sup>. This could be considered to disadvantage the minority shareholders. However:

- minority shareholders will receive the same gross consideration (\$1.52 cash per share) as Liberty Global is to receive from FOXTEL. Liberty Global will not derive a profit from the sale under the FOXTEL Acquisition of the AUSTAR shares acquired from the minority shareholders under the Scheme. In fact, relative to Liberty Global, minority shareholders benefit marginally (around 0.8-1.1 cents per share) as a result of the time value of money (i.e. minority shareholders will be able to reinvest the proceeds received under the Scheme earlier than Liberty Global which will receive the proceeds under the FOXTEL Acquisition on completion which is expected six to eight weeks after the Scheme is implemented);

<sup>31</sup> For example, receipt of an acceptable private letter ruling by Liberty Global from the United States Internal Revenue Service is a condition of the Proposal and can only be waived by Liberty Global.



- the consideration of \$1.52 per share under the Scheme exceeds Grant Samuel’s estimate of full underlying value of AUSTAR and is therefore fair (see Section 6.2);
- minority shareholders will receive a substantial premium under the Scheme (see Section 6.3.1). This premium reflects the strong negotiating position of Liberty Global and the extent to which FOXTEL is willing to “pay away” some of the value of the synergies that are available from merging with AUSTAR;
- if Liberty Global separately made an offer for the shares that it does not already own in AUSTAR, minority shareholders are unlikely to have been offered a premium of the magnitude offered under the Scheme due to the lack of significant synergies and as Liberty Global already controls AUSTAR. In this case, minority shareholders would also not participate in any profit that Liberty Global could subsequently derive from a sale of AUSTAR to FOXTEL; and
- evaluation of fairness does not (and cannot) take into account the objectives, financial situation or needs of individual shareholders. In particular, the taxation consequences of the Proposal (and therefore the net proceeds) will vary from shareholder to shareholder.

Therefore, although the Proposal is structured to achieve an efficient transaction outcome for Liberty Global, there are no detrimental impacts for minority shareholders as a result of the FOXTEL Acquisition. Accordingly, in Grant Samuel’s opinion, the FOXTEL Acquisition is fair to the minority shareholders.

### **7.3 Shareholder Decision**

The decision whether to vote for or against the three resolutions to approve aspects of the subsequent steps in the Proposal is a matter for individual shareholders based on each shareholder’s views as to value, their expectations about future market conditions and their particular circumstances including risk profile, liquidity preference, investment strategy, portfolio structure and tax position. In particular, taxation consequences may vary from shareholder to shareholder. If in any doubt as to the action they should take in relation to the Proposal, shareholders should consult their own professional adviser.



## **8 Qualifications, Declarations and Consents**

### **8.1 Qualifications**

The Grant Samuel group of companies provide corporate advisory services (in relation to mergers and acquisitions, capital raisings, debt raisings, corporate restructurings and financial matters generally), property advisory services, manages specialist funds and provides marketing and distribution services to fund managers. The primary activity of Grant Samuel & Associates Pty Limited is the preparation of corporate and business valuations and the provision of independent advice and expert's reports in connection with mergers and acquisitions, takeovers and capital reconstructions. Since inception in 1988, Grant Samuel and its related companies have prepared more than 460 public independent expert and appraisal reports.

The persons responsible for preparing this report on behalf of Grant Samuel are Caleena Stilwell BBus FCA F Fin and Jaye Gardner BCom LLB(Hons) CA SF Fin. Each has a significant number of years of experience in relevant corporate advisory matters. Celeste Oakley BEc LLB CFA F Fin and Deane Conway B.BusSc (Hons) M.Com ACA (ICAEW) CFA assisted in the preparation of the report. Each of the above persons is a representative of Grant Samuel pursuant to its Australian Financial Services Licence under Part 7.6 of the Corporations Act.

### **8.2 Disclaimers**

It is not intended that this report should be used or relied upon for any purpose other than as an expression of Grant Samuel's opinion as to whether the Scheme is in the best interests of AUSTAR shareholders and the minority shareholders and as to whether the FOXTEL Acquisition is fair to the minority shareholders. Grant Samuel expressly disclaims any liability to any AUSTAR shareholder who relies or purports to rely on the report for any other purpose and to any other party who relies or purports to rely on the report for any purpose whatsoever.

This report has been prepared by Grant Samuel with care and diligence and the statements and opinions given by Grant Samuel in this report are given in good faith and in the belief on reasonable grounds that such statements and opinions are correct and not misleading. However, no responsibility is accepted by Grant Samuel or any of its officers or employees for errors or omissions however arising in the preparation of this report, provided that this shall not absolve Grant Samuel from liability arising from an opinion expressed recklessly or in bad faith.

Grant Samuel has had no involvement in the preparation of the Scheme Booklet issued by AUSTAR and has not verified or approved any of the contents of the Scheme Booklet. Grant Samuel does not accept any responsibility for the contents of the Scheme Booklet (except for this report).

Grant Samuel has had no involvement in AUSTAR's due diligence investigation in relation to the Scheme Booklet and does not accept any responsibility for the completeness or reliability of the process which is the responsibility of AUSTAR.

### **8.3 Independence**

Grant Samuel and its related entities do not have at the date of this report, and have not had within the previous two years, any business or professional relationship with AUSTAR or FOXTEL or any financial or other interest that could reasonably be regarded as capable of affecting its ability to provide an unbiased opinion in relation to the Proposal. Grant Samuel advises that it prepared an independent expert's report dated 31 August 2011 for inclusion in the Explanatory Memorandum sent to Telstra shareholders in relation to the arrangements with NBN Co Limited to participate in the roll out of the National Broadband Network.

Grant Samuel had no part in the formulation of the Proposal. Its only role has been the preparation of this report.



Grant Samuel will receive a fixed fee of \$300,000 for the preparation of this report. This fee is not contingent on the outcome of the Proposal. Grant Samuel's out of pocket expenses in relation to the preparation of the report will be reimbursed. Grant Samuel will receive no other benefit for the preparation of this report.

Grant Samuel considers itself to be independent in terms of Regulatory Guide 112 issued by the ASIC on 30 March 2011.

#### **8.4 Declarations**

AUSTAR has agreed that it will indemnify Grant Samuel and its employees and officers in respect of any liability suffered or incurred as a result of or in connection with the preparation of the report. This indemnity will not apply in respect of the proportion of any liability found by a court to be primarily caused by any conduct involving gross negligence or wilful misconduct by Grant Samuel. AUSTAR has also agreed to indemnify Grant Samuel and its employees and officers for time spent and reasonable legal costs and expenses incurred in relation to any inquiry or proceeding initiated by any person. Any claims by AUSTAR are limited to an amount equal to the fees paid to Grant Samuel. Where Grant Samuel or its employees and officers are found to have been grossly negligent or engaged in wilful misconduct Grant Samuel shall bear the proportion of such costs caused by its action.

Advance drafts of this report were provided to AUSTAR and its advisers. Advance drafts of this report were also provided to Liberty Global and FOXTEL. Certain changes were made to the drafting of the report as a result of the circulation of the draft report. There was no alteration to the methodology, evaluation or conclusions as a result of issuing the drafts.

#### **8.5 Consents**

Grant Samuel consents to the issuing of this report in the form and context in which it is to be included in the Scheme Booklet to be sent to shareholders of AUSTAR. Neither the whole nor any part of this report nor any reference thereto may be included in any other document without the prior written consent of Grant Samuel as to the form and context in which it appears.

#### **8.6 Other**

The accompanying letter dated 8 December 2011 and the Appendices form part of this report.

Grant Samuel has prepared a Financial Services Guide as required by the Corporations Act. The Financial Services Guide is set out at the beginning of this report.

**GRANT SAMUEL & ASSOCIATES PTY LIMITED**

8 December 2011

*Grant Samuel & Associates*



## Appendix 1

### Broker Consensus Forecasts

AUSTAR has not publicly released earnings forecasts for the year ending 31 December 2011 or beyond. Accordingly, the prospective multiples implied by the valuation of AUSTAR in the Grant Samuel report are based on median broker forecasts. These forecasts are sufficiently close to AUSTAR's Long Range Plan prepared in May 2011 to be useful for analytical purposes.

Set out below is a summary of forecasts prepared by brokers that follow AUSTAR in the Australian stockmarket:

AUSTAR – Broker Forecasts for the Year ending 31 December (\$ millions)									
Broker	Date	Revenue		EBITDA <sup>1</sup>		EBIT <sup>2</sup>		Net Profit after Tax	
		2011F	2012F	2011F	2012F	2011F	2012F	2011F	2012F
Broker 1	27-Oct-11	711.1	745.6	256.9	269.6	141.4	153.0	166.4	98.0
Broker 2	27-Oct-11	712.2	746.7	253.8	256.8	144.8	151.8	121.0	75.1
Broker 3	27-Oct-11	712.2	745.8	256.6	252.0	145.1	135.8	118.6	57.3
Broker 4	27-Oct-11	707.0	713.0	251.5	246.0	146.5	152.0	117.0	72.0
Broker 5	27-Oct-11	712.5	745.6	257.0	274.4	146.0	167.6	120.1	88.5
Broker 6	27-Oct-11	711.7	755.8	244.7	247.9	125.4	131.1	83.2	53.8
Broker 7	27-Oct-11	710.8	729.8	255.1	258.9	147.9	155.9	124.8	73.4
Broker 8	27-Oct-11	713.1	744.9	258.8	256.2	145.4	146.3	124.8	75.8
Broker 9	27-Oct-11	713.0	750.0	253.2	259.4	140.0	141.4	118.0	68.0
Broker 10	27-Oct-11	713.0	732.0	246.5	232.0	125.4	110.0	na <sup>3</sup>	na
Broker 11	27-Oct-11	714.3	741.8	247.0	240.0	132.8	123.0	113.0	55.0
Broker 12	02-Nov-11	713.5	724.3	252.5	241.0	140.3	157.4	127.7	84.0
<i>Minimum</i>		<i>707.0</i>	<i>713.0</i>	<i>244.7</i>	<i>232.0</i>	<i>125.4</i>	<i>110.0</i>	<i>83.2</i>	<i>53.8</i>
<i>Maximum</i>		<i>714.3</i>	<i>755.8</i>	<i>258.6</i>	<i>274.4</i>	<i>147.9</i>	<i>167.6</i>	<i>166.4</i>	<i>98.0</i>
<i>Median</i>		<i>712.4</i>	<i>745.3</i>	<i>253.4</i>	<i>254.1</i>	<i>143.1</i>	<i>149.1</i>	<i>120.1</i>	<i>73.4</i>
<i>Average</i>		<i>712.0</i>	<i>739.6</i>	<i>252.8</i>	<i>252.8</i>	<i>140.1</i>	<i>143.8</i>	<i>121.3</i>	<i>72.8</i>

Source: Brokers' reports, Grant Samuel analysis

When reviewing this data the following should be noted:

- the forecasts presented above represent the latest available broker forecasts for AUSTAR;
- Grant Samuel is aware of 15 brokers that follow AUSTAR, but only the 12 brokers presented have published research on AUSTAR following AUSTAR's announcement on 27 October 2011 of its results for the nine months to 30 September 2011;
- the broker forecasts are not prepared on a consistent basis, particularly in relation to the treatment of significant and non-recurring items, income tax calculations, stock based compensation expense, foreign exchange expense and share of net profit after tax from associates. Some brokers show these items separately and some do not. As Grant Samuel has valued AUSTAR's interests in associates as part of AUSTAR's business operations, their earnings should be included in AUSTAR's earnings. In the table above, Grant Samuel has attempted to present the broker earnings forecasts on a common basis by making the following adjustments:

<sup>1</sup> EBITDA is earnings before net interest, tax, depreciation and amortisation, other income and expenses (including stock based compensation and foreign exchange movements) and significant and non-recurring items but after pre-tax distributions from XYZ (where disclosed separately).

<sup>2</sup> EBIT is earnings before net interest, tax, other income and expenses (including stock based compensation and foreign exchange movements) and significant and non-recurring items but after pre-tax distributions from XYZ (where disclosed separately).

<sup>3</sup> Not available

G R A N T S A M U E L



- EBITDA and EBIT are presented before stock based compensation expense. Where stock based compensation expense is not provided separately by brokers, an adjustment has been made;
  - EBITDA and EBIT are presented before foreign exchange movements. An adjustment has been made to 2011 earnings, where appropriate, based on the foreign exchange expense reported by AUSTAR for the nine months to 30 September 2011;
  - EBITDA and EBIT are presented after net profit before tax from associates. Where provided separately, net profit after tax from associates has been grossed up to a pre-tax basis based on the corporate tax rate of 30%. Where net profit after tax from associates is not shown separately, no adjustment has been made; and
  - net profit after tax has been presented after the gain on sale of spectrum licences in February 2011. Where not included, an after tax adjustment of \$67 million has been made; and
- as far as is possible to identify from a review of the brokers' reports, Grant Samuel believes that the EBITDA and EBIT earnings forecasts do not incorporate any one-off adjustments or non-recurring items.



## Appendix 2

### Selection of Discount Rate

#### 1 Overview

A discount rate in the range of 9.5-10.5% has been selected as appropriate to apply to the forecast nominal ungeared after tax cash flows of AUSTAR's business operations.

Selection of the appropriate discount rate to apply to the forecast cash flows of any business enterprise is fundamentally a matter of judgement. The valuation of an asset or business involves judgements about the discount rates that may be utilised by potential acquirers of that asset. There is a body of theory which can be used to support that judgement. However, a mechanistic application of formulae derived from that theory can obscure the reality that there is no "correct" discount rate. Despite the growing acceptance and application of various theoretical models, it is Grant Samuel's experience that many companies rely on less sophisticated approaches. Many businesses use relatively arbitrary "hurdle rates" which do not vary significantly from investment to investment or change significantly over time despite interest rate movements. Valuation is an estimate of what real world buyers and sellers of assets would pay and must therefore reflect criteria that will be applied in practice even if they are not theoretically correct. Grant Samuel considers the rates adopted to be reasonable discount rates that acquirers would use irrespective of the outcome or shortcomings of applying any particular theoretical model.

The discount rate that Grant Samuel has adopted is reasonable relative to the rates derived from theoretical models. The discount rate represents an estimate of the weighted average cost of capital ("WACC") appropriate for these assets. Grant Samuel has calculated a WACC based on a weighted average of the cost of equity and the cost of debt. This is the relevant rate to apply to ungeared cash flows. There are three main elements to the determination of an appropriate WACC. These are:

- cost of equity;
- cost of debt; and
- debt/equity mix.

WACC is a commonly used basis but it should be recognised that it has shortcomings in that it:

- represents a simplification of what are usually much more complex financial structures; and
- assumes a constant degree of leverage which is seldom correct.

The cost of equity has been derived from application of the Capital Asset Pricing Model ("CAPM") methodology. The CAPM is probably the most widely accepted and used methodology for determining the cost of equity capital. There are more sophisticated multivariate models which utilise additional risk factors but these models have not achieved any significant degree of usage or acceptance in practice. However, while the theory underlying the CAPM is rigorous the practical application is subject to shortcomings and limitations and the results of applying the CAPM model should only be regarded as providing a general guide. There is a tendency to regard the rates calculated using CAPM as inviolate. To do so is to misunderstand the limitations of the model. For example:

- the CAPM theory is based on expectations but uses historical data as a proxy. The future is not necessarily the same as the past;
- the measurement of historical data such as risk premia and beta factors is subject to very high levels of statistical error. Measurements vary widely depending on factors such as source, time period and sampling frequency;
- the measurement of beta is often based on comparisons with other companies. None of these companies is likely to be directly comparable to the entity for which the discount rate is being calculated and may operate in widely varying markets;
- parameters such as the debt/equity ratio and risk premium are based on subjective judgements; and
- there is not unanimous agreement as to how the model should adjust for factors such as taxation. The CAPM was developed in the context of a "classical" tax system. Australia's system of dividend imputation has a significant impact on the measurement of net returns to investors.



The cost of debt has been determined by reference to the pricing implied by the debt markets in Australia. The cost of debt represents an estimate of the expected future returns required by debt providers. In determining the appropriate cost of debt over this forecast period, regard was had to debt ratings of comparable companies.

Selection of an appropriate debt/equity mix is a matter of judgement. The debt/equity mix represents an appropriate level of gearing, stated in market value terms, for the business over the forecast period. The relevant proportions of debt and equity have been determined having regard to the financial gearing of the industry in general and comparable companies, and judgements as to the appropriate level of gearing considering the nature and quality of the cash flow stream.

The following sections set out the basis for Grant Samuel's determination of the discount rate for AUSTAR's business and the factors which limit the accuracy and reliability of the estimates.

## **2 Definition and Limitations of the CAPM and WACC**

The CAPM provides a theoretical basis for determining a discount rate that reflects the returns required by diversified investors in equities. The rate of return required by equity investors represents the cost of equity of a company and is therefore the relevant measure for estimating a company's weighted average cost of capital. CAPM is based on the assumption that investors require a premium for investing in equities rather than in risk free investments (such as Australian government bonds). The premium is commonly known as the market risk premium and notionally represents the premium required to compensate for investment in the equity market in general.

The risks relating to a company or business may be divided into specific risks and systematic risks. Specific risks are risks that are specific to a particular company or business and are unrelated to movements in equity markets generally. While specific risks will result in actual returns varying from expected returns, it is assumed that diversified investors require no additional returns to compensate for specific risk, because the net effect of specific risks across a diversified portfolio will, on average, be zero. Portfolio investors can diversify away all specific risk.

However, investors cannot diversify away the systematic risk of a particular investment or business operation. Systematic risk is the risk that the return from an investment or business operation will vary with the market return in general. If the return on an investment was expected to be completely correlated with the return from the market in general, then the return required on the investment would be equal to the return required from the market in general (i.e. the risk free rate plus the market risk premium).

Systematic risk is affected by the following factors:

- financial leverage: additional debt will increase the impact of changes in returns on underlying assets and therefore increase systematic risk;
- cyclicity of revenue: projects and companies with cyclical revenues will generally be subject to greater systematic risk than those with non-cyclical revenues; and
- operating leverage: projects and companies with greater proportions of fixed costs in their cost structure will generally be subject to more systematic risk than those with lesser proportions of fixed costs.

CAPM postulates that the return required on an investment or asset can be estimated by applying to the market risk premium a measure of systematic risk described as the beta factor. The beta for an investment reflects the covariance of the return from that investment with the return from the market as a whole. Covariance is a measure of relative volatility and correlation. The beta of an investment represents its systematic risk only. It is not a measure of the total risk of a particular investment. An investment with a beta of more than one is riskier than the market and an investment with a beta of less than one is less risky. The discount rate appropriate for an investment which involves zero systematic risk would be equal to the risk free rate.



The formula for deriving the cost of equity using CAPM is as follows:

$$Re = Rf + Beta (Rm - Rf)$$

Where:

- $Re$  = the cost of equity capital;
- $Rf$  = the risk free rate;
- $Beta$  = the beta factor;
- $Rm$  = the expected market return; and
- $Rm - Rf$  = the market risk premium.

The beta for a company or business operation is normally estimated by observing the historical relationship between returns from the company or comparable companies and returns from the market in general. The market risk premium is estimated by reference to the actual long run premium earned on equity investments by comparison with the return on risk free investments.

The formula conventionally used to calculate a WACC under a classical tax system is as follows:

$$WACC = (Re \times E/V) + (Rd \times (1-t) \times D/V)$$

Where:

- $E/V$  = the proportion of equity to total value (where  $V = D + E$ );
- $D/V$  = the proportion of debt to total value;
- $Re$  = the cost of equity capital;
- $Rd$  = the cost of debt capital; and
- $t$  = the corporate tax rate

The models, while simple, are based on a sophisticated and rigorous theoretical analysis. Nevertheless, application of the theory is not straightforward and the discount rate calculated should be treated as no more than a general guide. The reliability of any estimate derived from the model is limited. Some of the issues are discussed below:

■ **Risk Free Rate**

Theoretically, the risk free rate used should be an estimate of the risk free rate in each future period (i.e. the one year spot rate in that year if annual cash flows are used). There is no official “risk free” rate but rates on government securities are typically used as an acceptable substitute. More importantly, forecast rates for each future period are not readily available. In practice, the long term Commonwealth Government Bond rate is used as a substitute in Australia and medium to long term Treasury Bond rates are used in the United States. It should be recognised that the yield to maturity of a long term bond is only an average rate and where the yield curve is strongly positive (i.e. longer term rates are significantly above short term rates) the adoption of a single long term bond rate has the effect of reducing the net present value where the major positive cash flows are in the initial years. The long term bond rate is therefore only an approximation.

The ten year bond rate is a widely used and accepted benchmark for the risk free rate. Where the forecast period exceeds ten years, an issue arises as to the appropriate bond to use. While longer term bond rates are available, the ten year bond market is the deepest long term bond market in Australia and is a widely used and recognised benchmark. There is a very limited market for bonds of more than ten years. In the United States, there are deeper markets for longer term bonds. The 30 year bond rate is a widely used benchmark. However, long term rates accentuate the distortions of the yield curve on cash flows in early years. In any event, a single long term bond rate matching the term of the cash flows is no more theoretically correct than using a ten year rate. More importantly, the ten year rate is the standard benchmark used in practice.

■ **Market Risk Premium**

The market risk premium ( $Rm - Rf$ ) represents the “extra” return that investors require to invest in equity securities as a whole over risk free investments. This is an “ex-ante” concept. It is the expected premium and as such it is not an observable phenomenon. There is no generally accepted



approach to estimating a forward looking market risk premium and therefore the historical premium is used as the best available proxy measure. The premium earned historically by equity investments is usually calculated over a time period of many years, typically at least 30 years. This long time frame is used on the basis that short term numbers are highly volatile and that a long term average return would be a fair indication of what most investors would expect to earn in the future from an investment in equities with a 5-10 year time frame.

In the United States it is generally believed that the premium is in the range of 5-6% but there are widely varying assessments (from 3% to 9%). Australian studies have been more limited and mainly derive from the Officer Study<sup>1</sup> which was based on data for the period 1883 to 1987 (prior to the introduction of dividend imputation) and indicated that the long run average premium was in the order of 8% using an arithmetic average but subject to significant statistical error<sup>2</sup>. More recently, the Officer Study has been updated to 2008<sup>3</sup> with the long term average declining to 7.1%. However, due to concerns about the earlier market data, Officer now places emphasis on the average risk premium since 1958 which is estimated to be 5.7% ignoring the impact of imputation<sup>4</sup>.

In addition, the market risk premium is not constant and changes over time. At various stages of the market cycle investors perceive that equities are more risky than at other times and will increase or decrease their expected premium. Indeed, prior to 2008 there were arguments being put forward that the risk premium was lower than it had been historically while today there is evidence to indicate that current market risk premiums are above historical averages. However, there is no accepted approach to deal with changes in market risk premia for current conditions.

#### ■ **Beta Factor**

The beta factor is a measure of the expected covariance (i.e. volatility and correlation of returns) between the return on an investment and the return from the market as a whole. The expected beta factor cannot be observed. The conventional practice is to calculate an historical beta from past share price data and use it as a proxy for the future but it must be recognised that the expected beta is not necessarily the same as the historical beta. A company's relative risk does change over time.

The appropriate beta is the beta of the company being acquired rather than the beta of the acquirer (which may be in a different business with different risks). Betas for the particular subject company may be utilised. However, it is also appropriate (and may be necessary if the investment is not listed) to utilise betas for comparable companies and sector averages (particularly as those may be more reliable).

However, there are very significant measurement issues with betas which mean that only limited reliance can be placed on such statistics. There is no "correct" beta. For example:

- over the three years prior to publication in the media of speculation in relation to the Proposal, its beta as measured by the Australian Graduate School of Management ("AGSM") varied between 0.73 and 1.06 and in December 2010 was measured at 1.05; and
- the standard error of the AGSM's estimate of the AUSTAR beta has generally been in the order of 0.22 to 0.32 meaning that for a beta of, say, 1.00 even at a 68% confidence level, the range is as wide as 0.68 to 1.32.

<sup>1</sup> R.R. Officer in Ball, R., Brown, P., Finn, F. J. & Officer, R. R., "Share Market and Portfolio Theory: Readings and Australian Evidence" (second edition), University of Queensland Press, 1989 ("Officer Study").

<sup>2</sup> The "true" figure lies within a range of approximately 2-10% at a 95% confidence level.

<sup>3</sup> R.R. Officer and S. Bishop, "Market Risk Premium: A Review Paper" (August 2008) and "Market Risk Premium: Further Comments" (January 2009), papers prepared for Energy Networks Association, Australian Pipeline Industry Australia and Grid Australia.

<sup>4</sup> Where the market return explicitly includes a component for imputation benefits of 1.0 the market risk premium over the same period is 6.4%. Consequently, Officer and Bishop recommend that, if no allowance is made for imputation, the generally accepted level of 6% for the market risk premium is appropriate. In comparison, they recommend that where the market return explicitly includes a component for imputation benefits greater than 0.3 the market risk premium for Australia should be increased to 7%.



■ **Debt/Equity Mix**

The tax deductibility of the cost of debt means that the higher the proportion of debt the lower the WACC, although this would be offset, at least in part, by an increase in the beta factor as leverage increases.

The debt/equity mix assumed in calculating the discount rate should be consistent with the level implicit in the measurement of the beta factor. Typically, the debt/equity mix changes over time and there is significant diversity in the levels of leverage across companies in a sector. There is a tendency to calculate leverage at a point in time whereas the leverage should represent the average over the period the beta was measured. This can be difficult to assess with a meaningful degree of accuracy.

The measured beta factors for listed companies are “equity” betas and reflect the financial leverage of the individual companies. It is possible to unleverage beta factors to derive asset betas and releverage betas to reflect a more appropriate or comparable financial structure. In Grant Samuel’s view this technique is subject to considerable estimation error. Deleveraging and releveraging betas exacerbates the estimation errors in the original beta calculation and gives a misleading impression as to the precision of the methodology. Deleveraging and releveraging is also incorrectly calculated based on debt levels at a single point in time.

In addition, the actual debt and equity structures of most companies are typically relatively complex. It is necessary to simplify this for practical purposes in this kind of analysis.

Finally, it should be noted that, for this purpose, the relevant measure of the debt/equity mix is based on market values not book values.

■ **Specific Risk**

The WACC is designed to be applied to “expected cash flows” which are effectively a weighted average of the likely scenarios. To the extent that a business is perceived as being particularly risky, this specific risk should be dealt with by adjusting the cash flow scenarios. This avoids the need to make arbitrary adjustments to the discount rate which can dramatically affect estimated values, particularly when the cash flows are of extended duration or much of the business value reflects future growth in cash flows. In addition, risk adjusting the cash flows requires a more disciplined analysis of the risks that the valuer is trying to reflect in the valuation.

However, it is also common in practice to allow for certain classes of specific risk (particularly sovereign and other country specific risks) in a different way by adjusting the discount rate applied to forecast cash flows.

**3 Calculation of WACC for AUSTAR**

**3.1 Cost of Equity Capital**

The cost of equity capital has been estimated by reference to the CAPM. Grant Samuel has adopted a cost of equity capital in the range 10.5-11.1%.

■ **Risk Free Rate**

Grant Samuel has adopted a risk free rate of 4.5%. The risk free rate approximates the current yield to maturity on ten year Australian Government bonds.

■ **Market Risk Premium**

Grant Samuel has consistently adopted a market risk premium of 6% and believes that, particularly in view of the general uncertainty, this continues to be a reasonable estimate. It:

- is not statistically significantly different to the premium suggested by long term historical data;
- is similar to that used by a wide variety of analysts and practitioners (typically in the range 5-7%); and
- makes no explicit allowance for the impact of Australia’s dividend imputation system.



■ **Beta Factor**

Grant Samuel has adopted a beta factor in the range 1.0-1.1 for the purposes of valuing AUSTAR’s business operations.

Grant Samuel has considered the beta factors for a wide range of subscription television companies in determining an appropriate beta for AUSTAR’s businesses. The betas have been calculated on two bases, relative to each company’s home exchange index and relative to the Morgan Stanley Capital International Developed World Index (“MSCI”), an international equities market index that is widely used as a proxy for the global stockmarket as a whole.

A summary of betas for selected comparable listed companies is set out in the table below:

<b>Equity Beta Factors for Selected Listed Subscription Television Companies</b>							
Company	Market Capitalisation <sup>5</sup> (millions)	Monthly Observations over 5 years <sup>6</sup>	Monthly Observations over 4 years			Weekly Observations over 2 years	
			AGSM <sup>7</sup>	Bloomberg <sup>8</sup>		Bloomberg	
				Local Index	MSCI <sup>9</sup>	Local Index	MSCI
<b>AUSTAR</b>	<b>A\$1,252</b>	<b>na</b>	<b>1.05</b>	<b>1.04</b>	<b>0.87</b>	<b>0.70</b>	<b>0.56</b>
<i>Satellite Subscription Television</i>							
DirecTV	US\$31,982	0.85	na	0.89	0.90	0.87	0.89
BSkyB	£12,726	0.84	na	0.80	0.73	0.70	0.71
DISH <sup>10</sup>	US\$10,816	na	na	na	na	1.14	1.17
SKY NZ	NZ\$2,113	na	0.61	1.06	0.69	1.01	0.62
<i>Cable Subscription Television</i>							
Comcast	US\$57,103	1.04	na	1.04	1.10	1.02	1.06
Time Warner Cable <sup>10</sup>	US\$18,508	na	na	na	na	0.94	0.97
Liberty Global	US\$11,187	1.27	na	1.34	1.41	1.07	1.16
Charter <sup>10</sup>	US\$5,821	na	na	na	na	na	na
Cablevision	US\$4,199	1.55	na	1.30	1.43	1.00	1.01
Kabel Deutschland <sup>10</sup>	€3,590	na	na	na	na	na	na
<i>Minimum</i>		<i>0.84</i>	<i>0.61</i>	<i>0.80</i>	<i>0.69</i>	<i>0.70</i>	<i>0.62</i>
<i>Maximum</i>		<i>1.55</i>	<i>0.61</i>	<i>1.34</i>	<i>1.43</i>	<i>1.14</i>	<i>1.17</i>
<b>Median</b>		<b>1.04</b>	<b>0.61</b>	<b>1.05</b>	<b>1.00</b>	<b>1.00</b>	<b>0.99</b>
<i>Weighted average<sup>11</sup></i>		<i>1.00</i>	<i>0.61</i>	<i>1.00</i>	<i>1.03</i>	<i>0.95</i>	<i>0.98</i>

Source: AGSM, Ibbotson, Barra, London Business School, Bloomberg

The figures in the above table indicate that satellite subscription television operators

<sup>5</sup> Market capitalisation is based on share prices as at 25 November 2011, except for AUSTAR which is based on share prices as at 17 February 2011, the last trading day prior to publication in the media of speculation in relation to the Proposal.

<sup>6</sup> United States beta factors calculated by Ibbotson Associates (“Ibbotson”), United Kingdom beta factors calculated by London Business School (“LBS”) and other beta factors are calculated by MSCI Barra, Inc. (“Barra”). All betas are calculated over a period of 60 months to 30 June 2011 (except Liberty Global to 31 October 2011 and BSKyB to 30 September 2011) using ordinary least squares regression or the Scholes-Williams technique (including lag) where the stock is thinly traded.

<sup>7</sup> The Australian beta factors calculated by the Australian Graduate School of Management (“AGSM”) as at 30 June 2011, with the exception of AUSTAR which is calculated up to 31 December 2010. Betas are measured over a period of 48 months using ordinary least squares regression or the Scholes-Williams technique where the stock is thinly traded.

<sup>8</sup> Bloomberg betas have been calculated up to 25 November 2011, except for AUSTAR betas, which are calculated as at 17 February 2011. Grant Samuel understands that betas estimated by Bloomberg are not calculated strictly in conformity with accepted theoretical approaches to the estimation of betas (i.e. they are based on regressing total returns rather than the excess return over the risk free rate). However, in Grant Samuel’s view the Bloomberg beta estimates can still provide a useful insight into the systematic risks associated with companies and industries. The figures used are the Bloomberg “adjusted” betas.

<sup>9</sup> MSCI is calculated using local currency so that there is no impact of currency changes in the performance of the index.

<sup>10</sup> Kabel Deutschland Holding AG was publicly listed on 19 March 2010 and Charter Communications, Inc. was re-listed on 2 December 2009 after emerging from Chapter 11 bankruptcy and, accordingly, there are no reliable beta factors for these companies. Time Warner Cable, Inc. was spun off from Time Warner, Inc. on 12 March 2009 and Dish Network Corporation spun off its technology and infrastructure group (EchoStar Holdings Corporation) on 2 January 2008 and, accordingly, there are no reliable beta factors on a monthly basis.

<sup>11</sup> Weighted by market capitalisation converted to Australian dollars using the following exchange rates: NZ\$1=A\$0.76, £1=A\$1.58, US\$1=A\$1.02 and €1=A\$1.36.



generally have betas of 0.9-1.1 (indicating similar risk to the overall market) while cable subscription television operators generally have betas of 1.0 or more, reflecting their higher operating and financial leverage.

AUSTAR's business operations are most comparable to those companies providing satellite subscription television services, including Sky Network Television Limited ("SKY NZ") which has a Bloomberg Four Year Local beta of 1.1, British Sky Broadcasting Group ("BSkyB") in the United Kingdom (0.8) and DirecTV (0.9) and Dish Network Corporation ("DISH") in the United States. BSKyB's betas are likely to have been affected by the News Corporation takeover offer announced on 15 June 2010 although this was withdrawn on 13 July 2011. BSKyB's Bloomberg Four Year Local beta immediately prior to the takeover offer was 0.9. DISH's share price is likely to have been affected by litigation with TiVo, Inc. ("TiVo") in relation to the infringement of TiVo's set top box patents. The litigation was settled in May 2011 for \$0.5 billion and injunctions on DISH's devices in the field were removed.

Although none of the other markets is precisely comparable to the market in which AUSTAR operates, the New Zealand market is more comparable in terms of levels of competition, subscriber penetration and technological development. Although relatively technologically advanced, penetration is also relatively low (and free-to-air television penetration relatively high) in the United Kingdom. The competitive and regulatory environment, level of technological development and subscriber penetration in the United States differ substantially from the market in which AUSTAR operates.

The historical beta of each comparable company is also inextricably linked to the gearing level of that company. The companies that are most comparable to AUSTAR have comparatively low levels of gearing, generally in the range 10-20%. This is lower than cable television companies (which generally have gearing in the range 30-70%), which may be explained by the lower upfront capital expenditure costs for satellite networks compared to cable networks. Liberty Global and Cablevision have particularly high levels of gearing. Bloomberg Four Year Local betas for Liberty Global and Cablevision are higher than Bloomberg Two Year Local betas, most likely because these companies are highly geared which may have increased share price volatility during the global financial crisis.

Taking these factors into account, Grant Samuel believes that a beta in the range 1.0 to 1.1 is a reasonable estimate of the appropriate beta for AUSTAR's operating business.

### **3.2 Cost of Debt**

A cost of debt of 7.3% has been adopted. This figure represents the expected future cost of borrowing over the duration of the cash flow model. Grant Samuel believes that this would be a reasonable estimate of an average interest rate that would match the duration of the cash flows assuming that the operations were funded with a mixture of short term and long term debt. The cost of debt represent a margin of 2.8% over the risk free rate which allows for the margin over bank rates that AUSTAR would expect to pay together with an allowance for the difference between bank rates and government bonds.

### **3.3 Debt/Equity Mix**

The selection of the appropriate debt/equity ratio involves perhaps the most subjectivity of discount rate selection analysis. In determining an appropriate debt/equity mix, regard was had to gearing levels of AUSTAR and the peer group companies used in the beta analysis.

Gearing levels for these companies for the past four and five years are set out below:



Gearing Levels for Selected Subscription Television Companies <sup>12</sup>								
	Net Debt/(Net Debt + Market Capitalisation)							
	Year Ended 30 June					Current <sup>13</sup>	4 Year Average	5 Year Average
	2007	2008	2009	2010	2011			
<b>AUSTAR</b>		<b>34.0%</b>	<b>40.4%</b>	<b>36.7%</b>		<b>34.0%</b>	<b>37.0%</b>	
<i>Satellite Subscription Television</i>								
DirecTV	4.9%	6.5%	12.5%	18.4%	22.4%	27.6%	14.9%	12.9%
BSkyB	12.3%	16.5%	18.8%	10.3%	6.2%	7.2%	12.9%	12.8%
DISH <sup>10</sup>	na	25.9%	34.4%	32.5%	22.2%	31.8%	28.8%	na
SKY NZ	na	15.1%	15.1%	19.7%	15.8%	16.1%	16.4%	na
<i>Cable Subscription Television</i>								
Comcast	23.7%	35.5%	41.1%	35.6%	35.0%	40.7%	36.8%	34.2%
Time Warner Cable <sup>10</sup>	na	na	66.7%	52.8%	45.0%	53.4%	na	na
Liberty Global	45.6%	66.0%	81.8%	72.0%	61.1%	65.2%	70.2%	65.3%
Cablevision	50.1%	61.8%	65.7%	59.9%	49.4%	70.8%	59.2%	57.4%
Charter <sup>10</sup>	na	na	na	75.7%	67.6%	68.4%	na	na
Kabel Deutschland <sup>10</sup>	na	na	na	57.9%	41.7%	43.5%	na	na
<i>Minimum</i>	<i>4.9%</i>	<i>6.5%</i>	<i>12.5%</i>	<i>10.3%</i>	<i>6.2%</i>	<i>7.2%</i>	<i>12.9%</i>	<i>12.8%</i>
<i>Maximum</i>	<i>50.1%</i>	<i>66.0%</i>	<i>81.8%</i>	<i>75.7%</i>	<i>67.6%</i>	<i>70.8%</i>	<i>70.2%</i>	<i>65.3%</i>
<i>Median</i>	<i>23.7%</i>	<i>25.9%</i>	<i>37.8%</i>	<i>44.2%</i>	<i>38.4%</i>	<i>42.1%</i>	<i>28.8%</i>	<i>34.2%</i>

Source: Company Reports, Capital IQ, Bloomberg, Grant Samuel analysis

The selection of gearing levels is highly judgemental. The table shows a wide range of gearing levels. The debt levels should actually be the weighted average measured over the same period as the beta factor rather than just at the current point in time. However, the gearing of most companies increased during 2008 and 2009 as their market capitalisation declined due to the implications of global economic downturn. Similarly, current gearing levels are high as a result of the downturn in global equities markets which commenced in August 2011. Consequently, 2010 and 2011 gearing may be more appropriate.

The companies which are regarded as the most comparable to AUSTAR (i.e. satellite subscription television operators) generally have gearing ratios in the range 10-20%. AUSTAR's gearing exceeds this range as it increased borrowings to fund a series of capital returns and share buybacks in recent years. However, the relevant gearing ratio is that of satellite subscription television businesses generally, rather than AUSTAR's gearing which reflects its specific circumstances. Consequently, the debt/equity mix has been estimated as 80-90% equity and 10-20% debt. This is regarded as being broadly consistent with a beta factor of 1.0-1.1.

### 3.4 WACC

On the basis of the parameters outlined and assuming a corporate tax rate of 30%, the nominal WACC is calculated to be in the range 9.4-10.5%.

This is an after tax discount rate to be applied to nominal ungeared after tax cash flows. However, it must be recognised that this is a very crude calculation based on statistics of limited reliability and involving a multitude of assumptions.

Having regard to these matters and the calculations and data set out above, a discount rate range of 9.5-10.5% has been selected for application in the discounted cash flow analysis.

<sup>12</sup> All of the companies have a 31 December year end except for SKY NZ and BSkyB which have 30 June year ends and Kabel Deutschland Holding AG which has a 31 March year end. For companies with 31 December or 31 March year ends, the 30 June data is based on their interim financial statements.

<sup>13</sup> Current gearing levels are based on the most recent balance sheet information and on sharemarket prices as at 25 November 2011, except AUSTAR which is based on the share price as at 17 February 2011 and net debt as at 31 December 2010.



#### 4 Dividend Imputation

The conventional WACC formula set out above was formulated under a “classical” tax system. The CAPM model is constructed to derive returns to investors after corporate taxes but before personal taxes. Under a classical tax system, interest expense is deductible to a company but dividends are not. Investors are also taxed on dividends received. Accordingly, there is a benefit to equity investors from increased gearing.

Under Australia’s dividend imputation system, domestic equity investors now receive a taxation credit (franking credit) for any tax paid by a company. The franking credit attaches to any dividends paid out by a company and the franking credit offsets personal tax. To the extent the investor can utilise the franking credit to offset personal tax, then the corporate tax is not a real impost. It is best considered as a withholding tax for personal taxes. It can therefore be argued that the benefit of dividend imputation should be added into any analysis of value.

There is no generally accepted method of allowing for dividend imputation. In fact, there is considerable debate within the academic community as to the appropriate adjustment or even whether any adjustment is required at all. Some suggest that it is appropriate to discount pre tax cash flows, with an increase in the discount rate to “gross up” the market risk premium for the benefit of franking credits that are on average received by shareholders. On this basis, the discount rate might increase by approximately 2% but it would be applied to pre tax cash flows. However, not all of the necessary conditions for this approach exist in practice:

- not all shareholders can use franking credits. In particular, foreign investors gain no benefit from franking credits. If foreign investors are the marginal price setters in the Australian market there should be no adjustment for dividend imputation;
- not all franking credits are distributed to shareholders; and
- capital gains tax operates on a different basis to income tax. Investors with high marginal personal tax rates will prefer cash to be retained and returns to be generated by way of a capital gain.

Others have proposed a different approach involving an adjustment to the tax rate in the discount rate by a factor reflecting the effective use or value of franking credits. If the credits can be used, the tax rate is reduced towards zero. The proponents of this approach have in the past suggested a factor in the range 50-65% as representing the appropriate adjustment ( $\gamma$ ). Alternatively, the tax charge in the forecast cash flows can be decreased to incorporate the expected value of franking credits distributed.

There is undoubtedly merit in the proposition that dividend imputation affects value. Over time dividend imputation will become factored into the determination of discount rates by corporations and investors. In Grant Samuel’s view, however, the evidence gathered to date as to the value the market attributes to franking credits is insufficient to rely on for valuation purposes. More importantly, Grant Samuel does not believe that such adjustments are widely used by acquirers of assets at present. While acquirers are undoubtedly attracted by franking credits there is no clear evidence that they will actually pay extra for them or build it into values based on long term cash flows. The studies that measure the value attributed to franking credits are based on the immediate value of franking credits distributed and do not address the risk and other issues associated with the ability to utilise them over the longer term. Accordingly, it is Grant Samuel’s opinion, that it is not appropriate to make any adjustment.



## Appendix 3

### DCF Model Assumptions

#### 1 General Assumptions

The following general assumptions have been made in the DCF model:

- inflation of 2.5% per annum;
- foreign exchange rates decline to A\$1 = US\$0.90 in 2015;
- a corporate tax rate of 30%. No change in tax legislation that has a material impact on operations;
- a discount rate of 9.5-10.5% is applied to nominal ungeared after tax cash flows;
- the model runs from 1 July 2011 to 30 June 2021 with:
  - assumptions to December 2015 based on the Long Range Plan as modified by Grant Samuel to reflect its judgements;
  - operating cash flow growth declines from 5% in January 2016 to 2.5% in June 2021; and
  - a terminal value at 30 June 2021 calculated to represent the value of cash flows in perpetuity by capitalising net after tax cash flows based on a 2.5% perpetual growth assumption.

#### 2 Specific Assumptions

The key specific operational assumptions underlying Scenario A are set out below:

- the business continues to operate on an “as is” basis;
- subscriber numbers grow at a modest rate reflecting population increases in AUSTAR serviced areas, an increase in penetration due to AFL rights from 2012, continued diversification of retail sales channels, initiatives designed to reduce churn and targeted marketing to new subscribers;
- churn declines gradually from 1.30% as a result of increased penetration of MyStar and MyStar HD, the addition of AFL rights from 2012 and a reduction in non-pay related disconnects. These factors more than offset a higher level of voluntary disconnects (relative to 2010) as a result of continued competitive pressure from digital free-to-air and other emerging product offerings;
- ARPU is assumed to grow approximately 23% by 2015, reflecting price rises (in part due to a small number of additional channels offered), a greater number of sports package subscribers in 2012 (due to AFL rights) and increased take up of MyStar and MyStar HD. By the end of 2015, 70% of subscribers are on MyStar and 75% of MyStar subscribers are on MyStar HD;
- key programming contracts are due for renegotiation over a range of periods between 2011 and 2016. Contracts are renewed on the same terms with any increase in channels offered reflected in higher ARPU. All contracts are denominated in A\$;
- satellite transmission costs are based on the cost share arrangement with FOXTEL;
- fixed operating costs are forecast to escalate by either employee cost increases (4%) or inflation while variable costs increase on the basis of volume;
- modest capital expenditure growth as a result of a moderation of subscriber growth, constant US\$ cost of set-top boxes, smart cards and remotes, moderate increases in installation costs as a result of greater efficiencies and an increase in the proportion of connects that are reconnects (which require lower installation costs than new connects). These factors are only partially offset by the forecast decline in the A\$/US\$ exchange rate and an increase in the purchase of MyStar set top boxes;
- subscriber equipment and installation costs are depreciated over 3-5 years and non subscriber related capital expenditure over 3-10 years;
- no mobile telephony or internet business;
- XYZ, MultiChannel Network and Main Event pay nominal distributions throughout the period;
- the 2007 Long Term Incentive Plan is not replaced; and
- corporate costs are \$18 million (2011 dollars) per annum after eliminating public company costs and elimination of the Liberty Global management fee.



## Appendix 4

### Market Evidence

#### 1 Valuation Evidence from Sharemarket Prices

The sharemarket ratings of selected listed subscription television companies are set out below. As there are no listed subscription television broadcasters in Australia other than AUSTAR, Grant Samuel has had regard to the sharemarket ratings of international subscription television broadcasters operating in developed, technologically advanced markets. Canadian subscription television broadcasters (e.g. Shaw Communications, Cogeco Cable Inc.) have been excluded from the analysis due to the extent of restrictions placed on foreign ownership of holders of broadcasting licences. In addition, Japanese broadcasters (e.g. Jupiter Telecommunications Co., Ltd (“Jupiter Telecommunications”)) have been excluded as the Japanese market is at a more advanced technological stage. While none of these companies is precisely comparable to AUSTAR, the sharemarket data provides some framework by which to assess the valuation for AUSTAR’s business operations.

Sharemarket Ratings of Selected Listed Subscription Television Companies <sup>1</sup>									
Company	Cable/ Satellite Operator <sup>2</sup>	Market Capital- isation <sup>3</sup> (millions)	EBITDA Multiple <sup>4</sup> (times)			EBIT Multiple <sup>5</sup> (times)			Value per Subscriber <sup>6</sup> (A\$)
			Historical	Forecast Year 1	Forecast Year 2	Historical	Forecast Year 1	Forecast Year 2	
<b>New Zealand</b>									
SKY NZ	S	NZ\$2,113	7.9	7.4	7.0	13.0	11.8	10.8	2,348
<b>Europe</b>									
BSkyB	S	£12,726	9.3	8.1	7.6	12.2	10.2	9.6	2,043
Kabel Deutschland	C	€3,590	8.9	8.1	7.4	27.4	19.3	14.5	1,036
<b>United States</b>									
Comcast	C	US\$57,103	6.9	5.6	5.3	12.4	9.8	8.9	4,718
DirecTV	S	US\$31,982	7.0	6.4	5.7	11.4	9.5	8.1	2,311
Time Warner Cable	C	US\$18,508	6.0	5.9	5.6	11.0	10.2	9.3	3,365
Liberty Global <sup>7</sup>	C/S	US\$11,187	7.7	6.6	6.0	18.1	14.4	13.4	3,765
DISH	S	US\$10,816	5.3	4.1	4.4	8.0	5.3	6.0	1,149
Charter	C	US\$5,821	7.1	6.8	6.6	17.5	16.6	15.1	4,156
Cablevision	C	US\$4,199	5.6	6.5	6.3	9.0	11.8	11.0	4,534

Source: Grant Samuel analysis<sup>8</sup>

The multiples shown above are based on sharemarket prices as at 25 November 2011 and do not reflect a premium for control.

All of the companies have a 31 December year end except for British Sky Broadcasting Group plc (“BSkyB”) and Sky Network Television Limited (“SKY NZ”) which have a 30 June year end and Kabel

<sup>1</sup> The companies selected have a variety of year ends and therefore the data presented for each company is the most recent annual historical result plus the subsequent two forecast years.

<sup>2</sup> C = cable, S = satellite

<sup>3</sup> Market capitalisation based on sharemarket prices as at 25 November 2011.

<sup>4</sup> Represents gross capitalisation (that is, the sum of the market capitalisation adjusted for minorities, plus borrowings, less cash as at the latest balance date) divided by EBITDA. EBITDA is earnings before net interest, tax, depreciation, amortisation, investment income, significant and non-recurring items and share based compensation (where reported).

<sup>5</sup> Represents gross capitalisation divided by EBIT. EBIT is earnings before net interest, tax, investment income, significant and non-recurring items and share based compensation, where reported.

<sup>6</sup> Represents gross capitalisation divided by the number of television subscriber (counting subscribers to bundled packages only once) and converted to Australian dollars based on exchange rates as at 25 November 2011: A\$1=NZ\$1.31, A\$1=£0.63, A\$1=€0.73 and A\$1=US\$0.97.

<sup>7</sup> Liberty Global’s European cable operations account for approximately 77% of revenues. All broadcasting in Western Europe and the Americas is via cable, while AUSTAR and some Eastern European operations utilise satellites.

<sup>8</sup> Grant Samuel analysis based on data obtained from IRESS, Bloomberg, Capital IQ, company announcements and, in the absence of company published financial forecasts, brokers’ reports. Where company financial forecasts are not available, the median of the financial forecasts prepared by a range of brokers has generally been used to derive relevant forecast value parameters. The source, date and number of broker reports utilised for each company depends on analyst coverage, availability and recent corporate activity.



Deutschland Holding AG (“Kabel Deutschland”) which has a 31 March year end.

Cable television broadcasters usually install and maintain their own local cable networks whereas satellite television broadcasters (SKY NZ and BSKYB) often lease satellite transmission rights (although this is not always the case, DirecTV and DISH Network Corporation (“DISH”) own satellite infrastructure and Kabel Deutschland leases cable infrastructure). Even where satellite networks are owned (DISH and DirecTV) capital outlays (and gearing) are usually lower than for cable operators. Therefore, satellite broadcasters have substantially lower depreciation and interest charges relative to cable broadcasters and multiples of EBIT and net profit after tax are not comparable. A focus on EBITDA allows comparison across all types of satellite television broadcaster companies.

The following should be noted in relation to the above analysis:

- multiples are broadly in the range 5.5-8 times first year forecast EBITDA and primarily reflect the competitive environment in which the companies operate:
  - SKY NZ and BSKYB face strong competition from free-to-air broadcasting (similar to AUSTAR) but moderate or no competition from subscription television broadcasters and their multiples are towards the high end of the range (7.4 and 8.1 respectively). Market penetration for BSKYB (39%) is lower than for SKY NZ (51%), possibly as anti-siphoning legislation exists in the United Kingdom<sup>9</sup> and competition from Virgin Media, Inc.<sup>10</sup> whereas New Zealand does not have anti-siphoning legislation and there are no other significant subscription television broadcasters;
  - in Germany, subscription television broadcasters operate primarily on a regional basis and, therefore, to a large extent do not compete. They also face limited competition from free-to-air broadcasting, although anti-siphoning legislation exists. Kabel Deutschland captures a substantial share of its market (56%) and its earnings multiple is relatively high (8.1);
  - many United States broadcasters face strong competition from other subscription television broadcasters and their multiples are at the low end of the range. For example, Comcast Corporation (“Comcast”) captures only 43% of its available market and multiple is at the low end of the range (5.6). The EBITDA multiple for Cablevision Systems Corporation (“Cablevision”) is slightly higher (6.5), possibly reflecting its niche position in the New York metropolitan area where it has a relatively high market penetration (59%);
  - although Liberty Global is listed in the United States, it operates as an international holding company and its European operations accounted for 87% of profit before tax in 2010. Therefore, it is not directly comparable to its United States peers being substantially more geographically diversified and managerially decentralised. Its multiples reflect a blend of its operations; and
  - the relatively low EBITDA multiples for DISH may reflect its recent acquisition of companies in Chapter 11 bankruptcy protection and its limited free float;
- value per subscriber is a common rule of thumb used for subscription television businesses. This metric is primarily influenced by the level of subscription fees (i.e. ARPU) which is influenced by the quality of content and features offered and level of competition from free-to-air broadcasting. However, value per subscriber is an imprecise measure as it is also influenced by the definition of subscribers reported and the extent of the non subscription television activities (e.g. internet and telephony). In addition, value per subscriber fails to take into account differing operating margins. Nevertheless, the following trends can be observed:
  - strong competition from free-to-air broadcasting in New Zealand and the United Kingdom limits the level of subscription fees that can be charged and SKY NZ and BSKYB primarily

<sup>9</sup> Ofcom (the industry regulator in the United Kingdom) requires BSKYB to offer, on a wholesale basis, certain sports channels to cable and free-to-air broadcasters.

<sup>10</sup> Virgin Media, Inc. is a United States company listed in the United States and the United Kingdom. It is a “quad play” provider of broadband internet, television, mobile telephony and fixed line telephone services throughout the United Kingdom. It has been excluded from the analysis due to the range of its business activities.



offer standard definition content. Value per subscriber for SKY NZ and BSKyB is at the low end of the range for premium broadcasters (\$2,348 and \$2,043).<sup>11</sup>

- in the United States and many European countries<sup>12</sup>, digital switchover is complete and many broadcasters primarily offer high definition content. Furthermore, limited competition from free-to-air broadcasters allows subscription television broadcasters to charge higher fees. Value per subscriber for United States companies and Liberty Global is at the high end of the range (\$2,300-4,700); and
- Kabel Deutschland<sup>13</sup> and DISH primarily offer low cost subscription television content bundled with broadly available, non-exclusive channels, whereas other broadcasters offer premium, standalone subscription television content, resulting in higher subscription fees and, therefore, value per subscriber (\$1,036 and \$1,149 respectively) is substantially lower than that for premium broadcasters<sup>14</sup>.

A brief description of each company analysed is set out below:

***Sky Network Television Limited***

SKY NZ is New Zealand’s leading subscription television broadcaster with approximately 829,421 subscribers (51% market penetration). SKY NZ broadcasts exclusive, premium content as well as an owned, free-to-air broadcasting channel (Prime) and third party free-to-air channels via a leased satellite platform. Subscription fees account for approximately 85% of revenues. TelstraClear (a New Zealand subsidiary of Telstra Corporation Limited) has a reseller and retransmission agreement to transmit SKY NZ channels via its local cable network. SKY NZ is listed on the Australian and New Zealand stock exchanges and is owned 43.65% by Nationwide News Pty Limited and 11.11% by Todd Communications Limited (i.e. it has limited free float).

***British Sky Broadcasting Group plc***

BSkyB is the leading subscription television broadcaster in the United Kingdom and Ireland with 10.2 million subscribers (39% penetration). It broadcasts premium content via a leased satellite transmission platform and also supplies content to 4.3 million subscribers of cable broadcasters. Ofcom (the industry regulator) requires BSKyB to offer, on a wholesale basis, certain sports channels to free-to-air and cable broadcasters (including its main competitor, Virgin Media). BSKyB also offers broadband and telephony. In June 2010, BSKyB was the target of a takeover approach from News Corporation, however, the bid was withdrawn in July 2011 after reports emerged of illegal and/or unethical activities at a News Corporation owned United Kingdom newspaper between 2001 and 2005. News Corporation currently has a 39% interest in BSKyB. The United Kingdom’s Culture Secretary has requested an inquiry by Ofcom into News Corporation’s “fit and proper” status, where a negative outcome could require it to dispose of its BSKyB shareholding, however, market commentators view this outcome as unlikely.

***Kabel Deutschland Holding AG***

Kabel Deutschland is the owner and operator of Europe’s largest cable network, providing triple play services to 8.5 million cable television subscribers (56% market penetration). A majority (85%) of customers subscribe to its basic cable option which includes low cost subscription television content bundled with broadly available, non-exclusive channels and consequently, price per subscriber is relatively low. Kabel Deutschland was separated from Deutsche Telekom (Germany’s telecommunications incumbent) in a series of transactions between 1999 and 2003 and leases cable infrastructure from Deutsche Telekom.

<sup>11</sup> Price per subscriber may be higher for SKY NZ than for BSKyB as New Zealand does not have anti-siphoning legislation (which provides SKY NZ with greater access to exclusive, premium sports content) whereas anti-siphoning legislation exists in the United Kingdom.

<sup>12</sup> Digital switchover is complete in the Netherlands, Switzerland, Belgium and Germany (although in Germany, many cable and satellite services remain on analogue).

<sup>13</sup> Like many cable operators in Germany, Kabel Deutschland still offers mainly analogue services.

<sup>14</sup> EBITDA multiples appear to be relatively unaffected by whether the broadcaster offers low cost or premium content. For example, Kabel Deutschland’s EBITDA multiple is at the high end of the range, although it offers low cost content.

***Comcast Corporation***

Comcast is the largest subscription television broadcaster in the United States. It offers premium content to 22.4 million cable subscribers in 39 states (43% market penetration) and is the market leader in eight of the top ten United States markets. Cable broadcasting accounts for approximately 86% of EBITDA. Comcast also owns 57% of QVC (an electronic retailer) and is a majority owner of several production companies. On 28 January 2011, Comcast acquired a 51% interest in NBCUniversal for US\$6.2 billion and on 1 July 2011, NBCUniversal acquired the remaining 50% of Universal City Development Partners (“UCDP”), a theme park operator, for \$1.0 billion. The historical and first forecast year EBITDA multiples for Comcast are not meaningful as the earnings do not reflect these recent transactions.

***DirecTV***

DirecTV is the second largest subscription television broadcaster in the United States and offers premium content to 19.8 million satellite subscribers (18% market penetration) and a further 9.6 million Latin American subscribers. DirecTV also has a 93% shareholding in Sky Brasil, a 41% investment in Sky Mexico and owns and operates three regional sports networks. United States subscription television revenues account for over 80% of revenues and 78% of its EBITDA. DirecTV owns a fleet of eleven satellites and leases a twelfth, but still has relatively low depreciation charge relative to cable broadcasters.

***Time Warner Cable, Inc.***

Time Warner Cable, Inc. (“Time Warner Cable”) was spun off from Time Warner, Inc. in March 2009 and is the fourth largest subscription television broadcaster in the United States. It offers premium content to 12.7 million video subscribers (44% market penetration). Time Warner Cable owns and manages clusters of cabling systems in large metropolitan areas across New York (including New York City), Southern California (including Los Angeles), the Carolinas, Ohio and Texas. On 15 August 2011 Time Warner Cable offered US\$1.3 billion for the equity in Insight Communications Company, Inc. (“Insight Communications”) and consequently, historical and first forecast year multiples presented are not meaningful.

***Liberty Global, Inc.***

United States listed Liberty Global is an international provider of subscription television and triple play services via its majority shareholdings in various operating subsidiaries. Its subsidiaries service 8.6 million digital cable and satellite customers (27% market penetration) in 14 countries, primarily in Europe as well as in Chile and Australia (via AUSTAR). European operations accounted for 87% of profit before tax in 2010. In Europe, Liberty Global primarily operates in Germany, the Netherlands, Switzerland, Belgium and Austria where there is little competition from free-to-air but a large percentage of cable and satellite channels are distributed for free. Anti-siphoning legislation exists in certain of these countries (e.g. Germany and Belgium) but not in others. Liberty Global offers premium content and, with the exception of AUSTAR and Eastern European operations, all transmission is via cable. Transmission infrastructure is generally owned, with the exception of AUSTAR and the Unitymedia GmbH (“Unitymedia”) German operations. It is also engaged in television production, primarily via its Chellomedia BV subsidiary and divested an investment in Japanese cable broadcaster, Jupiter Telecommunications Co., Ltd (“Jupiter Telecommunications”) in February 2010. The Chairman, John Malone, holds 84.8% of Liberty Global’s Series B shares and therefore approximately 38.0% of the voting rights outstanding. Liberty Global operates as an international holding company and, therefore, its operations are substantially more geographically diversified and managerially decentralised than its peers and its earnings multiples represent a blend of its operations.

***DISH Network Corporation***

DISH is the United States’ third largest subscription television broadcaster and offers low cost subscription television content bundled with broadly available, non-exclusive channels to 13.9 million subscribers (13% market penetration) via its owned broadcast satellite service. DISH was spun off by EchoStar Corporation (“Echostar”) in January 2008. DISH remains dependent on EchoStar’s set top box technologies and both companies are controlled by their joint chairman, Charles Ergen, or his associates (53.6%). DISH has undertaken a number of significant transactions in the past year, including two



acquisitions of companies in Chapter 11 bankruptcy protection: DBSD (a technology company attempting to integrate satellite and terrestrial transmissions in hybrid form) in February 2011 for \$1.4 billion; and TerreStar Networks, Inc. (a provider of satellite services for mobile telephones) in June 2011 for \$1.3 billion. As a result of these acquisitions, historical and first forecast year EBITDA multiples presented are not meaningful. DISH's relatively low forecast EBITDA multiples may reflect negative sentiment in relation to the recent acquisitions and its limited free float, while its relatively low price per subscriber reflects that it offers low cost subscription television content.

***Charter Communications***

Charter Communications, Inc. ("Charter") is the fifth largest subscription television broadcaster in the United States, with 4.6 million subscribers (38% market penetration) across 25 states. It offers subscription video, high-speed internet and telephone services, either individually or in a bundle. Charter has a history of net losses, principally due to insufficient revenue to cover the combination of high interest expenses (with current gearing of 68%) and high depreciation expenses. On 27 March 2009, Charter filed for Chapter 11 bankruptcy and emerged after reorganisation on 30 November 2009.

***Cablevision Systems Corporation***

Cablevision is the eighth largest United States subscription television broadcaster, with 3.3 million cable subscribers (59% market penetration) in the New York metropolitan area but derives 7% of its revenues from other operations, including its newspaper publishing business and ownership of professional sports teams. In February 2010, Cablevision divested its interest in The Madison Square Garden Company and in June 2011, divested its interest in AMC Networks Inc. (formerly Rainbow Media Holdings LLC), a content programming company. Consequently, the historical and first forecast year EBITDA multiples presented are not meaningful.

**2 Valuation Evidence from Transactions**

There have been no recent transactions in Australia involving the acquisition of controlling interests in businesses in the subscription television industry. Instead, a selection of public transactions since June 2007 for which meaningful information is available is set out below:

Recent Transaction Evidence – Subscription Television Companies									
Date	Target	Cable/ Satellite/ Operator <sup>2</sup>	Consid- eration <sup>15</sup> (millions)	Revenue Multiple <sup>16</sup> (times)		EBITDA Multiple <sup>17</sup> (times)		Price per Subscriber <sup>18</sup> (A\$)	
				Historical <sup>19</sup>	Forecast <sup>19</sup>	Historical <sup>19</sup>	Forecast <sup>19</sup>		
<b>Europe</b>									
Mar 11 (pending)	Kabel BW	C	€910.0	5.8	5.4	10.6	8.9	1,929	
Nov 09	Unitymedia	C	€2,000.0	3.1	3.6	7.7	7.7	1,241	
Dec 07	Remaining 52.9% of Sogecable	S	€3,876.1	2.6	2.4	15.2	12.1	3,831	
Jul 07	Remaining 74.7% of PrimaCom	C	€198.7	4.6	4.6	10.6	13.1	976	

<sup>15</sup> Implied equity value if 100% of the company or business had been acquired.

<sup>16</sup> Represents gross consideration divided by revenue. Gross consideration is the sum of the equity and/or cash consideration plus borrowings net of cash.

<sup>17</sup> Represents gross consideration divided by EBITDA.

<sup>18</sup> Represents gross consideration divided by the number of subscription television subscribers (counting subscribers to bundled packages only once) and converted to Australian dollars based on the exchange rate prevailing at the transaction announcement date.

<sup>19</sup> Historical multiples are based on the most recent publicly available full year earnings prior to the transaction announcement date, except for Unitymedia, Sogecable, Mediacom and Jupiter Telecommunications, where historical year data is based on first year forecast earnings from brokers' reports because at the time of announcement, at least nine months of actual results were available. Forecast multiples are based on company published earnings forecasts or brokers' reports available at transaction announcement date.



Recent Transaction Evidence – Subscription Television Companies								
Date	Target	Cable/ Satellite/ Operator <sup>2</sup>	Consid- eration <sup>15</sup> (millions)	Revenue Multiple <sup>16</sup> (times)		EBITDA Multiple <sup>17</sup> (times)		Price per Subscriber <sup>18</sup> (A\$)
				Historical <sup>19</sup>	Forecast <sup>19</sup>	Historical <sup>19</sup>	Forecast <sup>19</sup>	
<b>United States</b>								
Aug 11 (pending)	Insight Communications	C	US\$1,330.8	2.8	na <sup>20</sup>	9.4	8.3	4,265
Nov 10	Remaining 60.4% of Mediacom	C	US\$643.6	2.4	2.3	6.4	6.1	3,270
Mar 10	RCN Corporation	C	US\$567.3	1.6	1.6	5.6	5.3	3,129
<b>Japan</b>								
Jan 10	37.8% of Jupiter Telecommunications	C	¥957,716.3	3.5	3.2	8.0	7.4	5,459

Source: Grant Samuel analysis<sup>21</sup>

The following factors are relevant to consideration of the transaction evidence:

- all broadcasters utilise cable transmission except for Sogecable S.A. (“Sogecable”). Unitymedia, PrimaCom AG (“PrimaCom”) and Jupiter Telecommunications mainly lease transmission infrastructure while other broadcasters own their infrastructure. As a consequence, in order to allow comparison between companies Grant Samuel has focused on multiples of EBITDA;
- multiples implied by transactions which were announced prior to the global economic downturn (i.e. PrimaCom and Sogecable) are substantially higher than those more recently. Furthermore, the PrimaCom transaction was the result of a competitive bidding process and substantial synergies were expected and the Sogecable transaction reflects a mandatory follow on offer which was not expected to be taken up but which investors leapt at following the economic downturn;
- more recent transactions have taken place at multiples broadly in the range 5.5-9 times forecast EBITDA and primarily reflect the competitive environment in which the target companies operate as well as any anticipated strategic benefits:
  - Liberty Global’s acquisitions of Kabel BW Erste Beteiligungs GmbH (“Kabel BW”) (pending) and Unitymedia occurred at relatively high multiples, possibly reflecting Liberty Global’s growth strategy, Germany’s attractiveness as a market with relatively limited competition from free-to-air broadcasting and other subscription television broadcasters (although Germany does have anti-siphoning legislation) as well as anticipated synergy benefits. Allowing for expected synergies, the multiples are lower at 8.1 and 6.6 times forecast EBITDA, respectively. The higher multiple paid for the more recent transaction may reflect Liberty Global’s existing presence in Germany;
  - multiples implied by acquisitions of companies in the United States are generally lower than those in Europe, likely as a result of strong competition from subscription television broadcasters. However, the pending acquisition of Insight Communications by Time Warner Cable is expected to result in substantial synergies and, therefore, the historical EBITDA multiple is high; and
  - although the Jupiter Telecommunications transaction did not involve a controlling interest, it was for a strategic 37.8% interest; and
- price per subscriber shows a wide range (\$1,000-5,500) and reflects the level of competition from free-to-air broadcasting as well as the quality of content and features offered;

<sup>20</sup> Not available.

<sup>21</sup> Grant Samuel analysis based on data obtained from IRESS, Bloomberg, Capital IQ, company announcements, transaction documentation and, in the absence of company published financial forecasts, brokers’ reports. Where company financial forecasts are not available, the median of the financial forecasts prepared by a range of brokers has generally been used to derive relevant forecast value parameters. The source, date and number of broker reports utilised for each transaction depends on analyst coverage, availability and corporate activity.



- for German companies (i.e. Kabel BW, Unitymedia and PrimaCom), a large proportion of customers subscribe to a basic, analogue service. Therefore, price per subscriber is relatively low (\$1,000-1,900); and
- broadcasters in the United States and Japan have a higher take up of premium content (e.g. high definition and pay-per-view channels) and also face limited competition from free-to-air broadcasting. Therefore, price per subscriber is towards the high end of the range (\$3,100-5,500).

A brief summary of each transaction is set out below:

***Kabel BW Erste Beteiligungs GmbH / Liberty Global, Inc.***

Liberty Global announced on 21 March 2011 that it would acquire Kabel BW from EQT Funds IV and V (“EQT”) through a series of transactions for approximately €910 million (excluding transaction costs) valuing the business operations at €3.16 billion. Kabel BW is a triple-play operator and Germany’s third-largest subscription television broadcaster, with 2.3 million cable subscribers (62.6% penetration rate) at December 2010, though only 12.3% subscribe for extra pay-television features. Liberty Global disclosed an estimated 2011 EBITDA multiple of 8.1 times after adjustments for post-integration synergies with its existing German operations. Liberty Global’s presence in Germany likely enabled it to realise these synergies and the transaction reduced subscription television broadcasters in Germany from three to two. The transaction is expected to complete in the second half of 2011, subject to regulatory approvals. The relatively low price per subscriber likely reflects that most subscribers were on analogue services as well as the relatively low competition from free-to-air.

***Unitymedia GmbH / Liberty Global, Inc.***

On 13 November 2009 UPC Germany GmbH (an indirectly owned subsidiary of Liberty Global, Inc.) agreed to acquire Unitymedia from Unity Media S.C.A. Luxembourg for €2.0 billion, excluding transaction costs. This implied an enterprise value of €3.5 billion, which Liberty Global estimated as 6.6 times EBITDA after synergies. At 30 September 2009, Unitymedia was Germany’s second-largest subscription television broadcaster with approximately 4.5 million cable subscribers (51.5% penetration rate), most of whom subscribed to a basic analogue service and only 10.9% of whom were premium subscribers, and a small satellite-based subscription service with 57,000 subscribers nationwide. Satellite subscriptions fell significantly after broadcast rights to Germany’s Bundesliga football, which had been offered free to many customers, were lost to Sky Deutschland in July 2009. The satellite business was closed in September 2010. The relatively low price per subscriber likely reflects that most subscribers were on analogue services as well as the relatively low competition from free-to-air.

***Sogecable S.A. / Promotora de Informaciones S.A.***

Promotora de Informaciones S.A. (“PRISA”), a Spanish media conglomerate, was the largest shareholder in Sogecable with a 47.09% interest when it sought to acquire a further 2.94% from Corporacion Internacional En Viajes Y Eventos S.A. (“Eventos”). At the time of the transaction, Sogecable had over half of Spain’s subscription television market share, with 2.1 million satellite subscribers (12.8% penetration rate). 84.1% of revenue derived from satellite subscribers while the group’s national free-to-air advertising funded channel, “cuatro”, accounted for 10.4% of revenues. Due to PRISA’s other purchases of Sogecable shares in the preceding year, implementing the acquisition of 2.94% required PRISA to make a follow on offer on the same terms to Sogecable’s remaining shareholders. Therefore, on 20 December 2007, PRISA offered all shareholders €27.98 per share (increased to €28.00 per share a week later for technical reasons), valuing the company at €3.88 billion. PRISA did not expect substantial take up of the offer but when the offer was taken up by Telefonica S.A. (Spain’s telecommunications incumbent) and the global financial crisis commenced there was a substantial take up by the remaining minorities.

***PrimaCom AG / Escaline S.à.r.l.***

On 26 July 2007 Luxembourg-based Escaline S.à.r.l. (“Escaline”) made an offer via a subsidiary to acquire the remaining 74.7% interest in PrimaCom not already owned, for €147.9 million. PrimaCom was a major German “triple-play” subscription television broadcaster servicing the states of central and



eastern Germany with 0.9 million cable subscribers (67.1% penetration rate) and Escaline, via its subsidiaries, was in a public battle with Kabel Deutschland to acquire the company. In September 2007, Kabel Deutschland agreed to acquire cable network assets and 1.2 million subscribers from Escaline for €585 million and to end its takeover attempt of PrimaCom by selling its 17.5% stake to an Escaline subsidiary. Escaline expected to realise substantial synergies through the transaction, given its overlapping operations in the German market that consolidated approximately 4.3 million customers. By 23 October 2007 Escaline and its subsidiaries had acquired 90.89% of the shares. The relatively low price per subscriber likely reflects that most subscribers were on analogue services.

***Insight Communications Company, Inc. / Time Warner Cable, Inc.***

On 15 August 2011, Time Warner Cable agreed to acquire Insight Communications for US\$1.33 billion. The purchase price is dependent on Insight Communications' video subscribers at the closing date being above 95% of the forecast levels. Time Warner Cable announced that it expected to achieve synergistic savings of approximately US\$100 million per annum and a further US\$300 million in tax deductions through Insight Communications' carried forward tax losses. Insight Communications' is the eleventh largest subscription television operator in the United States, offering triple-play services to 679,700 cable subscribers (50.8% penetration rate) as at 30 June 2011 in the Midwestern states of Indiana, Ohio and Kentucky. The transaction is expected to close in the first half of 2012 subject to regulatory approvals, having received antitrust approval in September 2011.

***Mediacom Communications Corporation / Interests associated with Mr Rocco B. Commisso***

On 15 November 2010, Mediacom Communications Corporation ("Mediacom") announced that its founder, Chairman, CEO, and major shareholder (with a 39.6% interest) Rocco B. Commisso, intended to privatise the company. Mediacom was the eighth-largest subscription television company in the United States with 1.2 million cable subscribers (42.8% penetration rate) mainly in the smaller Midwestern and Southeastern cities. On 4 March 2011, Mediacom's shareholders agreed to the cash offer of US\$367 million for the remaining 60.4% interest not held by Mr Commisso and his affiliates. Market commentators considered this to be a reasonable price on a per share basis, but lower than expected in terms of control premium. This might be explained by Mr Commisso's already dominant position within the firm, his significant pre-existing shareholding, high gearing (83.4%) and the absence of any synergistic savings resulting from the acquisition.

***RCN Corporation / ABRY Partners LLC***

ABRY Partners LLC ("ABRY Partners"), a private-equity firm, agreed on 5 March 2010 to acquire 100% of RCN Corporation ("RCN") for US\$15 per share in cash (22% above the previous day's closing price) or a total of approximately US\$567 million, which was still a discount to the value attributed by market commentators, possibly because as a financial buyer, ABRY Partners' offer did not include any synergistic savings. At the time, RCN provided digital cable services to 429,000 cable subscribers (30.6% penetration rate, all digital) in the major population centres of the mid-west and north-eastern United States. Subscription television broadcasting represented 75% of RCN's 2009 revenue with the remainder derived from fibre-based data transport services delivered to large commercial customers ("RCN Metro"). The transaction's relatively high price per subscriber may be attributed to the inclusion of the RCN Metro segment.

***Jupiter Telecommunications Co., Ltd / KDDI Corporation***

Jupiter Telecommunications, Japan's largest subscription television broadcaster, had 2.4 million cable subscribers (20.6% penetration rate) as at December 2009, 90% of whom had migrated from analogue to digital services. On 25 January 2010, KDDI Corporation ("KDDI") announced that it would acquire Liberty Global's 37.8% voting interest in Jupiter Communications (6.7% of which was entrusted to a trust bank but with KDDI retaining the beneficial economic interest) for ¥361.7 billion (approximately US\$4 billion). Although the transaction involved a 37.8% interest, it is a strategic stake and was sold at a price representing a 65% premium to Jupiter Telecommunications' pre announcement trading price.

## Annexure B

### ASX announcements by AUSTAR since the 2010 Annual Report

This table does not include announcements relating to substantial holder notices.

<b>Date</b>	<b>Announcement</b>
29/11/2011	AUSTAR Notes ACCC Decision Suspended
24/11/2011	LGI Receives Acceptable IRS Ruling
27/10/2011	AUSTAR Q3 2011 Results and Press Release
05/10/2011	AUSTAR Notes FIRB Extension
23/09/2011	Director Appointment/Resignation and Appendix 3X / 3Z
29/07/2011	AUSTAR Financial Report for six months ended 30 June 2011
29/07/2011	Half Year Accounts
22/07/2011	ASX Announcement - AUSTAR notes ACCC statement
22/07/2011	ACCC calls for comment on Foxtel proposed acquisition
11/07/2011	FOXTEL agrees definitive transaction to acquire AUSTAR
11/07/2011	Foxtel agrees Definitive Transaction to Acquire Austar
11/07/2011	Media Release - AUSTAR agrees definitive transaction
07/07/2011	AUSTAR Announcement on Media Speculation

09/06/2011	2nd quarterly issue of shares under the GESS
07/06/2011	Appendix 3Y
07/06/2011	Appendix 3B - New Issue Announcement
26/05/2011	Results of Meeting
26/05/2011	Chairman's Address to Shareholders
26/05/2011	FOXTEL's Indicative Proposal to acquire Austar
26/05/2011	FOXTEL announces proposal to acquire AUSTAR
26/05/2011	AUSTAR Receives Non-Binding and Conditional Proposal
18/05/2011	AUSTAR Statement on media speculation
28/04/2011	AUSTAR and FOXTEL strike AFL Deal

## Annexure C

### ASX announcements by AUSTAR since the 2010 Annual Report relating to the Transaction

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This table does not include announcements relating to substantial holder notices.

<b>Date</b>	<b>Announcement</b>
29/11/2011	AUSTAR Notes ACCC Decision Suspended
24/11/2011	LGI Receives Acceptable IRS Ruling
05/10/2011	AUSTAR Notes FIRB Extension
22/07/2011	ASX Announcement - AUSTAR notes ACCC statement
22/07/2011	ACCC calls for comment on Foxtel proposed acquisition
11/07/2011	FOXTEL agrees definitive transaction to acquire AUSTAR
11/07/2011	Foxtel agrees Definitive Transaction to Acquire Austar
11/07/2011	Media Release - AUSTAR agrees definitive transaction
07/07/2011	AUSTAR Announcement on Media Speculation
26/05/2011	FOXTEL's Indicative Proposal to acquire Austar
26/05/2011	FOXTEL announces proposal to acquire AUSTAR
26/05/2011	AUSTAR Receives Non-Binding and Conditional Proposal
18/05/2011	AUSTAR Statement on media speculation

## Annexure D

### Implementation Deed

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*Conformed copy*

# Implementation Deed

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AUSTAR United Communications Limited

Telstra Media Pty Limited

Sky Cable Pty Limited

FOXTEL Management Pty Limited

Liberty Global, Inc.

LGI Bidco Pty Limited

**Freehills**

MLC Centre Martin Place Sydney NSW 2000 Australia  
GPO Box 4227 Sydney NSW 2001 Australia

Sydney Melbourne Perth Brisbane Singapore

Telephone +61 2 9225 5000 Facsimile +61 2 9322 4000  
[www.freehills.com](http://www.freehills.com) DX 361 Sydney

Associated offices in Jakarta Beijing Shanghai Hanoi Ho Chi Minh City

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**Timetable**

**Scheme**

**Scheme**

**Deed Poll**

**Deed Poll**

## Implementation Deed

Date ►

Between the parties	
AUSTAR	<b>AUSTAR United Communications Limited</b> ACN 087 695 707 of Level 1, 46 – 52 Mountain Street, Ultimo, New South Wales, 2007
FOXTEL	<b>Telstra Media Pty Limited</b> ACN 069 279 027 of Level 41, 242-282 Exhibition Street, Melbourne, Victoria, 3000 <b>(Telstra Media)</b>  and <b>Sky Cable Pty Limited</b> ACN 069 799 640 of 55 Pyrmont Bridge Road, Pyrmont, New South Wales, 2009 <b>(Sky Cable)</b>  in their capacity, unless otherwise specified, as the partners of the FOXTEL Partnership  and <b>FOXTEL Management Pty Limited</b> ACN 068 671 938 of 5 Thomas Holt Drive, North Ryde, New South Wales, 2113 <b>(FOXTEL Management)</b>  in its capacity, unless otherwise specified, as agent for the FOXTEL Partnership  (Telstra Media and Sky Cable, when acting in their capacity as the partners of the FOXTEL Partnership, and FOXTEL Management, when acting in its capacity as agent for the FOXTEL Partnership, referred to collectively as <b>FOXTEL</b> )
Liberty	<b>Liberty Global, Inc.</b> a Delaware corporation of 12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America
Bidder	<b>LGI Bidco Pty Limited</b> ACN 151 767 449 of Level 7, 1 Gold Fields House, 1 Alfred Street, Sydney, New South Wales, 2000

Recitals	<ol style="list-style-type: none"><li>1 The parties have agreed that FOXTEL will acquire AUSTAR in two phases.</li><li>2 Firstly the Bidder will acquire all of the shares in AUSTAR not already owned by Liberty Group Members by means of a scheme of arrangement under Part 5.1 of the Corporations Act between AUSTAR and Scheme Shareholders with Scheme Financier lending the Bidder the Total Scheme Consideration.</li><li>3 Secondly, following the implementation of the Scheme and a restructure, FOXTEL Bidco and FOXTEL will acquire the Liberty Group Members' interest in AUSTAR.</li><li>4 The parties have agreed to implement the Transaction on the terms of the Transaction Documents substantially in accordance with the Transaction Steps and Timetable.</li></ol>
This deed witnesses as follows	

# 1 Definitions and interpretation

## 1.1 Definitions

The meanings of the terms used in this deed are set out below.

<b>Term</b>	<b>Meaning</b>
<b>ACCC</b>	Australian Competition and Consumer Commission.
<b>AEPL</b>	Austar Entertainment Pty Limited ACN 068 104 530.
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>associate</b>	has the meaning in section 12(2) of the Corporations Act.
<b>ASX</b>	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
<b>AUH</b>	Austar United Holdings Pty Limited ACN 146 562 263.
<b>AUSTAR 2011 Budget</b>	the 2011 budget for the business of the AUSTAR Group, as approved by the AUSTAR Board in December 2010.
<b>AUSTAR Board</b>	the board of directors of AUSTAR.
<b>AUSTAR Charge</b>	a fixed and floating charge to be granted by AUSTAR in or substantially in the form annexed to the FOXTEL Funding Agreement in favour of FOXTEL Finco to secure AUSTAR's obligations under the FOXTEL Funding Agreement.
<b>AUSTAR Consolidated Tax Group</b>	the Consolidated Group of which AUSTAR is the head company (as defined for the purposes of the Tax Act).
<b>AUSTAR Group</b>	AUSTAR and each of its subsidiaries and controlled entities and a reference to an <b>AUSTAR Group Member</b> is to any member of the AUSTAR Group.
<b>AUSTAR Information</b>	information regarding the AUSTAR Group prepared by AUSTAR for inclusion in the Scheme Booklet, being all the contents of the Scheme Booklet other than the FOXTEL Information, the Liberty

Term	Meaning
	Information, the Independent Expert's Report and the tax letter prepared by AUSTAR's tax adviser.
<b>AUSTAR Material Adverse Change</b>	<p>an event or series of events which has or could reasonably be expected:</p> <ol style="list-style-type: none"> <li>1 to result in a diminution of the AUSTAR Group's adjusted operating cash flow (being revenue less operating expenses and stock-based compensation, excluding foreign exchange, impairment, depreciation, amortization and transaction costs and expenses incurred or paid in connection with the Transaction) by more than \$50 million in each of the financial years ending 31 December 2012 and 31 December 2013; or</li> <li>2 to have a material adverse effect on the status of any approvals, licences or permits issued to an AUSTAR Group Member that are material to the AUSTAR Group's business,</li> </ol> <p>other than those events:</p> <ol style="list-style-type: none"> <li>3 notified to ASX or disclosed in a document lodged with ASIC by or on behalf of AUSTAR (in each case, provided the event and its effect on the AUSTAR Group's business is fully and fairly disclosed in the notification or document) prior to the date of this deed;</li> <li>4 to which FOXTEL Management consents in writing (in its absolute discretion);</li> <li>5 required or expressly permitted by this deed or any other Transaction Document (including as a result of the giving of a Substitution Notice);</li> <li>6 fully and fairly disclosed (together with its effect on the AUSTAR Group's business) in the Disclosure Materials;</li> <li>7 that are, relate to or arise from general economic, regulatory or political conditions or changes in those conditions (including financial market fluctuations or changes in interest rates);</li> <li>8 that arise from any actual or proposed change in tax, law or accounting standards or mandatory policies or codes;</li> <li>9 affecting the pay television industry as a whole; or</li> <li>10 that are, relate to or arise from an act of terrorism, war (whether or not declared), natural disaster or the like.</li> </ol>

<b>Term</b>	<b>Meaning</b>
<b>AUSTAR Material Subsidiary</b>	<p>each of:</p> <ol style="list-style-type: none"> <li>1 AUH;</li> <li>2 AEPL;</li> <li>3 CTV Pty. Ltd. ACN 064 416 128;</li> <li>4 STV Pty. Ltd. ACN 065 312 450;</li> <li>5 Vinatech Pty. Ltd. ACN 065 366 314;</li> <li>6 Selectra Pty. Ltd. ACN 065 367 526;</li> <li>7 UAP Australia Programming Pty Ltd ACN 083 851 807;</li> <li>8 Century Programming Ventures Corp., a Nevada corporation;</li> <li>9 Continental Century Pay TV Pty Limited ACN 059 914 840; and</li> <li>10 Century United Programming Ventures Pty Limited ACN 069 957 759.</li> </ol>
<b>AUSTAR Prescribed Occurrence</b>	<p>other than:</p> <ol style="list-style-type: none"> <li>1 as required by this deed, any other Transaction Document or the Transaction Steps (including as a result of the giving of a Substitution Notice); or</li> <li>2 as agreed to in writing by FOXTEL Management,</li> </ol> <p>the occurrence of any of the following between the date of this deed and 8.00am on the Second Court Date:</p> <ol style="list-style-type: none"> <li>3 AUSTAR converting all or any of its shares into a larger or smaller number of shares;</li> <li>4 an AUSTAR Group Member resolving to reduce its share capital in any way;</li> <li>5 an AUSTAR Group Member: <ul style="list-style-type: none"> <li>• entering into a buy-back agreement; or</li> <li>• resolving to approve the terms of a buy-back agreement under the Corporations Act;</li> </ul> </li> <li>6 an AUSTAR Group Member issuing shares, or granting an option over its shares, or agreeing to make such an issue or grant such an option other than to an AUSTAR Group Member;</li> <li>7 an AUSTAR Group Member issuing or agreeing to issue securities convertible into shares;</li> <li>8 an AUSTAR Group Member disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property other than to another AUSTAR Group Member;</li> <li>9 an AUSTAR Group Member creating, or agreeing to create, any Encumbrance over the whole, or a substantial part, of its business or property other than a lien which arises by operation of law securing an obligation that is not yet due;</li> <li>10 an AUSTAR Group Member resolving that it be wound up;</li> <li>11 AUSTAR or an AUSTAR Group Member (as applicable) being under an obligation (whether or not conditional) to do any of the</li> </ol>

<b>Term</b>	<b>Meaning</b>
	<p>things set out in items 1 to 10; or</p> <p>12 an Insolvency Event with respect to AUSTAR or any AUSTAR Material Subsidiary.</p>
<b>AUSTAR Registry</b>	Computershare Investor Services Pty Limited ACN 078 279 277.
<b>AUSTAR Released Parties</b>	AUSTAR, each other AUSTAR Group Member and their respective directors, officers and employees.
<b>AUSTAR Share</b>	a fully paid ordinary share in AUSTAR.
<b>AUSTAR Shareholder</b>	each person who is registered as the holder of an AUSTAR Share at the relevant time.
<b>AUSTAR Warranties</b>	the representations and warranties of AUSTAR set out in Schedule 3.
<b>Business Day</b>	has the same meaning as in the Listing Rules.
<b>Competing Transaction</b>	<p>a transaction or arrangement pursuant to which a Third Party or, in the case of paragraph 4 below, any person, will, if the transaction or arrangement is entered into or completed:</p> <ol style="list-style-type: none"> <li>1 acquire (whether directly or indirectly) or become the holder of, or otherwise acquire, have a right to acquire or have an economic interest in all or a material part of the assets or the business of the AUSTAR Group;</li> <li>2 acquire control (as determined in accordance with section 50AA of the Corporations Act) of AUSTAR, AEPL or AUH;</li> <li>3 otherwise acquire or merge with AUSTAR, AEPL or AUH,</li> </ol> <p>whether by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction or buy back, sale or purchase of shares or assets, joint venture, dual-listed company structure (or other synthetic merger), or other transaction or arrangement; or</p> <ol style="list-style-type: none"> <li>4 be a party to an agreement with AUSTAR (other than an agreement to which a FOXTEL Group Member or a FOXTEL Partner Group Member is also a party) that requires AUSTAR to abandon, or otherwise fail to proceed with, the Transaction.</li> </ol> <p>For the avoidance of doubt, the giving of a Substitution Notice by Liberty will not constitute a Competing Transaction.</p>
<b>Competition Act</b>	the <i>Competition and Consumer Act 2010</i> (Cth).
<b>condition precedent</b>	each of the conditions set out in clause 3.1.

<b>Term</b>	<b>Meaning</b>
<b>Confidentiality Deed</b>	the Confidentiality Deed between FOXTEL Management and AUSTAR dated April 2011.
<b>Consolidated Group</b>	has the same meaning as in the Tax Act.
<b>controlled entity</b>	of an entity, any entity which the firstmentioned entity controls (as that term is defined in section 50AA of the Corporations Act).
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Corporations Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by AUSTAR, FOXTEL Management and Liberty.
<b>CPI</b>	the percentage increase in the Consumer Price Index, All Groups – Australia, as published by the Australian Bureau of Statistics, between the December quarter 2010 and the December quarter 2011.
<b>Deed Poll</b>	<ol style="list-style-type: none"> <li>1 if a Substitution Notice is not given, a deed poll to be entered into by Liberty, the Bidder, FOXTEL Management and FOXTEL Finco in the form attached as Attachment 4; or</li> <li>2 if a Substitution Notice is given, a deed poll to be entered into by Liberty and the Bidder in the form attached as Attachment 5.</li> </ol>
<b>Disclosure Materials</b>	<ol style="list-style-type: none"> <li>1 the documents and information contained in the data room and made available by AUSTAR and its Representatives to FOXTEL, the FOXTEL Partners and their respective Representatives, between 30 May 2011 and prior to FOXTEL entering into this deed, and which is noted in the most recent index to that data room provided to FOXTEL before it enters into this deed; and</li> <li>2 the written answers given to FOXTEL, the FOXTEL Partners and their respective Representatives, between 30 May 2011 and prior to FOXTEL entering into this Deed, to requests for further information made by FOXTEL, the FOXTEL Partners and their respective Representatives.</li> </ol>
<b>Effective</b>	when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) in relation to the Scheme.

<b>Term</b>	<b>Meaning</b>
<b>Effective Date</b>	the date on which the Scheme becomes Effective.
<b>EGM</b>	a general meeting of AUSTAR to be held immediately after the Scheme Meeting.
<b>EGM Resolutions</b>	<p>the following resolutions that are to be put to AUSTAR Shareholders at the EGM:</p> <ol style="list-style-type: none"> <li>1 a resolution approving for the purposes of section 260A(1)(b) of the Corporations Act, subject to the Scheme becoming Effective, the grant of financial assistance by AUSTAR to the Bidder pursuant to the Transaction Steps, including through the grant of a guarantee and the incurring of other obligations under the FOXTEL Funding Agreement and AUSTAR Charge or under any Substitute Funding Agreement and Substitute Security (as applicable);</li> <li>2 a resolution approving for the purposes of section 208(1)(a)(i) of the Corporations Act, subject to the Scheme becoming Effective, the giving of a financial benefit to a related party of AUSTAR pursuant to the Transaction Steps, including through the grant of a guarantee and the incurring of other obligations under the FOXTEL Funding Agreement and AUSTAR Charge or under any Substitute Funding Agreement and Substitute Security (as applicable);</li> <li>3 a resolution approving for the purposes of section 162(1)(a) of the Corporations Act, subject to the Scheme becoming Effective, AUSTAR changing its status from a public company limited by shares to a proprietary company pursuant to the Transaction Steps; and</li> <li>4 any resolutions that may be required by the ASX pursuant to the Listing Rules.</li> </ol>
<b>Encumbrance</b>	<p>an interest or power:</p> <ol style="list-style-type: none"> <li>1 reserved in or over an interest in any asset including any retention of title; or</li> <li>2 created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power,</li> </ol> <p>by way of security for the payment of a debt, any other monetary obligation or the performance of any other obligation, and includes any agreement to grant or create any of the above.</p>
<b>End Date</b>	29 February 2012 (or such other date as AUSTAR, FOXTEL Management and Liberty agree in writing).
<b>Escrow Account</b>	the corporate trust account in the name of the Escrow Agent as trustee under the Escrow Deed at Australia and New Zealand Banking Group Limited, or at such other bank agreed by the parties to the Escrow Deed from time to time.

<b>Term</b>	<b>Meaning</b>
<b>Escrow Agent</b>	Computershare Investor Services Pty Limited ACN 078 279 277 (or such other person as AUSTAR, FOXTEL Management and Liberty agree in writing).
<b>Escrow Deed</b>	a deed in the form agreed between FOXTEL Finco, the Bidder and the Escrow Agent, and to be entered into by them if a Substitution Notice is not given, setting out the terms of operation of the Escrow Account.
<b>Estimated Total Scheme Consideration</b>	has the meaning given in clause 4.5(a).
<b>Excluded Shareholder</b>	United Austar Partners, United AUN LLC and any other AUSTAR Shareholder who, at any relevant time is a Liberty Group Member or any AUSTAR Shareholder to the extent that, at any relevant time, it holds AUSTAR Shares on behalf of, or for the benefit of, any Liberty Group Member.
<b>Exclusivity Period</b>	the period from and including the date of this deed to the earlier of: <ol style="list-style-type: none"> <li>1 the termination of this deed; and</li> <li>2 the End Date.</li> </ol>
<b>FATA</b>	the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth).
<b>First Court Date</b>	the first day on which an application made to the Court for an order under section 411(1) of the Corporations Act convening the Scheme Meeting is heard.
<b>FOXTEL</b>	Telstra Media and Sky Cable, when acting in their capacity as the partners of the FOXTEL Partnership, and FOXTEL Management, when acting in its capacity as agent for the FOXTEL Partnership, collectively.
<b>FOXTEL Bidco</b>	FOXTEL Australia Pty Limited ACN 151 691 753.
<b>FOXTEL Finco</b>	FOXTEL Finance Pty Limited ACN 151 691 897.
<b>FOXTEL Funding</b>	the funding by FOXTEL Finco of the Estimated Total Scheme Consideration in accordance with the FOXTEL Funding Agreement.
<b>FOXTEL Funding Agreement</b>	the agreement for the provision of the Scheme Funding by FOXTEL Finco, in a form agreed between AUSTAR, FOXTEL Management and Liberty, entered into by FOXTEL Finco, the Bidder and AUSTAR

<b>Term</b>	<b>Meaning</b>
	on or about the date of this deed.
<b>FOXTEL Group</b>	<ol style="list-style-type: none"> <li>1 the FOXTEL Partnership;</li> <li>2 Sky Cable and Telstra Media, each in any capacity;</li> <li>3 any subsidiary of the FOXTEL Partnership, Sky Cable or Telstra Media (each in any capacity), or any body in respect of which any two or more of them collectively (directly or indirectly): <ul style="list-style-type: none"> <li>• control the composition of the body's board;</li> <li>• are in a position to cast, or control the casting of, more than one half of the maximum number of votes that might be cast at a general meeting of the body; or</li> <li>• hold more than one half of the issued share capital of the body (excluding any part of that issued share capital that carries no right to participate beyond a specified amount in a distribution of either profits or capital);</li> </ul> </li> <li>4 any entity controlled by the FOXTEL Partnership, Sky Cable or Telstra Media (each in any capacity) or collectively controlled (as that term is defined in section 50AA of the Corporations Act, disregarding subsection (3)) by any two or more of them; and</li> <li>5 any partnership between two or more of the entities listed in items 1, 2, 3 or 4 above,</li> </ol> <p>including the FOXTEL Television Partnership, FOXTEL Management (in any capacity), FOXTEL Bidco, FOXTEL Finco, FOXTEL Holdings Pty Limited ACN 151 690 327, Customer Services Pty Limited ACN 069 272 117, FOXTEL Cable Television Pty Limited ACN 069 008 797, Artist Services Cable Management Pty Limited ACN 072 725 289 and The Racing Channel Cable-TV Pty Limited ACN 069 619 307, and a reference to a <b>FOXTEL Group Member</b> is to any member of the FOXTEL Group.</p>
<b>FOXTEL Information</b>	<p>information regarding the FOXTEL Group or any FOXTEL Partner Group provided by FOXTEL to AUSTAR and/or Liberty in writing for inclusion in the Scheme Booklet, including information in relation to the funding of the Scheme Consideration (if a Substitution Notice has not been given) and FOXTEL's intentions in relation to the AUSTAR Group and its business, but excluding any information which FOXTEL obtained from or based on:</p> <ol style="list-style-type: none"> <li>1 Liberty Information provided to FOXTEL, to the extent it accurately reflects that Liberty Information; or</li> <li>2 AUSTAR's public filings on ASX regarding the AUSTAR Group, to the extent that it accurately reflects those public filings.</li> </ol> <p>For the avoidance of doubt, FOXTEL Information does not include Liberty Information or AUSTAR Information, but does include representations provided by FOXTEL to AUSTAR for inclusion in the Scheme Booklet pursuant to clause 5.3(k).</p>
<b>FOXTEL Partner</b>	each of:

<b>Term</b>	<b>Meaning</b>
	<ol style="list-style-type: none"> <li>1 Consolidated Media Holdings Limited ACN 009 071 167;</li> <li>2 News Corporation, a Delaware corporation; and</li> <li>3 Telstra Corporation Limited ACN 051 775 556.</li> </ol>
<b>FOXTEL Partner Deeds Poll</b>	the three deeds poll entered into by Consolidated Media Holdings Limited, News Australia Holdings Pty Limited ACN 105 197 028 and Telstra Corporation Limited, respectively, in favour of AUSTAR and Liberty on or about the date of this deed and relating to, among other things, arrangements to endeavour to procure the satisfaction of the condition precedent in clause 3.1(a)(1).
<b>FOXTEL Partner Group</b>	in respect of each FOXTEL Partner, that FOXTEL Partner and its subsidiaries and controlled entities (and in the case of the FOXTEL Partner Group of each of Consolidated Media Holdings Limited and News Corporation, includes Premier Media Group Pty Limited ACN 065 445 418 and its subsidiaries and controlled entities) but excluding any FOXTEL Group Member (other than Sky Cable and Telstra Media) and a reference to a <b>FOXTEL Partner Group Member</b> is to any member of the relevant FOXTEL Partner Group.
<b>FOXTEL Partner Group Business</b>	in respect of a FOXTEL Partner, the business of the corporate group comprising the relevant FOXTEL Partner Group as at the date of this deed and the Merged FOXTEL – AUSTAR Group as if owned on the date of this deed and part of that FOXTEL Partner’s corporate group.
<b>FOXTEL Partnership</b>	the FOXTEL Partnership, a partnership between Telstra Media and Sky Cable under a partnership agreement dated 14 April 1997 (as amended and restated on 3 December 1998).
<b>FOXTEL Released Parties</b>	FOXTEL, each other FOXTEL Group Member, each FOXTEL Partner Group Member, and their respective directors, officers and employees.
<b>FOXTEL Warranties</b>	the representations and warranties set out in Schedule 1.
<b>Government Agency</b>	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian.
<b>Implementation</b>	the transfer of the Scheme Shares to the Bidder pursuant to the Scheme.
<b>Implementation Date</b>	the second Business Day after the Scheme Record Date or such

<b>Term</b>	<b>Meaning</b>
	other day as AUSTAR, FOXTEL Management and Liberty agree in writing.
<b>Independent Director AUSTAR Share</b>	any AUSTAR Share: <ol style="list-style-type: none"> <li>1 held by or on behalf of an Independent Director of AUSTAR; or</li> <li>2 listed as an indirect interest in an Appendix 3X or 3Y lodged by AUSTAR for an Independent Director of AUSTAR and in respect of which interest the Independent Director controls (directly or indirectly) the exercise of voting rights attaching to the relevant AUSTAR Share.</li> </ol>
<b>Independent Directors</b>	the independent directors of AUSTAR, being as at the date of this deed Messrs Timothy D Downing and Roger M Amos.
<b>Independent Expert</b>	the independent expert in respect of the Transaction (including the Scheme) appointed by AUSTAR.
<b>Independent Expert's Report</b>	the report to be issued by the Independent Expert in respect of the Transaction (including the Scheme).
<b>Insolvency Event</b>	with respect to an entity: <ol style="list-style-type: none"> <li>1 an administrator is appointed, or any steps are taken to appoint an administrator, to the entity;</li> <li>2 a liquidator or a provisional liquidator is appointed, or any steps are taken to appoint a liquidator or a provisional liquidator in respect of the entity (unless, in the case of an application or step taken, the application or step taken is frivolous or vexatious and the application or step taken is withdrawn within 20 Business Days);</li> <li>3 an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court is made or other steps are taken:                             <ul style="list-style-type: none"> <li>• for the winding up, dissolution or deregistration of the entity; or</li> <li>• in relation to the entry into of any arrangement, composition or compromise with, or assignment for the benefit of, any of its creditors or a class of them, (unless, in the case of an application or step taken, the application or step taken is frivolous or vexatious and the application or step taken is withdrawn within 20 Business Days);</li> </ul> </li> <li>4 the entity:                             <ul style="list-style-type: none"> <li>• ceases, suspends or threatens to cease or suspend the conduct of its business;</li> <li>• is, or under the Corporations Act is presumed, deemed or taken to be, insolvent (other than as the result of a failure to pay a debt or claim the subject of a good faith dispute);</li> <li>• is, or states that it is, insolvent or unable to pay its debts when</li> </ul> </li> </ol>

<b>Term</b>	<b>Meaning</b>
	<p>they are due;</p> <ul style="list-style-type: none"> <li>• stops or suspends or threatens to stop or suspend payment of all or a class of its debts;</li> <li>• takes any steps to obtain protection or is granted protection from its creditors under the laws of any applicable jurisdiction;</li> <li>• is wound up or dissolved;</li> <li>• is deregistered, or any steps are taken for its deregistration; or</li> <li>• implements a creditors scheme of arrangement with any person;</li> </ul> <p>5 any of:</p> <ul style="list-style-type: none"> <li>• an official manager, administrator, receiver, receiver and manager, other controller, trustee in bankruptcy or any similar official is appointed, or any steps are taken to appoint any such person, to;</li> <li>• any security interest is enforced or becomes capable of being enforced against; or</li> <li>• a distress, attachment, execution or other process of a Government Agency is issued against, levied, entered upon or enforced over,</li> </ul> <p>the entity or over any asset or assets of the entity with an aggregate value exceeding \$25 million (as the case may be); or</p> <p>6 in the case of Century Programming Ventures Corp. or Liberty, any analogous event under the laws of the United States of America or of a constituent state or territory of the United States of America.</p>
<b>IRS</b>	the United States Internal Revenue Service.
<b>Liberty Confidentiality Deed</b>	the confidentiality deed between Liberty and FOXTEL dated on or about 25 May 2011.
<b>Liberty Group</b>	Liberty and each of its subsidiaries and controlled entities, excluding the AUSTAR Group Members, and a reference to a <b>Liberty Group Member</b> is to any member of the Liberty Group.
<b>Liberty Information</b>	<p>information regarding the Liberty Group provided by Liberty to AUSTAR in writing for inclusion in the Scheme Booklet, excluding any information which Liberty obtained from or based on:</p> <ol style="list-style-type: none"> <li>1 FOXTEL Information provided to Liberty, to the extent that it accurately reflects that FOXTEL Information; or</li> <li>2 AUSTAR’s public filings on ASX regarding the AUSTAR Group, to the extent that it accurately reflects those public filings.</li> </ol> <p>For the avoidance of doubt, Liberty Information does not include FOXTEL Information or AUSTAR Information, but does include representations provided by Liberty to AUSTAR for inclusion in the Scheme Booklet pursuant to clause 5.2(m) and, if a Substitution</p>

<b>Term</b>	<b>Meaning</b>
	Notice has been given, information in relation to the funding of the Scheme Consideration.
<b>Liberty Management Agreement</b>	the management services agreement between Liberty Global Services, LLC, AEPL and AUSTAR dated 14 December 2010.
<b>Liberty Released Parties</b>	Liberty, each other Liberty Group Member, and their respective directors, officers and employees.
<b>Liberty Restructure and Sale Deed</b>	the document by the same name between the parties to this deed (other than Bidder) and certain other entities and entered into on or about the date of this deed.
<b>Liberty Warranties</b>	the representations and warranties of Liberty set out in Schedule 2.
<b>Listing Rules</b>	the official listing rules of the ASX.
<b>Merged FOXTEL – AUSTAR Group</b>	the notional corporate group comprising the FOXTEL Group and the AUSTAR Group following implementation of the Transaction.
<b>Minority Shareholders</b>	AUSTAR Shareholders (other than Excluded Shareholders) from time to time.
<b>Operating Rules</b>	the official operating rules of the ASX.
<b>Regulator’s Draft</b>	the draft of the Scheme Booklet in a form acceptable to AUSTAR, Liberty and FOXTEL Management (each acting reasonably) which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.
<b>Regulatory Approval</b>	the approvals set out in clause 3.1(a).
<b>Reimbursement Fee</b>	\$19,326,500.
<b>Representative</b>	in respect of a body corporate, each director, officer, employee, advisor, agent or representative of that body corporate.
<b>RG 60</b>	Regulatory Guide 60 issued by ASIC on 11 December 2009 relating to schemes of arrangement, the application of section 411(17) of the Corporations Act and ASIC review of schemes of arrangement.

<b>Term</b>	<b>Meaning</b>
<b>Scheduled Second Court Date</b>	has the meaning given in clause 4.5(a).
<b>Scheme</b>	the scheme of arrangement under Part 5.1 of the Corporations Act between AUSTAR and the Scheme Shareholders, as described in clause 4.1 and in a form attached as Attachment 2, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by AUSTAR, Liberty and FOXTEL Management.
<b>Scheme Account</b>	an Australian dollar denominated trust account operated by AUSTAR in accordance with the Scheme.
<b>Scheme Booklet</b>	the booklet described in clause 5.1(a) to be approved by the Court and despatched to the AUSTAR Shareholders and which must include the Scheme, an explanatory statement complying with the requirements of the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules, the Independent Expert's Report, a tax letter prepared by AUSTAR's tax adviser, a notice of meeting and proxy form for the Scheme Meeting and a notice of meeting, explanatory statement and proxy form for the EGM.
<b>Scheme Consideration</b>	the consideration to be provided by the Bidder to each Scheme Shareholder for the transfer to the Bidder of each Scheme Share, being \$1.52 per Scheme Share, as reduced by the per share cash amount or value of any dividend, return of capital or other distribution by AUSTAR to AUSTAR Shareholders, the record date for which falls between the date of this deed and the Implementation Date (both dates inclusive).
<b>Scheme Financier</b>	FOXTEL Finco or, if a Substitution Notice has been given, the Substitute Financier.
<b>Scheme Funding</b>	the funding by Scheme Financier of the Estimated Total Scheme Consideration or (if a Substitution Notice has been given) the Total Scheme Consideration, in accordance with the relevant Scheme Funding Agreement.
<b>Scheme Funding Agreement</b>	<ol style="list-style-type: none"> <li>1 if a Substitution Notice is not given, the FOXTEL Funding Agreement; or</li> <li>2 if a Substitution Notice is given, the Substitute Funding Agreement.</li> </ol>
<b>Scheme Meeting</b>	the meeting of Minority Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act.

<b>Term</b>	<b>Meaning</b>
<b>Scheme Record Date</b>	7.00pm on the fifth Business Day after the Effective Date or such other day as AUSTAR, FOXTEL Management and Liberty agree in writing.
<b>Scheme Share</b>	an AUSTAR Share held by a Scheme Shareholder as at the Scheme Record Date.
<b>Scheme Shareholders</b>	Minority Shareholders as at the Scheme Record Date.
<b>Second Court Date</b>	the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard.
<b>Sensitive Confidential Information</b>	information of a party that is confidential and that the party reasonably believes: <ol style="list-style-type: none"> <li>1 is or is likely to be of a commercially sensitive nature; or</li> <li>2 the disclosure of which would be likely to be damaging to the commercial or legal interests of it or any subsidiary of it.</li> </ol>
<b>Share Register</b>	the register of members of AUSTAR maintained in accordance with the Corporations Act.
<b>subsidiary</b>	has the meaning given in the Corporations Act and also includes an entity that would be a subsidiary (within the meaning given in the Corporations Act) of another entity were both entities bodies corporate.
<b>Substitute Financier</b>	the substitute financier or financiers specified by Liberty in the Substitution Notice.
<b>Substitute Funding Agreement</b>	the loan facility agreement for the provision of the Scheme Funding by Substitute Financier to Bidder specified in the Substitution Notice.
<b>Substitute Security</b>	any guarantee, charge or other security provided by AUSTAR to secure to the Substitute Financier the payment of the Scheme Funding, and any other obligations that AUSTAR agrees to incur in connection with the Scheme Funding, as contemplated by clause 4.4(d)(3).
<b>Substitution Notice</b>	a notice given by Liberty in accordance with clause 4.4.
<b>Superior Proposal</b>	a bona fide proposal for a Competing Transaction (and not resulting from a breach by AUSTAR of its obligations under clause 10) which the Independent Directors, acting in good faith and in order to satisfy

<b>Term</b>	<b>Meaning</b>
	<p>what they consider to be their fiduciary or statutory duties (having first taken written advice from their external financial and legal advisers), determine:</p> <ol style="list-style-type: none"> <li>1 can reasonably be valued and completed in a timely manner taking into account all aspects of the Competing Transaction; and</li> <li>2 is more favourable both to AUSTAR Shareholders as a whole and to the Liberty Group than the Transaction taking into account all the terms of the Competing Transaction,</li> </ol> <p>and in determining whether a Competing Transaction is a <b>Superior Proposal</b>, the Independent Directors must have regard to its price, structure, conditionality, availability of finance and likelihood of success (including Liberty's likely response to the Competing Transaction).</p>
<b>Tax Act</b>	the <i>Income Tax Assessment Act 1997</i> (Cth).
<b>Third Party</b>	a person other than a FOXTEL Group Member, a FOXTEL Partner Group Member, a Liberty Group Member and their respective associates.
<b>Timetable</b>	the indicative timetable for the implementation of the Transaction set out in Attachment 1.
<b>Total Scheme Consideration</b>	an amount equal to the aggregate amount of Scheme Consideration payable to all Scheme Shareholders under the Scheme.
<b>Transaction</b>	the acquisition of AUSTAR by the FOXTEL Group in accordance with the Transaction Documents, including the intermediate acquisition of the Scheme Shares by the Bidder through implementation of the Scheme in accordance with the terms of this deed.
<b>Transaction Document</b>	<p>each of:</p> <ol style="list-style-type: none"> <li>1 this deed;</li> <li>2 the Scheme;</li> <li>3 the Deed Poll;</li> <li>4 the Liberty Restructure and Sale Deed;</li> <li>5 each of the FOXTEL Partner Deeds Poll;</li> <li>6 any Substitution Notice;</li> <li>7 the Scheme Funding Agreement;</li> <li>8 the AUSTAR Charge or Substitute Security (as applicable);</li> <li>9 the commitment deeds poll given on or about the date of this deed by each of Consolidated Media Holdings Limited, News Australia Holdings Pty Limited and Telstra Corporation Limited;</li> </ol>

<b>Term</b>	<b>Meaning</b>
	10 the Confidentiality Deed; 11 the Liberty Confidentiality Deed; 12 the termination agreement between Liberty Global Services, LLC, AEPL and AUSTAR relating to the Liberty Management Agreement; 13 the buy-back deed between AUSTAR and the Bidder; 14 the Escrow Deed; and 15 any document to be entered into in accordance with the terms of the above documents.
<b>Transaction Steps</b>	the steps required to implement the Transaction in its entirety, as set out in this deed and the Liberty Restructure and Sale Deed.
<b>UGC Australia</b>	UGC Australia BV, a company registered in the Netherlands.

**1.2 Interpretation**

In this deed, headings are for convenience only and do not affect interpretation and, unless the context requires otherwise:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this deed have a corresponding meaning;
- (d) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture, a partnership, a trust and any Government Agency;
- (e) a reference to a clause, party, attachment, exhibit or schedule is a reference to a clause of, and a party, attachment, exhibit and schedule to this deed, and a reference to this deed includes any attachment, exhibit and schedule;
- (f) a reference to a statute, regulation, proclamation, ordinance or by law includes all statutes, regulations, proclamations, ordinances or by laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by laws issued under that statute;
- (g) a reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing;
- (h) a reference to any document (including this deed) is to that document as varied, novated, ratified or replaced from time to time, except to the extent prohibited by this deed or that other document;
- (i) the word “includes” in any form is not a word of limitation;
- (j) a reference to “\$”, “A\$” or “dollar” is to Australian currency;

- (k) a reference to any time is, unless otherwise indicated, a reference to the time in Sydney, New South Wales;
- (l) a reference to a Substitution Notice being given is a reference to Liberty giving a Substitution Notice in accordance with (including within the time contemplated under) clauses 4.4(a) and 15.4 and a reference to a Substitution Notice not being given includes a reference to Liberty giving a Substitution Notice other than in accordance with (including outside the time contemplated under) clauses 4.4(a) and 15.4;
- (m) a reference to the Listing Rules and Operating Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party; and
- (n) a promise made in favour of two or more parties is made to them severally.

### 1.3 Business Day

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

### 1.4 Contra proferentem excluded

No term or condition of this deed will be construed adversely to a party solely on the ground that the party was responsible for the preparation of this deed or a provision of it.

## 2 Agreement to proceed with the Transaction

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### 2.1 Transaction

The parties agree to implement the Transaction in accordance with the Transaction Documents.

### 2.2 Scheme

- (a) AUSTAR agrees to propose the Scheme on and subject to the terms of this deed.
- (b) Each of FOXTEL, Liberty and Bidder agrees with AUSTAR to assist AUSTAR to propose the Scheme, on and subject to the terms of this deed.

## 3 Conditions precedent and pre-implementation steps

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### 3.1 Conditions precedent

Subject to this clause 3, the Scheme will not become Effective, and clause 4.3 is not binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in clause 3.5.

- (a) **Regulatory Approvals:** before 8:00am on the Second Court Date:
  - (1) **ACCC:** one of the following has occurred:
    - (A) FOXTEL has received written notice from the ACCC to the effect that the ACCC does not propose to oppose, intervene

or seek to prevent the implementation of the Transaction under or by reference to section 50 of the Competition Act, which notification is either unconditional or is on or requires conditions or undertakings acceptable to:

- (i) FOXTEL acting reasonably in the interests of the Merged FOXTEL – AUSTAR Group's business taken as a whole; and
  - (ii) each FOXTEL Partner acting reasonably in the interests of its FOXTEL Partner Group Business to the extent that any such conditions or undertakings may affect its FOXTEL Partner Group Business;
- (B) FOXTEL is granted clearance or authorisation to implement the Transaction by the ACCC or the Australian Competition Tribunal, unless revoked or stayed, which clearance or authorisation is either unconditional or is on or requires conditions or undertakings acceptable to:
- (i) FOXTEL acting reasonably in the interests of the Merged FOXTEL – AUSTAR Group's business taken as a whole; and
  - (ii) each FOXTEL Partner acting reasonably in the interests of its FOXTEL Partner Group Business to the extent that any such conditions or undertakings may affect its FOXTEL Partner Group Business;
- (C) the Federal Court of Australia or any other competent Australian court has made a declaration that the implementation of the Transaction would not contravene the Competition Act either unconditionally or is on or requires conditions or undertakings that would be acceptable to:
- (i) FOXTEL acting reasonably in the interests of the Merged FOXTEL – AUSTAR Group's business taken as a whole; and
  - (ii) each FOXTEL Partner acting reasonably in the interests of its FOXTEL Partner Group Business to the extent that any such conditions or undertakings may affect its FOXTEL Partner Group Business;

(In determining whether a condition or undertaking (or potential condition or undertaking) is acceptable for the purpose of this clause 3.1(a)(1), FOXTEL and the relevant FOXTEL Partners may only take into account the effect or likely effect of the condition or undertaking (when aggregated with the effect or likely effect of other conditions or undertakings relating to the Transaction, if any) on the Merged FOXTEL – AUSTAR Group's business taken as a whole or the relevant FOXTEL Partner Group Business (respectively), and not any other collateral or extraneous considerations.)

- (2) **FIRB:** with respect to each of the relevant FOXTEL Group Members, FOXTEL Partner Group Members, AUSTAR Group Members and Liberty Group Members, one of the following has occurred:
- (A) it has received a written notice under the FATA, by or on behalf of the Treasurer of the Commonwealth of Australia stating that the Commonwealth Government does not object to any acquisition by it in relation to the Transaction, either unconditionally or on terms that are acceptable to FOXTEL

- Management, AUSTAR or Liberty (as appropriate) acting reasonably; or
- (B) the Treasurer of the Commonwealth of Australia becomes precluded from making an order in relation to any acquisition by it in relation to the Transaction contemplated by it under the FATA;
- (3) **IRS:** Liberty receives a private letter ruling from the IRS acceptable to it (in its absolute discretion) relating to the United States federal income tax treatment of the Transaction (which private letter ruling has not been withdrawn, invalidated or modified in an adverse manner) and no written representation, qualification or assumption made to the IRS in obtaining that private letter ruling ceases to apply as a result of changes in law, regulation or accounting standards announced or introduced between the date of this deed and 8:00am on the Second Court Date; and
- (4) **other:** any ASX or Government Agency relief, approvals or consents are obtained, and ASX does such other acts, as are necessary to implement the Transaction,
- (together **Regulatory Approvals**).
- (b) **Court approval:** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (c) **Shareholder approval:** Minority Shareholders agree to the Scheme at the Scheme Meeting by the requisite majorities under the Corporations Act.
- (d) **Restraints:** No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency or other material legal restraint or prohibition preventing the Transaction is in effect at 8.00am on the Second Court Date.
- (e) **AUSTAR Material Adverse Change:** No AUSTAR Material Adverse Change occurs between the date of this deed and 8.00am on the Second Court Date.
- (f) **AUSTAR Prescribed Occurrence:** No AUSTAR Prescribed Occurrence occurs between the date of this deed and 8.00am on the Second Court Date.
- (g) **Independent Expert's Report:** The Independent Expert's Report concludes that the Scheme is in the best interests of Minority Shareholders and that report is not withdrawn or varied adversely prior to 8.00am on the Second Court Date.
- (h) **EGM resolutions:** Before 8.00am on the Second Court Date, AUSTAR Shareholders approve each of the EGM Resolutions at the EGM by the requisite majorities.

### 3.2 Reasonable endeavours and satisfaction of conditions precedent

- (a) AUSTAR must:
- (1) ensure that no AUSTAR Prescribed Occurrence (except, without limiting clause 3.2(a)(2), an Insolvency Event with respect to AUSTAR or any AUSTAR Material Subsidiary) occurs between the date of this deed and the Effective Date; and
- (2) use its reasonable endeavours, acting proactively, in good faith and in a timely manner to procure that no occurrences within the control of an AUSTAR Group Member take place that would cause an AUSTAR Material Adverse Change or an Insolvency Event with respect to AUSTAR or any AUSTAR Material Subsidiary to occur between the date of this deed and the Effective Date.

- (b) Liberty must use its reasonable endeavours, acting proactively, in good faith and in a timely manner to procure that no occurrences within the control of a Liberty Group Member solely in its capacity as an AUSTAR Shareholder take place that would cause an AUSTAR Material Adverse Change or an AUSTAR Prescribed Occurrence to occur between the date of this deed and the Effective Date. For these purposes, decisions, acts or omissions by any director of an AUSTAR Group Member will not be an occurrence within the control of a Liberty Group Member, and this clause 3.2(b) does not require any Liberty Group Member to cause the removal of, or to give any directions or instructions to, any director of any AUSTAR Group Member.
- (c) FOXTEL must use its reasonable endeavours, acting proactively, in good faith and in a timely manner to procure that the conditions precedent in clauses 3.1(a)(1) and 3.1(a)(2) (as it relates to the relevant FOXTEL Group Members' or FOXTEL Partner Group Members' notification under the FATA) are satisfied as soon as reasonably practicable and in any event before the End Date.
- (d) Liberty must use its reasonable endeavours, acting proactively, in good faith and in a timely manner to procure that the conditions precedent in clauses 3.1(a)(2) (as it relates to the relevant Liberty Group Members' and AUSTAR Group Members' notifications under the FATA) and 3.1(a)(3) are satisfied as soon as reasonably practicable and in any event before the End Date.
- (e) AUSTAR must provide any assistance reasonably requested by Liberty with respect to its obligations under clause 3.2(d) as they relate to the relevant AUSTAR Group Members' notification under the FATA.
- (f) Each party must:
  - (1) use its respective reasonable endeavours, acting proactively, in good faith and in a timely manner to procure that the conditions precedent in clauses 3.1(a)(4), 3.1(b), 3.1(c), 3.1(d), 3.1(g) and 3.1(h) are satisfied as soon as reasonably practicable and in any event before the End Date; and
  - (2) otherwise cooperate with, and provide reasonable assistance to, each other party or parties responsible for satisfaction of each condition precedent.
- (g) If the conditions in clauses 3.1(a)(1) and 3.1(a)(2) have not been satisfied by the date which is 10 Business Days prior to the then-scheduled date of the Scheme Meeting, unless AUSTAR, FOXTEL Management and Liberty otherwise agree in writing, AUSTAR must postpone the Scheme Meeting to the date that is 10 Business Days after AUSTAR reasonably expects that those conditions will have been satisfied (and make all such necessary applications to the Court and notifications to AUSTAR Shareholders to achieve this outcome). This provision may apply on more than one occasion.

### **3.3 Regulatory Approvals – ACCC**

- (a) For the purposes of clause 3.2(c), FOXTEL will be taken to have satisfied the obligation under that clause to use reasonable endeavours solely insofar as that obligation relates to the acceptance or non-acceptance by it or any FOXTEL Partner of actual or potential conditions by, or undertakings to, the ACCC, if it or the FOXTEL Partner (as applicable) complies with the last paragraph of clause 3.1(a)(1).
- (b) For purposes of the reasonable endeavours obligation in clause 3.2(c) and the requirement to act reasonably in clause 3.1(a)(1), FOXTEL or a FOXTEL Partner would not be using reasonable endeavours or acting reasonably (as

appropriate) if it took into account any matters other than just the effect or likely effect of the condition or undertaking on the Merged FOXTEL – AUSTAR Group's business taken as a whole or the relevant FOXTEL Partner Group Business (as the case may be).

- (c) FOXTEL must keep AUSTAR informed of the progress towards satisfaction of the condition precedent in clause 3.1(a)(1) and, except to the extent prohibited by the ACCC, each of FOXTEL and AUSTAR must:
- (1) promptly notify, and provide copies to each other, of all communications between either of them and the ACCC; and
  - (2) consult, and provide the other with a draft copy of any submissions or other proposed correspondence, a reasonable time before sending the submission or correspondence to the ACCC.

However, a party is not required to disclose Sensitive Confidential Information, provided that if:

- (3) such Sensitive Confidential Information is contained in a document required to be provided by a party to another under clause 3.3(c)(1) or 3.3(c)(2), the party may redact all such information but must provide the document to the other party; and
  - (4) such Sensitive Confidential Information is not contained in a document, the party must in complying with clause 3.3(c)(1) or 3.3(c)(2), to the extent possible without disclosing such information, provide the other party with sufficient detail of the topic and content of the communication or correspondence to enable it to understand the context and relevance of the information to FOXTEL's endeavours to satisfy the condition precedent.
- (d) FOXTEL (on the one hand) and AUSTAR (on the other hand) must each allow up to 2 legal representatives (including either or both of internal and external legal representatives) of the other the opportunity to be present as observers at any meetings with the ACCC unless agreed otherwise between them, acting in good faith and reasonably, or unless required otherwise by the ACCC. Observers of a party must leave the meetings on the request of the other party where discussions relate to Sensitive Confidential Information. This clause 3.3(d) does not apply to any meetings between a FOXTEL Partner Group Member and the ACCC other than when that FOXTEL Partner Group Member is expressly acting for and on behalf of the FOXTEL Partnership or any other FOXTEL Group Member.
- (e) FOXTEL must promptly inform AUSTAR of all matters of which the chief executive officer of FOXTEL or any of his direct reports have been informed by a FOXTEL Partner Group Member that are directly relevant to the Transaction and have been discussed between a member of the same FOXTEL Partner Group as that FOXTEL Partner Group Member and the ACCC, unless required otherwise by the ACCC. Nothing in this clause 3.3(e) obliges FOXTEL to disclose Sensitive Confidential Information of a FOXTEL Partner Group Member.

### **3.4 Regulatory Approvals – FIRB, IRS and other**

- (a) Subject to clause 3.4(b), FOXTEL and Liberty must provide copies of their respective applications and notifications under the FATA to each other party and regular updates on the progress of their respective approvals. For the avoidance of doubt, the application and notification relating to the AUSTAR Group will form part of the applications and notifications prepared and lodged by Liberty.

- (b) In complying with clause 3.4(a), a party is not required to disclose Sensitive Confidential Information, provided that if such Sensitive Confidential Information is contained in a document required to be provided by a party to another under clause 3.4(a), the party may redact all such information but must provide the document to the other party.
- (c) Liberty must provide regular updates to FOXTEL Management as to the status of the private letter ruling from the IRS. Liberty must also give FOXTEL Management:
  - (1) a copy of its initial ruling application;
  - (2) copies of any correspondence with the IRS to the extent it concerns elements of the transaction structure affecting FOXTEL or contains representations, qualifications or assumptions made to the IRS in obtaining that private letter ruling; and
  - (3) a copy of the final ruling, promptly upon receipt by Liberty,except that Liberty is not required to disclose Sensitive Confidential Information. Liberty's obligation to provide copies of correspondence under paragraphs (2) and (3) survives any waiver by it of the condition precedent in clause 3.1(a)(3).
- (d) The parties must provide regular updates to each other on the progress of any incidental relief, approvals or consents to which clause 3.1(a)(4) apply.

### **3.5 Waiver of conditions precedent**

- (a) The conditions precedent in clauses 3.1(a) (except clauses 3.1(a)(3)), 3.1(b), 3.1(c) and 3.1(d) cannot be waived.
- (b) The conditions precedent in clauses 3.1(g) and 3.1(h) are for the benefit of all of the parties and any breach or non-fulfilment of either condition precedent may only be waived with the written consent of all of the parties (each in its absolute discretion).
- (c) The conditions precedent in clauses 3.1(e) and 3.1(f) are for the sole benefit of FOXTEL and may only be waived by FOXTEL (in its absolute discretion) in writing.
- (d) The condition precedent in clause 3.1(a)(3) is for the sole benefit of Liberty and may only be waived by Liberty (in its absolute discretion) in writing.
- (e) If a party waives the breach or non-fulfilment of any of the conditions precedent, that waiver does not prevent it from suing another party for any breach of this deed that resulted in the breach or non-fulfilment of the condition precedent.
- (f) Waiver of a breach or non-fulfilment in respect of one condition precedent does not constitute:
  - (1) a waiver of breach or non-fulfilment of any other condition precedent resulting from the same event; or
  - (2) a waiver of breach or non-fulfilment of that condition precedent resulting from any other event.

### **3.6 Certain notices**

- (a) If, before the time specified for satisfaction of a condition precedent, an event that will prevent that condition precedent being satisfied occurs, the party with knowledge of that event must promptly give the other parties written notice of that event.

- (b) Each party must promptly upon becoming aware, advise each other party orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause:
- (1) a representation or warranty provided in this deed by any party to be false;
  - (2) non-fulfilment of any of the conditions precedent; or
  - (3) a material breach of this deed by any party.

### 3.7 Shareholder Approval

If the Scheme is not approved by a majority in number of Minority Shareholders present and voting (in person or by proxy) at the Scheme Meeting (**headcount test**), that fact will not of itself be treated as preventing the condition precedent in clause 3.1(c) from being satisfied, and AUSTAR must, unless its counsel certifies after due enquiry by AUSTAR that there are no reasonable prospects of success on such an application, do everything it reasonably can to obtain Court approval of the Scheme in accordance with section 411(4)(b) of the Corporations Act, and an order of the Court in accordance with section 411(4)(a)(ii)(A) of the Corporations Act that the headcount test need not be satisfied, and must consult and co-operate fully with the other parties in that regard.

## 4 Scheme steps

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### 4.1 Scheme

AUSTAR must propose a scheme of arrangement under which all of the Scheme Shares will be transferred to the Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration.

### 4.2 No amendment to the Scheme without consent

AUSTAR must not consent to any modification of, or amendment to, or the making or imposition by a court of any condition in respect of, the Scheme without the prior written consent of each of FOXTEL Management and Liberty (each in its absolute discretion).

### 4.3 Scheme Consideration

Each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder.

### 4.4 Substitution Notice

- (a) At any time prior to 5:00pm on the day that is 7 Business Days after the later of:
- (1) the date on which Liberty receives a private letter ruling from the IRS acceptable to it (in its absolute discretion) relating to the United States federal income tax treatment of the Transaction or waives the condition in clause 3.1(a)(3); and
  - (2) the date on which the parties are satisfied that the condition in clause 3.1(a)(1) has been satisfied.

Liberty may give a Substitution Notice to FOXTEL Management and AUSTAR.

- (b) A Substitution Notice must set out:
- (1) the name of the Substitute Financier;

- (2) a description of the Substitute Funding Agreement and any Substitute Security; and
  - (3) a confirmation from Liberty that with the Substitute Funding Agreement it has financing commitments available to it on a certain funds basis sufficient to enable Bidder to comply with its obligations to pay the Total Scheme Consideration in accordance with the Scheme and the Deed Poll.
- (c) If a Substitution Notice is not given, then AUSTAR will execute the AUSTAR Charge in favour of FOXTEL Finco at least two Business Days before the Scheme Meeting.
- (d) If a Substitution Notice is given, then:
- (1) the obligation of FOXTEL Finco to provide the Loan (as defined in the FOXTEL Funding Agreement) to the Bidder shall immediately be cancelled in accordance with the terms of the FOXTEL Funding Agreement, the Bidder and AUSTAR are discharged from any further obligations under the FOXTEL Funding Agreement and AUSTAR is discharged from any obligation to execute the AUSTAR Charge;
  - (2) at least two Business Days before the Scheme Meeting:
    - (A) the Bidder will enter into a Substitute Funding Agreement in the form reasonably requested by Liberty and provide a copy of the Substitute Funding Agreement to FOXTEL Management; and
    - (B) if AUSTAR is expressed to be a party to the Substitute Funding Agreement, AUSTAR will enter into a Substitute Funding Agreement in the form reasonably requested by Liberty, but only if the Substitute Funding Agreement does not provide for AUSTAR to incur any obligations until on or after the later of 14 days after the EGM Resolutions are approved and the time the Total Scheme Consideration is received into the Scheme Account;
  - (3) at least two Business Days before the Scheme Meeting, AUSTAR will grant any Substitute Security in favour of the Substitute Financier (or any security trustee acting on behalf of the Substitute Financier) in the form reasonably requested by Liberty and provide a copy of each Substitute Security to FOXTEL Management, but only if the Substitute Security does not provide for AUSTAR to Encumber any assets until on or after the later of 14 days after the EGM Resolutions are approved and the time the Total Scheme Consideration is received into the Scheme Account; and
  - (4) after the Implementation Date, AUSTAR will enter into all documents reasonably requested by Liberty to novate rights, powers, remedies and obligations in respect of the Substitute Funding Agreement to AUSTAR and on to any Liberty Group Member as contemplated by the Transaction Steps.

For the avoidance of doubt, nothing in this clause 4.4(d) requires AUSTAR to enter into a Substitute Funding Agreement or grant a Substitute Security if entering into the transaction, or giving effect to the transaction, causes an Insolvency Event in relation to AUSTAR or any AUSTAR Material Subsidiary.

- (e) For the avoidance of doubt, the parties acknowledge that:
- (1) following completion of the Transaction, the FOXTEL Group will directly or indirectly own 100% of AUSTAR;

- (2) it is an essential element of the Transaction that FOXTEL Finco provides the FOXTEL Funding in accordance with the FOXTEL Funding Agreement and this deed if Liberty does not give a Substitution Notice; and
- (3) as a result, while it reserves the right to do so, there is no obligation on Liberty to give a Substitution Notice even if FOXTEL Finco fails to provide the FOXTEL Funding in accordance with the FOXTEL Funding Agreement and this deed.

#### 4.5 Funding of Scheme Consideration

- (a) At least three Business Days before the Second Court Date, AUSTAR must give a notice confirming the scheduled Second Court Date (**Scheduled Second Court Date**) and setting out AUSTAR's estimate of the Total Scheme Consideration (**Estimated Total Scheme Consideration**) based on the total number of AUSTAR Shares held by Minority Shareholders as at a recent date to:
  - (1) if a Substitution Notice has not been given, FOXTEL Management; or
  - (2) if a Substitution Notice has been given, the Bidder and FOXTEL Management.
- (b) If a Substitution Notice has not been given:
  - (1) FOXTEL must cause FOXTEL Finco to deposit into the Escrow Account before 2:00pm on the day one Business Day before the Scheduled Second Court Date an amount not less than the Estimated Total Scheme Consideration;
  - (2) subject to FOXTEL complying with its obligations under paragraph (1) and AUSTAR giving the Escrow Agent a notice contemplated by clause 4.7(a)(3), Liberty and the Bidder must cause an amount equal to the lesser of:
    - (A) the Estimated Total Scheme Consideration; and
    - (B) the Total Scheme Consideration,to be transferred to the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to apply it towards payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date; and
  - (3) if the Estimated Total Scheme Consideration is less than the Total Scheme Consideration, the Bidder must pay the difference into the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to apply it towards payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date.
- (c) If a Substitution Notice has been given, the Bidder must pay the Total Scheme Consideration into the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date, in full satisfaction of all obligations of the Bidder and Liberty under this deed and the Deed Poll to pay the Scheme Consideration to each Scheme Shareholder in accordance with the Scheme.

#### 4.6 Transfer of Scheme Shares and payment

In consideration of the transfer to the Bidder of each AUSTAR Share held by a Scheme Shareholder under the terms of the Scheme, on the Implementation Date and (if a

Substitution Notice is not given) subject to receipt of the Estimated Total Scheme Consideration into the Escrow Account as described in clause 4.5(b)), the Bidder will, and Liberty will procure the Bidder to:

- (a) accept that transfer; and
- (b) provide to, or procure the provision to, each Scheme Shareholder the Scheme Consideration for each Scheme Share,

in accordance with the terms of the Scheme and the Deed Poll.

#### **4.7 Escrow**

- (a) If a Substitution Notice has not been given, then:
  - (1) the Bidder must, and FOXTEL must procure that FOXTEL Finco, each execute an Escrow Deed in the relevant form with the Escrow Agent at least two Business Days before the Scheme Meeting;
  - (2) the Bidder and FOXTEL must, and FOXTEL must procure that FOXTEL Finco, each promptly give or join in giving all such instructions as are necessary to operate the Escrow Account and apply all amounts in that account in accordance with the provisions of this clause 4.7(a);
  - (3) AUSTAR must give the Escrow Agent an instruction in the form contemplated by the Escrow Deed and signed by an authorised signatory of AUSTAR attaching a copy of the Court order approving the Scheme as soon as possible after an office copy of the order has been lodged with ASIC in accordance with section 411(10) of the Corporations Act;
  - (4) the Escrow Agent will hold all rights to the amount deposited in the Escrow Account (being not less than the Estimated Total Scheme Consideration) on trust for FOXTEL Finco until such time as the Scheme becomes Effective, and after that time the lesser of the Estimated Total Scheme Consideration and the Total Scheme Consideration on trust for the Bidder;
  - (5) the Escrow Agent will hold all rights to all remaining amounts in the Escrow Account on trust for FOXTEL Finco;
  - (6) subject to clause 4.7(a)(7), clause 4.7(a)(8) and clause 4.7(a)(9), the Escrow Agent may only act if it receives an instruction from both the Bidder and FOXTEL Finco;
  - (7) upon receipt of the instruction contemplated by clause 4.7(a)(3), the Escrow Agent will be authorised to pay:
    - (A) an amount equal to the lesser of the Estimated Total Scheme Consideration and the Total Scheme Consideration to the Scheme Account in sufficient time before the Implementation Date to enable (together with any amount paid by the Bidder under clause 4.5(b)(3)) AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date, in full satisfaction (together with any amount paid by the Bidder under clause 4.5(b)(3)) of all obligations of the Bidder and Liberty under this deed and the Deed Poll to pay the Scheme Consideration to each Scheme Shareholder in accordance with the Scheme; and
    - (B) following that payment, the remaining balance of the Escrow Account to FOXTEL Finco;

- (8) if this deed is terminated after the Estimated Total Scheme Consideration has been deposited into the Escrow Account, the Bidder must give, and FOXTEL must cause FOXTEL Finco to give, the Escrow Agent (with a copy to AUSTAR and each other) on the next Business Day an instruction in the form contemplated by the Escrow Deed to pay the balance of the Escrow Account to FOXTEL Finco;
  - (9) if the Scheme does not become Effective within 15 Business Days after the Second Court Date, FOXTEL may cause FOXTEL Finco to give the Escrow Agent (with a copy to AUSTAR and the Bidder) an instruction in the form contemplated by the Escrow Deed to pay the balance of the Escrow Account to FOXTEL Finco; and
  - (10) upon payment by the Escrow Agent in accordance with a direction under clause 4.7(a)(8) or 4.7(a)(9) the FOXTEL Funding Agreement and the AUSTAR Charge are terminated and FOXTEL must procure that FOXTEL Finco releases each Liberty Group Member and AUSTAR Group Member from all obligations under them for no further consideration.
- (b) Each of:
- (1) Liberty undertakes to FOXTEL that it will refrain (and procure that each other Liberty Group Member refrains);
  - (2) FOXTEL undertakes to Liberty that it will refrain (and procure that each other FOXTEL Group Member refrains); and
  - (3) AUSTAR undertakes to each of Liberty and FOXTEL that it will refrain (and procure that each other AUSTAR Group Member refrains),
- from taking any action, including by seeking any remedy, the purpose or effect of which is to prevent the Escrow Agent from complying with a valid direction given under the Escrow Deed.

## 5 Implementation

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### 5.1 AUSTAR's obligations

AUSTAR must take, and must procure that each AUSTAR Group Member takes, all necessary steps to implement the Scheme and the Transaction Steps as soon as is reasonably practicable and without limiting the foregoing use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step and in the order set out in the Transaction Steps (and must consult FOXTEL Management and Liberty on a regular basis about its progress in that regard), including doing any acts it is authorised and able to do, on behalf of AUSTAR Shareholders, and including each of the following:

- (a) **preparation of Scheme Booklet:** prepare and despatch the Scheme Booklet in accordance with all applicable laws and in particular with the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules;
- (b) **accuracy of AUSTAR Information:** confirm to Liberty and FOXTEL Management the accuracy of the AUSTAR Information in the Scheme Booklet;
- (c) **directors' recommendation:** include in the Scheme Booklet:
  - (1) a statement by the Independent Directors unanimously recommending that Minority Shareholders vote in favour of the Scheme and all of the EGM Resolutions; and

- (2) a statement that each Independent Director will vote, or procure the voting of, any Independent Director AUSTAR Shares held by him or on his behalf at the time of the Scheme Meeting in favour of the Scheme and held at the time of the EGM in favour of the EGM Resolutions,

in each case, in the absence of any Superior Proposal and subject to the Independent Expert concluding that that the Scheme is in the best interests of Minority Shareholders (and it not varying adversely or withdrawing that conclusion);

- (d) **section 411(17)(b) statement:** apply to ASIC for the production of:
- (1) an indication of intent letter stating that it does not intend to appear before the Court on the First Court Date; and
- (2) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (e) **Court direction:** apply to the Court for orders pursuant to section 411(1) of the Corporations Act directing AUSTAR to convene the Scheme Meeting;
- (f) **ASIC relief:** if clause 8305 of Schedule 8 to the Corporations Regulations applies, apply to ASIC for its consent in writing to the Independent Expert's Report being included in the Scheme Booklet;
- (g) **ASIC registration:** arrange for ASIC to register the explanatory memorandum included in the Scheme Booklet under section 412(6) of the Corporations Act;
- (h) **update Scheme Booklet:** if it becomes aware of information after the Scheme Booklet has been sent to AUSTAR Shareholders that is material for disclosure to AUSTAR Shareholders in deciding whether to approve the Scheme or the EGM Resolutions or that is required to be disclosed to AUSTAR Shareholders under any applicable law, inform AUSTAR Shareholders of the information in an appropriate and timely manner, in accordance with applicable law, after consulting with FOXTEL Management and Liberty as to the content and presentation of that information;
- (i) **Proxy reports:** report to FOXTEL Management and Liberty the status of proxy forms received by the AUSTAR Registry for the Scheme Meeting and the EGM on an aggregated basis that does not identify individual AUSTAR Shareholders, as at 15, 12, 9, 6, 4 and 3 Business Days before the Scheme Meeting and the EGM and as at the deadline for receipt of proxy forms for the Scheme Meeting and the EGM;
- (j) **Scheme Meeting:** convene the Scheme Meeting to agree to the Scheme in accordance with the orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (k) **EGM:** convene the EGM to consider and, if thought fit, approve the EGM Resolutions;
- (l) **dial-up telecommunications business:** before the hearing on the Second Court Date, provide to FOXTEL Management a certificate confirming that, consistently with AUSTAR's previously stated plans, as at 8.00am on the Second Court Date, AUSTAR does not operate a dial-up telecommunications business;
- (m) **Court documents:** consult FOXTEL Management and Liberty in relation to the content of the documents required for the purpose of each of the Court hearing held for the purpose of sections 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions, certificates and draft minutes of Court orders) and consider in good faith, for the purpose of amending drafts of those documents, comments from FOXTEL

Management, Liberty and their respective Representatives on those documents;

- (n) **Court approval:** subject to all conditions precedent (other than the condition precedent in clause 3.1(b)) being satisfied or waived in accordance with this deed, apply to the Court for orders approving the Scheme as agreed to by the Minority Shareholders at the Scheme Meeting;
- (o) **certificate:** at the hearing on the Second Court Date provide to the Court a certificate confirming whether or not the conditions precedent, other than the condition precedent in clause 3.1(b), have been satisfied or waived in accordance with this deed;
- (p) **lodge copy of Court order:** lodge with ASIC an office copy of the Court order in accordance with section 411(10) of the Corporations Act approving the Scheme on the Business Day after such office copy is received;
- (q) **Scheme Consideration:** close the Share Register as at the Scheme Record Date and determine entitlements to the Scheme Consideration in accordance with the Scheme and the Deed Poll;
- (r) **registration:** subject to the Bidder having paid the Scheme Consideration in accordance with the Scheme and the Deed Poll, register all transfers of AUSTAR Shares held by Scheme Shareholders to the Bidder on or as soon as practicable after the Implementation Date;
- (s) **consultation with FOXTEL Management and Liberty:** consult FOXTEL Management and Liberty as to the content and presentation of the Scheme Booklet including:
  - (1) providing to FOXTEL Management and Liberty drafts of the Scheme Booklet and the Independent Expert's Report for the purpose of enabling FOXTEL Management and Liberty to review and comment on those draft documents. In relation to the Independent Expert's Report, FOXTEL Management and Liberty's review is to be limited to a factual accuracy review;
  - (2) taking all comments made by FOXTEL Management and Liberty into account in good faith when producing a revised draft of the Scheme Booklet;
  - (3) providing to FOXTEL Management and Liberty a revised draft of the Scheme Booklet within a reasonable time before the Regulator's Draft is finalised and to enable FOXTEL Management and Liberty to review the Regulator's Draft at least 2 Business Days before its submission; and
  - (4) obtaining written approval from FOXTEL Management and Liberty for the form and content in which the FOXTEL Information and the Liberty Information appears in the Scheme Booklet, respectively;
- (t) **information:** provide all necessary information, or procure that the AUSTAR Registry provides all necessary information, in each case in a form reasonably requested by FOXTEL Management or Liberty, about the Scheme, the Scheme Shareholders and AUSTAR Shareholders to FOXTEL Management, Liberty and their respective Representatives which FOXTEL Management or Liberty reasonably requires in order to facilitate the provision by, or on behalf of, the Bidder of the Scheme Consideration;
- (u) **ASIC and ASX review:** keep FOXTEL Management and Liberty informed of any matters raised by ASIC or (if applicable) the ASX in relation to the Scheme Booklet or the Transaction, and use reasonable endeavours to take into consideration in resolving such matters any issues raised by FOXTEL Management or Liberty;

- (v) **Independent Expert:** promptly appoint the Independent Expert to prepare the Independent Expert's Report and instruct the Independent Expert that its report consider whether:
- (1) the Scheme is in the best interests of AUSTAR Shareholders; and
  - (2) the Scheme is in the best interests of, and the acquisition of AUSTAR by FOXTEL Bidco and FOXTEL is fair to, Minority Shareholders,
- and provide assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Scheme Booklet (including any updates to that report) and any other reports or materials to be prepared by the Independent Expert (including any updates to its reports), as soon as practicable;
- (w) **compliance with laws:** do everything reasonably within its power to ensure that the Scheme is effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (x) **listing:** not do anything to cause AUSTAR Shares to cease being quoted on the ASX or to become permanently suspended from quotation prior to, and take all reasonable steps to ensure that such quotation is maintained up to, completion of the transfer of the Scheme Shares to the Bidder under the Scheme on the Implementation Date unless FOXTEL Management and Liberty have each agreed in writing. AUSTAR must apply for AUSTAR to be delisted from close of trading on the Business Day after the Implementation Date or as soon as practicable thereafter. The parties acknowledge that the suspension contemplated to occur on the Effective Date in the Timetable is not a permanent suspension for these purposes;
- (y) **information:** prepare and promptly provide to FOXTEL Management and Liberty any information regarding the AUSTAR Group that either reasonably requires to prepare the FOXTEL Information or the Liberty Information, respectively, for inclusion in the Scheme Booklet;
- (z) **EGM Resolutions:** lodge with ASIC all documents and notifications required by the Corporations Act with respect to the EGM Resolutions, including in relation to the giving of financial assistance by AUSTAR:
- (1) an ASIC Form 2601, together with the Scheme Booklet and accompanying documents before the Scheme Booklet is sent to AUSTAR Shareholders; and
  - (2) if that EGM Resolution is passed at the EGM, an ASIC Form 2205 and an ASIC Form 2602 on the date of the EGM;
- (aa) **Transaction Documents:** to the extent it has not already done so, execute (or procure execution by the relevant AUSTAR Group Member of) any Transaction Document to which it or any AUSTAR Group Member is a party, in accordance with the Transaction Steps and the Timetable; and
- (bb) **Consents:** co-operate with FOXTEL and use reasonable endeavours to identify and obtain before Completion under the Liberty Restructure and Sale Deed the consent or waiver (as applicable) of each person who would be entitled to:
- (1) take a step unfavourable (in any material respect) to the business of any AUSTAR Group Member in relation to any material agreement; or
  - (2) revoke or vary adversely any material consent, authorisation, registration, permission, licence, approval, authority or exemption of material importance of an AUSTAR Group Member from, by or with a Government Agency,

because of any Transaction Step (including as a result of any change in control of any AUSTAR Group Member). The obligation to use reasonable endeavours

to seek a consent or waiver under this clause 5.1(bb) does not include an obligation to make any payment or provide other valuable consideration in order to secure that consent or waiver or to initiate or join any proceedings.

Notwithstanding any other provision of any Transaction Document, a breach by AUSTAR of its obligations under clause 5.1(bb) does not entitle FOXTEL to terminate this deed or give rise to any other claim.

## 5.2 Liberty's obligations

Liberty must take, and must procure that each Liberty Group Member takes, all necessary steps to implement the Scheme and the Transaction Steps as soon as is reasonably practicable and without limiting the foregoing use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step and in the order set out in the Transaction Steps (and consult AUSTAR and FOXTEL Management on a regular basis about its progress in that regard), including doing each of the following:

- (a) **Liberty Information:** prepare and promptly provide to AUSTAR the Liberty Information for inclusion in the Scheme Booklet as required by all applicable Australian laws, and in particular by the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules;
- (b) **new information:** provide to AUSTAR, on a continuing basis until the Scheme Meeting, all further or new information which arises after the Scheme Booklet has been despatched that is necessary to ensure that the Liberty Information remains not materially misleading or deceptive (including by way of omission) until the date of the Scheme Meeting;
- (c) **review of Scheme Booklet:** review the drafts of the Scheme Booklet prepared by AUSTAR and provide comments as soon as practicable;
- (d) **Independent Expert's Report:** subject to the Independent Expert entering into arrangements with Liberty including in relation to confidentiality in a form reasonably acceptable to Liberty, provide any assistance or information reasonably requested by AUSTAR or by the Independent Expert in connection with the preparation of the Independent Expert's Report to be included in the Scheme Booklet (and any updates to that report);
- (e) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which through its counsel, Liberty will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this deed, the Scheme and the Deed Poll;
- (f) **Deed Poll:** at least two Business Days before the Scheme Meeting, enter into, and procure that the Bidder enters into (as applicable):
  - (1) if a Substitution Notice has not been given, a Deed Poll in the form attached as Attachment 4, subject to FOXTEL Management and FOXTEL Finco first entering into the Deed Poll; or
  - (2) if a Substitution Notice has been given, a Deed Poll in the form attached as Attachment 5,
- (g) **accuracy of Liberty Information:** confirm to AUSTAR the accuracy of the Liberty Information in the Scheme Booklet;
- (h) **EGM Resolutions:** procure that each AUSTAR Share held by or on behalf of a Liberty Group Member is voted in favour of each EGM Resolution that its holder is eligible to vote it on;

- (i) **share transfer:** if the Scheme becomes Effective, procure that the Bidder accepts a transfer of the AUSTAR Shares as contemplated by clause 4.6(a);
- (j) **compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (k) **Scheme Consideration:** if the Scheme becomes Effective, procure the provision of, by or on behalf of, the Bidder, the Scheme Consideration in the manner and amount contemplated by clause 4, the terms of the Scheme and the Deed Poll;
- (l) **Transaction Documents:** to the extent it has not already done so, execute (or procure execution by the relevant Liberty Group Member) any Transaction Document to which it or any Liberty Group Member is a party, in accordance with the Transaction Steps and the Timetable; and
- (m) **Scheme consideration:** provide AUSTAR for inclusion in the Scheme Booklet, statements in a form acceptable to AUSTAR (acting reasonably), to the effect that:
  - (1) under the Transaction, if the parties comply with their obligations in the Liberty Restructure and Sale Deed, the Liberty Group will receive from the FOXTEL Group on a pre-tax basis total cash consideration of no more than an amount equal to the Scheme Consideration multiplied by the total number of AUSTAR Shares held by or on behalf of Liberty Group Members as at the Implementation Date immediately before the Scheme Shares are transferred under the Scheme, plus (if a Substitution Notice has been given) an amount equal to any Scheme Funding; and
  - (2) no Liberty Group Member will receive any consideration from any FOXTEL Group Member or FOXTEL Partner Group Member in connection with the Transaction, other than consideration provided under the Transaction Documents in their then current form as at the date of this deed (disregarding any variation, novation or other change to any Transaction Document after that date other than the novations contemplated by the Transaction Documents in their current form).

Liberty acknowledges and agrees that it will be responsible to AUSTAR Shareholders for these statements and that such statements will constitute Liberty Information for purposes of this deed.

### 5.3 FOXTEL's obligations

FOXTEL must take, and must procure that each FOXTEL Partner Group Member and each FOXTEL Group Member takes, all necessary steps to implement the Scheme and the Transaction Steps as soon as is reasonably practicable and without limiting the foregoing use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step and in the order set out in the Transaction Steps (and consult AUSTAR and Liberty on a regular basis about its progress in that regard), including FOXTEL doing each of the following:

- (a) **FOXTEL Information:** procure, prepare and promptly provide to AUSTAR the FOXTEL Information for inclusion in the Scheme Booklet as required by all applicable Australian laws, and in particular by the Corporations Act, the Corporations Regulations, RG 60 and the Listing Rules;
- (b) **new information:** procure and provide to AUSTAR, on a continuing basis until the Scheme Meeting, all further or new information which arises after the Scheme Booklet has been despatched that is necessary to ensure that the FOXTEL Information remains not materially misleading or deceptive (including by way of omission) until the date of the Scheme Meeting;

- (c) **review of Scheme Booklet:** review the drafts of the Scheme Booklet prepared by AUSTAR and provide comments as soon as practicable;
- (d) **Independent Expert's Report:** subject to the Independent Expert entering into arrangements with FOXTEL Management including in relation to confidentiality in a form reasonably acceptable to FOXTEL Management, provide any assistance or information reasonably requested by AUSTAR or by the Independent Expert in connection with the preparation of the Independent Expert's Report to be included in the Scheme Booklet (and any updates to that report);
- (e) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act, at which through its counsel, FOXTEL will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (f) **accuracy of FOXTEL Information:** confirm to AUSTAR the accuracy of the FOXTEL Information in the Scheme Booklet;
- (g) **compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction;
- (h) **Deed Poll:** if a Substitution Notice has not been given, at least two Business Days before the Scheme Meeting, enter into, and procure that FOXTEL Finco enters into, a Deed Poll in the form attached as Attachment 4;
- (i) **funding:** if a Substitution Notice has not been given, procure that FOXTEL Finco provides funding to the Bidder in an amount equal to the Estimated Total Scheme Consideration, in the manner contemplated by clause 4.5(b) and the terms of the Scheme and Deed Poll;
- (j) **Transaction Documents:** to the extent it has not already done so, execute (or procure execution by the relevant FOXTEL Group Member or FOXTEL Partner Group Member of) any Transaction Document to which it or any FOXTEL Group Member or FOXTEL Partner Group Member is a party, including the FOXTEL Funding Agreement, in accordance with the Transaction Steps and the Timetable; and
- (k) **Scheme consideration:** provide AUSTAR for inclusion in the Scheme Booklet, statements in a form acceptable to AUSTAR (acting reasonably), to the effect that:
  - (1) under the Transaction, if the parties comply with their obligations in the Liberty Restructure and Sale Deed, the FOXTEL Group will provide the Liberty Group on a pre-tax basis total cash consideration of no more than an amount equal to the Scheme Consideration multiplied by the total number of AUSTAR Shares held by or on behalf of Liberty Group Members as at the Implementation Date immediately before the Scheme Shares are transferred under the Scheme, plus (if a Substitution Notice has been given) an amount equal to any Scheme Funding; and
  - (2) no FOXTEL Group Member or FOXTEL Partner Group Member will provide any consideration to any Liberty Group Member in connection with the Transaction, other than consideration provided under the Transaction Documents in their then current form as at the date of this deed (disregarding any variation, novation or other change to any Transaction Document after that date other than the novations contemplated by the Transaction Documents in their current form).

FOXTEL acknowledges and agrees that it will be responsible to AUSTAR Shareholders for these statements and that such statements will constitute FOXTEL Information for purposes of this deed.

#### **5.4 No application to conditions precedent**

Nothing in clauses 5.1, 5.2 or 5.3 imposes any obligations on a party, or modifies any obligations of a party in clause 3, in relation to the satisfaction of any Regulatory Approvals.

#### **5.5 Conduct of business**

- (a) Subject to clauses 5.5(b) and 5.5(c), from the date of this deed up to and including the Implementation Date, AUSTAR must conduct its business in the ordinary course and ensure that neither it (nor any other AUSTAR Group Member) does any of the following, except with the prior written consent of FOXTEL Management (such consent to be deemed to have been given if no response is received by AUSTAR from FOXTEL Management within 7 Business Days of FOXTEL Management receiving a request for consent from AUSTAR):
- (1) enter into any new agreement:
    - (A) with annual expenditure or revenue of greater than \$3 million; or
    - (B) with a term (or extended term) of more than 12 months other than an agreement that can be terminated without additional payment on not more than 60 days notice,  
or renew, extend or vary an existing agreement where such renewal, extension or variation:
      - (C) increases the expenditure or revenue under the agreement by more than \$3 million per annum; or
      - (D) extends the term by more than 12 months, other than in circumstances where the agreement (as renewed, extended or varied) can be terminated without additional payment on not more than 60 days notice;
  - (2) incur or agree to incur capital expenditure (other than where an increase in capital expenditure relates to subscriber equipment or its installation and is in response to increases in subscriber connection activity) or any other commitment that is in total more than \$2 million above that contemplated in:
    - (A) the AUSTAR 2011 Budget; or
    - (B) if in 2012, then the amount contemplated in the AUSTAR 2011 Budget adjusted for CPI;
  - (3) merge or consolidate with any corporation or acquire all or substantially all of the shares or the business or assets of any other person, firm, association, corporation or business organisation, or agree to do any of these things;
  - (4) declare itself trustee of, or Encumber, any assets or dispose of any of its assets having a value, or for an aggregated amount, in excess of \$3 million;
  - (5) do anything that would result in the de-consolidation of the AUSTAR Consolidated Tax Group;
  - (6) modify or replace any AUSTAR Group Member's constitution;

- (7) change an accounting policy applied by AUSTAR in the preparation of its 2010 consolidated financial report, other than in accordance with applicable reporting standards;
  - (8) enter into a transaction with, or provide financial accommodation to, forgive or otherwise compromise a debt owing by a Liberty Group Member;
  - (9) notwithstanding anything to the contrary in clause 5.5(a)(1):
    - (A) materially increase the aggregate remuneration paid by AUSTAR;
    - (B) materially increase the remuneration or amend any arrangement currently in place with an employee or officer whose total employment cost (taking into account salary, superannuation and other benefits) is in excess of \$150,000;
    - (C) hire any person with a total employment cost (taking into account salary, superannuation and other benefits) in excess of \$150,000 (except where the person is hired to replace an employee or position); or
    - (D) accelerate any rights to benefits of any kind, or pay or agree to pay severance payments to directors, the chief executive officer of AUSTAR (**CEO**) and employees that report directly to the CEO (except in the ordinary course, in accordance with the AUSTAR 2011 Budget or, if in 2012, then in accordance with the relevant amount or amounts contemplated in the AUSTAR 2011 Budget adjusted for CPI, or otherwise in accordance with pre-existing agreements and company policies);
  - (10) notwithstanding anything to the contrary in clause 5.5(a)(1) and excluding an AUSTAR Group Member drawing down on an existing finance facility, incur or agree to incur any borrowing or other financial liability (whether contingent or otherwise), or waive any third party default, for an individual amount or value of more than \$2 million;
  - (11) commence or settle any litigation in respect of an amount exceeding \$3 million;
  - (12) fail to pay creditors or seek payment from debtors in the ordinary course consistent with past practice; or
  - (13) fail to comply in all material respects with all applicable laws having a material impact on the AUSTAR Group's business.
- (b) Nothing in clause 5.5(a) restricts the ability of AUSTAR or another AUSTAR Group Member to do any of the following (without requiring FOXTEL's consent to do so):
- (1) respond to emergencies in a reasonable and prudent manner;
  - (2) do anything where required by, or to respond to, a change in law;
  - (3) do anything necessary or desirable to implement the Scheme or the Transaction in accordance with, and in the order set out in, the Transaction Steps (including any act contemplated by a Transaction Document including as a result of the giving of a Substitution Notice);
  - (4) if a Superior Proposal is received, respond to that proposal to the extent permitted by clause 10;
  - (5) dispose of its dial-up telecommunications business;

- (6) acquire directors' and officers' run-off indemnity insurance cover for or on behalf of the directors and officers of any AUSTAR Group Member for a period of seven years, provided that it is on commercially reasonable terms; or
  - (7) undertake any action contemplated by, or otherwise conduct the business consistently with, the AUSTAR 2011 Budget or, if in 2012, then the relevant amounts contemplated in the AUSTAR 2011 Budget adjusted for CPI.
- (c) AUSTAR may agree to pay up to \$7 million in aggregate to employees and officers of the AUSTAR Group in retention payments, if:
- (1) the retention plan in relation to such persons is first provided to FOXTEL Management; and
  - (2) AUSTAR consults with FOXTEL Management in relation to the retention plan and the persons to whom such retention payments are intended to be offered.

## 5.6 Independent Director recommendation

- (a) Subject to clause 5.6(b), AUSTAR must ensure that the Independent Directors unanimously recommend that Minority Shareholders vote in favour of:
- (1) the Scheme; and
  - (2) the EGM Resolutions,
- at the Scheme Meeting and the EGM in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Minority Shareholders (and the Independent Expert not varying adversely or withdrawing that conclusion), and the Scheme Booklet must include a statement by the Independent Directors to that effect.
- (b) AUSTAR must ensure that neither Independent Director changes, withdraws or modifies his recommendation in favour of the Scheme and the EGM Resolutions unless:
- (1) the Independent Expert:
    - (A) concludes that the Scheme is not in the best interests of Minority Shareholders; or
    - (B) having concluded that the Scheme is in the best interests of Minority Shareholders, varies adversely or withdraws that conclusion; or
  - (2) AUSTAR has received a proposal that is a Superior Proposal.
- For the purposes of this clause 5.6, customary qualifications and explanations contained in the Scheme Booklet in relation to a recommendation to vote in favour of the Scheme or the EGM Resolutions to the effect that the recommendation is made in the absence of a superior proposal from a third party will not be regarded as a failure to make or as a withdrawal of the making of a recommendation in favour of the Scheme or the EGM Resolutions.
- (c) The parties acknowledge that AUSTAR's maximum liability for any breach of this clause 5.6 will be payment of the Reimbursement Fee in accordance with clause 11.2(a).

## 5.7 Bona Fide Competing Transaction

- (a) If a proposal for a Competing Transaction, which the Independent Directors acting reasonably consider to be a bona fide proposal, is publicly announced at

any time between the date the Scheme Booklet is sent to AUSTAR Shareholders and the date on which the Scheme Meeting is held, AUSTAR must ensure that AUSTAR Shareholders are provided with all information which is known to AUSTAR and which is material to the consideration of the Scheme by Minority Shareholders, including any material information concerning the Competing Transaction (***New Information***).

- (b) AUSTAR must consult in a timely manner with ASIC in relation to the New Information and the time by which the New Information is to be sent to AUSTAR Shareholders prior to the date on which the Scheme Meeting is to be held.
- (c) Where New Information is despatched to AUSTAR Shareholders in accordance with clauses 5.7(a) and 5.7(b), AUSTAR must take such steps as are reasonably required to adjourn the holding of the Scheme Meeting to allow Minority Shareholders at least 10 Business Days prior to the last date on which proxies can be lodged with AUSTAR in relation to the Scheme Meeting to consider the New Information.
- (d) The parties agree that the Scheme Booklet will contain prominent disclosure of AUSTAR's obligations under this clause 5.7.

## **5.8 Conduct of Court proceedings**

- (a) AUSTAR, FOXTEL and Liberty are entitled to separate representation at all Court proceedings affecting the Scheme.
- (b) This deed does not give AUSTAR, FOXTEL or Liberty any right or power to give undertakings to the Court for or on behalf of any other party without that party's written consent (in its absolute discretion).
- (c) AUSTAR, FOXTEL and Liberty must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme as contemplated by this deed.

## **5.9 Responsibility statement**

The Scheme Booklet will contain a responsibility statement to the effect that:

- (a) AUSTAR is responsible for the AUSTAR Information contained in the Scheme Booklet and is also responsible for the information contained in the Scheme Booklet obtained from AUSTAR's public filings on ASX regarding the AUSTAR Group contained in, or used in the preparation of, the FOXTEL Information or the Liberty Information (to the extent that those filings are accurately reflected in the FOXTEL Information or Liberty Information, as appropriate);
- (b) FOXTEL is responsible for the FOXTEL Information contained in the Scheme Booklet; and
- (c) Liberty is responsible for the Liberty Information contained in the Scheme Booklet.

# **6 Representations and warranties**

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## **6.1 FOXTEL representations**

- (a) Each of Telstra Media and Sky Cable severally and in its personal capacity represents and warrants to each of AUSTAR and Liberty in respect of itself only the FOXTEL Warranties in each of paragraph (a)(1) and (b)(1) of Schedule 1.

- (b) Telstra Media and Sky Cable jointly and severally represent and warrant to each of AUSTAR and Liberty the FOXTEL Warranties in each of paragraph (a)(2) and (3) of Schedule 1.
- (c) FOXTEL Management (in its personal capacity) represents and warrants to each of AUSTAR and Liberty the FOXTEL Warranties in each of paragraph (a)(1) and (b)(2) of Schedule 1.
- (d) FOXTEL Management represents and warrants to each of AUSTAR and Liberty the FOXTEL Warranties, in each of paragraph (c) and (d) of Schedule 1, it being acknowledged that Telstra Media and Sky Cable are jointly and severally liable in respect of any of these FOXTEL Warranties being incorrect.

## **6.2 FOXTEL's indemnity**

Each of FOXTEL Management, Telstra Media and Sky Cable agree with each of AUSTAR and Liberty to indemnify:

- (a) AUSTAR against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which an AUSTAR Group Member suffers, incurs or is liable for; and
- (b) Liberty against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which a Liberty Group Member suffers, incurs or is liable for,

arising out of any breach by it of any FOXTEL Warranty and where that FOXTEL Warranty:

- (c) is given in a specified capacity, it indemnifies AUSTAR and Liberty in that same capacity; and
- (d) is given together with one or more other parties, either severally or jointly and severally, it indemnifies AUSTAR and Liberty together with that or those same other parties and on the same basis.

## **6.3 Liberty representations**

Subject to clause 6.10, Liberty represents and warrants to each of AUSTAR and FOXTEL each of the Liberty Warranties.

## **6.4 Liberty's indemnity**

Subject to clause 6.10, Liberty agrees with each of AUSTAR and FOXTEL to indemnify:

- (a) AUSTAR against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which an AUSTAR Group Member suffers, incurs or is liable for; and
- (b) FOXTEL against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which a FOXTEL Group Member suffers, incurs or is liable for,

arising out of any breach of any of the Liberty Warranties.

## **6.5 AUSTAR representations**

AUSTAR represents and warrants to each of FOXTEL and Liberty each of the AUSTAR Warranties that is stated to be given to each of FOXTEL and Liberty, as appropriate. The AUSTAR Warranties (other than the AUSTAR Warranties in paragraphs (a) to (c) of Schedule 3), and indemnity under clause 6.6, are subject to matters which have been fully and fairly disclosed in:

- (a) in the case of AUSTAR's liability to FOXTEL, the Disclosure Materials; and
- (b) AUSTAR's announcements on ASX prior to entry into this deed.

## **6.6 AUSTAR's indemnity**

AUSTAR agrees with each of FOXTEL and Liberty to indemnify:

- (a) FOXTEL against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which a FOXTEL Group Member suffers, incurs or is liable for; and
- (b) Liberty against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising which a Liberty Group Member suffers, incurs or is liable for,

arising out of any breach of any of the AUSTAR Warranties that are stated to be given to each, as appropriate.

## **6.7 Survival of representations**

Each representation and warranty referred to in clauses 6.1, 6.3 and 6.5:

- (a) is severable; and
- (b) survives the termination of this deed.

## **6.8 Survival of indemnities**

Each indemnity in this deed (including those in clauses 6.2, 6.4 and 6.6):

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survives the termination of this deed.

## **6.9 Timing of warranties**

Each representation and warranty made or given under clauses 6.1, 6.3 and 6.5 is given:

- (a) at the date of this deed and again at 8.00am on the Second Court Date; or
- (b) where expressed to be given at a particular time, at that time.

## **6.10 Limitations**

Notwithstanding anything in this deed, any liability of Liberty or any Liberty Group Member under this deed (other than, unless Implementation occurs, any liability to AUSTAR) is subject to any limitations or qualifications applying under the Liberty Restructure and Sale Deed.

# **7 Releases**

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## **7.1 AUSTAR directors and officers**

- (a) Each of FOXTEL Management, Telstra Media and Sky Cable (each in any capacity) and Liberty releases its respective rights, and agrees with AUSTAR

that it will not make a claim, against any AUSTAR Released Party (other than AUSTAR) as at the date of this deed in connection with:

- (1) any breach of any representations, covenants and warranties of AUSTAR or any other AUSTAR Group Member in this deed; or
- (2) any disclosures containing any statement which is false or misleading whether in content or by omission,

except where the AUSTAR Released Party has not acted in good faith or has engaged in wilful misconduct. For the avoidance of doubt, nothing in this clause 7.1(a) limits FOXTEL's right to terminate this deed under clause 12.1.

- (b) This clause 7.1 is subject to any Corporations Act restriction and will be read down accordingly. AUSTAR receives and holds the benefit of this clause to the extent it relates to each other AUSTAR Released Party as trustee for each of them.

## **7.2 FOXTEL directors and officers**

- (a) Each of AUSTAR and Liberty releases its respective rights, and agrees with FOXTEL that it will not make a claim, against any FOXTEL Released Party (other than FOXTEL) as at the date of this deed in connection with:

- (1) any breach of any representations, covenants and warranties of FOXTEL in this deed; or
- (2) any disclosures containing any statement which is false or misleading whether in content or by omission,

except where the FOXTEL Released Party has not acted in good faith or has engaged in wilful misconduct. For the avoidance of doubt, nothing in this clause 7.2(a) limits AUSTAR's or Liberty's rights to terminate this deed under clause 12.1.

- (b) Each of AUSTAR and Liberty releases its respective rights, and agrees with FOXTEL that it will not make a claim, against any FOXTEL Released Party (other than the relevant FOXTEL Partner) as at the date of this deed in connection with any breach of any representations, covenants and warranties of a FOXTEL Partner in its FOXTEL Partner Deed Poll except where the FOXTEL Released Party has not acted in good faith or has engaged in wilful misconduct. For the avoidance of doubt, nothing in this clause 7.2(b) limits AUSTAR's or Liberty's rights to terminate this deed under clause 12.1.
- (c) This clause 7.2 is subject to any Corporations Act restriction and will be read down accordingly. FOXTEL receives and holds the benefit of this clause to the extent it relates to each other FOXTEL Released Party as trustee for each of them.

## **7.3 Liberty directors and officers**

- (a) Each of FOXTEL Management, Telstra Media and Sky Cable (each in any capacity) and AUSTAR releases its respective rights, and agrees with Liberty that it will not make a claim, against any Liberty Released Party (other than Liberty and the Bidder) as at the date of this deed in connection with:

- (1) any breach of any representations, covenants and warranties of Liberty or the Bidder in this deed; or
- (2) any disclosures containing any statement which is false or misleading whether in content or by omission,

except where the Liberty Released Party has not acted in good faith or has engaged in wilful misconduct. For the avoidance of doubt, nothing in this clause 7.3(a) limits FOXTEL's right to terminate this deed under clause 12.1.

- (b) This clause 7.3 is subject to any Corporations Act restriction and will be read down accordingly. Liberty receives and holds the benefit of this clause to the extent it relates to each other Liberty Released Party as trustee for each of them.

## 8 Public announcements

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- (a) Immediately after the execution of this deed, AUSTAR and FOXTEL must issue public announcements in a form previously agreed to in writing between AUSTAR, Liberty and FOXTEL Management. The AUSTAR announcement must include:
- (1) a recommendation by the Independent Directors to Minority Shareholders that, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Minority Shareholders, Minority Shareholders vote in favour of the Scheme and the EGM Resolutions; and
  - (2) a statement that each Independent Director will vote, or will procure the voting of, any Independent Director AUSTAR Shares held by him or on his behalf at the time of the Scheme Meeting in favour of the Scheme and held at the time of the EGM in favour of the EGM Resolutions, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Minority Shareholders.
- (b) Where practicable, the parties must:
- (1) provide advanced drafts of any other public announcements in relation to the Transaction to the other parties for comment; and
  - (2) take into account any comments provided by the other parties, to the extent reasonably possible, subject to law and requirements of applicable securities exchanges.

## 9 Confidentiality and standstill extension

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### 9.1 Confidentiality deeds

- (a) AUSTAR and FOXTEL Management acknowledge and agree that they continue to be bound by the Confidentiality Deed after the date of this deed.
- (b) Liberty and FOXTEL Management acknowledge and agree that they continue to be bound by the Liberty Confidentiality Deed after the date of this deed.

### 9.2 Survival of obligations

The rights and obligations of the parties under the Confidentiality Deed and the Liberty Confidentiality Deed survive termination of this deed.

### 9.3 Standstill extension

AUSTAR and FOXTEL Management agree that, from the date of this deed:

- (a) the Confidentiality Deed is amended by:
  - (1) extending the period of FOXTEL's obligations under clause 11.1 of that deed, including its obligation to procure that the "FOXTEL Group" (as defined in that deed) observe the requirements of that clause, until the End Date;
  - (2) releasing FOXTEL from its obligations to the extent necessary or desirable to implement the Scheme or the Transaction in accordance with, and in the order set out in, the Transaction Steps (including any act contemplated by a Transaction Document); and
  - (3) removing clauses 11.2(b) and 11.2(d) of that deed, and
- (b) if at any time the Independent Directors, by unanimous resolution, determine that FOXTEL be released from its obligations under clause 11 of the Confidentiality Deed, FOXTEL will be released accordingly.

## 10 Exclusivity

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### 10.1 No-shop

During the Exclusivity Period, each of AUSTAR and Liberty must not, and must ensure that none of their respective Representatives, subsidiaries and none of the Representatives of their respective subsidiaries directly or indirectly solicit or invite, enquiries, discussions or proposals in relation to, or which may reasonably be expected to encourage or lead to, a Competing Transaction, or communicate to any person an intention to do any of those things.

### 10.2 No-talk

Subject to clause 10.3, during the Exclusivity Period, AUSTAR must not, and must ensure that none of its Representatives, no other AUSTAR Group Member and none of their Representatives directly or indirectly:

- (a) participate in or continue any discussions or negotiations; or
- (b) enter into any agreement, arrangement or understanding,

in relation to, or which may reasonably be expected to encourage or lead to, a Competing Transaction even if those things were not directly or indirectly solicited or invited by AUSTAR, any of its Representatives, any other AUSTAR Group Member or any of their Representatives or the Competing Transaction has been announced publicly.

### 10.3 Limitation to no-talk

AUSTAR, its Representatives, other AUSTAR Group Members and their Representatives may undertake any action that would otherwise be prohibited by clause 10.2 in relation to a bona fide Competing Transaction which was not brought about as a result of a breach by AUSTAR of its obligations under this clause 10, where the Independent Directors determine, in good faith, that:

- (a) the Competing Transaction is a Superior Proposal;

- (b) the Competing Transaction could reasonably be expected to become a Superior Proposal and the Independent Directors have received written advice from their external financial and legal advisers to that effect; or
- (c) not undertaking that act would or would likely involve a breach of the fiduciary duties owed by any AUSTAR director or would otherwise be unlawful, and the Independent Directors have received written advice from their external legal advisers to that effect.

#### **10.4 No due diligence**

Subject to clause 10.5, during the Exclusivity Period:

- (a) AUSTAR must not, and must ensure that none of its Representatives, other AUSTAR Group Members and their Representatives; and
- (b) Liberty must not, and must ensure that none of its Representatives, other Liberty Group Members and their Representatives,

directly or indirectly provide or make available any material confidential information concerning the AUSTAR Group or any of its businesses or operations to any Third Party in connection with, or for the purposes of, a current or future Competing Transaction.

#### **10.5 Limitation to no due diligence**

AUSTAR and the other AUSTAR Group Members, Liberty and the other Liberty Group Members, and each of their respective Representatives may undertake any action that would otherwise be prohibited by clause 10.4 in relation to a bona fide Competing Transaction which was not brought about as a result of a breach by AUSTAR or Liberty of their obligations under this clause 10, where the Independent Directors or the directors of Liberty (as appropriate) determine, in good faith, that:

- (a) the Competing Transaction is a Superior Proposal; or
- (b) the Competing Transaction could reasonably be expected to become a Superior Proposal and the Independent Directors have received written advice from their external financial and legal advisers to that effect,  
and:
  - (1) the Third Party to whom the material confidential information concerning the AUSTAR Group or any of its businesses or operations is provided or made available has entered into a binding agreement in favour of AUSTAR substantively on the same terms as the provisions of the Confidentiality Deed relating to the use and disclosure of the confidential information; and
  - (2) within 2 Business Days of providing or making available that material confidential information to the Third Party, AUSTAR provides to FOXTEL Management any part of that information not previously provided or made available to FOXTEL or the FOXTEL Partners; or
- (c) not undertaking that act would or would likely involve a breach of the fiduciary duties owed by any AUSTAR director or Liberty director (as appropriate), or would otherwise be unlawful, and the Independent Directors have received written advice from their external legal advisers to that effect.

## 10.6 Compliance with law

- (a) If it is finally determined by the court, or the Takeovers Panel, that the agreement by AUSTAR and Liberty under this clause 10 or any part of it:
- (1) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of an AUSTAR director or a Liberty director (as the case may be); or
  - (2) constituted, or constitutes, or would constitute, unacceptable circumstances within the meaning of the Corporations Act; or
  - (3) was, or is, or would be, unlawful for any other reason,
- then, to that extent (and only to that extent) AUSTAR or Liberty (as appropriate) will not be obliged to comply with that provision of this clause 10.
- (b) The parties must not make or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 10.6.
- (c) The agreement by Liberty under this clause 10 applies only to the extent that it is not inconsistent with any exemption, modification or other relief granted to it (alone or with any one or more FOXTEL Group Members) by ASIC.

## 10.7 Termination of discussions

Each of AUSTAR and Liberty represents and warrants that, other than the discussions with FOXTEL in respect of the Transaction, it is not as at the date of this Deed in discussions or negotiations with any Third Party in respect of a Competing Transaction.

# 11 Payment of costs – Reimbursement Fee

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## 11.1 Background

This clause 11 has been agreed to in circumstances where:

- (a) AUSTAR and FOXTEL believe the implementation of the Scheme will provide significant benefits to AUSTAR, FOXTEL and their respective shareholders, and AUSTAR and FOXTEL acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, FOXTEL will incur significant costs, including significant opportunity costs;
- (b) FOXTEL requested provision be made for the payments outlined in this clause 11, without which FOXTEL would not have entered into this deed and the proposal would not have been put to AUSTAR;
- (c) each of FOXTEL's board and the AUSTAR Board believe that it is reasonable and appropriate for both parties to agree to the payment referred to in this clause 11 to secure FOXTEL entry into this deed and the benefits to AUSTAR Shareholders from participation in the Transaction; and
- (d) both parties have received legal advice in relation to this deed and the operation of this clause 11.

**11.2 Payment of Reimbursement Fee by AUSTAR**

- (a) Subject to clauses 11.2(b) and 11.5, AUSTAR must pay the Reimbursement Fee to FOXTEL Management, without set-off or withholding, if:
- (1) before the earlier of the date of the Scheme Meeting or the End Date, either Independent Director changes adversely or withdraws his recommendation in favour of the Scheme and the EGM Resolutions or his statement that he will vote, or procure the voting of, any Independent Director AUSTAR Shares held by him or on his behalf at the time of the Scheme Meeting in favour of the Scheme and held at the time of the EGM in favour of the EGM Resolutions, unless:
    - (A) the Independent Expert concludes in the Independent Expert's Report (including by variation to a prior report) that the Scheme is not in the best interests of Minority Shareholders; or
    - (B) the Independent Expert withdraws a prior report that concluded that the Scheme is in the best interests of Minority Shareholders,and, in either case, otherwise than in circumstances where the Independent Expert reaches that conclusion or withdraws its report as a result of a Superior Proposal having been announced or made public; or
  - (2) before the End Date, a Third Party announces a Superior Proposal and:
    - (A) the sale by Liberty of its AUSTAR Shares to that Third Party or any associate of that Third Party pursuant to that Superior Proposal is completed; or
    - (B) in the case of a Superior Proposal of the kind referred to in item 4 of the definition of 'Competing Transaction', the Competing Transaction is substantially completed, within 12 months of that Superior Proposal having been announced.
- (b) Despite anything in clause 11.2(a), AUSTAR is not required to pay the Reimbursement Fee to FOXTEL Management if:
- (1) this deed is terminated pursuant to:
    - (A) clause 12.1(a) because one or more of the conditions precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d), 3.1(e) or 3.1(h) has not been waived or satisfied by the End Date, or cannot be waived or satisfied by the End Date; or
    - (B) clause 12.1(c); or
  - (2) this deed is terminated pursuant to:
    - (A) clause 12.1(a) because the condition precedent in clause 3.1(g) has not been waived or satisfied by the End Date, or cannot be waived or satisfied by the End Date; or
    - (B) clause 12.1(b) or clause 12.1(d)(2),except in each case where the termination is a result of a Superior Proposal or a conclusion, or change of conclusion, by the Independent Expert as a result of a Superior Proposal having been announced or made public.

**11.3 Written demand**

- (a) AUSTAR must pay the Reimbursement Fee to FOXTEL Management within 10 Business Days after receiving a written demand from FOXTEL Management.
- (b) The demand for payment of the Reimbursement Fee can only be made after the occurrence of an event referred to in clause 11.2.
- (c) AUSTAR is only liable to pay the Reimbursement Fee once.

**11.4 Nature of payment**

The amount payable by AUSTAR to FOXTEL Management under clause 11.2 is an amount to compensate FOXTEL for:

- (a) advisory costs (including costs of advisors, other than success fees);
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses; and
- (d) reasonable opportunity costs incurred by FOXTEL in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which FOXTEL could have developed to further its business and objectives.

**11.5 Compliance with law**

- (a) No amount will be payable by AUSTAR under clause 11.2 if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 11.2. To the extent that any amounts have already been paid to FOXTEL Management under clause 11.2 and the Scheme becomes Effective, such amounts must immediately be refunded to AUSTAR.
- (b) This clause 11 does not impose an obligation on AUSTAR to pay the Reimbursement Fee to the extent that the obligation to pay the Reimbursement Fee:
  - (1) constitutes unacceptable circumstances as declared by the Takeovers Panel; or
  - (2) is held to be unenforceable by FOXTEL Management against AUSTAR as determined by a court,after all proper avenues of appeal and review, whether judicial or otherwise, have been exhausted. The parties must take all reasonable steps to ensure that any such determination applies to the minimum extent possible.
- (c) The parties must not make, cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in clause 11.5(b).

**11.6 Other claims**

AUSTAR will have no liability to FOXTEL Management, Telstra Media or Sky Cable (each, in any capacity) for any breach of this deed that arises out of, or relates to, an act, event or occurrence referred to in clause 11.2 other than for its liability to pay the Reimbursement Fee and any interest that may be awarded as a result of the late payment of the Reimbursement Fee under clause 11.2 (where that clause applies).

## 12 Termination

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### 12.1 Termination

- (a) Any party may terminate this deed by written notice to the other parties if:
- (1) a condition precedent for the benefit of that party (or parties including that party) has not been waived or satisfied by the End Date, or cannot be waived or satisfied by the End Date, provided the terminating party has complied with its obligations to endeavour to procure satisfaction of this condition precedent under clause 3;
  - (2) the Court makes a determination not to approve the Scheme, provided the terminating party has complied with its obligations to endeavour to procure satisfaction of the condition precedent in clause 3.1(b); or
  - (3) the Scheme has not become Effective by the End Date.
- (b) Any party may terminate this deed before 8.00am on the Second Court Date by written notice to the other parties if the Independent Directors withdraw their recommendation of the Scheme to Minority Shareholders following a Superior Proposal or a report from the Independent Expert that the Scheme is not in the best interests of Minority Shareholders (including if the Independent Expert varies adversely or withdraws its earlier conclusion that the Scheme is in the best interests of Minority Shareholders).
- (c) Either of AUSTAR or Liberty may terminate this deed by written notice to the other parties:
- (1) before 8.00am on the Second Court Date if FOXTEL is in material unremedied breach of any of its material obligations under this deed or there is a material breach of a FOXTEL Warranty, and:
    - (A) Liberty or AUSTAR notifies FOXTEL Management that it believes there has been a breach of one or more of FOXTEL's material obligations or of a FOXTEL Warranty, stating its intention to terminate this deed;
    - (B) the relevant circumstances continue to exist 10 days from the time the notice is given unless the Second Court Date is scheduled to occur in that 10 day period. In that event the parties will use their reasonable endeavours to adjourn or postpone the Second Court Date for 10 days, but if the Court declines to do so, the time period for the relevant circumstances to exist will be such shorter period ending at 5.00pm on the day before the Second Court Date); and
    - (C) Liberty or AUSTAR exercises its right to terminate this deed within 5 days after the end of the 10 day period referred to in clause 12.1(c)(1)(B) (or by 8.00am on the Second Court Date, if this is earlier);
  - (2) at any time during a period of 14 days commencing on the date 5 months after the date of this deed if:
    - (A) the condition precedent in clause 3.1(a)(1) has not been satisfied by that time; and
    - (B) acting reasonably and in good faith, and after having consulted the other parties, it considers that the condition precedent in clause 3.1(a)(1) is unlikely to be satisfied by the End Date; or

- (3) before 8.00am on the Second Court Date if an Insolvency Event occurs with respect to FOXTEL Management, Telstra Media or Sky Cable (each, in any capacity).
- (d) FOXTEL may terminate this deed at any time before 8.00am on the Second Court Date if:
- (1) either of AUSTAR or Liberty is in material unremedied breach of any of its material obligations under this deed or there is a material breach of an AUSTAR Warranty or a Liberty Warranty, and:
- (A) FOXTEL notifies AUSTAR or Liberty (as appropriate) that it believes there has been a breach of one or more of that party's material obligations or of an AUSTAR Warranty or a Liberty Warranty (as appropriate), stating its intention to terminate this deed;
- (B) the relevant circumstances continue to exist 10 days from the time the notice is given unless the Second Court Date is scheduled to occur in that 10 day period. In that event the parties will use their reasonable endeavours to adjourn or postpone the Second Court Date for 10 days, but if the Court declines to do so, the time period for the relevant circumstances to exist will be such shorter period ending at 5.00pm on the day before the Second Court Date); and
- (C) FOXTEL exercises its right to terminate this deed within 5 days after the end of the 10 day period referred to in clause 12.1(d)(1)(B) (or by 8.00am on the Second Court Date, if this is earlier);
- (2) the Independent Directors do not both recommend that Minority Shareholders vote in favour of the Scheme or either Independent Director withdraws his previous recommendation to this effect; or
- (3) an Insolvency Event occurs with respect to Liberty.
- In the case of a breach of an obligation in clause 5.5, the breach will be material if it has, or would be likely to have, a material adverse effect on the AUSTAR Group's business.
- (e) AUSTAR may terminate this deed at any time before 8.00am on the Second Court Date if:
- (1) an Insolvency Event occurs with respect to Liberty or the Bidder; or
- (2) where a Substitution Notice has not been given, in breach of FOXTEL's procurement obligation under clause 4.5(b), FOXTEL Finco has not paid an amount equal to the Estimated Total Scheme Consideration into the Escrow Account in the manner required by clause 4.5(b).
- (f) Liberty may terminate this deed at any time before 8.00am on the Second Court Date if:
- (1) an Insolvency Event occurs with respect to AUSTAR or any AUSTAR Material Subsidiary; or
- (2) where a Substitution Notice has not been given, in breach of FOXTEL's procurement obligation under clause 4.5(b), FOXTEL Finco has not paid an amount equal to the Estimated Total Scheme Consideration into the Escrow Account in the manner required by clause 4.5(b).

## 12.2 Effect of termination

If this deed is terminated by any party under clause 12.1, except if that the termination results from a breach by a party of its obligations under this deed, this deed will become void and have no effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued prior to termination and other than in relation to the provisions of this clause 12 and of clauses 1, 4.7(a)(2), (4), (5), (6), (8), (9), (10) and (b), 6, 7, 9, 11, 13, 14 and 15, which will remain in force after termination.

## 12.3 Termination

Where a party has a right to terminate this deed, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other parties stating that it terminates this deed and the provision under which it is terminating the deed.

## 12.4 Terminable in writing

This deed is terminable if agreed to in writing by FOXTEL, AUSTAR, the Bidder and Liberty before 8.00am on the Second Court Date .

## 12.5 No other right to terminate or rescind

No party may terminate or rescind this deed (including on the grounds of any breach of warranty or misrepresentation that occurs or becomes apparent at any time) except as permitted under clause 12.1 or clause 12.4.

# 13 Duty, costs and expenses

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## 13.1 Stamp duty

FOXTEL must pay all stamp duties and any fines and penalties with respect to stamp duty in respect of this deed and the Scheme or the steps to be taken under this deed and the Scheme.

## 13.2 Costs and expenses

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

# 14 GST

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- (a) Any consideration or amount payable under this deed, including any non-monetary consideration (as reduced in accordance with clause 14(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.

- (c) The Additional Amount payable under clause 14(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 14(b):
  - (1) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (2) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
  - (3) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this deed:
  - (1) if an amount payable under or in connection with this deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred; and
  - (2) no Additional Amount is payable under clause 14(b) in respect of a Supply to which s 84-5 of the GST Law applies.
- (f) Any reference in this clause 14 to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.
- (g) Any term starting with a capital letter in this clause 14 that is not defined in this deed has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999 (Cth)*.

## 15 General

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### 15.1 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in a Transaction Document and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in a Transaction Document.
- (c) Each party acknowledges and confirms that clauses 15.1(a) and 15.1(b) do not prejudice any rights a party may have in relation to information which has been filed by another party with ASIC or the ASX.

**15.2 No merger**

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

**15.3 Consents**

Any consent or approval referred to in, or required under, this deed from:

- (a) any party may not be unreasonably withheld, unless this deed expressly provides for that consent to be given in that party's absolute discretion; or
- (b) FOXTEL may be sought from, and given by, FOXTEL Management, and a consent or approval so given by FOXTEL Management binds it and each of Telstra Media and Sky Cable and is taken to be a consent by or approval of FOXTEL.

**15.4 Notices**

Any communication under or in connection with this deed:

- (a) must be in legible writing. A facsimile transmission is regarded as legible unless the addressee telephones the sender within 2 hours after transmission is received or regarded as received under clause 15.4(f)(1) and informs the sender that it is not legible;
- (b) must be in English; and
- (c) must be addressed as shown below:

<b>Party</b>	<b>Address</b>	<b>Addressee</b>	<b>Fax</b>
<b>AUSTAR</b>	Level 1 46-52 Mountain Street Ultimo New South Wales 2007 Australia	Deanne Weir	+61 2 9295 0163
<b>FOXTEL</b>	c/- FOXTEL Management Pty Limited 5 Thomas Holt Drive North Ryde Sydney, NSW, 2113  with a copy to: Allens Arthur Robinson 126 Phillip Street Sydney NSW 2000 Australia	Director of Legal and Business Affairs / Chief Financial Officer   Kylie Brown / Marcus Clark	+61 2 9813 6113   + 61 2 9230 5333

<b>Liberty</b>	12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America	Legal Department	+1 303 220 6691
	With a copy to: Allen & Overy Level 25, 85 Castlereagh Street Sydney, NSW, 2000 Australia	Michael Parshall	+612 9373 7710
<b>Bidder</b>	Level 25, 85 Castlereagh Street Sydney, NSW, 2000 Australia	Michael Parshall	+612 9373 7710

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

- (d) must be signed by the party making the communication or by a person duly authorised by that party;
- (e) must be delivered to the address, or sent by fax to the fax number, of the addressee, in accordance with clause 15.4(c); and
- (f) is regarded as received by the addressee:
  - (1) if sent by fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day in the place of receipt, when that communication will be regarded as received at 9.00am on the next Business Day; and
  - (2) if delivered by hand, on delivery at the address of the addressee as provided in clause 15.4(c), unless delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day; and
- (g) in the case of a communication by a party to FOXTEL, Telstra Media or Sky Cable (including the provision of any information, notice or document), is taken to be given to FOXTEL, Telstra Media or Sky Cable (as applicable) if it is given to FOXTEL Management in accordance with the preceding paragraphs of this clause 15.4.

**15.5 Governing law and jurisdiction**

- (a) This deed is governed by the laws of New South Wales.
- (b) In relation to this deed and related non-contractual matters, each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts and waives any right to object to the venue on any ground.

**15.6 Process agent**

Liberty:

- (a) irrevocably appoints Allen & Overy, Level 25, 85 Castlereagh Street, Sydney, NSW, 2000 Australia (Attention Michael Parshall) as its agent to accept service of process and other documents in any legal action or proceedings arising out of or in any way related to this deed and related non-contractual matters before

courts of New South Wales and courts competent to hear appeals from those courts;

- (b) must ensure that at all times, the agent or a replacement acceptable to FOXTEL remains present, authorised and able to accept service of process and other documents on its behalf and, if there is a replacement, it must immediately notify the other parties and provide them with satisfactory evidence of the replacement's acceptance of its appointment; and
- (c) agrees that service of any process or documents on the agent (or any replacement) will be sufficient service on it.

### **15.7 Waivers**

- (a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) Subject to clause 15.3(b), any waiver or consent given by any party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

### **15.8 Variation**

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

### **15.9 Assignment**

A party may not assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other parties.

### **15.10 Acknowledgement**

Each party acknowledges that the remedy of damages alone may be inadequate to protect the interests of the parties, or provide adequate compensation, for a breach of this deed and that a party is entitled to seek and obtain without limitation injunctive relief or an order for specific performance if another party breaches this deed.

### **15.11 No third party beneficiary**

- (a) This deed is binding on and inures solely to the benefit of each party to it and each of their respective permitted successors and assigns.
- (b) Nothing in this deed, express or implied, is intended to or shall confer on any other person, other than the AUSTAR Released Parties, the FOXTEL Released Parties and the Liberty Released Parties to the extent set forth in clause 7, any third party beneficiary rights.

### **15.12 Further action**

Each party must do all things and execute all further documents necessary to give full effect to this deed.

**15.13 Entire agreement**

The Transaction Documents supersede all previous agreements, understandings, negotiations or deeds in respect of its subject matter and embodies the entire agreement between the parties.

**15.14 Counterparts**

- (a) This deed may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed by signing any counterpart.

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## FOXTEL Warranties

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Each of the FOXTEL Warranties is given by the relevant entity or entities identified in clause 6.1.

(a) **capacity and authority**

- (1) It has full corporate power and lawful authority to execute, deliver and perform this deed, and the execution and delivery of this deed has been properly authorised by all necessary corporate action of it.
- (2) FOXTEL Management has full corporate power and lawful authority to execute, deliver and perform this deed, and the execution and delivery of this deed has been properly authorised by all necessary action of the FOXTEL Partnership.
- (3) FOXTEL Management is authorised to enter into each of the Transaction Documents to which it is, or is to become, a party as agent for the FOXTEL Partnership.

(b) **deed binding**

- (1) This deed is a legal, valid and binding obligation of it, enforceable in accordance with its terms against it.
- (2) This deed is a legal, valid and binding obligation of it (in the case of obligations incurred in its personal capacity), enforceable in accordance with its terms against it.

(c) **not misleading** The FOXTEL Information provided for inclusion in the Scheme Booklet, as at the date the Scheme Booklet is despatched to AUSTAR Shareholders, will not contain any statement which is materially misleading or deceptive including by way of omission from that FOXTEL Information.

(d) **regulatory** As at the date of this deed:

- (1) to the extent of FOXTEL Management's knowledge of the business of FOXTEL, it reasonably believes that the transaction is not likely to have the effect of substantially lessening competition in a market pursuant to section 50 of the Competition Act either as proposed or with conditions or undertakings that are acceptable to FOXTEL and the FOXTEL Partners; and
- (2) having made enquiries of the chief executive officer of FOXTEL, who has consulted with his direct reports, but not having asked the ACCC, neither the chief executive officer nor any of his direct reports has been informed by the ACCC that:
  - (i) the ACCC would seek to oppose or prevent the implementation of the Transaction; or
  - (ii) the ACCC would only refrain from opposing or seeking to prevent the implementation of the Transaction if FOXTEL and/or one or more of the FOXTEL Partners, accept conditions imposed by the ACCC or give undertakings to the ACCC that FOXTEL believes (based on the understanding of the chief executive officer) would not be acceptable to FOXTEL and/or the FOXTEL Partners.

## Liberty Warranties

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- (a) **capacity and authority:** it has full corporate power and lawful authority to execute, deliver and perform this deed, and the execution and delivery of this deed has been properly authorised by all necessary corporate action of it;
- (b) **deed binding:** this deed is a legal, valid and binding obligation of it enforceable in accordance with its terms against it; and
- (c) **Not misleading:** the Liberty Information provided for inclusion in the Scheme Booklet, as at the date the Scheme Booklet is despatched to AUSTAR Shareholders, will not contain any statement which is materially misleading or deceptive including by way of omission from that Liberty Information.

## AUSTAR Warranties

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- (a) **capacity and authority:** it has full corporate power and lawful authority to execute, deliver and perform this deed, and the execution and delivery of this deed has been properly authorised by all necessary corporate action of AUSTAR;
- (b) **deed binding:** this deed is a legal, valid and binding obligation of AUSTAR enforceable in accordance with its terms against AUSTAR;
- (c) **information:** AUSTAR is not aware of any material price sensitive information in relation to AUSTAR that has not been disclosed to the ASX or otherwise disclosed to FOXTEL;
- (d) **Scheme Booklet:** the AUSTAR Information contained in the Scheme Booklet, as at the date the Scheme Booklet is despatched to AUSTAR Shareholders, will not contain any statement which is materially misleading or deceptive, including by way of omission from that AUSTAR Information;
- (e) **Independent Expert:** all information it has provided, or will provide, to the Independent Expert has been provided, or will be provided, in good faith;
- (f) **employee share plan:** the AUSTAR Employee General Share Plan and all other AUSTAR employee share plans are suspended, AUSTAR is not required to issue further AUSTAR Shares or other securities under these plans, and there are no other such plans or outstanding rights under any such plans which have not been satisfied; and
- (g) **dial-up telecommunications business:** as at 8.00am on the Second Court Date, AUSTAR does not operate a dial-up telecommunications business,  
and, subject to paragraphs (i) and (j) below, AUSTAR represents and warrants to FOXTEL that:
  - (h) **not misleading:** all information it has provided to FOXTEL as part of the Disclosure Materials has been provided in good faith and is not misleading or deceptive in any material respect (including by omission).  
However AUSTAR does not provide:
    - (i) any warranty or representation in relation to the completeness of that information; or
    - (j) any warranty or representation of any kind in respect of any of that information to the extent that it constitutes forward-looking information of any kind (including financial forecast information).

Executed as a deed

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Signed, sealed and delivered by  
**AUSTAR United Communications Limited**  
By

*sign here* ► \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

---

Signed, sealed and delivered by  
**Telstra Media Pty Limited**  
by its attorneys under a power of attorney dated 5 July 2011, and the attorneys declare that they  
have not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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Freehills

Executed by  
**Sky Cable Pty Limited**  
by

*sign here* ▶ \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ▶ \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

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Executed by  
**FOXTEL Management Pty Limited**  
by

*sign here* ▶ \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ▶ \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

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# Freehills

Signed, sealed and delivered by

**Liberty Global, Inc.**

by its attorney under a power of attorney dated 8 July 2011, and the attorney declares that it has not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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Signed, sealed and delivered by

**LGI Bidco Pty Limited**

by its attorney under a power of attorney dated 8 July 2011, and the attorney declares that it has not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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## Timetable

<b>Event</b>	<b>Timing</b>
Reference Date ( <b>RD</b> ) being the actual date of the Scheme Meeting and the EGM	
First Court Date <sup>1</sup>	8 December 2011
Mailing of Scheme Booklet complete	20 December 2011
FOXTEL external debt documents to be executed	RD – one week
Last date for Substitution Notice to be given	RD – 3 Business Days (assuming the conditions in clause 3.1(a)(1) and 3.1(a)(2) have been satisfied by RD – 10 Business Days)
Execution of AUSTAR Charge or Substitute Funding Agreement and Substitute Security (as applicable)	RD – 2 Business Days
Execution of Deed Poll and Escrow Deed	RD – 2 Business Days
Scheme Meeting (unless postponed)	3.00pm on Friday, 17 February 2012
EGM (unless postponed)	3.15pm on Friday, 17 February 2012
Last day for satisfaction of conditions precedent to availability of funding under the FOXTEL external debt documents (subject to the exceptions referred to in clause 6.3(b)(ii) of the Liberty Restructure and Sale Deed)	2 days before the Second Court Date
Estimated Total Scheme Consideration paid into Escrow Account	RD + 1 Business Day

<sup>1</sup> Subject to Court availability and completion of ASIC review of the Scheme Booklet.

# Freehills

Second Court Date <sup>2</sup>	RD + 2 Business Days
'Contribution Date' under the Liberty Restructure and Sale Deed (Completion of Transaction Steps 1, 2 and 3)	RD + 2 Business Days (unless Court approval given after close of business, in which case it will be RD + 3 Business Days)
AUSTAR to lodge with ASIC copy of Court order approving Scheme	RD + 3 Business Days
Effective Date, suspension of trading in AUSTAR Shares (from close of trading), drawdown under FOXTEL Funding Agreement	RD + 3 Business Days
Scheme Record Date	RD + 8 Business Days
Implementation Date	RD + 10 Business Days
AUSTAR delists from ASX <sup>3</sup>	RD + 11 Business Days
'Latest Transfer Date' under the Liberty Restructure and Sale Deed	RD + 23 Business Days
'Conversion' under the Liberty Restructure and Sale Deed	RD + 33 Business Days
'Completion' under the Liberty Restructure and Sale Deed	RD + 36 Business Days

<sup>2</sup> Subject to Court availability. If the Second Court Date occurs later than as contemplated in the Timing column of the table, the Timing of all subsequent Events will be deferred by the corresponding number of Business Days.

<sup>3</sup> Subject to ASX discretion.

Scheme

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Please see Annexure E

Scheme

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Not used

Deed Poll

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Please see Part A of Annexure F

Deed Poll

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Please see Part B of Annexure F

Scheme of Arrangement

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## Scheme of arrangement

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

Between the parties	
AUSTAR	<b>AUSTAR United Communications Limited</b> ACN 087 695 707 of Level 1, 46 – 52 Mountain Street, Ultimo, New South Wales, 2007
Scheme Shareholders	Each AUSTAR Shareholder as at the Scheme Record Date (other than Excluded Shareholders)

### 1 Definitions, interpretation and scheme components

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#### 1.1 Definitions

Schedule 1 contains definitions used in this Scheme.

#### 1.2 Interpretation

Schedule 1 contains interpretation rules for this Scheme.

#### 1.3 Scheme components

This Scheme includes any schedule to it.

### 2 Preliminary matters

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- (a) AUSTAR is a public company limited by shares, registered in New South Wales, and has been admitted to the official list of the ASX. AUSTAR Shares are quoted for trading on the ASX.
- (b) As at 7 December 2011, 1,271,505,737 AUSTAR Shares, and no other AUSTAR securities, were on issue.
- (c) Liberty is a corporation incorporated in the State of Delaware in the United States of America. Liberty's Series A, Series B and Series C common stock trade on the NASDAQ Global Select Market. The Bidder is a wholly-owned subsidiary of Liberty, registered in Victoria, Australia.
- (d) FOXTEL Management acts as agent for the FOXTEL Partnership. FOXTEL Finco, registered in Victoria, Australia, is controlled by FOXTEL.
- (e) If this Scheme becomes Effective and Liberty:

- (1) has not given a Substitution Notice, then subject to FOXTEL Finco having deposited an amount not less than the Estimated Total Scheme Consideration into the Escrow Account by no later than 2:00pm on the date one Business Day before the Scheduled Second Court Date, in accordance with the direction in clause 4.7(a)(3) of the Implementation Deed, Liberty and the Bidder will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; or
- (2) has given a Substitution Notice, Liberty and the Bidder will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll,

and, in either case, all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to the Bidder and AUSTAR will enter the name of the Bidder in the Share Register in respect of the Scheme Shares.

- (f) Among others, AUSTAR, FOXTEL, Liberty and Bidder have agreed, by executing the Implementation Deed, to implement this Scheme.
- (g) This Scheme attributes actions to Liberty and the Bidder (and, if Liberty has not given a Substitution Notice, FOXTEL and FOXTEL Finco) but does not itself impose an obligation on them to perform those actions. Liberty and the Bidder (and, if Liberty has not given a Substitution Notice, FOXTEL and FOXTEL Finco) have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme.

### 3 Conditions

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#### 3.1 Conditions precedent

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

- (a) all the conditions in clause 3.1 of the Implementation Deed (other than the condition in the Implementation Deed relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Implementation Deed by 8.00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Court Date;
- (c) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to AUSTAR, FOXTEL Management and Liberty;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to AUSTAR, FOXTEL Management and Liberty; and
- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to section 411(10) of the Corporations Act on or before the End Date (or any later date AUSTAR, FOXTEL Management and Liberty agree in writing).

### 3.2 Certificate

- (a) AUSTAR and Liberty (and, if Liberty has not given a Substitution Notice, FOXTEL Management) will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificates referred to in clause 3.2(a) constitute conclusive evidence that such conditions precedent are satisfied, waived or taken to be waived.

## 4 Implementation of the Scheme

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### 4.1 Lodgement of Court orders with ASIC

AUSTAR will lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible and in any event by 5.00pm on the first Business Day after the day on which it receives that office copy of the Court order (or any later time and date AUSTAR, FOXTEL Management and Liberty agree in writing).

### 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to the Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by AUSTAR or any of its directors, officers and secretaries as attorney and agent for Scheme Shareholders under clause 8.5), by:
  - (1) AUSTAR delivering to the Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by AUSTAR, for registration; and
  - (2) the Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to AUSTAR for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(2), AUSTAR must enter, or procure the entry of, the name of the Bidder in the Share Register in respect of all the Scheme Shares.

## 5 Scheme Consideration

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### 5.1 Provision of Scheme Consideration

- (a) If Liberty has not given a Substitution Notice, on this Scheme becoming Effective:
  - (1) AUSTAR must give the Escrow Agent an instruction in the form contemplated by the Escrow Deed and signed by an authorised signatory of AUSTAR attaching a copy of the Court order approving this Scheme, as soon as possible after it has been lodged with ASIC

pursuant to clause 4.1. Pursuant to the Escrow Deed, the Escrow Agent will pay an amount equal to the lesser of the Estimated Total Scheme Consideration and the Total Scheme Consideration to the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date; and

- (2) Liberty and the Bidder must procure, and AUSTAR must use its best endeavours to procure, that an amount equal to the Total Scheme Consideration is transferred from the Escrow Account to the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date.
- (b) If Liberty has given a Substitution Notice, on this Scheme becoming Effective, the Bidder must, Liberty must procure that the Bidder, and AUSTAR must use its best endeavours to procure that the Bidder, deposits, in cleared funds, an amount equal to the Total Scheme Consideration in the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date.
  - (c) On the Implementation Date, AUSTAR must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account.
  - (d) The obligations of AUSTAR under clause 5.1(c) will be satisfied by AUSTAR (in its absolute discretion):
    - (1) where a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the AUSTAR Registry to receive dividend payments from AUSTAR by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
    - (2) otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 5.1(d)(1), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.2).

## 5.2 Joint holders

In the case of Scheme Shares held in joint names:

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

### 5.3 Unclaimed money

- (a) AUSTAR may cancel a cheque issued under this clause 5 if the cheque:
- (1) is returned to AUSTAR; or
  - (2) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request from a Scheme Shareholder, AUSTAR must reissue a cheque that was previously cancelled under this clause.

### 5.4 Orders of a court etc.

If:

- (a) written notice is given to AUSTAR (or the AUSTAR Registry) of an order made by a court of competent jurisdiction that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by AUSTAR in accordance with this clause 5, or AUSTAR is otherwise required under any applicable law to pay such sum to a third party, then AUSTAR shall be entitled to procure that payment is made in accordance with that order or those requirements; or
- (b) written notice is given to AUSTAR (or the AUSTAR Registry) of an order made by a court of competent jurisdiction that prevents AUSTAR from making a payment by AUSTAR to any particular Scheme Shareholder in accordance with clause 5.1(d), or such payment is otherwise prohibited by applicable law, AUSTAR shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 5 is permitted by that order or otherwise by law.

## 6 Dealings in AUSTAR Shares

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### 6.1 Determination of Scheme Shareholders

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

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant AUSTAR Shares on or before the Scheme Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received on or before the Scheme Record Date at the place where the Share Register is kept,

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

## 6.2 Register

- (a) AUSTAR must register registrable transmission applications or transfers of the Scheme Shares in accordance with clause 6.1(b) on or before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires AUSTAR to register a transfer that would result in an AUSTAR Shareholder holding a parcel of AUSTAR Shares that is less than a 'marketable parcel' (as defined in the Operating Rules of the ASX).
- (b) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of or purport or agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and AUSTAR shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, AUSTAR must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for AUSTAR Shares (other than statements of holding in favour of the Bidder or any Excluded Shareholders) will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries on the Share Register in respect of the Bidder or any Excluded Shareholder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the AUSTAR Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, AUSTAR will ensure that details of the names, Registered Addresses and holdings of AUSTAR Shares for each Scheme Shareholder as shown in the Share Register are available to the Bidder in the form the Bidder reasonably requires.

## 7 Quotation of AUSTAR Shares

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- (a) AUSTAR will apply to ASX to suspend trading on the ASX in AUSTAR Shares with effect from the close of trading on the Effective Date.
- (b) On the Business Day after the Implementation Date, AUSTAR will apply:
  - (1) for termination of the official quotation of AUSTAR Shares on the ASX; and
  - (2) to have itself removed from the official list of the ASX, with effect on and from close of trading on the Business Day after the Implementation Date or as soon as practicable thereafter.

## 8 General Scheme provisions

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### 8.1 Consent to amendments to the Scheme

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

- (a) AUSTAR may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which FOXTEL Management and Liberty have consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions.

## 8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
  - (1) agrees to the transfer of their AUSTAR Shares together with all rights and entitlements attaching to those AUSTAR Shares in accordance with this Scheme;
  - (2) agrees to the variation, cancellation or modification of the rights attached to their AUSTAR Shares constituted by or resulting from this Scheme; and
  - (3) acknowledges that this Scheme binds AUSTAR and all Scheme Shareholders (including those who do not attend the Scheme Meeting or those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to AUSTAR and the Bidder, and appointed and authorised AUSTAR as its attorney and agent to warrant to the Bidder, that all their AUSTAR Shares (including any rights and entitlements attaching to those shares as at the Implementation Date) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and transfer their AUSTAR Shares to the Bidder together with any rights and entitlements attaching to those shares as at the Implementation Date. AUSTAR undertakes that it will provide such warranty to the Bidder as agent and attorney of each Scheme Shareholder.
- (c) No warranty given by a Scheme Shareholder under paragraph (b) is subject to or qualified by any information recorded in a public register or which is known, or ought following any enquiry become known, by AUSTAR, the Bidder or any other person.

## 8.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) On and from the Effective Date, the Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by AUSTAR of the Bidder in the Share Register as the holder of the Scheme Shares.

## 8.4 Appointment of sole proxy

On the Effective Date, and until AUSTAR registers the Bidder as the holder of all Scheme Shares in the Share Register:

- (a) each Scheme Shareholder is deemed to have appointed the Bidder as attorney and agent (and directed the Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by the Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend

shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;

- (b) no Scheme Shareholder may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 8.4(a));
- (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as the Bidder reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers referred to in clause 8.4(a), the Bidder and any director, officer, secretary or agent nominated by the Bidder under clause 8.4(a) may act in the best interests of the Bidder as the intended registered holder of the Scheme Shares.

## 8.5 Authority given to AUSTAR

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints AUSTAR and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Liberty and the Bidder (and, if Liberty has not given a Substitution Notice, FOXTEL and FOXTEL Finco) and AUSTAR undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Liberty and the Bidder (and, if Liberty has not given a Substitution Notice, FOXTEL and FOXTEL Finco) on behalf of and as agent and attorney for Scheme Shareholders; and
- (b) on the Implementation Date, irrevocably appoints AUSTAR and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act, necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including executing the Scheme Transfer,

and AUSTAR accepts each such appointment. AUSTAR as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

## 8.6 Binding effect of Scheme

This Scheme binds AUSTAR and all of the Scheme Shareholders (including those who did not attend the meeting of AUSTAR Shareholders to vote on this Scheme, did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of AUSTAR.

# 9 General

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## 9.1 Stamp duty

FOXTEL will (and if Liberty gives a Substitution Notice, Liberty and the Bidder will procure that FOXTEL does each of the following):

- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll or the steps to be taken under this Scheme and the Deed Poll; and

- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

## **9.2 Consent**

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

## **9.3 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to AUSTAR, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at AUSTAR's registered office or at the office of the AUSTAR Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an AUSTAR Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

## **9.4 Governing law**

- (a) This Scheme is governed by the laws in force in New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## **9.5 Further action**

AUSTAR must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

## **9.6 No liability when acting in good faith**

None of AUSTAR, Liberty or the Bidder (nor, if Liberty does not give a Substitution Notice, either of FOXTEL or FOXEL Finco), nor any director, officer or secretary of any of those companies, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Definitions and interpretation

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1 Definitions

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The meanings of the terms used in this Scheme are set out below.

<b>Term</b>	<b>Meaning</b>
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>ASX</b>	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
<b>AUSTAR</b>	AUSTAR United Communications Limited ACN 087 695 707.
<b>AUSTAR Registry</b>	Computershare Investor Services Pty Limited ACN 078 279 277.
<b>AUSTAR Share</b>	a fully paid ordinary share in AUSTAR.
<b>AUSTAR Shareholder</b>	each person who is registered as the holder of an AUSTAR Share at the relevant time.
<b>Bidder</b>	LGI Bidco Pty Limited ACN 151 767 449, an indirectly wholly owned subsidiary of Liberty.
<b>Business Day</b>	has the same meaning as in the Listing Rules.
<b>CHESS</b>	the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited ACN 008 504 532 and ASX Clear Pty Limited ACN 001 314 503.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by AUSTAR, FOXTEL Management and Liberty.

Term	Meaning
<b>Deed Poll</b>	<p>the deed poll substantially in the form of:</p> <ul style="list-style-type: none"> <li>• Attachment 1 entered into by Liberty, the Bidder, FOXTEL Management and FOXTEL Finco in favour of the Scheme Shareholders, if Liberty does not give a Substitution Notice; or</li> <li>• Attachment 2 entered into by Liberty and the Bidder in favour of the Scheme Shareholders, if Liberty gives a Substitution Notice.</li> </ul>
<b>Effective</b>	when used in relation to this Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the Court order made under section 411(4)(b) of the Corporations Act in relation to this Scheme.
<b>Effective Date</b>	the date on which this Scheme becomes Effective.
<b>End Date</b>	29 February 2012 (or such other date as AUSTAR, FOXTEL Management and Liberty agree in writing).
<b>Escrow Account</b>	the corporate trust account in the name of the Escrow Agent as trustee under the Escrow Deed at Australia and New Zealand Banking Group Limited, or such other bank agreed by the parties to the Escrow Deed from time to time.
<b>Escrow Agent</b>	Computershare Investor Services Pty Limited ACN 078 279 277 (or such other person as AUSTAR, FOXTEL Management and Liberty agree in writing).
<b>Escrow Deed</b>	a escrow deed dated [ <i>insert date</i> ] between FOXTEL Finco, the Bidder and the Escrow Agent setting out the terms of operation of the Escrow Account.
<b>Estimated Total Scheme Consideration</b>	AUSTAR's estimate of the Total Scheme Consideration based on the total number of AUSTAR Shares held by AUSTAR Shareholders (other than Excluded Shareholders) as notified to FOXTEL Management by AUSTAR on a date falling at least 3 Business Days before the Second Court Date in accordance with the requirements of the Implementation Deed.
<b>Excluded Shareholder</b>	United Astar Partners, United AUN, LLC and any other AUSTAR Shareholder who, at any relevant time, is a Liberty Group Member or any AUSTAR Shareholder to the extent that, at any relevant time, it holds AUSTAR Shares on behalf of, or for the benefit of, any Liberty Group Member.
<b>FOXTEL</b>	Telstra Media and Sky Cable, when acting in their capacity as the partners of the FOXTEL Partnership, and FOXTEL Management, when acting in its capacity as agent for the FOXTEL Partnership, collectively.
<b>FOXTEL Finco</b>	FOXTEL Finance Pty Limited ACN 151 691 897.

<b>Term</b>	<b>Meaning</b>
<b>FOXTEL Funding Agreement</b>	the agreement for the provision of the Scheme Funding entered into between AUSTAR, FOXTEL Finco and the Bidder on or about the date of the Implementation Deed.
<b>FOXTEL Management</b>	FOXTEL Management Pty Limited ACN 068 671 938 in its capacity as agent for the FOXTEL Partnership.
<b>FOXTEL Partnership</b>	the FOXTEL Partnership, a partnership between Telstra Media and Sky Cable under a partnership agreement dated 14 April 1997 (as amended and restated on 3 December 1998).
<b>Government Agency</b>	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian.
<b>Implementation Date</b>	the second Business Day after the Scheme Record Date, or such other day as AUSTAR, FOXTEL Management and Liberty agree in writing.
<b>Implementation Deed</b>	the implementation deed dated 8 July 2011 between, among others, AUSTAR, FOXTEL, Liberty and the Bidder relating to the implementation of this Scheme.
<b>Liberty</b>	Liberty Global, Inc., a Delaware corporation, of 12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America.
<b>Liberty Group Member</b>	any of Liberty and its subsidiaries and controlled entities, excluding AUSTAR and each of its subsidiaries and controlled entities .
<b>Listing Rules</b>	the official listing rules of the ASX.
<b>Registered Address</b>	in relation to a Scheme Shareholder, the address of the Scheme Shareholder shown in the Share Register as at the Scheme Record Date.
<b>Scheduled Second Court Date</b>	AUSTAR's indication of the Second Court Date notified on a date falling at least 3 Business Days before the Second Court Date in accordance with the requirements of the Implementation Deed.
<b>Scheme</b>	this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by AUSTAR, FOXTEL Management and Liberty.

<b>Term</b>	<b>Meaning</b>
<b>Scheme Account</b>	an Australian dollar denominated trust account operated by AUSTAR in accordance with this Scheme.
<b>Scheme Consideration</b>	the consideration to be provided by the Bidder to each Scheme Shareholder for the transfer to the Bidder of each Scheme Share, being \$1.52 per Scheme Share, as reduced by the per share cash amount or value of any dividend, return of capital or other distribution by AUSTAR to AUSTAR Shareholders, the record date for which falls between the date of the Implementation Deed and the Implementation Date (both dates inclusive).
<b>Scheme Funding</b>	the funding by FOXTEL Finco of the Estimated Total Scheme Consideration in accordance with the FOXTEL Funding Agreement.
<b>Scheme Meeting</b>	the meeting of AUSTAR Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act.
<b>Scheme Record Date</b>	7.00pm on the fifth Business Day after the Effective Date or such other day as AUSTAR, FOXTEL Management and Liberty agree in writing.
<b>Scheme Share</b>	an AUSTAR Share held by a Scheme Shareholder as at the Scheme Record Date.
<b>Scheme Shareholder</b>	an AUSTAR Shareholder as at the Scheme Record Date (other than an Excluded Shareholder).
<b>Scheme Transfer</b>	a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of the Bidder as transferee, which may be a master transfer of all or part of the Scheme Shares.
<b>Second Court Date</b>	the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard.
<b>Sky Cable</b>	Sky Cable Pty Limited ACN 069 799 640.
<b>Share Register</b>	the register of members of AUSTAR maintained in accordance with the Corporations Act.
<b>subsidiary</b>	has the meaning given in the Corporations Act and also includes an entity that would be a subsidiary (within the meaning given in the Corporations Act) of another entity were both entities bodies corporate.

<b>Term</b>	<b>Meaning</b>
<b>Substitution Notice</b>	a notice given by Liberty in accordance with clause 4.4 of the Implementation Deed.
<b>Telstra Media</b>	Telstra Media Pty Limited ACN 069 279 027.
<b>Total Scheme Consideration</b>	an amount equal to the aggregate amount of Scheme Consideration payable to all Scheme Shareholders under this Scheme.

## 2 Interpretation

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In this Scheme headings and bold type are for convenience only and do not affect the interpretation of this Scheme and, unless the context requires otherwise:

- (a) the singular includes the plural and the plural includes the singular;
- (b) words of any gender include all genders;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (d) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (e) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Scheme;
- (f) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re enactments of any of them;
- (g) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document, except to the extent prohibited by this Scheme or that other document;
- (h) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (i) a reference to any time is a reference to that time in Sydney, New South Wales;
- (j) a reference to a party to a document includes that party's successors and permitted assignees;
- (k) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) a reference to a Substitution Notice being given is a reference to Liberty giving a Substitution Notice in accordance with (including within the time contemplated under) clauses 4.4(a) and 15.4 of the Implementation Deed and a reference to a Substitution Notice not being given includes a reference to Liberty giving a

Substitution Notice other than in accordance with (including outside the time contemplated under) clauses 4.4(a) and 15.4 of the Implementation Deed;

- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
  - (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,

is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

### 3 Interpretation of inclusive expressions

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Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

### 4 Business Day

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

Deed Poll – No Substitution Notice

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Please see Part A of Annexure F

Deed Poll – Substitution Notice

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Please see Part B of Annexure F

## Annexure F

### Part A - Scheme Deed Poll (FOXTEL Funding)

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## Deed poll

Date ►

This deed poll is made

By each of	
Liberty	<b>Liberty Global, Inc.</b> of 12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America
Bidder	<b>LGI Bidco Pty Limited</b> ACN 151 767 449 of Level 7, Gold Fields House, 1 Alfred Street, Sydney, New South Wales 2000
FOXTEL Finco	<b>FOXTEL Finance Pty Ltd</b> ACN 151 691 897 of 5 Thomas Holt Drive, North Ryde, New South Wales 2113,
FOXTEL	<b>FOXTEL Management Pty Limited</b> ACN 068 671 938 of 5 Thomas Holt Drive, North Ryde, New South Wales, in its capacity, unless otherwise specified, as agent for the <b>FOXTEL Partnership</b>
in favour of	Each AUSTAR Shareholder as at the Scheme Record Date (other than Excluded Shareholders).
Recitals	<ol style="list-style-type: none"> <li>1 Among others, AUSTAR, FOXTEL, Liberty and Bidder entered into the Implementation Deed.</li> <li>2 In the Implementation Deed, Liberty agreed to enter into this deed poll and to procure that the Bidder enter into this deed poll, and FOXTEL agreed to enter into this deed poll and to procure that FOXTEL Finco enter into this deed poll.</li> <li>3 Liberty, the Bidder, FOXTEL and FOXTEL Finco are entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform their respective obligations under the Implementation Deed and the Scheme.</li> </ol>
This deed poll provides as follows:	

## 1 Definitions and interpretation

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### 1.1 Definitions

- (a) The meanings of the terms used in this deed poll are set out below.

Term	Meaning
<b>Scheme</b>	the proposed scheme of arrangement under Part 5.1 of the Corporations Act between AUSTAR and the Scheme Shareholders, the form of which is set out in Attachment 1 subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by AUSTAR, FOXTEL and Liberty.

- (b) Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

### 1.2 Interpretation

Section 2 of Schedule 1 of the Scheme applies to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

### 1.3 Nature of deed poll

Liberty, the Bidder, FOXTEL and FOXTEL Finco acknowledge that:

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

## 2 Conditions to obligations

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### 2.1 Conditions

- (a) Clause 3.1(a) takes effect on the date that AUSTAR Shareholders pass a resolution to approve the Scheme at the Scheme Meeting by the requisite majorities under the Corporations Act.
- (b) Subject to clause 2.1(a), the obligations of Liberty, the Bidder, FOXTEL and FOXTEL Finco under this deed poll are subject to the Scheme becoming Effective.

### 2.2 Termination

The obligations of Liberty, the Bidder, FOXTEL and FOXTEL Finco under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date.

### 2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Liberty, the Bidder, FOXTEL and FOXTEL Finco are released from their obligations to further perform this deed poll except those obligations under clause 6.2; and
- (b) each Scheme Shareholder retains the rights they have against Liberty, the Bidder, FOXTEL or FOXTEL Finco in respect of any breach of this deed poll which occurred before it was terminated.

## 3 Scheme obligations

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### 3.1 Undertaking to pay Total Scheme Consideration into Escrow Account

Subject to clause 2, each of FOXTEL and FOXTEL Finco undertakes in favour of each Scheme Shareholder that:

- (a) FOXTEL Finco will deposit, and FOXTEL will procure that FOXTEL Finco deposits, (in cleared funds) an amount not less than the Estimated Total Scheme Consideration into the Escrow Account by no later than 2:00pm on the date one Business Day before the Scheduled Second Court Date; and
- (b) it will undertake all other actions attributed to it under the Scheme, subject to and in accordance with the provisions of the Scheme.

### 3.2 Undertaking to provide Scheme Consideration

Subject to clause 2, each of Liberty and the Bidder undertakes in favour of each Scheme Shareholder that:

- (a) subject to FOXTEL Finco depositing the Estimated Total Scheme Consideration into the Escrow Account as contemplated by clause 3.1(a):
  - (1) Liberty and the Bidder will procure that an amount equal to the lesser of the Estimated Total Scheme Consideration and the Total Scheme Consideration is transferred from the Escrow Account to the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date;
  - (2) if the Estimated Total Scheme Consideration is less than the Total Scheme Consideration, the Bidder will pay, and Liberty will procure that the Bidder pays, the difference into the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to apply it towards payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date;
  - (3) the Bidder will pay (or procure payment of), and Liberty will procure that the Bidder pays (or procures payment of), the Scheme

Consideration to each Scheme Shareholder for each Scheme Share in accordance with the terms of the Scheme; and

- (b) it will undertake all other actions attributed to it under the Scheme, subject to and in accordance with the provisions of the Scheme.

## 4 Warranties

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- (a) Each of Liberty, the Bidder, FOXTEL (in its personal capacity) and FOXTEL Finco represents and warrants that:
- (1) it is a corporation validly existing under the laws of its place of registration;
  - (2) it has the corporate power to execute, deliver, and perform its obligations under, this deed poll and to carry out the transactions contemplated by this deed poll;
  - (3) it has taken all necessary corporate action to authorise its execution and delivery of this deed poll and has taken all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
  - (4) this deed poll is valid and binding on it and enforceable against it in accordance with its terms; and
  - (5) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.
- (b) FOXTEL represents and warrants that:
- (1) it has full corporate power and lawful authority to execute, deliver and perform its obligations under this deed poll, and carry out the transactions contemplated by this deed poll, on behalf of the FOXTEL Partnership;
  - (2) its execution and delivery of this deed poll, performance of this deed poll and the carrying out of the transactions contemplated by this deed poll, on behalf of the FOXTEL Partnership has been properly authorised by all necessary action of the FOXTEL Partnership;
  - (3) this deed poll is a legal, valid and binding obligation of the FOXTEL Partnership, enforceable in accordance with its terms against the FOXTEL Partnership; and
  - (4) this deed poll does not conflict with, or result in the breach of or default under, any provision of any agreement forming or regulating the FOXTEL Partnership, or any writ, order or injunction, judgment, law, rule or regulation to which FOXTEL or any partner of the FOXTEL Partnership is a party or subject or by which FOXTEL or any partner of the FOXTEL Partnership is bound.

## 5 Continuing obligations

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This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Liberty, the Bidder, FOXTEL and FOXTEL Finco have fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.

## 6 General

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### 6.1 Notices

Any communication under or in connection with this deed poll:

- (a) must be in legible writing. A facsimile transmission is regarded as legible unless the addressee telephones the sender within 2 hours after transmission is received or regarded as received under clause 6.1(f)(2) and informs the sender that it is not legible;
- (b) must be in English; and
- (c) must be addressed as shown below:

Party	Address	Addressee	Fax
<b>Liberty or Bidder</b>	12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America	Legal Department	0011 1 303 220 6691
	With a copy to: Allen & Overy Level 7, Gold Fields House, 1 Alfred Street, Sydney, NSW, 2000, Australia	Michael Parshall	+61 2 9373 7710
<b>FOXTEL or FOXTEL Finco</b>	5 Thomas Holt Drive North Ryde Sydney, NSW, 2113	General Counsel / Chief Financial Officer	+61 2 9813 7606 / +61 2 9813 6113
	With a copy to: Allens Arthur Robinson 126 Phillip Street Sydney NSW 2000 Australia	Kylie Brown / Marcus Clark	+ 61 2 9230 5333

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

- (d) must be signed by the person making the communication or by a person duly authorised by that person;
- (e) must be delivered or posted by prepaid post to the address, or sent by fax to the fax number, of the addressee, in accordance with clause 6.1(c); and

- (f) is regarded as received by the addressee:
- (1) if sent by prepaid post, on the third Business Day after the date of posting to an address within Australia, and on the third Business Day after the date of posting to an address outside Australia;
  - (2) if sent by fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day in the place of receipt, when that communication will be regarded as received at 9.00am on the next Business Day; and
  - (3) if delivered by hand, on delivery at the address of the addressee as provided in clause 6.1(c), unless delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day.

## 6.2 Stamp duty

FOXTEL will:

- (a) pay all stamp duty and any related fines and penalties in respect of the Scheme and this deed poll or the steps to be taken under the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 6.2(a).

## 6.3 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in New South Wales.
- (b) Liberty, the Bidder, FOXTEL and FOXTEL Finco irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. Liberty, the Bidder, FOXTEL and FOXTEL Finco irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## 6.4 Process agent

Liberty:

- (a) irrevocably appoints Allen & Overy, Level 7, Gold Fields House, 1 Alfred Street, Sydney, NSW, 2000 Australia (Attention Michael Parshall/Michael Reede) as its agent to accept service of process and other documents in any legal action or proceedings arising out of or in any way related to this deed and related non-contractual matters before courts of New South Wales and courts competent to hear appeals from those courts;
- (b) must ensure that at all times, the agent or a replacement acceptable to AUSTAR remains present, authorised and able to accept service of process and other documents on its behalf and, if there is a replacement, it must immediately notify the other parties and provide them with satisfactory evidence of the replacement's acceptance of its appointment; and
- (c) agrees that service of any process or documents on the agent (or any replacement) will be sufficient service on it.

## 6.5 Waiver

- (a) Liberty, the Bidder, FOXTEL and FOXTEL Finco may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of Liberty, the Bidder, FOXTEL or FOXTEL Finco as a waiver of any right unless the waiver is in writing and signed by Liberty, the Bidder, FOXTEL or FOXTEL Finco, as appropriate.
- (c) The meanings of the terms used in this clause 6.4 are set out below.

<b>Term</b>	<b>Meaning</b>
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this deed and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

## 6.6 Variation

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

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

in which event Liberty, the Bidder, FOXTEL and FOXTEL Finco must will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

## 6.7 Cumulative rights

The rights, powers and remedies of Liberty, the Bidder, FOXTEL, FOXTEL Finco and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

## 6.8 Assignment

- (a) The rights created by this deed poll are personal to Liberty, the Bidder, FOXTEL, FOXTEL Finco and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Liberty or the Bidder, as the case may be.
- (b) Any purported dealing in contravention of clause 6.8(a) is invalid.

## **6.9 Joint and several obligations**

- (a) Liberty and the Bidder are jointly and severally liable for each obligation imposed on either or both of them by the terms of this deed poll.
- (b) FOXTEL and FOXTEL Finco are jointly and severally liable for each obligation imposed on either or both of them by the terms of this deed poll.
- (c) Liberty and the Bidder are not liable for any obligation of FOXTEL or FOXTEL Finco under this deed poll.
- (d) FOXTEL and FOXTEL Finco are not liable for any obligation of Liberty or the Bidder under this deed poll.

## **6.10 Further action**

Liberty, the Bidder, FOXTEL and FOXTEL Finco must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

## **6.11 Counterparts**

- (a) This deed poll may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed poll by signing any counterpart.

Scheme

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Please see Annexure E

Executed as a deed poll

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Signed, sealed and delivered by  
**Liberty Global, Inc.**

by its attorney under a power of attorney dated 8 July 2011, and the attorney declares that it has not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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Signed, sealed and delivered by  
**LGI Bidco Pty Limited**

by its attorney under a power of attorney dated 8 July 2011, and the attorney declares that it has not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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Signed, sealed and delivered by

**FOXTEL Management Pty Limited** as agent for the **FOXTEL Partnership**

by

*sign here* ► \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

---

Signed, sealed and delivered by

**FOXTEL Finance Pty Limited**

by

*sign here* ► \_\_\_\_\_  
Company Secretary/Director

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

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## Part B - Scheme Deed Poll (Substitution Notice)

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Deed poll

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Date ►

This deed poll is made

By each of	
Liberty	<b>Liberty Global, Inc.</b> of 12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America
Bidder	<b>LGI Bidco Pty Limited</b> ACN 151 767 449 of Level 7, Gold Fields House, 1 Alfred Street, Sydney, NSW, Australia
in favour of	Each AUSTAR Shareholder as at the Scheme Record Date (other than Excluded Shareholders).
Recitals	<ol style="list-style-type: none"> <li>1 Among others, AUSTAR, FOXTEL, Liberty and Bidder entered into the Implementation Deed.</li> <li>2 In the Implementation Deed, Liberty agreed to enter into this deed poll and to procure that the Bidder enter into this deed poll.</li> <li>3 Liberty and the Bidder are entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform their respective obligations under the Implementation Deed and the Scheme.</li> </ol>
This deed poll provides as follows:	

# 1 Definitions and interpretation

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## 1.1 Definitions

(a) The meanings of the terms used in this deed poll are set out below.

<b>Term</b>	<b>Meaning</b>
<b>Scheme</b>	the proposed scheme of arrangement under Part 5.1 of the Corporations Act between AUSTAR and the Scheme Shareholders, the form of which is set out in Attachment 1 subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by AUSTAR, FOXTEL and Liberty.

(b) Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

## 1.2 Interpretation

Section 2 of Schedule 1 of the Scheme applies to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

## 1.3 Nature of deed poll

Liberty and the Bidder acknowledge that:

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

# 2 Conditions to obligations

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## 2.1 Conditions

The obligations of Liberty and the Bidder under this deed poll are subject to the Scheme becoming Effective.

## 2.2 Termination

The obligations of Liberty and the Bidder under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date.

## 2.3 Consequences of termination

If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Liberty and the Bidder are released from their obligations to further perform this deed poll except those obligations under clause 6.2; and
- (b) each Scheme Shareholder retains the rights they have against Liberty and the Bidder in respect of any breach of this deed poll which occurred before it was terminated.

# 3 Scheme obligations

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## 3.1 Undertaking to provide Scheme Consideration

Subject to clause 2, each of Liberty and the Bidder undertakes in favour of each Scheme Shareholder that:

- (a) the Bidder will deposit, in cleared funds, an amount equal to the Total Scheme Consideration in the Scheme Account in sufficient time before the Implementation Date to enable AUSTAR to pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Scheme Account on the Implementation Date; and
- (b) it will undertake all other actions attributed to it under the Scheme, subject to and in accordance with the provisions of the Scheme.

# 4 Warranties

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Each of Liberty and the Bidder represent and warrant that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the

performance of this deed poll and to carry out the transactions contemplated by this deed poll;

- (d) this deed poll is valid and binding on it and enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

## 5 Continuing obligations

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This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Liberty and the Bidder have fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.

## 6 General

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### 6.1 Notices

Any communication under or in connection with this deed poll:

- (a) must be in legible writing. A facsimile transmission is regarded as legible unless the addressee telephones the sender within 2 hours after transmission is received or regarded as received under clause 6.1(f)(2) and informs the sender that it is not legible;
- (b) must be in English; and
- (c) must be addressed as shown below:

Party	Address	Addressee	Fax
<b>Liberty or Bidder</b>	12300 Liberty Boulevard, Englewood, Colorado 80112, United States of America	Legal Department	0011 1 303 220 6691
	With a copy to: Allen & Overy Level 7, Gold Fields House, 1 Alfred Street, Sydney, NSW, 2000, Australia	Michael Parshall	+61 2 9373 7710

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

- (d) must be signed by the person making the communication or by a person duly authorised by that person;

- (e) must be delivered or posted by prepaid post to the address, or sent by fax to the fax number, of the addressee, in accordance with clause 6.1(c); and
- (f) is regarded as received by the addressee:
  - (1) if sent by prepaid post, on the third Business Day after the date of posting to an address within Australia, and on the third Business Day after the date of posting to an address outside Australia;
  - (2) if sent by fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day in the place of receipt, when that communication will be regarded as received at 9.00am on the next Business Day; and
  - (3) if delivered by hand, on delivery at the address of the addressee as provided in clause 6.1(c), unless delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be regarded as received at 9.00am on the next Business Day.

## 6.2 Stamp duty

Liberty and the Bidder will procure that FOXTEL:

- (a) pays all stamp duty and any related fines and penalties in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under the Scheme and this deed poll; and
- (b) indemnifies each Scheme Shareholder against any liability arising from FOXTEL's failure to make the payments contemplated by clause 6.2(a).

## 6.3 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in New South Wales.
- (b) Liberty and the Bidder irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. Liberty and the Bidder irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## 6.4 Process agent

Liberty:

- (a) irrevocably appoints Allen & Overy, Level 7, Gold Fields House, 1 Alfred Street, Sydney, NSW, 2000 Australia (Attention Michael Parshall/Michael Reede) as its agent to accept service of process and other documents in any legal action or proceedings arising out of or in any way related to this deed and related non-contractual matters before courts of New South Wales and courts competent to hear appeals from those courts;

- (b) must ensure that at all times, the agent or a replacement acceptable to AUSTAR remains present, authorised and able to accept service of process and other documents on its behalf and, if there is a replacement, it must immediately notify the other parties and provide them with satisfactory evidence of the replacement's acceptance of its appointment; and
- (c) agrees that service of any process or documents on the agent (or any replacement) will be sufficient service on it.

## 6.5 Waiver

- (a) Liberty and the Bidder may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of Liberty or the Bidder as a waiver of any right unless the waiver is in writing and signed by Liberty or the Bidder, as appropriate.
- (c) The meanings of the terms used in this clause 6.4 are set out below.

Term	Meaning
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this deed and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

## 6.6 Variation

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

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

in which event Liberty and the Bidder must will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

## 6.7 Cumulative rights

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

## **6.8 Assignment**

- (a) The rights created by this deed poll are personal to Liberty, the Bidder and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Liberty or the Bidder, as the case may be.
- (b) Any purported dealing in contravention of clause 6.8(a) is invalid.

## **6.9 Joint and several obligations**

Liberty and the Bidder are jointly and severally liable for each obligation imposed on either or both of them by the terms of this deed poll.

## **6.10 Further action**

Liberty and the Bidder must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

## **6.11 Counterparts**

- (a) This deed poll may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one instrument.
- (c) A party may execute this deed poll by signing any counterpart.

Scheme

---

Please see Annexure E

Executed as a deed poll

---

Signed, sealed and delivered by  
**Liberty Global, Inc.**

by its attorney under a power of attorney dated 8 July 2011, and the attorney declares that it has not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

---

Signed, sealed and delivered by  
**LGI Bidco Pty Limited**

by its attorney under a power of attorney dated 8 July 2011, and the attorney declares that it has not received any notice of the revocation of such power of attorney, in the presence of:

*sign here* ► \_\_\_\_\_  
Attorney

*print name* \_\_\_\_\_

*sign here* ► \_\_\_\_\_  
Witness

*print name* \_\_\_\_\_

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## Notice of Scheme Meeting

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### **AUSTAR United Communications Limited ACN 087 695 707 (AUSTAR)**

Notice is hereby given that, by an order of the Federal Court of Australia made on 8 December 2011, pursuant to subsection 411(1) of the Corporations Act, a meeting of AUSTAR Shareholders (other than Excluded Shareholders) will be held at AGL Theatre, Museum of Sydney, 37 Phillip Street, Sydney NSW 2000 on 17 February 2012, commencing at 3:00pm (Sydney time).

### **Purpose of the meeting**

The purpose of the meeting is to consider and, if thought fit, to agree to a scheme of arrangement (with or without amendment or any alterations or conditions required by the Court to which AUSTAR, LGI and FOXTEL agree) proposed to be made between AUSTAR and Minority Shareholders (the Scheme).

A copy of the Scheme and a copy of the explanatory statement required by section 412 of the Corporations Act in relation to the Scheme are contained in the Scheme Booklet, of which this notice forms part.

### **Scheme Resolution**

The meeting will be asked to consider and, if thought fit, pass (with or without amendment) the following resolution (the **Scheme Resolution**):

‘That, pursuant to and in accordance with the provisions of section 411 of the *Corporations Act 2001* (Cth), the scheme of arrangement proposed between AUSTAR United Communications Limited and the holders of its ordinary shares (other than certain excluded shareholders), as contained in and more particularly described in the Scheme Booklet of which this notice forms part, is agreed to, with or without alterations or conditions as approved by the Federal Court of Australia to which AUSTAR United Communications Limited, Liberty Global, Inc. and FOXTEL Management Pty Limited (acting as agent for the FOXTEL Partnership) agree.’

### **Chairman**

The Court has directed that Mr Timothy D Downing is to act as chairman of the meeting (and that, if Mr Timothy D Downing is unable or unwilling to attend, Mr Roger M Amos is to act as chairman of the meeting) and has directed the chairman to report the result of the Scheme Resolution to the Court.

Dated 8 December 2011

By order of the Court and the AUSTAR Board

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**Deanne Weir**  
Company Secretary

## Explanatory notes

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### Material accompanying this notice

This notice of meeting should be read in conjunction with the Scheme Booklet of which this notice forms part. The Scheme Booklet contains important information to assist you in determining how to vote.

Capitalised terms used in this notice, unless otherwise defined, have the same meaning as set out in the Glossary in Section 13 of the Scheme Booklet.

A copy of the Scheme is set out in Annexure E to the Scheme Booklet.

### Majorities required

For the proposed Scheme to be binding in accordance with section 411 of the Corporations Act, the Scheme Resolution must be agreed to by:

- unless the Court orders otherwise, a majority in number (more than 50%) of Minority Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or body corporate representative); and
- at least 75% of the total number of votes cast on the Scheme Resolution by Minority Shareholders present and voting at the Scheme Meeting (either in person or by proxy, attorney or, body corporate representative).

### Entitlement to vote

The time for determining eligibility to vote at the Scheme Meeting is **7:00pm (Sydney time) on 15 February 2012**. Only those AUSTAR Shareholders (other than Excluded Shareholders) entered on the Register at that time will be entitled to attend and vote at the meeting, either in person, by proxy or attorney, or in the case of a corporate AUSTAR Shareholder, by a body corporate representative.

Any votes cast by an AUSTAR Shareholder who is an LGI Group Member or any AUSTAR Shareholder to the extent that it holds AUSTAR Shares on behalf of, or for the benefit of, any LGI Group Member will be disregarded in determining the outcome of the Scheme Resolution.

The remaining comments in these explanatory notes are addressed to Minority Shareholders entitled to attend and vote at the meeting.

### How to vote

Voting will be conducted by poll.

If you are an AUSTAR Shareholder entitled to vote at the meeting, you may vote by:

- attending and voting in person;
- appointing one or two proxies to attend and vote on your behalf, either online or using the proxy form that accompanied this Scheme Booklet;
- appointing one or two attorneys to attend and vote on your behalf, using a power of attorney; or
- in the case of a body corporate, appointing a body corporate representative to attend the meeting and vote on your behalf, using a certificate of appointment of body corporate representative.

## Attendance

If you or your proxies, attorneys or representative plan to attend the meeting, please arrive at the venue at least 30 minutes before the scheduled time for commencement of the meeting, so that your shareholding can be checked against the Register, any power of attorney or certificate of appointment of body corporate representative verified, and your attendance noted.

## Jointly held securities

If you hold AUSTAR Shares jointly with one or more other persons, only one of you may vote. If more than one of you attempts to vote in person at the meeting, only the vote of the holder whose name appears first on the Register will be counted.

## Voting

### (a) Voting in person

To vote in person, you must attend the meeting.

AUSTAR Shareholders entitled to vote on the Scheme Resolution who wish to attend and vote at the meeting in person will be admitted once they have disclosed their name and address.

### (b) Voting by proxy

You may appoint one or two proxies. Your proxy need not be another AUSTAR Shareholder. Each proxy will have the right to vote on the poll and also to speak at the meeting.

To appoint a proxy, you should either:

- complete and return the proxy form that accompanied this Scheme Booklet in accordance with the instructions on that form; or
- submit a proxy form online at [www.austarunited.com.au](http://www.austarunited.com.au).

You must return your completed proxy form to the AUSTAR Registry, or submit a proxy form online, by 3:15pm (Sydney time) on 15 February 2012. Proxy forms received after this time will be invalid.

If a proxy form is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed proxy form unless the power of attorney or other authority has previously been noted by the AUSTAR Registry.

A vote given in accordance with the terms of a proxy appointment is valid despite the revocation of that appointment, unless notice in writing of the revocation has been received by the AUSTAR Registry by 3:15pm (Sydney time) on 15 February 2012.

If you are using the proxy form that accompanied this Scheme Booklet, and you wish to appoint a second proxy, a second proxy form should be used and you should clearly indicate on the second proxy form that it is a second proxy and not a revocation of your first proxy. You can obtain a second proxy form from the AUSTAR Registry. Replacement proxy forms can also be obtained from the AUSTAR Registry.

If you are using an online proxy form, and you wish to appoint a second proxy, you should follow the directions provided online.

If you appoint two proxies, each proxy should be appointed to represent a specified proportion of your voting rights. If you do not specify the proportions in the proxy forms, each proxy may exercise half of your votes, with any fractions of votes disregarded.

You should consider how you wish your proxy to vote, that is, whether you want your proxy to vote 'for' or 'against', or abstain from voting on, the Scheme Resolution, or

whether to leave the decision to the proxy after he or she has considered the matters discussed at the meeting.

If you do not direct your proxy how to vote on an item of business, the proxy may vote, or abstain from voting, as he or she thinks fit. If you instruct your proxy to abstain from voting on an item of business, he or she is directed not to vote on your behalf, and the shares the subject of the proxy appointment will not be counted in computing the required majority.

If you return your proxy form:

- without identifying a proxy on it, you will be taken to have appointed the chairman of the meeting as your proxy to vote on your behalf; or
- with a proxy identified on it but your proxy does not attend the meeting, the chairman of the meeting will act in place of your nominated proxy and vote in accordance with any directions on your proxy form.

The chairman of the meeting intends to vote all valid undirected proxy appointments nominating him in favour of the Scheme Resolution, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

Proxies of AUSTAR Shareholders entitled to vote on the Scheme Resolution will be admitted to the meeting on providing at the point of entry to the meeting written evidence of their name and address.

Your appointment of a proxy does not preclude you from attending in person and voting at the meeting, in which case your proxy will not be entitled to vote.

**(c) Voting by attorney**

You may appoint one or two attorneys to attend and vote at the meeting on your behalf. Your attorney need not be another AUSTAR Shareholder. Each attorney will have the right to vote on the poll and also to speak at the meeting.

The power of attorney appointing your attorney to attend and vote at the meeting must be duly executed by you and specify your name, the company (that is, AUSTAR), and the attorney, and also specify the meetings at which the appointment may be used. The appointment may be a standing one.

The power of attorney, or a certified copy of the power of attorney, should be lodged at the registration desk before the meeting commences on the day of the meeting or with the AUSTAR Registry before 3:15pm (Sydney time) on 15 February 2012.

Attorneys of AUSTAR Shareholders eligible to vote on the Scheme Resolution will be admitted to the meeting on providing at the point of entry to the meeting written evidence of their appointment, their name and address, and the name of their appointers.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

**(d) Voting by body corporate representative**

If you are a body corporate, you may appoint an individual to act as your body corporate representative. The appointment must comply with the requirements of section 250D of the Corporations Act, meaning that AUSTAR will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act. A form of certificate may be obtained from the AUSTAR Registry. The certificate of appointment may set out restrictions on the representative's powers.

The certificate should be lodged at the registration desk before the meeting commences on the day of the meeting or with the AUSTAR Registry before 3:15pm (Sydney time) on 15 February 2012.

If a certificate is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority,

must accompany the completed certificate unless the power of attorney or other authority has previously been noted by the AUSTAR Registry.

Body corporate representatives of AUSTAR Shareholders eligible to vote on the Scheme Resolution will be admitted to the meeting on providing at the point of entry to the meeting written evidence of their appointment, their name and address and the name of their appointers.

## Lodgement of proxies and other documents

### (a) Proxies

Proxy forms may be submitted to the AUSTAR Registry in any of the following ways:

- **Online** at [www.austarunited.com.au](http://www.austarunited.com.au)
- **By post** in the provided reply paid envelope to the AUSTAR Registry:  
Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne VIC 3001
- **By hand delivery** to the AUSTAR Registry:  
Computershare Investor Services Pty Limited  
Level 4, 60 Carrington Street  
Sydney NSW 2000
- **By fax** to the AUSTAR Registry on 1800 783 447 (within Australia) or +61 3 9473 2555 (outside Australia)
- Intermediary online subscribers only (custodians) at [www.intermediaryonline.com](http://www.intermediaryonline.com).

### (b) Other documents

Powers of attorney and certificates of appointment may be sent to the AUSTAR Registry by post, by hand delivery or by fax, as set out in the corresponding bullet points above.

## Court approval

Under paragraph 411(4)(b) of the Corporations Act, the Scheme (with or without amendment or any alteration or condition required by the Court) is subject to the approval of the Court. If the Scheme Resolution is agreed to by the requisite majorities and the other Conditions Precedent (other than approval by the Court) are satisfied or waived, AUSTAR intends to apply to the Court for the necessary orders to give effect to the Scheme.

In order for the Scheme to become Effective, it must be approved by the Court and an office copy of the orders of the Court approving the Scheme must be lodged with ASIC.

## Advertisement

Where this notice of meeting is advertised unaccompanied by the Scheme Booklet, a copy of the Scheme Booklet can be obtained by anyone entitled to attend the meeting from AUSTAR's website ([www.austarunited.com.au](http://www.austarunited.com.au)) or by contacting the AUSTAR Shareholder Information Line on 1300 706 158 (within Australia) or on +61 3 9946 4459 (outside Australia) or from the AUSTAR Registry.

## Notice of General Meeting

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### **AUSTAR United Communications Limited ACN 087 695 707 (AUSTAR)**

Notice is hereby given that a general meeting of AUSTAR Shareholders will be held at AGL Theatre, Museum of Sydney, 37 Phillip Street, Sydney NSW 2000 on 17 February 2012, commencing at 3:15pm (Sydney time), or as soon after that time as the Scheme Meeting is concluded or adjourned.

### **Purpose of the meeting**

The purpose of the meeting is to consider and, if thought fit, to agree to pass:

- 1 the Financial Assistance Resolution as a special resolution;
- 2 the Related Party Resolution as an ordinary resolution; and
- 3 the Status Resolution as a special resolution.

### **Resolutions**

#### **1 Financial Assistance Resolution**

'That, subject to and conditional upon the Scheme being approved by the Court under section 411(4)(b) of the *Corporations Act 2001* (Cth), for the purposes of section 260A(1)(b) of the *Corporations Act 2001* (Cth) and all other purposes, approval is given for AUSTAR United Communications Limited to financially assist LGI Bidco Pty Limited's acquisition of AUSTAR Shares; FOXTEL Management Pty Limited's acquisition of AUSTAR Shares (acting as agent for the FOXTEL Partnership); and FOXTEL Australia Pty Limited's acquisition of shares in LGI Investments 1 Pty Limited, a holding company of AUSTAR United Communications Limited at the time of the acquisition, by incurring obligations under the Restructure and Sale Deed and the FOXTEL Funding Agreement (or Substitute Funding Agreement), and granting the AUSTAR Charge (or Substitute Security), as more particularly described in the Scheme Booklet of which this notice forms part.'

#### **2 Related Party Resolution**

'That, subject to and conditional upon the Scheme being approved by the Court under section 411(4)(b) of the *Corporations Act 2001* (Cth), for the purposes of section 208(1)(a) of the *Corporations Act 2001* (Cth) and all other purposes, approval is given for AUSTAR United Communications Limited to give a financial benefit to LGI Bidco Pty Limited, UGC Australia BV, Liberty Global, Inc., FOXTEL Management Pty Limited (acting as agent for the FOXTEL Partnership), FOXTEL Finance Pty Limited and FOXTEL Australia Pty Limited, by incurring obligations under the Restructure and Sale Deed and the FOXTEL Funding Agreement (or Substitute Funding Agreement), and granting the AUSTAR Charge (or Substitute Security), as more particularly described in the Scheme Booklet of which this notice forms part.'

#### **3 Status Resolution**

'That, subject to and conditional upon the Scheme being approved by the Court under section 411(4)(b) of the *Corporations Act 2001* (Cth), for the purposes of sections 162(1) and 157(1) of the *Corporations Act 2001* (Cth) and all other purposes, approval is given for AUSTAR United Communications Limited to change its status from a public company

limited by shares to a proprietary company limited by shares, and from the date that AUSTAR United Communications Limited becomes a proprietary company limited by shares to change its name to AUSTAR United Communications Pty Limited.'

**Chairman**

Mr Timothy D Downing (or failing him Mr Roger M Amos) is to act as chairman of the meeting.

Dated 8 December 2011

By order of the AUSTAR Board

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**Deanne Weir**  
Company Secretary

## Explanatory notes

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### Material accompanying this notice

This notice of meeting should be read in conjunction with the Scheme Booklet of which this notice forms part. The Scheme Booklet contains important information to assist you in determining how to vote on the Resolutions.

Capitalised terms used in this notice, unless otherwise defined, have the same meaning as set out in the Glossary in Section 13 of the Scheme Booklet.

### Majorities required

#### (a) Financial Assistance Resolution

Pursuant to section 260B(1) of the Corporations Act, the Financial Assistance Resolution must be approved by either:

- a special resolution (that is, 75% or more) of AUSTAR Shareholders present and voting (either in person or by proxy, attorney or body corporate representative), with no votes being cast in favour of the resolution by persons who are being financially assisted to acquire the AUSTAR Shares or Aus Bidco 1 shares (or units of those shares) or their Associates; or
- a unanimous resolution of all AUSTAR Shareholders.

#### (b) Related Party Resolution

The Related Party Resolution must be approved by a simple majority (that is, more than 50%) of AUSTAR Shareholders present and voting (either in person or by proxy, attorney or body corporate representative). Pursuant to subsection 224(1) of the Corporations Act, no vote may be cast on this resolution (in any capacity) by or on behalf of the related party to whom this resolution would permit a financial benefit to be given, or their Associates.

#### (c) Status Resolutions

Pursuant to subsection 162(1) of the Corporations Act, the Status Resolution must be approved by a special resolution (that is, 75% or more) of AUSTAR Shareholders present and voting (either in person or by proxy, attorney or body corporate representative).

### Entitlement to vote

The time for determining eligibility to vote at the General Meeting is **7:00pm (Sydney time) on 15 February 2012**. Only those AUSTAR Shareholders entered on the Register at that time will be entitled to attend and vote at the meeting, either in person, by proxy or attorney, or in the case of a corporate AUSTAR Shareholder, by a body corporate representative.

AUSTAR will disregard any votes cast:

- in favour of the Financial Assistance Resolution by LGI Bidco, FOXTEL and FOXTEL Bidco and any of their respective Associates; and
- on the Related Party Resolution by LGI Bidco, UGC Australia, LGI, FOXTEL, FOXTEL Finco and FOXTEL Bidco and any of their respective Associates.

The remaining comments in these explanatory notes are addressed to AUSTAR Shareholders who are entitled to attend and vote at the meeting.

## How to vote

Voting will be conducted by poll.

If you are an AUSTAR Shareholder entitled to vote at the meeting, you may vote by:

- attending and voting in person;
- appointing one or two proxies to attend and vote on your behalf, either online or using the proxy form that accompanied this Scheme Booklet;
- appointing one or two attorneys to attend and vote on your behalf, using a power of attorney; or
- in the case of a body corporate, appointing a body corporate representative to attend the meeting and vote on your behalf, using a certificate of appointment of body corporate representative.

## Attendance

If you or your proxies, attorneys or representative plan to attend the meeting, please arrive at the venue at least 30 minutes before the scheduled time for commencement of the meeting, so that your shareholding can be checked against the Register, any power of attorney or certificate of appointment of body corporate representative verified, and your attendance noted.

## Jointly held securities

If you hold AUSTAR Shares jointly with one or more other persons, only one of you may vote. If more than one of you attempts to vote in person at the meeting only the vote of the holder whose name appears first on the Register will be counted.

## Voting

### (a) Voting in person

To vote in person, you must attend the meeting.

AUSTAR Shareholders entitled to vote at the meeting who wish to attend and vote at the meeting in person will be admitted once they have disclosed their name and address.

### (b) Voting by proxy

You may appoint one or two proxies. Your proxy need not be another AUSTAR Shareholder. Each proxy will have the right to vote on the poll and also to speak at the meeting.

To appoint a proxy, you should either:

- complete and return the proxy form that accompanied this Scheme Booklet in accordance with the instructions on that form; or
- submit a proxy form online at [www.austarunited.com.au](http://www.austarunited.com.au).

You must return your completed proxy form to the AUSTAR Registry, or submit a proxy form online, by 3:15pm (Sydney time) on 15 February 2012. Proxy forms received after this time will be invalid.

If a proxy form is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed proxy form unless the power of attorney or other authority has previously been noted by the AUSTAR Registry.

A vote given in accordance with the terms of a proxy appointment is valid despite the revocation of that appointment, unless notice in writing of the revocation has been received by the AUSTAR Registry by 3:15pm (Sydney time) on 15 February 2012.

If you are using the proxy form that accompanied this Scheme Booklet, and you wish to appoint a second proxy, a second proxy form should be used and you should clearly indicate on the second proxy form that it is a second proxy and not a revocation of your first proxy. You can obtain a second proxy form from the AUSTAR Registry. Replacement proxy forms can also be obtained from the AUSTAR Registry.

If you are using an online proxy form, and you wish to appoint a second proxy, you should follow the directions provided online.

If you appoint two proxies, each proxy should be appointed to represent a specified proportion of your voting rights. If you do not specify the proportions in the proxy forms, each proxy may exercise half of your votes, with any fractions of votes disregarded.

You should consider how you wish your proxy to vote, that is, whether you want your proxy to vote 'for' or 'against', or abstain from voting on, each Resolution, or whether to leave the decision to the proxy after he or she has considered the matters discussed at the meeting.

If you do not direct your proxy how to vote on an item of business, the proxy may vote, or abstain from voting, as he or she thinks fit. If you instruct your proxy to abstain from voting on an item of business, he or she is directed not to vote on your behalf, and the shares the subject of the proxy appointment will not be counted in computing the required majority.

If you return your proxy form:

- without identifying a proxy on it, you will be taken to have appointed the chairman of the meeting as your proxy to vote on your behalf; or
- with a proxy identified on it but your proxy does not attend the meeting, the chairman of the meeting will act in place of your nominated proxy and vote in accordance with any directions on your proxy form.

The chairman of the meeting intends to vote all valid undirected proxy appointments nominating him in favour of the Status Resolution, in the absence of a Superior Proposal and subject to the Independent Expert not varying adversely or withdrawing its conclusion that the Scheme is in the best interests of Minority Shareholders.

The chairman of the meeting is not able to vote undirected proxy appointments nominating him on the Financial Assistance Resolution or the Related Party Resolution. **If you appoint the chairman of the General Meeting as your proxy, you are urged to indicate on your proxy form how he should cast your vote on each of the Financial Assistance Resolution and the Related Party Resolution.**

Proxies of AUSTAR Shareholders entitled to vote at the meeting will be admitted to the meeting on providing at the point of entry to the meeting written evidence of their name and address.

Your appointment of an proxy does not preclude you from attending in person and voting at the meeting, in which case your proxy will not be entitled to vote.

(c) **Voting by attorney**

You may appoint one or two attorneys to attend and vote at the meeting on your behalf. Your attorney need not be another AUSTAR Shareholder. Each attorney will have the right to vote on the poll and also to speak at the meeting.

The power of attorney appointing your attorney to attend and vote at the meeting must be duly executed by you and specify your name, the company (that is, AUSTAR), and the attorney, and also specify the meetings at which the appointment may be used. The appointment may be a standing one.

The power of attorney, or a certified copy of the power of attorney, should be lodged at the registration desk before the meeting commences on the day of the meeting or with the AUSTAR Registry before 3:15pm (Sydney time) on 15 February 2012.

Attorneys of AUSTAR Shareholders entitled to vote at the meeting will be admitted to the meeting on providing at the point of entry to the meeting written evidence of their appointment, their name and address, and the name of their appointers.

Your appointment of an attorney does not preclude you from attending in person and voting at the meeting.

(d) **Voting by body corporate representative**

If you are a body corporate, you may appoint an individual to act as your body corporate representative. The appointment must comply with the requirements of section 250D of the Corporations Act, meaning that AUSTAR will require a certificate of appointment of body corporate representative to be executed by you in accordance with the Corporations Act. A form of certificate may be obtained from the AUSTAR Registry. The certificate of appointment may set out restrictions on the representative's powers.

The certificate should be lodged at the registration desk before the meeting commences on the day of the meeting or with the AUSTAR Registry before 3:15pm (Sydney time) on 15 February 2012.

If a certificate is completed under power of attorney or other authority, the power of attorney or other authority, or a certified copy of the power of attorney or other authority, must accompany the completed certificate unless the power of attorney or other authority has previously been noted by the AUSTAR Registry.

Body corporate representatives of AUSTAR Shareholders entitled to vote at the meeting will be admitted to the meeting on providing at the point of entry to the meeting written evidence of their appointment, their name and address and the name of their appointers.

## Lodgement of proxies and other documents

(a) Proxies

Proxy forms may be submitted to the AUSTAR Registry in any of the following ways:

- **Online** at [www.austarunited.com.au](http://www.austarunited.com.au)
- **By post** in the provided reply paid envelope to the AUSTAR Registry:  
Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne VIC 3001
- **By hand delivery** to the AUSTAR Registry:  
Computershare Investor Services Pty Limited  
Level 4, 60 Carrington Street  
Sydney NSW 2000
- **By fax** to the AUSTAR Registry on 1800 783 447 (within Australia) or +61 3 9473 2555 (outside Australia)
- Intermediary online subscribers only (custodians) at [www.intermediaryonline.com](http://www.intermediaryonline.com).

(b) **Other documents**

- Powers of attorney and certificates of appointment may be sent to the AUSTAR Registry by post, by hand delivery or by fax, as set out in the corresponding bullet points above.