

Herbert Smith

**Execution version**

**23 April 2012**

**VODAFONE EUROPE B.V.**

**- and -**

**CABLE & WIRELESS WORLDWIDE PLC**

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**BID CONDUCT AGREEMENT**

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Herbert Smith LLP

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**THIS AGREEMENT** is made on 23 April 2012

**BETWEEN:**

- (1) **VODAFONE EUROPE B.V.** a private company with limited liability, incorporated and existing under the laws of the Netherlands with registered address at Rivium Quadrant 173, 2909 LC Capelle aan den IJssel, the Netherlands ("**Bidder**"); and
- (2) **CABLE & WIRELESS WORLDWIDE PLC** a company incorporated in England and Wales (registered number 07029206) and whose registered office is at Waterside House, Longshott Lane, Bracknell, Berkshire, RG12 1XL, England ("**CWW**"),

together referred to as the "**Parties**" and each as a "**Party**" to this Agreement.

**RECITALS:**

- (A) The Bidder, an indirect wholly-owned subsidiary of Vodafone Group Plc, wishes to acquire the entire issued and to be issued share capital of CWW (the "**Acquisition**") on the terms and subject to the conditions set out in the Press Announcement.
- (B) The Parties intend the Acquisition to be implemented by means of the Scheme provided that the Bidder reserves the right, as set out in the Press Announcement and in this Agreement, to elect to implement the Acquisition by means of the Offer.
- (C) The Parties have agreed to enter into this Agreement to set out certain mutual commitments to regulate the basis on which they are willing to implement the Acquisition.

**IT IS AGREED** as follows:

**1. UNDERTAKINGS TO IMPLEMENT THE ACQUISITION AND SATISFY THE CONDITIONS**

- 1.1 CWW undertakes to co-operate with the Bidder to ensure the satisfaction of the Regulatory Conditions and to assist the Bidder in communicating with any Regulatory Authority for the purposes of obtaining all Clearances and to promptly provide such information and assistance to the Bidder as the Bidder may reasonably require for the purposes of obtaining any Clearance and making a submission, filing or notification to any relevant Regulatory Authority as soon as practicable, provided that nothing in this Clause 1.1 shall require the CWW Directors to maintain their recommendation of the Acquisition or to adjourn or seek to adjourn (or refrain from adjourning or seeking to adjourn) any shareholder meeting or court hearing which has been or will be convened in relation to the Acquisition or (without prejudice to any other obligation CWW has under this Agreement) require CWW to make any change (or refrain from making any change) to the timetable for implementing the Acquisition.
- 1.2 The Bidder undertakes to CWW to:
  - 1.2.1 co-operate with CWW and its advisers and take all such steps as are reasonably necessary to implement the Acquisition substantially in the form contemplated by the Press Announcement; and

- 1.2.2 use all reasonable efforts to achieve the satisfaction of Conditions 2(a) (European Commission clearance), 2(b) (Notifications, waiting periods and authorisations) and 2(c) (General antitrust and regulatory) as promptly as reasonably practicable.
- 1.3 Without prejudice to the generality of Clause 1.2, the Bidder undertakes to CWW to the extent permitted by law or regulation:

1.3.1 where reasonably requested by CWW to:

- (A) provide, or procure the provision of, to CWW (or its advisers) draft copies of all material filings, notifications, submissions and communications to be made to any Regulatory Authority by or on behalf of the Bidder in relation to obtaining any Clearance, at such time as will allow CWW a reasonable opportunity to provide comments on such filings, notifications, submissions and communications before they are submitted or sent;
- (B) take into account such comments made by CWW as are reasonable on such material filings, notifications, submissions and communications;
- (C) provide CWW (or such nominated advisers) with copies of all material filings, notifications, submissions and communications in the form submitted or sent to any Regulatory Authority by or on behalf of the Bidder in relation to obtaining any Clearance; and
- (D) give CWW reasonable prior notice of and allow persons nominated by CWW to attend all meetings and/or material telephone calls relating to CWW Information with any Regulatory Authority in connection with the obtaining of all requisite Clearances and the implementation of the Acquisition and to make reasonable oral submissions during such meetings and/or telephone calls; and

1.3.2 to promptly notify CWW of and provide copies of any material communications from any Regulatory Authority in relation to obtaining any Clearances,

provided that nothing in this clause 1.3 shall require the Bidder to disclose to CWW any commercially sensitive or confidential information related to the business of the Bidder and/or any member of the Bidder Group which is not relevant to the Acquisition or any Clearance, and the Bidder may redact such information from any documents shared with CWW and/or take other reasonable steps to procure that such information is not shared with CWW.

1.4 Without prejudice to the generality of Clause 1.2, the Bidder undertakes to CWW, to the extent permitted by law or regulation, to keep CWW informed of the progress towards satisfaction (or otherwise) of the Conditions and, if at any time the Bidder or any member of the Bidder Group becomes aware of anything that may reasonably be considered to be likely to prevent any of the Conditions from being satisfied, the Bidder shall promptly inform CWW.

1.5 Without prejudice to the generality of Clause 1.1, CWW undertakes to the Bidder:

1.5.1 to provide, or procure the provision of, to the Bidder (or its advisers) draft copies of all material submissions and communications to be made to any Regulatory Authority by or on behalf of CWW in relation to obtaining any Clearance, at such



time as will allow the Bidder reasonable opportunity to provide comments on such filings, notifications, submissions and communications before they are submitted or sent;

- 1.5.2 take into account such comments made by the Bidder as are reasonable;
- 1.5.3 provide the Bidder (or such nominated advisers) with copies of all submissions and communications in the form submitted or sent;
- 1.5.4 where reasonable make CWW Group representatives available for meetings and material telephone calls requested by any Regulatory Authority in connection with the obtaining of all requisite Clearances and the implementation of the Acquisition; and
- 1.5.5 to promptly notify the Bidder of and provide copies of any communications from any Regulatory Authority in relation to obtaining any Clearances,

provided that nothing in this clause 1.5 shall require CWW to disclose to the Bidder any commercially sensitive or confidential information related to the business of CWW and/or any member of the CWW Group which is not relevant to the Acquisition or any Clearance, and CWW may redact such information from any documents shared with the Bidder and/or take other reasonable steps to procure that such information is not shared with the Bidder.

## **2. DOCUMENTATION**

- 2.1 The Bidder agrees to provide promptly to CWW all such information about itself, the Bidder Group and its directors as may be reasonably requested and which is required for the purpose of inclusion in the Scheme Document and to provide all other assistance which may be reasonably required with the preparation of the Scheme Document including access to and ensuring reasonable assistance is provided by its professional advisers.

## **3. IMPLEMENTATION OF THE SCHEME**

- 3.1 The Bidder undertakes that, immediately before the Scheme Hearing, it shall deliver a notice in writing to CWW either: (i) confirming the satisfaction or waiver of all Conditions (other than Condition 1(c) (Court Sanction)); or (ii) confirming its intention to invoke a Condition and providing reasonable details of the event which has occurred, or circumstance which has arisen, which the Bidder reasonably considers is sufficiently material for the Panel to permit the Bidder to withdraw the Scheme.
- 3.2 The Bidder shall, through Counsel, agree to be bound by and consent to the implementation of the Scheme.
- 3.3 The Bidder reserves the right, as set out in the Press Announcement, to elect to implement the Acquisition by means of the Offer at any time, provided that the Offer is made in accordance with the terms and conditions set out in the Press Announcement. Such an election is subject to the Bidder obtaining the consent of the Panel, if required. If the Bidder validly exercises this right (the "**Right to Switch**") in accordance with this Clause 3.3, then:
  - 3.3.1 CWW shall withdraw the Scheme;

3.3.2 the Conditions, as set out in Appendix 1 to the Press Announcement, shall be incorporated into the announcement of such Offer and into the Offer Document, subject to the modifications set out in Part 1 of Schedule 3; and

3.3.3 the provisions of this Agreement shall be amended with immediate effect (without the need for the Parties to enter into any amendment agreement) such that the Parties' obligations shall be deemed to apply insofar as is reasonably practicable and in a manner which is commensurate with the Acquisition being implemented by means of the Offer in place of the Scheme, including the amendments set out in Part 2 of Schedule 3.

#### **4. SHARE PLANS**

4.1 The Parties agree that Schedule 4 shall apply.

#### **5. ANNOUNCEMENTS**

5.1 The Bidder will allow CWW reasonable opportunity to provide comments on any announcement or communication to CWW Group shareholders, employees, bondholders, option holders or trustees of the CWW Group pension schemes in connection with the Acquisition, and shall take into account CWW's reasonable comments on such announcement or communication.

#### **6. TERMINATION**

6.1 Subject to Clause 6.2 and without prejudice to the rights of either Party that may have arisen prior to termination and except where expressly stated to the contrary the provisions of this Agreement shall terminate with immediate effect and all rights and obligations of the Parties under this Agreement shall cease forthwith, if:

6.1.1 the Scheme (or the Offer as the case may be) is withdrawn or lapses (other than where such lapse or withdrawal is a result of the exercise of the Right to Switch or is otherwise to be followed soon after by a Rule 2.7 announcement made by the Bidder or a person acting in concert with the Bidder, to implement the Acquisition by a different offer or scheme on substantially the same or improved terms);

6.1.2 the CWW Directors withdraw their recommendation of the Scheme (or the Offer, as the case may be);

6.1.3 the Scheme has not become Effective by the Long Stop Date; or

6.1.4 as agreed in writing between the Parties.

6.2 Clauses 8, 9 and 10 shall survive termination of this Agreement.

#### **7. REPRESENTATIONS AND WARRANTIES**

7.1 The Bidder warrants to CWW and CWW warrants to the Bidder on the date of this Agreement that:

7.1.1 it has the requisite power and authority to enter into and perform its obligations under this Agreement;



- 7.1.2 this Agreement constitutes its binding obligations in accordance with its terms;
- 7.1.3 the execution and delivery of, and performance of its obligations under, this Agreement will not:
- (A) result in a breach of any provision of its constitutional documents;
  - (B) save as fairly disclosed to the other Party, result in a breach of, or constitute a default under, any instrument to which it is a party or by which it is bound; or
  - (C) result in a breach of any order, judgment or decree of any court or governmental agency to which it is a party or by which it is bound.
- 7.2 No Party shall have any claim against the other for breach of warranty after the Effective Date (without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement).

## **8. MISCELLANEOUS PROVISIONS**

### **8.1 Assignment**

No Party may assign (whether absolutely or by way of security and whether in whole or in part), transfer, mortgage, charge, declare itself a trustee for a third party of, or otherwise dispose of (in any manner whatsoever) the benefit of this Agreement or sub contract or delegate in any manner whatsoever its performance under this Agreement (each of the above a "**dealing**") and any such purported dealing in contravention of this Clause 8.1 shall be ineffective.

### **8.2 Severance/unenforceable provisions**

If any provision or part of this Agreement is void or unenforceable due to any applicable law, it shall be deemed to be deleted and the remaining provisions of this Agreement shall continue in full force and effect.

### **8.3 Variation**

No variation to this Agreement shall be effective unless made in writing (which for this purpose, does not include email) and executed by each of the Parties. The expression "variation" includes any variation, supplement, deletion or replacement, however effected.

### **8.4 No Partnership**

Nothing in this Agreement or in any document referred to in it or any action taken by the Parties under it or any document referred to in it shall constitute any of the Parties a partner of any other.

### **8.5 Entire Agreement**

- 8.5.1 The provisions of this Agreement shall be supplemental to and shall not prejudice the terms of the Confidentiality Agreement which shall remain in full force and effect notwithstanding the execution of this Agreement.
- 8.5.2 This Agreement, together with the Confidentiality Agreement, represents the entire understanding, and constitutes the whole agreement, in relation to its

subject matter and supersedes any previous agreement between the Parties with respect thereto and, without prejudice to the generality of the foregoing, excludes any warranty, condition or other undertaking implied at law or by custom.

- 8.5.3 Each Party confirms that, except as provided in this Agreement and the Confidentiality Agreement, no Party has relied on any undertaking, representation or warranty which is not contained in this Agreement or the Confidentiality Agreement and, without prejudice to any liability for fraudulent misrepresentation or fraudulent misstatement, no Party shall be under any liability or shall have any remedy in respect of any misrepresentation or untrue statement unless and to the extent that a claim lies under this Agreement or the Confidentiality Agreement.

## 8.6 Counterparts

This Agreement may be executed in any number of counterparts and by the different Parties on separate counterparts, each of which when executed and delivered shall constitute an original, but all the counterparts shall together constitute one instrument.

## 8.7 Notices

A notice, approval, consent or other communication in connection with this Agreement must be in writing and must be left at the address of the addressee, or sent by pre-paid registered post to the address of the addressee or sent by facsimile to the facsimile number of the addressee which is specified in this Clause 8.7 or to such other address or facsimile number as may be notified by such addressee by giving notice in accordance with this Clause 8.7. The address and facsimile number of each Party is:

### 8.7.1 in the case of Bidder:

Address: Rivium Quadrant 173, 15th floor, 2909 LC, Capelle aan den IJssel, The Netherlands

Fax number: +31 10 498 7722

For the attention of: Erik de Rijk

With a copy to Linklaters LLP, (fax number 020 7456 2222) marked for the attention of Iain Fenn and Clodagh Hayes.

With a copy to

### 8.7.2 in the case of CWW:

Address: Waterside House, Longshott Lane, Bracknell, Berkshire, RG12 1XL, England

Fax: +44 (0)870 901 1536

For the attention of: Philip Davis

With a copy to Herbert Smith LLP, (fax number 020 7374 0888) marked for the attention of James Palmer and Mike Flockhart.



- 8.8 A notice given under Clause 8.7 shall conclusively be deemed to have been received on the next working day in the place to which it is sent, if sent by fax, at the time of delivery if delivered personally and one Business Day after posting if sent by registered mail.

**8.9 Costs and expenses**

Each Party shall bear all costs incurred by it in connection with the preparation, negotiation and entry into this Agreement and the documents to be entered into pursuant to it.

**8.10 Rights of Third Parties**

No term of this Agreement is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a Party to this Agreement.

**9. GOVERNING LAW AND JURISDICTION**

- 9.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims) shall be governed by and construed in accordance with English law.
- 9.2 Each Party irrevocably agrees that the Courts of England shall have exclusive jurisdiction in relation to any dispute or claim arising out of or in connection with this Agreement or its subject matter, existence, negotiation, validity, termination or enforceability (including non-contractual disputes or claims).
- 9.3 Each Party irrevocably waives any right that it may have to object to an action being brought in those Courts, to claim that the action has been brought in an inconvenient forum, or to claim that those Courts do not have jurisdiction.

**10. AGENT FOR SERVICE OF PROCESS**

The Bidder hereby appoints Vodafone Group Services Limited of Vodafone House, The Connection, Newbury, Berkshire, RG14 2FN to be its agent for service of process in England and Wales in connection with any notice, writ, summons, order, judgment or other document relating to or in connection with any proceedings connected to this Agreement.

## SCHEDULE 1

### DEFINITIONS AND INTERPRETATION

In this Agreement (including the Recitals and the Schedules other than Schedule 2), unless the context otherwise requires, each of the following terms and expressions shall have the following meanings:

**"Acquisition"** shall have the meaning given in Recital (A);

**"Bidder Group"** means Vodafone Group Plc and its subsidiary undertakings from time to time and **"member of the Bidder Group"** shall be construed accordingly;

**"Bidder Information"** means information relating to the Bidder, the Bidder Group or any a member of the Bidder Group or any of the Bidder Responsible Individuals;

**"Bidder Responsible Individuals"** means the directors of the Bidder from time to time;

**"Business Day"** a day (not being a Saturday) on which banks are open for general banking business in the City of London;

**"Clearance(s)"** means all consents, clearances, permissions, waivers and/or filings that are necessary or desirable in order to satisfy the Conditions and all waiting periods that may need to have expired, from or under the laws, regulations or practices applied by any relevant Regulatory Authority in connection with the implementation of the Acquisition, and any reference to Clearances having been "satisfied" shall be construed as meaning that the foregoing have been obtained or, where appropriate, made or expired in accordance with the relevant Condition;

**"Conditions"** means:

- (i) for so long as the Acquisition is being implemented by means of the Scheme, the terms and conditions to the implementation of the Scheme as set out in Appendix 1 to the Press Announcement, as may be amended with the Bidder's and the Panel's consent; and
- (ii) for so long as the Acquisition is being implemented by means of the Offer, the terms and conditions referred to in (i) subject to the modifications set out in Part 1 of Schedule 3 to this Agreement, as may be further amended with the Bidder's and the Panel's consent, in the Offer Document,

and **"Condition"** shall be construed accordingly;

**"CWW Directors"** means the directors of CWW from time to time and **"CWW Director"** shall be construed accordingly;

**"CWW GM"** means the general meeting of CWW Shareholders to be convened in connection with the Scheme to be held on the same date as the Court Meeting to consider and, if thought fit, approve CWW GM Resolutions, including any adjournment of that meeting;

**"CWW GM Resolutions"** means the special resolutions to approve, among other things, the cancellation of the entire issued share capital of CWW, the alteration of CWW's articles

of association and such other matters as may be necessary to implement the Scheme, the Acquisition and the delisting of CWW Shares;

**"CWW Information"** means information relating to CWW, any member of the CWW Group or any of CWW Directors and all other information in the Scheme Document that is not Bidder Information;

**"CWW Share Plans"** means the CWW Restricted Share Plan 2010, the CWW Incentive Plan 2010, the CWW Incentive Plan 2011, the CWW Share Purchase Plan 2010, the THUS Share Purchase Plan 2010 and the "one off" incentive award and share matching award granted to Gavin Darby on 21 December 2011 in aggregate over 4,000,000 CWW Shares;

**"CWW Share Plan Trustees"** means EES Corporate Trustees Limited as trustee of the CWW Employee Share Ownership Trust, EES Corporate Trustees Limited as trustee of the CWW Share Purchase Plan 2010 and the trustees of any other employee benefit trusts operated by any member of CWW Group;

**"Effective Date"** means the date upon which either:

- (i) the Scheme becomes effective in accordance with its terms; or
- (ii) if Bidder elects to implement the Acquisition by means of the Offer, the Offer becoming or being declared unconditional in all respects; and

**"Effective"** shall be construed accordingly;

**"Long Stop Date"** means 30 November 2012 (or such later date as may be agreed by CWW and the Bidder);

**"Offer"** means in the event that the Bidder exercises its Right to Switch, as set out in the Press Announcement, to elect to implement the Acquisition by means of a takeover offer within the meaning of section 974 of the Companies Act, such offer, including any subsequent revision, amendment, variation, extension or renewal;

**"Offer Document"** means the offer document published by or on behalf of the Bidder in connection with any Offer, including any revised offer document;

**"Press Announcement"** means the press announcement in the agreed form set out in Schedule 2;

**"Reduction"** means the cancellation of share capital of CWW under section 648 of the Companies Act, provided for by the Scheme;

**"Reduction Hearing"** means the hearing by the Court of the petition to confirm the Reduction provided for by the Scheme, at which the Reduction Order is expected to be granted;

**"Reduction Hearing Date"** means the date of the Reduction Hearing;

**"Reduction Order"** means the order of the Court confirming the Reduction;

**"Regulatory Authority"** means any court or competition, antitrust, national, supranational or supervisory body or other government, governmental, trade or regulatory agency or body, in each case in any jurisdiction, including the European Commission but excluding the Panel;



**"Regulatory Conditions"** means Conditions 2(a),(b) and (c);

**"Right to Switch"** shall have the meaning given to it in Clause 3.3;

**"Scheme Hearing"** means the Court hearing to sanction the Scheme under section 899 of the Companies Act, at which the Scheme Order is expected to be granted;

**"Scheme Hearing Date"** means the date of the Scheme Hearing;

**"Scheme Order"** means the order of the Court sanctioning the Scheme pursuant to section 899 of the Companies Act; and

**"Scheme Record Date"** means 6:00 pm (London time) on the Business Day immediately before the Reduction Hearing Date;

The following shall apply to this Agreement (but not to the Press Announcement):

- (A) terms and expressions used but not expressly defined in this Agreement shall, unless the context otherwise requires, have the meanings given in the Press Announcement;
- (B) terms and expressions defined in the Companies Act and not expressly defined in this Agreement, including the expressions **"subsidiary"** and **"subsidiary undertaking"**, shall, unless the context otherwise requires, have the meanings given in that Act;
- (C) when used in this Agreement, the expressions **"acting in concert"** and **"offer"** shall have the meanings given in the Code;
- (D) any reference to this Agreement includes the Schedules to it, each of which forms part of this Agreement for all purposes;
- (E) a reference to an enactment or statutory provision shall be construed as a reference to any subordinate legislation made under the relevant enactment or statutory provision and shall be construed as a reference to that enactment, statutory provision or subordinate legislation as from time to time amended, consolidated, modified, re enacted or replaced;
- (F) words in the singular shall include the plural and vice versa;
- (G) references to one gender include other genders;
- (H) references to a **"company"** shall be construed so as to include any company, corporation or other body corporate, wherever and however incorporated or established;
- (I) a reference to a Recital, Clause, Schedule (other than to a schedule to a statutory provision) shall be a reference to a Recital, Clause, Schedule (as the case may be) of or to this Agreement;
- (J) a reference to **"includes"** or **"including"** shall mean **"includes without limitation"** or **"including without limitation"**;
- (K) references to documents **"in the agreed form"** or any similar expression shall be to documents agreed between the Parties, annexed to this Agreement and initialled for identification by or on behalf of CWW and the Bidder;

- (L) the headings in this Agreement are for convenience only and shall not affect its interpretation;
- (M) a reference to any other document referred to in this Agreement is a reference to that other document as amended, varied, novated or supplemented at any time; and
- (N) references to this Agreement include this Agreement as amended or supplemented in accordance with its terms.

**SCHEDULE 2**  
**PRESS ANNOUNCEMENT**



### **SCHEDULE 3**

#### **PART 1**

##### **AMENDMENTS TO THE CONDITIONS REQUIRED FOR THE OFFER**

For so long as the Acquisition is to be implemented by means of the Offer, following the exercise of the Right to Switch, the Conditions shall be those set out in Appendix 1 to the Press Announcement, subject to the following modifications:

- (i) Condition 1 shall be deleted; and
- (ii) the following Condition shall be added as a new Condition 1:

"The Offer will be conditional upon valid acceptances being received (and not, where permitted, withdrawn) by no later than 1pm on the first closing date of the Offer determined in accordance with the rules of the City Code (or such later time(s) and date(s) as Bidder may, subject to the rules of the City Code, decide) in respect of not less than 90 per cent. (or such lesser percentage, as the Bidder may decide) in nominal value of the CWW Shares to which the Offer relates, provided that this condition will not be satisfied unless the Bidder and/or any of its wholly-owned subsidiaries shall have acquired or agreed to acquire, whether pursuant to the Offer or otherwise, CWW Shares carrying, in aggregate, more than 50 per cent. of the voting rights then exercisable at a general meeting of CWW, including for this purpose to the extent (if any) required by the Panel, any such voting rights attaching to any CWW Shares that may be unconditionally allotted or issued before the Offer becomes or is declared unconditional as to acceptances whether pursuant to the exercise of any outstanding conversion or subscription rights or otherwise, and for this purpose:

- (i) the expression "CWW Shares to which the Offer relates" shall be construed in accordance with sections 974–991 of the Companies Act;
- (ii) the expression "shares that may be unconditionally allotted or issued" shall include any Treasury Shares which are unconditionally transferred or sold by CWW; and
- (iii) shares which have been unconditionally allotted but not issued shall be deemed to carry the voting rights which they will carry on being entered into the register of members of CWW."

## **SCHEDULE 3**

### **PART 2**

#### **AMENDMENTS TO THIS AGREEMENT REQUIRED FOR THE OFFER**

If the Bidder validly exercises the Right to Switch, then the provisions of this Agreement shall be amended with immediate effect (without the need for the Parties to enter into any amendment agreement) in accordance with the following provisions of this Part 2 of this Schedule 3 or as otherwise required by the Panel.

#### **1. DEFINITIONS AND INTERPRETATION**

*Schedule 1 of the Agreement shall be amended by including the following definitions in addition to the existing definitions or to replace definitions as required:*

"Acquisition Documents" means the Offer Document, together with any form of acceptance and/or other document relating to the Offer;

*and by deleting the following definitions:*

"Court Meeting"

"CWW GM "

"CWW GM Resolution"

"Reduction";

"Reduction Hearing";

"Reduction Hearing Date";

"Reduction Order";

"Scheme"

"Scheme Document";

"Scheme Hearing";

"Scheme Hearing Date";

"Scheme Order";

"Scheme Record Date";

#### **2 ACQUISITION DOCUMENTS AND RESPONSIBILITY**

*Clause 2 shall be deleted in its entirety and replaced with the following:*

- 2.1 The Bidder shall prepare the Acquisition Documents and shall consult CWW in relation thereto. The Bidder agrees to submit, or procure the submission of, drafts and revised drafts of the Offer Document to CWW for review and comment and, upon reasonable request and where necessary, to discuss any comments with CWW for the purposes of preparing revised drafts. The Bidder agrees to seek CWW's approval of the contents of CWW

Information contained in the Offer Document before it is posted and/or published, and to afford CWW sufficient time to consider such documents, in order to give its approval (such approval not to be unreasonably withheld or delayed).

### **3 IMPLEMENTATION OF THE ACQUISITION**

*Clause 3 of the Agreement shall be deleted in its entirety and replaced with the following:*

#### **3. IMPLEMENTATION OF THE OFFER**

- 3.1 Subject to the provisions of this Agreement and the Conditions, the Bidder undertakes to CWW to make the Offer, substantially in the form contemplated by the Press Announcement on the terms and subject to the conditions set out in the Press Announcement.
- 3.2 Subject to CWW not having breached its obligations under this Agreement in any material respect such as to prevent the Bidder from so doing, the Bidder undertakes to CWW to use all reasonable endeavours to produce or procure the production of the Offer Document in a timely manner and to procure the posting of the Offer Document to CWW shareholders in accordance with Rule 30.1(a) of the Code.
- 3.3 The Bidder undertakes not to invoke Condition 1 (the acceptance condition) or lapse its offer at any closing date on the grounds that Condition 1 has not been satisfied prior to Day 60 (as determined in accordance with Rule 31.6 of the Code and Notes on that Rule) unless:
- (A) the Bidder reasonably believes Condition 1 is unlikely to be satisfied before Day 60; and
  - (B) the Bidder first announces via an RIS (such announcement not to be made prior to the 14<sup>th</sup> day after posting of the Offer Document) that its offer will lapse if Condition 1 has not been satisfied on the date specified in such announcement, such date being no earlier than the 21<sup>st</sup> day after the date on which such announcement is made.

Nothing in this Clause 3.3 shall restrict the Bidder's ability to invoke Condition 1 in a situation where a higher competing offer has been announced under Rule 2.7 or Rule 9 of the Code or made by a third party and the CWW Directors have not recommended CWW Shareholders to reject such offer within 48 hours of it being announced or made.

- 3.4 The Bidder undertakes that, immediately after the Offer becomes or is declared unconditional as to acceptances and provided that Condition 2(a) has been satisfied, it shall deliver a notice in writing to CWW either: (i) confirming the satisfaction or waiver of all Conditions; or (ii) confirming its intention to invoke a Condition and providing reasonable details of the event which has occurred, or circumstance which has arisen, which the Bidder reasonably considers is sufficiently material for the Panel to permit the Bidder to withdraw or lapse the Offer (provided that no such Condition shall be invoked by reason only of any time period relevant to any Clearance not having elapsed, in which case the Bidder shall be entitled to defer delivering notice under this Clause 3.4 until such time as the relevant notice period has elapsed or, if sooner, immediately before the last date on which the Bidder is permitted to declare its offer wholly unconditional in accordance with the Code).





**SCHEDULE 4**  
**SHARE PLAN PROPOSALS**

- 1.1 The Parties agree that:
- 1.1.1 under the CWW Restricted Stock Plan 2010, all outstanding Restricted Share Awards and Phantom Restricted Share Awards will vest in full pursuant to the Acquisition;
  - 1.1.2 under the CWW Incentive Plan 2010, all outstanding Performance Share Awards will lapse in full and all outstanding Restricted Share Awards will vest in full pursuant to the Acquisition;
  - 1.1.3 under the CWW Incentive Plan 2011, all outstanding Performance Share Awards and all outstanding Restricted Share Awards will be exchanged for replacement awards over Vodafone Group Plc's share capital in accordance with Clause 1.5 below; and
  - 1.1.4 under the CWW Share Purchase Plan 2010 and the THUS Share Purchase Plan 2010, participants will be able to participate in the Scheme or Offer in respect of all outstanding share awards, and all outstanding phantom cash awards will be released to participants pursuant to the Acquisition.
- 1.2 Bidder acknowledges and agrees that CWW will amend the CWW Share Purchase Plan 2010 rules and/or ancillary documentation to ensure that any matching share awards granted under the CWW Share Purchase Plan 2010 are not forfeited when the linked partnership shares are withdrawn from the CWW Share Purchase Plan 2010 trust in connection with the Acquisition. CWW will secure any necessary approvals from HMRC in this regard.
- 1.3 Bidder acknowledges that, subject to clause 1.1 above, the extent to which individual awards under the CWW Share Plans vest prior to or in connection with the Acquisition is to be determined in good faith by the CWW remuneration committee in accordance with the rules of the CWW Share Plans and any required actions will be taken and discretions exercised pursuant to those rules by the remuneration committee of the board of directors of CWW as constituted at the date of this Agreement. Bidder agrees and acknowledges that any decision in respect of the exercise of discretion is a matter solely for the CWW remuneration committee.
- 1.4 CWW confirms that the CWW remuneration committee has determined that it does not intend to waive or vary any performance conditions under any of the CWW Share Plans.
- 1.5 Bidder and CWW agree that, pursuant to Rule 36 of the Incentive Plan 2011, two-thirds of the outstanding Performance Share Awards and all of the outstanding Restricted Share Awards held by each individual participating in the CWW Incentive Plan 2011 will be compulsorily exchanged for replacement share awards over Vodafone Group Plc's share capital which, except as set out below, will be subject to the same terms and conditions as the existing Performance Share Awards and Restricted Share Awards under the CWW Incentive Plan 2011 as constituted immediately prior to the Acquisition (the "Replacement Awards"). The Replacement Awards will:

- 1.5.1 be of equivalent value (i.e. the aggregate value of two-thirds of the Performance Share Awards and all of the Restricted Share Awards held by each individual participating in the CWW Incentive Plan 2011 (calculated using the consideration per CWW Share as is due under the Acquisition) will be divided by the value of Vodafone Group Plc's share price on the Effective Date);
- 1.5.2 be treated as having been granted, for vesting purposes, on the date the Performance Share Awards and Restricted Share Awards were originally awarded;
- 1.5.3 not be subject to any performance conditions or any additional vesting conditions; and
- 1.5.4 vest in full on the normal vesting dates of the original Performance Share Awards and Restricted Share Awards, as set out in the Incentive Plan 2011 (and each participant's ancillary documentation) or, if earlier, the date a participant ceases to be employed by the enlarged Bidder Group following the Acquisition except where a participant ceases employment with the enlarged Bidder Group following the Acquisition by reason of:
  - (A) resignation (other than in circumstances constituting constructive dismissal); or
  - (B) dismissal by reason of the participant's wilful misconduct, gross negligence or a material breach of fiduciary duty in the performance of his duties as an employee or director, as determined by Vodafone Group Plc's remuneration committee,

in which case their Replacement Award will lapse for nil consideration. For the avoidance of doubt, the one-third of the Performance Share Awards that are not subject to exchange for Replacement Awards will immediately lapse on the Effective Date.

- 1.6 In the event that the Acquisition proceeds by way of a Scheme, Bidder and CWW agree that, at the CWW GM, CWW shall propose an amendment to CWW's Articles of Association by the adoption and inclusion of a new article to be set out in the notice of CWW GM under which any CWW Shares issued following the Scheme Record Date will be transferred automatically to Bidder for the same consideration as is due under the Acquisition, to the extent not otherwise acquired under the Acquisition.
- 1.7 CWW agrees to use its reasonable endeavours to procure, where possible, that the CWW Share Plan Trustees that hold CWW Shares use such CWW Shares in satisfying awards under the CWW Share Plans.
- 1.8 Subject to the other provisions of this Schedule 4, Bidder, in agreement with CWW, will make appropriate proposals to participants in the CWW Share Plans (which shall be made in accordance with Bidder's obligations under Rule 15 of the Code) which proposals shall provide that, conditional upon Court sanction of the Scheme (or, if the Acquisition is implemented by way of an Offer, upon such Offer becoming or being declared unconditional in all respects):
  - 1.8.1 participants will be able, in accordance with and to the extent permitted under the provisions of the CWW Share Plans, to have CWW Shares subject to their vested



awards released under the CWW Share Plans and receive the same cash consideration in respect of the CWW Shares that they acquire or receive under such awards as is offered to CWW Shareholders under the Scheme (or under the Offer, as the case may be); or

- 1.8.2 participants holding Performance Share Awards and/or Restricted Share Awards awarded under the CWW Incentive Plan 2011 shall exchange such awards for Replacement Awards in accordance with Clause 1.5 above.

Without prejudice to the foregoing, CWW and Bidder agree that they will document the Scheme in such manner as may assist in enabling awards held under any of the CWW Share Plans to vest pursuant to the rules of those schemes including, if appropriate, documenting the Scheme as a "general offer" by way of a scheme of arrangement.

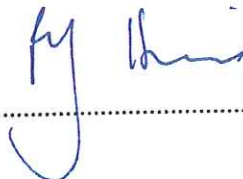
- 1.9 CWW and Bidder shall cooperate with each other in preparing letters, in a form to be agreed between CWW and Bidder, to be dispatched to all participants in the CWW Share Plans and to post such letters as soon as practicable after the posting of the Scheme Document (or, if the Acquisition is implemented by way of an Offer, as soon as the Offer is declared unconditional in all respects). Such letters shall include a form enabling participants to provide any instructions, as appropriate, during such period as is provided for under the rules of the CWW Share Plans, including details of the lapse provisions in relation to their awards and explaining what will happen to their CWW Shares that they will receive on the vesting of their awards or the release of their CWW Shares pursuant to the Acquisition.
- 1.10 CWW and Bidder agree to co-operate as far as reasonably practicable to ensure that the proposals to participants in the CWW Share Plans are formulated with a view to maximising all available tax and social security reliefs for employees and corporation tax relief under Part 12 of the Corporation Taxes Act 2009.
- 1.11 If CWW and Bidder reasonably consider it appropriate for tax, securities law, or administrative reasons, holders of awards under the CWW Share Plans who are not resident in the UK may be offered a cash sum equal to the intrinsic value of their award in return for such holders agreeing to cancel their awards.
- 1.12 Bidder agrees that employees of the CWW Group will be eligible to participate in the employee incentive plans operated by Vodafone Group Plc on the same basis as comparable employees of the Bidder Group. The terms of any such participation will be consistent with the terms on which comparable employees of the Bidder Group participate, subject always to the relevant plan rules. For the purposes of calculating the value of any awards to be made to employees of the CWW Group under the employee incentive plans of Vodafone Group Plc, no regard shall be had to any existing awards held by such employees (including where such existing awards are exchanged for Replacement Awards).
- 1.13 CWW agrees that, in accordance with and in addition to its obligations under the Code, it will not grant any further options or awards over shares (under the existing CWW Share Plans or otherwise) without Bidder's consent. Notwithstanding this and for the avoidance of doubt, Bidder is aware of and agrees to:
- 1.13.1 the grant by CWW of two Restricted Share Awards under the terms of the Incentive Plan 2011 (such awards having been included in the aggregate number of CWW Shares subject to outstanding awards under the CWW Share Plans previously communicated to Bidder); and

1.13.2 the on-going participation by employees of the CWW Group in the CWW Share Purchase Plan 2010 on the usual terms.

- 1.14 Bidder acknowledges that there are three options outstanding under the Cable & Wireless Incentive Plan 2001 (Consolidated Share Option Plan Rules) which were held by former employees of the CWW Group. One option is over 1,135,941 CWW Shares and an equal number of Cable & Wireless Communications plc ("CWC") shares with an option price (on a stapled basis) of £1.074 which will lapse on 2 March 2013 to the extent not exercised. There are two additional options over, in aggregate, 126,869 CWW Shares and an equal number of CWC shares with option prices (on a stapled basis) of £1.539 which will lapse on 28 August 2012 to the extent not exercised. The CWW Shares and the CWC shares to satisfy all three options, if exercised, are held in the CWC employee benefit trust. Bidder acknowledges and agrees that to the extent any of these options are exercised, CWW will be liable for any employer's National Insurance contributions liability that arises.

IN WITNESS of which the Parties have executed this Agreement on the date first mentioned above.

**EXECUTED by**  
acting for and on behalf of  
**CABLE & WIRELESS WORLDWIDE**  
**PLC**

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**EXECUTED by**  
acting for and on behalf of  
**VODAFONE EUROPE B.V.**

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IN WITNESS of which the Parties have executed this Agreement on the date first mentioned above.

EXECUTED by  
acting for and on behalf of  
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PLC

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EXECUTED by  
acting for and on behalf of  
VODAFONE EUROPE B.V.

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