

BELIZE:

**GOVERNMENT OF BELIZE AND SOCIAL SECURITY BOARD
SETTLEMENT DEED BILL, 2024**

ARRANGEMENT OF CLAUSES

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6. Authority to issue treasury notes.

SCHEDULE

BELIZE:

BILL

for

AN ACT to facilitate the implementation of the terms of deed of settlement between the Government of Belize and the Social Security Board to settle and to set-off certain debt obligations as between them that remain outstanding subsequent to Government of Belize’s 2009 and 2011 compulsory acquisition and re-acquisition Sunshine Holdings Ltd as well as the shares owned by Sunshine Holdings Ltd in Belize Telecommunications Limited for the BTL Employees Trust and to provide for matters connected therewith or incidental thereto.

(Gazetted, 2024)

BE IT ENACTED, by and with the advice and consent of the House of Representatives and Senate of Belize and by the authority of the same, as follows:

Short title. **1.** This Act may be cited as the

GOVERNMENT OF BELIZE AND SOCIAL SECURITY BOARD SETTLEMENT DEED ACT, 2024.

Interpretation. **2.** In this Act—

“Government of Belize and Social Security Board Settlement Deed” means the Settlement Deed made the 17th day of October, 2024 between the Government of Belize and the Social Security Board, the terms of which are reproduced in Schedule.

Schedule.

Validation of Government’s authority to enter into settlement deed.

3. For greater certainty, it is hereby declared that the Government—
(a) has, with full lawful authority entered into the Government of Belize and Social Security Board Settlement Deed; and
(b) is fully authorized to carry out its obligation as provided under the Government of Belize and Social Security Board Settlement Deed.

- 4.** All amounts payable by the Government by way of set-off as provided for in clause 2 in the Government of Belize and Social Security Board Settlement Deed shall be a charge on the Consolidated Revenue Fund. Set-off sum payable from Consolidated Revenue Fund.
- 5.** The Financial Secretary is authorized to pay the set-off sum provided for in clause 2 of the Government of Belize and Social Security Board Settlement Deed, at the times and on the terms provided in that deed. Authority to pay set-off sum.
- 6.** The Financial Secretary is authorized to issue Treasury Notes on the terms provided in the Government of Belize and Social Security Board Settlement Deed. Authority to issue treasury notes.

SCHEDULE
[section 2]

BELIZE

DEED OF SETTLEMENT AND RELEASE

THIS DEED OF SETTLEMENT is entered on the 17th day of October, 2024 among:

- i. **THE GOVERNMENT OF BELIZE (“GOB”)** of Sir. Edney Cain Building, Belmopan, Cayo District, Belize.
- ii. **THE BELIZE SOCIAL SECURITY BOARD (“SSB”)** of Bliss Parade, Belmopan, Cayo District, Belize

I. Recitals

WHEREAS:

1. Sunshine Holdings Limited (“**Sunshine**”) is a domestic company that was incorporated in 2005 under the *Companies Act*, Chapter 250 of the Laws of Belize for the sole purpose at the time of holding shares in Belize Telecommunications Limited (“**BTL**”) in trust for the BTL Employees Trust.
2. On the 19th day of September 2005, Sunshine entered into Loan Notes with (1) the SSB for a Loan of \$10 million to fund the purchase of shares in the BTL for the BTL Employees Trust and (2) the GOB for a further Loan of \$10 million from the GOB also to fund the purchase of shares in BTL for the BTL Employees Trust.
3. In 2009, the GOB through the enactment of the *Belize Telecommunications (Amendment) Act 2009* and *Statutory Instrument No. 104 of 2009* attempted to compulsorily acquire

Sunshine and all the 11,092,844 shares that Sunshine held in BTL as well as the shares owned by Dunkeld International Investment Ltd (“**Dunkeld**”), which resulted in several legal challenges in the Belize Courts over the compensation due for the acquisition of the said shares.

4. The GOB thereafter in 2011 enacted the *Belize Telecommunications (Amendment) Act 2011* and *Statutory Instrument No 11 of 2011* to compulsorily re-acquire Sunshine and all 11,092,844 shares that Sunshine held in BTL as well as the shares that Dunkeld held in BTL.
5. On the 1st day of August, 2014, the GOB undertook to the SSB to deduct any sums due to Sunshine’s creditors from the compensation that may be due to Sunshine for the compulsory acquisition of its shares in BTL under the aforesaid legislation.
6. On the 11th day of September, 2015, the GOB entered into a Settlement Agreements (“**BTL Settlement Agreements**”) with (1) Dunkeld and the Trustees of the BTL Employees Trust and (2) British Caribbean Bank Limited where it agreed to pay them compensation for the shares in BTL that it had compulsorily acquired, including the shares that were held by Sunshine for the BTL Employees Trust.
7. Pursuant to the Settlement Agreements, the GOB has to date paid (1) US\$52,152,679.32 plus BZ\$10,300,518.35 to the Trustees of the BTL Trust and (2) US\$175,953,067.02 and BZ\$245,155.56 to Dunkeld International Investments Limited.
8. Subsequent to the BTL Settlement Agreements, there ensued several legal disputes as to the interpretation of the said agreement which ultimately resulted in a judgment from the Caribbean Court of Justice (“**CCJ**”) in the consolidated appeals BZCV 2011/002 in *Dean Boyce and Trustees of the BTL Employees Trust et al v the Attorney General of Belize et al* where it was pronounced that the compensation due on the compulsory acquisition of the BTL shares that were owned by Sunshine for

the BTL Employees Trust was to be paid directly to the BTL Employees Trustees without the deduction of any sums due to the GOB and SSB as creditors.

9. The CCJ in the consolidated appeal BZCV2011/002 reasoned that the loans by the GOB and the SSB that were made to Sunshine for the BTL Employees Trust to acquire the BTL shares were to be paid from the dividends that the GOB earned from those shares.
10. The GOB therefore directly paid to BTL Employees Trustees as compensation of the Sunshine shares in BTL that were compulsorily acquired some US\$52,152,697.32 and a further BZ\$10,300,518.35 into a restricted account that is controlled by the Trust.
11. Notwithstanding the BTL Settlement Deed, the SSB Loan of \$10,000,000 plus interests that were made to Sunshine to enable the BTL Employees Trust to acquire the BTL shares remained outstanding and the SSB has estimated that as at the 30th June, 2024 interest and principal to be \$30,863,632.81 (**“GOB-Sunshine Debt”**).
12. As at the 30th day of June, 2024, the SSB currently owes the GOB \$16,852,109.46 for (1) SSB accrued benefits that the GOB has advanced to its employees as to \$14,173,083.07 and for which the SSB is now liable to refund the GOB and (2) being the residual funds held by the SSB under the Mortgage Securitization Program held and owing to the GOB since December 30, 2013 as to \$2,679,026.39 (**“SSB-GOB Debt”**).
13. The GOB and the SSB have entered terms of settlement of the monies they respectively owe each other per the GOB-Sunshine Debt and the SSB-GOB Debt upon the terms herein, with the GOB being allowed to set off the SSB-GOB Debt from the GOB-Sunshine

Debt, leaving a balance now owing by the GOB to the SSB of \$14,011,523.35 (“**Set-off Sum**”) and they now wish to record the terms of settlement, on a binding basis, in this Settlement Deed.

NOW THEREFORE, the parties agree that, in consideration of the execution of their respective obligations set out in the following terms and conditions, this Settlement Deed shall constitute a full and final settlement of all the claims, appeals, issues and matters outlined at Recitals (i) through (viii) above.

I. Definitions and Interpretation

In this Settlement Deed, unless the context otherwise requires, the following words and expressions have the following meanings:

“**Business Day**” means a day when financial institutions are open for business in Belize.

“**Closing**” means a day that is within three Business Days from the day on which the GOB Enacts the Legislation and completes the necessary executive actions required by paragraph 2.2 of this Settlement Deed.

“**Claims**” mean all the each and any claim, counter-claim, cause or right of action or proceedings, whether at law or in equity, of whatsoever nature and howsoever arising, in any jurisdiction whatsoever, whether secured, proprietary, by way of tracing, priority or otherwise, whether by way of contribution or subrogation or otherwise, arising out of or in connection with the GOB-Sunshine Debt and the SSB-GOB Debt, including any claims which could have arisen out of the facts which gave rise to those matters and any court costs and filing fees incurred thereunder but shall not include any claims to enforce this Settlement Deed.

“**Enact/Enacts/Enacted**” each means the process and, where

applicable, the date on which the Legislation contemplated under paragraph 2.2 of this Settlement Deed is made law by publishing such legislation in the Gazette following Governor General assent.

“Minister” means the Minister for the time being responsible for Treasury Bills who has been assigned such responsibility under section 41 of the Belize Constitution, Cap.4 of the Laws of Belize.

“Minister of Finance” means the Minister for the time being responsible for finance who has been assigned such responsibility under section 41 of the Belize Constitution, Cap. 4 of the Laws of Belize.

“The Parties” mean all parties to this agreement namely the GOB and the SSB.

“Treasury Notes” means treasury notes which are interest-earning securities issued by GOB pursuant to the Legislation to be enacted under Clause 2 hereunder which are to be guaranteed by the GOB, and administered by the Central Bank through the Central Securities Depository.

II. Agreed Terms

1. Settlement and Release

- 1.1. Subject to satisfaction of the Parties’ obligations under Clauses 2 and 3 each party to this Settlement Deed shall mutually discharge and release each other from the Claims.

2. Obligations of the GOB

- 2.1 The GOB shall pay SSB (in full payment of the Set-Off Sum) the sum of Fourteen Million (\$14,000,000.00) plus interest on the said sum at the rate of 3% per annum accruing as at the date

hereof by way of Treasury Notes in favour of the SSB as follows: (reference to letter of July 24th)

- i. Issue No. 1 in the principal amount of Four Million Belize Dollars (BZ\$4,000,000.00) bearing a coupon (interest) rate of 3% with a maturity date of 5 years from its date of issue; and
- ii. Issue No. 2 in the principal amount of Ten Million Belize Dollars (BZ\$10,000,000.00) bearing a coupon (interest) rate of 3% with a maturity date of 10 years from its date of issue.

2.2 The GOB shall take all such steps as are necessary to authorize the Minister to authorize the Financial Secretary to issue in favour of the SSB Treasury Notes under subclause 2.1 on or before the 1st day of December, 2024.

2.3 The GOB shall, as soon as reasonably practicable following the date of this Deed, take all such necessary executive actions to introduce into the House of Representatives and Enact into law (including by having both chambers in the National Assembly debate and vote on the same), on or before the 1st day of December, 2024 such resolution and/or legislation as may be required by law to:

- i. authorize the GOB to enter into this Settlement Deed and execute all its obligations thereunder;
- ii. authorize the Minister of Finance to authorize the Financial Secretary to issue Treasury Notes in favour of SSB to finance the terms of the Settlement Deed, which said notes are to be guaranteed by the GOB and administered by the Central Bank through the Central Securities Depository;

- iii. authorize and charge upon the Consolidated Revenue Fund the principal sum of Fourteen Million (\$14,000,000.00) together with all interest attendant to any Treasury Notes to be issued to SSB pursuant to this Settlement Deed and shall authorize the lawful withdrawal of the said sums from the Consolidated Revenue Fund and to authorize payments contemplated hereunder;

(the "**Legislation**")

- 2.4 In the event that the GOB does not comply with sub-clauses 2.1, 2.2, and 2.3 or the Legislation, the Parties undertake to take any further step pursuant to the terms of this Settlement Deed to fulfil the obligations stated hereunder.

3 Closing Obligations of SSB

- 3.1 The SSB shall take all such steps necessary to secure any required corporate authorizations for the execution of this Settlement Deed and all their respective obligations contemplated hereunder.

4 Representation and Warranties

- 4.1 GOB represents and warrants that:
 - i. The execution, delivery and performance of this Settlement Deed:
 - (a.) are its legal, valid and binding obligations, enforceable against it by SSB in accordance with its terms, and that it has all powers, authorities, consents and approvals necessary to enter into this Settlement Deed;

- (b.) save as otherwise contemplated in subclauses 2.1, 2.2, and 2.3 has been duly ratified by all necessary constitutional and legal action;
 - (c.) does not contravene the Constitution or any law, rule, regulation, treaty, regulated practice, procedure or policy or any of its duties or obligations, any material indenture, mortgage, trust deed, bond or other instrument or agreement to which it is bound, or any award, order, judgment, regulation, injunction, resolution, determination or other ruling of any court or governmental authority, agency or instrumentality which is binding on it; and
 - (d.) does not constitute or result in (even if notice is given, time elapses or both) a default, event of default or event of acceleration under any contract which is binding on or affecting it;
- ii. It has taken, or will take in accordance with Clauses 2.1, 2.2, and 2.3 all action required by law, regulation, or policy required to authorize the execution, delivery and performance of this Settlement Deed, and this Settlement Deed is a valid and binding deed of the GOB in accordance with its terms;
- iii. The undersigned party executing this Settlement Deed on behalf of the GOB has been duly authorized to execute and deliver this Settlement Deed;
- iv. It is not in violation or breach of, or in default under, any law, rule or regulation, any duty or obligation, or any indenture, mortgage, trust deed or other instrument or deed to which it is bound, so as to materially and adversely affect in any of the foregoing instances, its ability to perform its obligations hereunder; and, as of the date of this Settlement Deed, there

is no pending or, to its knowledge, threatened action or proceeding affecting it before any court, governmental agency or arbitrator which may materially and adversely affect its assets, financial condition, affairs or its ability to either execute, deliver or perform this Settlement Deed;

- v. Its obligations hereunder are direct, unconditional and general obligations; and
- vi. It will co-operate in all respects to the end that all matters contemplated by this Settlement Deed will be consummated.

4.2 The SSB represents and warrants that:

- i. The execution, delivery and performance of this Settlement Deed are its legal, valid and binding obligations, enforceable against it by GOB in accordance with its terms, and that it has all powers, authorities, consents and approvals necessary to enter into this Settlement Deed;
- ii. It has taken all action, to include all requisite board resolutions in the case of the SSB required by law to authorize the execution and delivery of this Settlement Deed, and this Settlement Deed is a valid and binding in accordance with its articles of incorporation (or equivalent) and governing instruments;
- iii. The undersigned party executing this Settlement Deed on its behalf has been duly authorized by it to execute and deliver this Settlement Deed;
- iv. The execution, delivery and performance of this Settlement Deed by the SSB does not contravene any law, rule, regulation, regulated practice, procedure or policy or any of its duties or obligations, any material indenture, mortgage, trust deed,

bond or other instrument or agreement to which it is bound, or any award, order, judgment, regulation, injunction, resolution, determination or other ruling of any court or governmental authority, agency or instrumentality which is binding on it;

- v. The execution, delivery and performance of this Settlement Deed by the SSB does not constitute or result in (even if notice is given, time elapses or both) a default, event of default or event of acceleration under any contract which is binding on or affecting it;
- vii. Its obligations hereunder are direct, unconditional and general obligations, and
- viii. It will co-operate in all respects to the end that all matters contemplated by this Settlement Deed will be consummated.

4.3 Without prejudice to any other remedy available to a party or its ability to claim damages on any other basis which is available to it by reason of any of the warranties set out in this Settlement Deed being untrue, inaccurate or misleading, the party breaching its representation or warranty shall be liable for and shall, at the direction of the other party, pay an amount equal to all losses whether directly or indirectly arising incurred or suffered by that party, which would not have existed or arisen if the relevant representation or warranty had not been untrue, inaccurate or misleading.

5 Notices

5.1 Notices under this Settlement Deed must be in writing and will be deemed given when actually received if delivered by courier with written proof of delivery, by electronic mail upon confirmation of successful transmission; or ten days after being sent by first class mail, return receipt request, to the other party at the address

below or such other addresses as the Parties may update and notify.

(a) For notices to the GOB

Financial Secretary

Mr. Joseph Waight
Sir Edney Cain Building,
Belmopan Cayo District, Belize
Email: Joseph.Waight@mof.gov.bz or
Financial.Secretary@mof.gov.bz

(b) For notices to the SSB

Chief Executive Officer/ Chairperson

Belize Social Security Board
Bliss Parade
Belmopan

Email: lalmendarez@socialsecurity.org.bz and Copy to
nsosa@socialsecurity.org.bz

6 Remedies and waivers

- 6.1 No delay or omission on the part of any of the Parties in exercising any right, power or remedy provided by the law of any jurisdiction or under this Settlement Deed shall:
- i. impair such right, power or remedy; or
 - ii. operate as a waiver thereof.
- 6.2 Without prejudice to any other rights or remedies that the Parties may have, they acknowledge and agree that damages alone would not be an adequate remedy for any breach of the terms of this

agreement. Accordingly, each of the Parties shall be entitled to the remedies of injunction, specific performance or other equitable relief for any threatened or actual breach of the terms of this agreement.

7 Entire Agreement

7.1 This Settlement Deed constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations, and understandings between them, whether written or oral, relating to its subject matter.

8 Amendments

8.1 This Settlement Deed may not be amended or modified except by a written amendment signed by authorized signatories of the GOB and the SSB.

9 Waivers

9.1 A waiver of a condition or obligation under this Settlement Deed will be effective only if in writing and signed by the party granting the waiver, and no such waiver will constitute a waiver of the satisfaction of any other condition or the non-performance of any other obligation.

10 Severability

10.1 If a court or tribunal of competent jurisdiction holds that any provision of this Settlement Deed is invalid or unenforceable, the remaining provisions will remain in full force and effect, and the Parties will replace the invalid and unenforceable provision with a valid and enforceable provision that achieves the original intent and economic effect of this.

11 Governing Law

11.1 This Settlement Deed and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of Belize.

12 Jurisdiction

12.1 The Belize courts have exclusive jurisdiction to settle any dispute, claim, difference or controversy arising out of, relating to or having any connection with this Settlement Deed, including any dispute as to its existence, validity, interpretation, performance, breach or termination or the consequences of its nullity and any dispute relating to any non-contractual obligations arising out of or in connection with it (for the purpose of this Clause, "a Dispute"), and each party submits to the exclusive jurisdiction of the Belize courts.

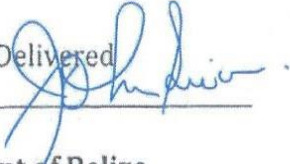



13 Voluntary Execution

13.1 The Parties warrant that the terms of this Settlement Deed have been completely read and are voluntarily accepted and entered after having obtained independent legal advice.

14 Counterparts

14.1 This Settlement Deed may be executed simultaneously in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Electronic signatures shall have the same legal effect as original signatures.

IN WITNESS whereof the Parties hereto have caused this Settlement Deed to be duly executed as a deed the day and year first before written.

| | |
|---|--|
| <p>Signed Sealed and Delivered As a Deed by <u></u></p> <p>For the Government of Belize In the Presence of:</p> <p><u></u></p> | <p>[SEAL]</p> <p>_____</p> <p>Name:</p> |
| <p>Signed Sealed and Delivered As a Deed by <u></u></p> <p>For the Social Security Board In the Presence of:</p> <p><u></u></p> | <p>[SEAL]</p> <p>_____</p> <p>Name: Nigeli Lisha Sosa Chairman Social Security Board</p> |