

Agreement

31 March 2009

Scheme Implementation Agreement

Macquarie Communications Infrastructure Limited

Macquarie Communications Infrastructure
Management Limited in its capacity as responsible
entity of Macquarie Communications Infrastructure
Trust

Macquarie MCG International Limited

Canada Pension Plan Investment Board

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Attachments

Target Announcement

Deed Poll

MCIL Share Scheme

MMCGIL Share Scheme

Supplemental Deed

Indicative Timetable

Net Cash certificate

31 March EBITDA certificate

30 September EBITDA certificate

Other Antitrust Clearances

UK Regulatory Approvals

Scheme Implementation Agreement

Date ► 31 March 2009

Between the parties

Macquarie Communications Infrastructure Limited

(ABN 18 084 388 983) of 1 Martin Place, Sydney NSW 2000

(MCIL)

Macquarie Communications Infrastructure Management Limited

(ABN 29 066 047 738) of 1 Martin Place, Sydney NSW 2000

in its capacity as responsible entity of Macquarie Communications Infrastructure Trust (ARSN 101 048 293) **(MCIML)**

Macquarie MCG International Limited

(ARBN 112 652 490) of Penboss Building, 50 Parliament Street, Hamilton HM12, Bermuda

(MMCGIL)

Canada Pension Plan Investment Board

of One Queen Street East, Suite 2600, Toronto, M5C 2W5, Canada

(CPPIB)

Recitals	<p>1 Target and CPPIB have agreed that CPPIB, through BidCo, will acquire all of the Securities other than those held by MCIML under:</p> <ul style="list-style-type: none">• the MCIL Share Scheme, subject to the approval of the holders of the MCIL Shares other than MCIML and the Court;• the MMCGIL Share Scheme, subject to the approval of the holders of the MMCGIL Shares other than MCIML and the Bermuda Court; and• the Trust Scheme, subject to the approval of the holders of MCIT Units other than MCIML and the granting of Judicial Advice. <p>2 At the request of CPPIB, Target agrees to propose the Schemes to Scheme Participants, as appropriate, and issue the Scheme</p>
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	<p>Booklet to Shareholders and Unitholders on and subject to the terms of this agreement.</p> <p>3 Target and CPPIB have agreed to do the things required by this agreement in order to enable the Schemes to be proposed, approved and implemented.</p>
<p>The parties agree as follows:</p>	

1 Definitions and interpretation

1.1 Definitions

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

Term	Meaning
Advisory Agreement	the agreement dated January 2005 under which MCIML (in its personal capacity) agrees to provide management services to MMCGIL.
Additional Company Resolutions	the Additional MCIL Resolutions and the Additional MMCGIL Resolutions.
Additional MCIL Resolutions	<p>the following resolutions of MCIL Shareholders:</p> <ol style="list-style-type: none"> 1 a resolution to approve the unstapling of MCIL Shares from MMCGIL Shares and from MCIT Units, with effect from the Implementation Date, in accordance with the requirements of the MCIL Constitution and the Stapling Deed; 2 a resolution for the purpose of item 7 of section 611 of the Corporations Act to approve the acquisition of relevant interests in MCIL Shares resulting from the Share Acquisition Agreement; and 3 any resolutions required under the Listing Rules to authorise any transactions or steps contemplated by this agreement, <p>(such resolutions to be put to MCIL Shareholders at the MCIL Meeting).</p>
Additional MCIT Resolutions	<p>the following resolutions of Unitholders :</p> <ol style="list-style-type: none"> 1 a resolution to approve the unstapling of MCIT Units from MCIL Shares and from MMCGIL Shares, with effect from the Implementation Date, in accordance with the requirements of the MCIT Constitution and the Stapling Deed; 2 a resolution for the purpose of item 7 of section 611 of the Corporations Act to approve the acquisition of relevant interests in MCIT Units resulting from the Share Acquisition Agreement; and 3 any resolutions required under the Listing Rules to authorise any transactions or steps contemplated by this agreement, <p>(such resolutions to be put to Unitholders at the Trust Meeting).</p>
Additional MMCGIL Resolutions	<p>the following resolutions of MMCGIL Shareholders:</p> <ol style="list-style-type: none"> 1 a resolution to approve the unstapling of MMCGIL Shares from MCIL Shares and from MCIT Units, with effect from the Implementation Date, in accordance with the requirements of the MMCGIL Bye-Laws and the Stapling Deed;

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Term	Meaning
	<p>2 a resolution for the purpose of item 7 of section 611 of the Corporations Act to approve the acquisition of relevant interests in MMCGIL Shares resulting from the Share Acquisition Agreement;</p> <p>3 a special resolution to amend the MMCGIL Bye-Laws by deleting Bye-Law 11(e)(ii) with effect from the Effective Date; and</p> <p>4 any resolutions required under the Listing Rules to authorise any transactions or steps contemplated by this agreement,</p> <p>(such resolutions to be put to MMCGIL Shareholders at the MMCGIL Meeting).</p>
Additional Resolutions	the Additional MCIL Resolutions, the Additional MCIT Resolutions and the Additional MMCGIL Resolutions.
ANZ Facility	the Acquisition Facility Agreement dated 12 November 2007 between, among others MCIML and Australia and New Zealand Banking Group Limited.
Adjusted Net Cash	<p>Adjusted Net Cash shall be Net Cash at 31 March 2009, less:</p> <p>1 any fees payable (net of GST) for advisory and management services provided by MCIML to Target for the period from 1 January 2009 to 31 March 2009, which are unpaid at 31 March 2009 (regardless of whether they have been invoiced by MCIML or expensed by Target); and</p> <p>2 the unpaid Target Total Transaction Costs at 31 March 2009 (for the avoidance of doubt, including amounts not yet incurred but expected to be incurred).</p>
AIFRS	the Australian equivalent of IFRS issued by the Australian Accounting Standards Board.
Agencies	the National Policing Improvement Agency, the Secretary of State for Health, the Scottish Ambulance Service Board and the Secretary of State for Communities and Local Government.
Airwave Business	the business carried on by Airwave Holdco and its Controlled Entities as at the date of this agreement.
Airwave Holdco	Guardian Digital Communications Luxembourg S.a.r.l.
Airwave Umbrella Agreement	the Umbrella Agreement dated 18 April 2007 between Guardian Digital Communications Limited (registered number 06143540), Guardian Digital Communications Holdings Limited (registered number 06143511), the Agencies, MMCGIL, MCIL and Macquarie European Infrastructure Fund II.
Ambac	Ambac Assurance Corporation.
Antitrust and National	any supranational, national, state, municipal or local government (including any subdivision, court, administrative agency or commission or other authority

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Term	Meaning
Regulatory Authorities	thereof) or any quasi government or private body exercising any antitrust and regulatory authority.
Arqiva Business	the business carried on by Arqiva Holdco and its Controlled Entities as at the date of this agreement.
Arqiva Holdco	Macquarie UK Broadcast Holdings Limited.
Arqiva PPL Unwind Documents	the meaning given to that term in the Transaction Implementation and Waiver Deed.
ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market conducted by it.
BA	Broadcast Australia Pty Ltd (ABN 99 086 048 562).
Bermuda Court	the Supreme Court of Bermuda.
BidCo	one or more Wholly-Owned Subsidiaries of CPPIB nominated by CPPIB.
BMA	the Bermuda Monetary Authority.
BMA Approval	all necessary clearances or authorisations from the BMA in connection with the acquisition: <ol style="list-style-type: none"> 1 of the special A share and the special B share in MMCGIL, including to the extent that any retrospective clearances or authorisations are required; 2 of the MMCGIL Shares by BidCo pursuant to the MMCGIL Share Scheme; 3 by CPPIB as the ultimate beneficial owner of MMCGIL; 4 by CPPIB as the ultimate beneficial owner of the special A share and the special B share in MMCGIL issued to MCIML; and 5 by CPPIB as the ultimate beneficial owner of each of MICAL, Bird 1 Limited and Neon Lights Limited.
Break Fee	1% of Equity Value
Broadcast Australia Business	the business carried on by Broadcast Australia Holdings Pty Ltd and its Controlled Entities as at the date of this agreement.
Business Day	1 for receiving a notice under clause 18, a day that is not a Saturday, Sunday,

Term	Meaning
	<p>bank holiday or public holiday in the place where the notice is sent;</p> <p>2 for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.</p>
CAT	<p>the United Kingdom Competition Appeal Tribunal.</p>
CC	<p>the United Kingdom Competition Commission.</p>
CC Undertakings	<p>The undertakings accepted by the United Kingdom Competition Commission from Arqiva Holdco and MMCGIL, Macquarie European Infrastructure Fund II and Macquarie European Infrastructure Fund III pursuant to section 82 of the Enterprise Act on 1 September 2008.</p>
CFIUS	<p>Committee on Foreign Investment in the United States of America</p>
Claim	<p>any debt, cause of action, Liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise.</p>
Companies Act	<p>the Companies Act 1981 of Bermuda.</p>
Company Meetings	<p>the MCIL Meeting and the MMCGIL Meeting.</p>
Competing Proposal	<p>any expression of interest, proposal, offer, transaction or arrangement (other than any transaction that may be made and implemented in connection with the Transaction) by or with any person:</p> <p>1 pursuant to which, if the expression of interest, proposal, offer, transaction or arrangement is entered into or completed substantially in accordance with its terms:</p> <ul style="list-style-type: none"> • a Third Party will directly or indirectly acquire a relevant interest (as defined in sections 608 and 609 of the Corporations Act) in, or become the holder of, more than 10% of any securities in a MCG Entity, Airwave Holdco or Arqiva Holdco (or any Controlled Entity of any of those entities); • a Third Party will directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in, all or more than 15% by value of the assets or business of a MCG Entity (or any Controlled Entity of any of those entities); • a Third Party will otherwise acquire Control of a MCG Entity (or any Controlled Entity of any of those entities); • a Third Party will otherwise directly or indirectly acquire, merge or amalgamate with, or acquire a significant shareholding or economic interest in a MCG Entity, any Controlled Entity of any of those entities, or any of the Arqiva, Airwave or Broadcast Australia divisions of Target (for the avoidance of doubt this provision does not apply to any transaction in relation to any interest in Arqiva or Airwave which is not held directly or indirectly by Target) or more than 15% by value of the total assets or

Term	Meaning
	<p>business of any of the Broadcast Australia Business, Airwave Business or Arqiva Business, whether by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for a MCG Entity or other synthetic merger or any other transaction or arrangement; or</p> <ul style="list-style-type: none"> • Target will cease to be admitted to the official list of ASX Limited or the Securities will cease to be officially quoted on the market operated by ASX Limited; or <p>2 which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Transaction and the Macquarie Transaction.</p>
Conditions Precedent	the conditions precedent set out in clause 3.1 of this agreement.
Confidentiality Deed	the confidentiality deed between Target and CPPIB dated 19 January 2009.
Control	the meaning given in section 50AA of the Corporations Act.
Controlled Entity	in relation to an entity, another entity which is a subsidiary of it, or which is Controlled by it, in each case within the meaning of Part 1.2, Division 6 of the Corporations Act.
Control Group	means the Target Group Entities (excluding Arqiva Holdco, Airwave Holdco, Broadcast Australia Holdings Pty Limited and Broadcast Australia Finance Pty Limited and any of their respective Controlled Entities).
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Court	the Supreme Court of New South Wales.
CPPIB Indemnified Parties	CPPIB, its Related Entities and each of their respective Representatives.
CPPIB Information	has the meaning given in clause 5.2(b).
Debt	the short and long term debt of the Control Group, including the ANZ Facility and, if any, borrowings and obligations under finance and capital leases, and interest accrued on all such debt amounts, but excluding the Exchangeable Bonds, any hedging assets or liabilities and any intra group loans of the Control Group, in each case arrived at by applying IFRS, AIFRS or Local GAAP (as applicable) to the individual entities on a basis consistent with past practice.
Deed Poll	the deed poll in the form of Attachment 2 (or in such other form as agreed between Target and CPPIB) for the Schemes.

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Term	Meaning
EBITDA	means proportionately consolidated earnings of the Target Group taken as a whole, before interest, tax, depreciation and amortisation, and before any exceptional write offs, fund level expenses and income, exceptional impairment provisions in respect of fixed and intangible assets and planned or incurred integration costs or any expenses relating to staff redundancies (identified to CPPIB in the Target Group Due Diligence Information) or implementation of the Transaction, and excluding exceptional income and excluding releases of provisions (except those provisions released in the ordinary course of business where the releases relate to provisions of a recurring trading nature and for the avoidance of doubt provision releases in relation to exceptional items will be excluded from EBITDA) in each case arrived at by applying IFRS, AIFRS or Local GAAP (as applicable) to the individual entities on a basis consistent with past practice, with any GBP amounts converted to Australian dollars at a constant exchange rate of GBP 1: A\$2.1647.
Equity Value	the number of Securities on issue at the date the Break Fee is calculated multiplied by the Scheme Consideration per Security.
Effective	when used in relation to the Schemes, all of the following events taking place: <ol style="list-style-type: none"> 1 the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the MCIL Share Scheme coming into effect pursuant to section 411(10) of the Corporations Act; 2 the order of the Bermuda Court made under section 99(2) of the Companies Act in relation to the MMCGIL Share Scheme coming into effect pursuant to section 99(3) of the Companies Act; and 3 the Supplemental Deed taking effect pursuant to section 601GC(2) of the Corporations Act.
Effective Date	the date on which all the Schemes have become Effective.
Enterprise Act	the Enterprise Act 2002 of the United Kingdom.
Escrow Agreement	the meaning given to that term in the Transaction Implementation and Waiver Deed
Escrow Documents	the meaning given to that term in the Transaction Implementation and Waiver Deed
Exchange Rate	with respect to a currency on a date means the arithmetic mean of the bid rate and the ask cross rates for the relevant currency as displayed at or about 10.00 am on that date on the Reuters screen Australian dollar cross rates page. If those rates are not displayed for any reason, the rate will be as agreed between Target and CPPIB
Exchangeable Bonds	the AUD 2.5% guaranteed exchangeable bonds due in 2012 issued by MCIML as trustee of the MCG 2007 Sub Trust and the USD 2.5% guaranteed exchangeable bonds due in 2013 issued by MCIML as trustee of the MCG Global Tower Acquisition Trust.

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Term	Meaning
Exclusivity Period	the period from and including the date of this agreement to the earlier of the Effective Date and the date of termination of this agreement.
Exon-Florio Amendment	Section 721 of the Defense Production Act of 1950, 50 U.S.C. app. §2170, including the Foreign Investment and National Security Act of 2007, Pub. L. 110-49, 121 Stat.246.
Explanatory Statements	<ol style="list-style-type: none"> 1 the statement pursuant to section 412 of the Corporations Act which has been, or will be, registered by ASIC in relation to the MCIL Share Scheme; 2 the explanatory statement pursuant to section 100(1)(a) of the Companies Act in relation to the MMCGIL Share Scheme; and 3 the explanatory statement to be sent to Unitholders in relation to the Trust Scheme, in accordance with Guidance Note 15 and the relevant provisions of the Corporations Act, explaining the effect of the Trust Scheme and setting out information that is material to the making of a decision by Unitholders whether or not to vote in favour of the Trust Scheme, <p>copies of which will be included in the Scheme Booklet.</p>
FATA	the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth).
First Court Date	the first day of hearing of an application made to the Court for orders, pursuant to section 411(1) of the Corporations Act, convening the MCIL Share Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.
First Judicial Advice	confirmation from the Court under section 63 of the <i>Trustee Act 1925</i> (NSW) that MCIML would be justified in convening the Trust Scheme Meeting and proceeding on the basis that amending the MCIT Constitution as set out in the Supplemental Deed would be within the powers of alteration conferred by the MCIT Constitution and section 601GC of the Corporations Act.
GAAP	a body of literature comprising generally accepted accounting principles issued by an accounting body.
GBP	Great British Pounds.
GST	a goods and services tax or similar value added tax levied or imposed under the GST Law.
GST Law	has the meaning given to it in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Guidance Note 15	<i>Guidance Note 15: Listed Trusts and Managed Investment Scheme Mergers</i> issued by the Takeovers Panel of Australia.

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Term	Meaning
IFRS	the International Financial Reporting Standards issued by the International Accounting Standards Board.
Implementation Date	the fifth Business Day after the Scheme Record Date.
Independent Directors	The directors of each of the MCG Entities other than Gerald Moriarty.
Independent Expert	the person to be appointed by Target pursuant to clause 5.1(b) as an independent expert to prepare the Independent Expert's Report.
Independent Expert's Report	the report prepared by the Independent Expert to be provided to the Independent Directors and Securityholders providing an opinion on the matters set out in clauses 5.1(b)(1) to 5.1(b)(3).
Judicial Advice	the First Judicial Advice and the Second Judicial Advice.
Liabilities	includes all liabilities (whether actual or contingent), losses, damages, costs and expenses of whatever description.
Listing Rules	the official listing rules of ASX.
Local GAAP	in respect of an entity, the GAAP applied by the entity for management reporting purposes.
Macquarie Transaction	The transactions contemplated by the Share Acquisition Agreement (including the acquisition of MCIML) and by the Transaction Agreements (as that term is defined in the Share Acquisition Agreement).
Management Services Agreement	the agreement dated 8 July 2002 pursuant to which MCIML (in its personal capacity) agrees to provide management services to MCIL.
MCG Entities	MCIL, MMCGIL and MCIT (acting through MCIML in its capacity as responsible entity of MCIT).
MCIL Constitution	the constitution of MCIL.
MCIL Meeting	the meeting of MCIL Shareholders convened pursuant to clause 8.2 of the MCIL Constitution to consider the Additional MCIL Resolutions to be held at or about the same time as the MCIL Share Scheme Meeting, and includes any adjournment of such meeting.
MCIL Scheme Meeting	MCIL Shareholders, as at 5pm on the Scheme Meeting Record Date, other than

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Term	Meaning
Participants	MCIML.
MCIL Scheme Participants	MCIL Shareholders as at 5.00pm on the Scheme Record Date, other than MCIML
MCIL Share	one fully paid ordinary share issued in the capital of MCIL.
MCIL Share Scheme	the scheme of arrangement pursuant to Part 5.1 of the Corporations Act proposed between MCIL and MCIL Shareholders (other than MCIML), substantially in the form contained in Attachment 3, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by CPPIB and Target.
MCIL Share Scheme Meeting	the meeting of MCIL Scheme Meeting Participants convened by order of the Court in relation to the MCIL Share Scheme pursuant to section 411(1) of the Corporations Act, and includes any adjournment of such meeting.
MCIL Shareholder	a person who is registered in the Register as the holder of MCIL Shares, and MCIL Shareholders means all of them.
MCIL Share Scheme Resolution	the resolution to be put to MCIL Scheme Meeting Participants to approve the MCIL Share Scheme (such resolution to be put to MCIL Scheme Meeting Participants at the MCIL Share Scheme Meeting and that, to be passed, must be approved by the requisite majorities of MCIL Scheme Meeting Participants under section 411(4)(a)(ii) of the Corporations Act).
MCIT	the Macquarie Communications Infrastructure Trust (ARSN 101 048 293).
MCIT Constitution	the constitution establishing MCIT dated 19 June 2002.
MCIT Unit	one fully paid ordinary unit in MCIT.
Meetings	the Share Scheme Meetings, the Trust Scheme Meeting, the Company Meetings and the Trust Meeting.
MEIF II	Macquarie European Infrastructure Fund II of Level 28, Citypoint, 1 Ropemaker Street, London EC2Y 9HD, United Kingdom.
MFIT	Macquarie Specialised Asset Management Limited in its capacity as trustee for Macquarie-FSS Infrastructure Trust of Level 11, No. 1 Martin Place, Sydney, NSW 2000, Australia.
MGIF 2	Macquarie Global Infrastructure Fund 2 S.A of 5, rue Guillame Kroll, L-1882 Luxembourg

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Term	Meaning
MICAL	Macquarie International Communications Assets Limited of Penboss Building, 50 Parliament Street, HM 12, Bermuda.
MMCGIL Bye-Laws	the bye-laws of MMCGIL.
MMCGIL Meeting	the meeting of MMCGIL Shareholders convened pursuant to clause 39 of the MMCGIL Bye-Laws to consider the Additional MMCGIL Resolutions to be held at or about the same time as the MMCGIL Share Scheme Meeting, and includes any adjournment of such meeting.
MMCGIL Scheme Meeting Participants	MMCGIL Shareholders as at 5pm on the Scheme Meeting Record Date other than MCIML.
MMCGIL Scheme Participants	MMCGIL Shareholders as at 5.00pm on the Scheme Record Date, other than MCIML.
MMCGIL Share	one fully paid ordinary share issued in the capital of MMCGIL.
MMCGIL Shareholder	a person who is registered in the Register as the holder of MMCGIL Shares, and MMCGIL Shareholders means all of them.
MMCGIL Share Scheme	the scheme of arrangement pursuant to section 99 of the Companies Act proposed between MMCGIL and MMCGIL Shareholders other than MCIML, substantially in the form contained in Attachment 4, together with any alterations or conditions made or required by the Bermuda Court and approved in writing by CPPIB and Target.
MMCGIL Share Scheme Meeting	the meeting of MMCGIL Scheme Meeting Participants convened by the Bermuda Court in relation to the MMCGIL Share Scheme pursuant to section 99(1) of the Companies Act, and includes any adjournment of such meeting.
MMCGIL Share Scheme Resolution	the resolution to be put to MMCGIL Scheme Meeting Participants to approve the MMCGIL Share Scheme (such resolution to be put to MMCGIL Scheme Meeting Participants at the MMCGIL Share Scheme Meeting and that, to be passed, must be approved by the requisite majorities of MMCGIL Scheme Meeting Participants under section 99(2) of the Companies Act).
Net Cash	means the aggregate amount of cash and cash equivalents of the Control Group minus any Debt, in each case arrived at by applying IFRS, AIFRS or Local GAAP (as applicable) to the individual entities on a basis consistent with past practice, with any GBP amounts converted to Australian dollars at an exchange rate of GBP 1 : A\$2.10, any USD amounts converted to Australian dollars at an exchange rate of USD 1 : A\$1.43 and any other currencies converted to Australian dollars at the Exchange Rate in effect at the date of certification.

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Term	Meaning
Notices of Meeting	<ol style="list-style-type: none"> 1 the notice convening the MCIL Share Scheme Meeting; 2 the notice convening the MCIL Meeting; 3 the notice convening the MMCGIL Share Scheme Meeting; 4 the notice convening the MMCGIL Meeting; 5 the notice convening the Trust Scheme Meeting; and 6 the notice convening the Trust Meeting, together with the proxy forms for those meetings.
OFCOM	the United Kingdom Office of Communications.
OFT	the United Kingdom Office of Fair Trading.
Other Antitrust Clearances	all approvals, consents, clearances, permissions, confirmations and waivers set out in Attachment 10.
PPL Unwind	the unwinding of the Profit Participating Loans in accordance with the agreed form steps set out in the Transaction Implementation and Waiver Deed, with the effect that: <ol style="list-style-type: none"> 1 MICAL holds legal and beneficial title to 48.02% of the issued share capital of Arqiva Holdco; 2 MFIT holds legal and beneficial title to 2.89% of the issued share capital of Arqiva Holdco; and 3 MEIF II holds legal and beneficial title to 20.86% of the issued share capital of Arqiva Holdco.
Prescribed Occurrence	the occurrence of any of the following between the date of this agreement and 8.00am on the Second Court Date: <ol style="list-style-type: none"> 1 any MCG Entity converting all or any of its securities into a larger or smaller number of securities; 2 any MCG Entity resolving to reduce its capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its securities or instruments; 3 any MCG Entity directly or indirectly, declaring, paying or distributing, or incurring a liability to make or pay, any dividend, bonus or other share of its profits, income, capital or assets by way of dividend or any other form of distribution; 4 any MCG Entity: <ul style="list-style-type: none"> • entering into a buy-back agreement; or • resolving to approve the terms of a buy-back agreement under the Corporations Act or under the relevant law of the jurisdiction in which it is incorporated or established; 5 any Target Group Entity: <ul style="list-style-type: none"> • issuing securities, or granting an option over or to subscribe for its securities, or agreeing to make such an issue or grant such an option to

Term	Meaning
	<p>any person;</p> <ul style="list-style-type: none"> • issuing or agreeing to issue, securities or other instruments convertible into securities to any person, <p>other than to a Target Group Entity.</p> <p>6 any Target Group Entity making any change to its constitution or other constituent documents other than as set out in the Supplemental Deed, or a meeting being convened to consider a resolution to change a constitution or other constituent document of any Target Group Entity;</p> <p>7 appointment of a liquidator, provisional liquidator or administrator of any Target Group Entity or MCIML (in its personal capacity);</p> <p>8 appointment of a receiver or receiver and manager in relation to the whole, or a substantial part, of the property of any Target Group Entity or MCIML (in its personal capacity);</p> <p>9 any Target Group Entity or MCIML (in its personal capacity) executing a deed of company arrangement;</p> <p>10 any Target Group Entity acquiring, leasing or disposing of or agreeing to acquire, lease or dispose of, or offering, proposing, or announcing a bid, or tendering for any business, property, assets, entity or undertaking, with a value in excess of \$50 million individually or in aggregate;</p> <p>11 any Target Group Entity creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole, or a part the value of which exceeds \$50 million, of its business or assets;</p> <p>12 any Target Group Entity entering into any contract or commitment (or any series of related contracts or commitments):</p> <ul style="list-style-type: none"> • requiring, or amending or agreeing to amend any contract or commitment, such that the amendment would require, expenditure, waiving any third party default which has a financial impact upon the Target Group, or accepting as a compromise anything less than the full compensation due to the Target Group, in each case where the applicable expenditure or impact is or will be in excess of \$50 million (whether individually or in aggregate) in any financial year; or • restraining any material member of the Target Group from competing with any person or conducting activities in any market; <p>13 any contract or commitment (or any series of related contracts or commitments) of any Target Group Entity being terminated prior to the end of their term which is of a value of \$50 million or more in any financial year;</p> <p>14 without limiting paragraph 13, no event having occurred which would or would reasonably be expected to result in the Airwave Umbrella Agreement being terminated in accordance with its terms;</p> <p>15 any Target Group Entity entering into any new financing arrangement, agreement or otherwise providing financial accommodation other than with members of the Target Group (excluding MCIML, Airwave Holdco or Arqiva Holdco) (irrespective of what form that accommodation takes), or amending the terms of any existing financing arrangement, agreement or instrument;</p> <p>16 any Target Group Entity entering into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the</p>

Term	Meaning
	<p>date of this agreement;</p> <p>17 any Target Group Entity resolving that it be wound up or the making of an application or order for its winding up or dissolution other than where the application or order (as the case may be) is set aside within 14 days but, in any event, prior to the Second Court Date;</p> <p>18 the Court making an order for the winding up of any Target Group Entity;</p> <p>19 any Target Group Entity ceasing, or threatening to cease to, carry on the business conducted as at the date of this agreement;</p> <p>20 any Target Group Entity being or becoming unable to pay its debts when they fall due within the meaning of the Corporations Act (or under the relevant law of the jurisdiction in which the relevant Target Group Entity is incorporated) or being otherwise presumed to be insolvent under the Corporations Act (or under the relevant law of the jurisdiction in which the relevant Target Group Entity is incorporated);</p> <p>21 any of the following occurring in relation to MCIT:</p> <ul style="list-style-type: none"> • an application being made in any court for an order to wind up MCIT in accordance with the Corporations Act, where such application has not been withdrawn or dismissed by at least one Business Day before the Second Court Date; or • the members of MCIT resolving to wind up MCIT; or • the responsible entity of MCIT being required to wind up MCIT by law; or • the commencement of the winding up of MCIT; <p>22 any Target Group Entity (other than a dormant, non-operating Target Group Entity) being deregistered as a company or registered managed investment scheme or being otherwise dissolved;</p> <p>23 any Target Group Entity issuing, or agreeing to issue, or granting an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been disclosed by Target or any of its Representatives to CPPIB or any of its Representatives prior to the date of this agreement, or to a Target Group Entity;</p> <p>24 any disposal of shares or securities by a Target Group Entity in any Target Group Entity other than to a Target Group Entity;</p> <p>25 any changes to or termination of the Stapling Deed, or the ordinary securities of MCIL, MCIT and MMCGIL ceasing to be stapled;</p> <p>26 any of the following occurring in relation to MCIT:</p> <ul style="list-style-type: none"> • MCIML ceasing to be the responsible entity of MCIT; • the Unitholders resolving to remove or replace MCIML as responsible entity; • a meeting being convened to consider a resolution for the removal, retirement or replacement of MCIML as responsible entity, where the meeting has not yet been held and the record date for the meeting occurs before the Implementation Date; or • an application being made in any court for the appointment of a temporary responsible entity in accordance with the Corporations Act, where such application has not been withdrawn or dismissed by at least one Business Day before the Second Court Date; <p>27 entering into any new contract or commitment with any Related Entity of any member of the Target Group (other than a member of the Target Group);</p>

Term	Meaning
	<p>28 any Target Group Entity:</p> <ul style="list-style-type: none"> • paying any bonus to any Officer of any Target Group Entity, other than bonuses payable to executives for the year ending 30 June 2009 in accordance with the employment terms of that executive in existence as at the date of this agreement and in the ordinary and usual course of business on the basis of principles consistent with those applied for the payment of bonuses by the Target Group Entity for the year ended 30 June 2008 (provided that, for the avoidance of doubt, the payment of any bonus in accordance with such employment terms requires that the applicable performance targets or benchmarks relating to the payment of the bonus are satisfied and that any other applicable conditions are fulfilled); • increasing the remuneration or compensation of any executive director or executive of any Target Group Entity other than in accordance with Target's normal salary review procedure conducted in good faith and in the ordinary and usual course of business on the basis of principles consistent with those applied for Target's normal salary review procedure in 30 June 2008; • granting to any director or executive of any Target Group Entity any increase in severance or termination pay or superannuation entitlements; or • making or agreeing to make any material change to the terms of, or waiving any claim or right under, or waiving the benefit of any provision of, any contract of employment with any executive of any Target Group Entity; <p>29 varying any term of the existing management and advisory arrangements with MCIML, including the Advisory Agreement and the Management Services Agreement;</p> <p>30 MCIML ceasing to hold an appropriate Australian Financial Services Licence or other authorisation required to enable it to continue to act as responsible entity of MCIT;</p> <p>31 altering in any material respect any accounting policy of any Target Group Entity other than any change required by AIFRS or IFRS (as applicable);</p> <p>32 an event of default occurring under, or an alteration of the terms of:</p> <ul style="list-style-type: none"> • any security or debenture issued by any member of the Target Group, including the Exchangeable Bonds; or • the debt financing arrangements of any member of the Target Group; <p>33 a member of the Target Group becoming party to litigation involving a claim against the relevant entity exceeding \$50 million which is not withdrawn or dismissed within 14 days after becoming a party to that litigation but in any event at least one Business Day before the Second Court Date;</p> <p>34 any notice being served or effected by Target to effect any transaction in respect of the Exchangeable Bonds without the prior written consent of CPPIB except as required to comply with the terms and conditions of the Exchangeable Bonds;</p> <p>35 amending in a material respect or terminating any existing shareholders agreement, joint venture agreement or other similar investor agreements or arrangements, or entering into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement. For the avoidance of doubt, any amendment of any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement in connection with the Airwave Business or the Arqiva Business will be a material amendment for the purposes of this paragraph;</p>

Term	Meaning
	<p>36 subject to clause 13.4, any Target Group Entity otherwise taking any action which it knows would be prejudicial to the successful outcome of the Transaction or which would or may reasonably be expected to have the effect of preventing any of the Conditions Precedent from being fulfilled or resulting in a delay to the Timetable; and</p> <p>37 any Target Group Entity directly or indirectly authorising, committing or agreeing to take or announcing any of the actions referred to in paragraphs 1 to 36 above insofar as it applies to the Target Group Entity the subject of such direct or indirect authorisation, commitment, agreement or announcement, provided that a Prescribed Occurrence will not include a matter:</p> <ul style="list-style-type: none"> • that is required to be done or procured by Target pursuant to this agreement or the Schemes; • in respect of which CPPIB has given its express prior written consent; or • set out in the business plans provided in the Target Group Due Diligence Information (other than any matter contemplated by paragraph 3 above).
Profit Participating Loans	(a) the loan agreement among MICAL, MFIT and Trust Company Limited (as custodian) dated 1 April 2007; (b) the loan agreement between MICAL and MEIF II, dated 1 April 2007; and (c) the loan agreement and the on-loan agreement between MICAL and MGIF 2, each dated 27 March 2007.
Qualifying Proposal	a bona fide proposal, offer, transaction or arrangement (other than any transaction that may be made and implemented in connection with the Transaction) by or with any person pursuant to which, if the proposal, offer, transaction or arrangement is entered into or completed in accordance with its terms, a Third Party (other than Macquarie Group Limited or any of its Related Entities or associates) will acquire, for cash consideration, Control of Target by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company for a MCG Entity or other synthetic merger whether the value of the cash consideration payable in respect of each Security under such proposal, offer, transaction or arrangement is at least 5% greater than the Scheme Consideration.
Register	the stapled security register of Target kept pursuant to the Corporations Act and the Companies Act.
Regulator's Draft	the draft of the Scheme Booklet in a form acceptable to both parties which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act.
Regulatory Approval	has the meaning given in clause 3.1(a).
Regulatory Authority	<ol style="list-style-type: none"> 1 a government or governmental, semi-governmental, administrative, fiscal or judicial entity or authority; 2 a minister, department, office, commission, delegate, instrumentality, tribunal, agency, board, authority or organisation of any government; 3 any regulatory organisation established under statute; and

Term	Meaning
	4 includes, ASX and ASIC.
Regulatory Review Period	the period from the date on which the Regulator's Draft is submitted to ASIC to the date on which ASIC provides a letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the MCIL Share Scheme, at such time the application made to the Court for orders under section 411(1) of the Corporations Act is heard, convening the MCIL Share Scheme Meeting to consider the MCIL Share Scheme.
Reimbursement Agreement	the agreements between, inter alia, Ambac and Broadcast Australia Holdings Pty, dated: <ol style="list-style-type: none"> 1 21 June 2002 and amended and restated on 20 April 2006 and February 2009; and 2 22 May 2007 as amended and restated in February 2009.
Related Entity	in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act.
Representatives	in relation to an entity: <ol style="list-style-type: none"> 1 each of the entity's Related Entities; and 2 each of its directors, officers, employees, contractors, advisers (including legal, financial and other expert advisers) and agents and including in the case of Target, any person provided to perform services for MCIML under a management agreement, but excluding the Independent Expert.
Required Consultation Period	the period commencing at the time both parties become aware that clause 3.7(a)(1) or 3.7(a)(2), as the case may be, is triggered and ending on the shorter of: <ol style="list-style-type: none"> 1 5 Business Days after that time; and 2 8.00am on the Second Court Date.
RG60	<i>Regulatory Guide 60 (Schemes of arrangement – s411(17))</i> first issued by ASIC on 4 August 1999.
RG74	<i>Regulatory Guide 74 (Acquisitions agreed to by shareholders)</i> first issued by ASIC on 8 December 1993.
RG142	<i>Regulatory Guide 142 (Schemes of arrangement and ASIC review)</i> first issued by ASIC on 4 August 1999.
SBS	the Special Broadcasting Services Corporation, a corporation established by the <i>Special Broadcasting Service Act 1991</i> (Cth).

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Term	Meaning
SBS Analogue Agreement	the analogue television and radio transmission services agreement with BA dated 30 April 1999.
SBS Analogue Extension Agreement	the analogue television transmission services extension agreement with BA dated 8 April 2003.
SBS Digital Agreement	the digital television transmission services agreement with BA dated 17 August 2005.
Scheme Booklet	the information to be despatched to all Securityholders, and approved by the Court and the Bermuda Court, in connection with the Scheme, including the Share Schemes, the Explanatory Statements, the Independent Expert's Report, the Deed Poll, the Supplemental Deed and the Notices of Meeting, and where the context requires, also includes disclosure materials to be despatched to all Securityholders in relation to the Additional Resolutions, the Company Meetings and the Trust Meeting..
Scheme Consideration	for each Security held by a Scheme Participant, an amount of \$2.50.
Scheme Entity	<ol style="list-style-type: none"> 1 in respect of the MCIL Share Scheme, MCIL; 2 in respect of the MMCGIL Share Scheme, MMCGIL; 3 in respect of the Trust Scheme, the trustee for the time being of MCIT being, as at the date of this agreement, MCIML.
Scheme Meeting Participant	each person who is a MCIL Scheme Meeting Participant and a MMCGIL Scheme Meeting Participant and a Trust Scheme Meeting Participant.
Scheme Meeting Record Date	in respect of a Scheme Meeting the day that is two days prior to that Scheme Meeting.
Scheme Meetings	the MCIL Scheme Meeting, the MMCGIL Scheme Meeting and the Trust Scheme Meeting and Scheme Meeting means any one of them as the case requires.
Scheme Participant	each person who is a Securityholder as at 5.00pm on the Scheme Record Date, other than MCIML.
Scheme Record Date	the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as Target and CPPIB may agree in writing.
Schemes	the Share Schemes and the Trust Scheme.
Second Court Date	the first day on which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the MCIL Share Scheme is

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Term	Meaning
	heard or, if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.
Second Judicial Advice	confirmation from the Court under section 63 of the <i>Trustee Act 1925</i> (NSW) that, subject to Unitholders passing the Trust Scheme Resolutions, Target would be justified in acting upon the Trust Scheme Resolutions in doing all things and taking all necessary steps to put the Trust Scheme into effect.
Security	a stapled security comprising one MCIL Share, one MMCGIL Share and one MCIT Unit.
Securityholder	each person who is registered in the Register as the holder of Securities.
Share Acquisition Agreement	the Share Acquisition Agreement dated on or about the date of this agreement between CPPIB, Macquarie Capital International Holdings Pty Limited and Macquarie Capital Group Limited.
Share Scheme Meetings	the MCIL Share Scheme Meeting and the MMCGIL Share Scheme Meeting.
Share Schemes	the MCIL Share Scheme and the MMCGIL Share Scheme.
Share Scheme Resolutions	the MCIL Share Scheme Resolution and the MMCGIL Share Scheme Resolution.
Shareholder	a MCIL Shareholder and a MMCGIL Shareholder, and Shareholders means all of them.
Stapling Deed	the Share Stapling Deed between MCIML as responsible entity of MCIT, MCIL, MMCGIL and MCIML in its personal capacity.
Sunset Date	31 October 2009.
Superior Proposal	<p>a Qualifying Proposal which the Independent Directors have determined, acting reasonably and in good faith in order to satisfy what the Independent Directors consider to be their respective fiduciary or statutory duties (after having taken advice from their respective financial and legal advisers):</p> <ol style="list-style-type: none"> 1 is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the Qualifying Proposal; 2 except in relation to clause 13.4 to which this paragraph 2 does not apply, (to the extent the Qualifying Proposal does not rely on the proposing party's existing freely available cash resources) is the subject of committed financing which is not subject to any conditions outside the control of the proposing party (other than the satisfaction or waiver of the conditions of the Qualifying Proposal itself); and

Term	Meaning
	<p>3 would or would be reasonably likely to, if completed in accordance with its terms, be more favourable to Securityholders (as a whole) than the Transaction, taking into account all the terms and conditions of the Qualifying Proposal.</p>
Supplemental Deed	<p>a deed poll under which MCIML will amend the MCIT Constitution, substantially in the form contained in Attachment 5, with any alterations or conditions approved in writing by CPPIB and Target.</p>
Target	<p>together, MCIL, MMCGIL and MCIT (acting through MCIML in its capacity as responsible entity of MCIT), or any of them as the context requires. For the avoidance of doubt, no security in MCIML will become subject to the Schemes or any other transaction referred to in this agreement except for the Macquarie Transaction.</p>
Target Announcement	<p>the public announcement to be made by Target in the form of Attachment 1, with any alterations approved in writing by CPPIB and Target.</p>
Target Board	<p>the boards of directors of Target.</p>
Target Group Due Diligence Information	<p>all written information relating to Target Group or any members of Target Group that has been made available to CPPIB or to its Representatives as at or prior to 9.00pm on 30 March 2009.</p>
Target Group	<p>the Target Group Entities.</p>
Target Group Entity	<p>any MCG Entity, Airwave Holdco, Arqiva Holdco or any of their respective Controlled Entities.</p>
Target Indemnified Parties	<p>Target, its Related Entities and each of their respective Representatives.</p>
Target Information	<p>all written information contained in the Scheme Booklet, and any updates to that information prepared by or on behalf of Target in accordance with clause 8.2(b), but does not include the CPPIB Information or the Independent Expert's Report.</p>
Target Material Adverse Change	<p>any event, occurrence or matter which occurs, is announced or becomes known (in each case whether or not it becomes public) after the execution of this agreement (other than an event, occurrence or matter expressly required to be done or procured by the Target Group pursuant to this agreement) which individually or when aggregated with all such events, occurrences or matters (after the execution of this agreement):</p> <p>1 results (or is reasonably likely to result):</p> <ul style="list-style-type: none"> • in EBITDA of the Target Group, taken as a whole, for the three month period ending 31 March 2009 being below \$160 million; • in EBITDA of the Target Group, taken as a whole, for the six month period ending 30 September 2009 being reasonably expected to fall below

Term	Meaning
	<p>\$350 million; or</p> <ul style="list-style-type: none"> • in EBITDA of the Target Group, taken as a whole, for the twelve month period ending 30 September 2010 being reasonably expected to fall below \$700 million; <p>2 has the result (or is reasonably likely to have the result) that any of the Broadcast Australia Business, the Airwave Business or the Arqiva Business is unable to be carried on in substantially the same manner as carried on as at the date of this agreement; or</p> <p>3 has the result (or is reasonably expected to have the result) that present or future third party monetary obligations (within twelve months from the date of this agreement) of a Target Group Entity (other than under the ANZ Facility or in respect of the Exchangeable Bonds or the PPL Unwind) in respect of moneys borrowed or raised totalling at least \$50 million (or, without limitation, its equivalent in any other currency or currencies) becomes capable of being declared due and payable before their stated maturity or expiry (other than as a result of the Transaction or the Macquarie Transaction).</p>
Target Reporting Documents	all reports, schedules, prospectuses, forms, statements, notices and other documents required to be filed with ASIC, ASX and the Registrar of Companies in Bermuda by Target, including any information required by law to be filed by Listing Rule 3.1.
Target Total Transaction Costs	are the costs, as notified by Target to CPPIB in the Target Group Due Diligence Information, reasonably expected to be incurred by the Control Group in relation to Project Vaughn and any other unpaid costs in relation to the Transaction, Project Jen, Project Gabriel, the satisfaction of the Condition Precedent in clause 3.1(o), Macquarie Capital Advisor fees, transition costs and the associated net GST costs regardless of date incurred or expected to be incurred by the Control Group.
Third Party Consent	any consent, agreement, waiver, licence or approval from or by a party in respect of a contract involving a Target Group Entity which is agreed to be a "Third Party Consent" in writing by the parties to this agreement on or before the date of this agreement.
Timetable	the timetable for the implementation of the Transaction set out in Attachment 6.
Transaction	the acquisition by BidCo of all of the Securities by means of the Schemes in accordance with the terms of this agreement.
Transaction Documents	this agreement, the Schemes, the Deed Poll and the Supplemental Deed.
Transaction Implementation and Waiver Deed	the Transaction Implementation and Waiver Deed dated on or about the date of this agreement between CPPIB, the MCG Entities, MICAL, Neon Lights Limited, MEIF II, MEIF II Luxembourg Holdings S.a.r.l., MEIF II Luxembourg Communications S.a.r.l., Macquarie European Infrastructure Fund III, MGIF, MFIT, Macquarie International Infrastructure Fund Limited and Macquarie International Advisory Services Pty Limited.

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Term	Meaning
Trust Meeting	the meeting of Unitholders convened pursuant to clause 17.1 of the MCIT Constitution to consider the Additional MCIT Resolutions to be held at or about the same time as the Trust Scheme Meeting, and includes any adjournment of such meeting.
Trust Scheme	the arrangement, in accordance with Guidance Note 15, under which BidCo acquires all of the MCIT Units from Trust Scheme Participants facilitated by amendments to the MCIT Constitution as set out in the Supplemental Deed, subject to the requisite Unitholder approvals.
Trust Scheme Meeting	the meeting of Unitholders convened by Target pursuant to clause 17.1 of the MCIT Constitution to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.
Trust Scheme Meeting Participants	Unitholders as at 5pm on the Scheme Meeting Record Date.
Trust Scheme Participants	Unitholders as at 5pm on the Scheme Record Date, other than MCIML.
Trust Scheme Resolutions	the resolutions of Unitholders to approve the Trust Scheme including: <ol style="list-style-type: none"> 1 a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all the MCIT Units by BidCo; and 2 a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the MCIT Constitution as set out in the Supplemental Deed.
UK Regulatory Approvals	all approvals, consents, clearances, permissions, confirmations and waivers set out in Attachment 11.
Unitholder	each person who is registered in the Register as the holder of MCIT Units, and Unitholders means all of them.
US FCC	The Federal Communications Commission of the United States of America
USD	United States Dollar.
Wholly-Owned Subsidiary	in relation to a party, a body corporate or trust, all of the issued shares or units of which are or will be directly or indirectly owned by that party.

1.2 Interpretation

In this agreement, except where the context otherwise requires:

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- (a) the singular includes the plural and vice versa;
- (b) a gender includes all genders;
- (c) another grammatical form of a defined word or expression has a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or attachment is to a clause or paragraph of, or schedule or attachment to, this agreement, and a reference to this agreement includes any schedule or attachment;
- (e) a reference to an agreement, document or instrument (including a reference to this agreement, and to any regulatory guide, standard or guidance note) includes the agreement, document or instrument as novated, amended, altered, supplemented or replaced from time to time, except to the extent prohibited by this agreement or that other agreement, document or instrument;
- (f) a reference to **A\$, AUD, dollar** or **\$** is to Australian currency and except where otherwise specified with any GBP amounts converted to Australian dollars at a constant exchange rate of GBP 1: A \$2.10, any USD amounts will be converted to Australian dollars at a constant exchange rate of USD \$1: \$1.43 and any other currencies converted to Australian dollars at the applicable Exchange Rate (for the avoidance of doubt, and without limitation, the currency conversion mechanism set out in this clause 1.2(f) does not apply in respect of Net Cash, Adjusted Net Cash or EBITDA, the definitions of which incorporate their own currency conversion mechanisms);
- (g) a reference to time is to Sydney, Australia time;
- (h) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person, partnership, body corporate, association, governmental or local authority or agency or other entity includes any of them;
- (j) a reference to a statute, ordinance, code or other law, or regulation, includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (k) a word or expression defined in either the Corporations Act or the Companies Act (as applicable) has the corresponding meaning given to it in the Corporations Act or the Companies Act;
- (l) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (m) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;
- (n) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (o) a reference to amend includes delete or replace.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2 Agreement to propose Schemes

- (a) Target will propose the Schemes upon and subject to the terms of this agreement, and will use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise in accordance with the Timetable.
- (b) CPPIB will assist Target to propose the Schemes on and subject to the terms of this agreement, and will use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise in accordance with the Timetable.

3 Conditions

3.1 Conditions Precedent to implementation of the Schemes

The Schemes, the obligations of Target under clause 5.1(z) and the obligations of CPPIB to pay, or procure payment of, the Scheme Consideration in accordance with clause 4.2 and 5.2(l) and the Deed Poll are subject to the satisfaction of the following Conditions Precedent (unless, to the extent capable, waived by a party in accordance with clause 3.2) on or prior to the Second Court Date (or such other date as specified in the relevant Condition Precedent):

- (a) **Regulatory Approvals:**
 - (1) **FIRB:** before 8.00am on the Second Court Date, the Treasurer of the Commonwealth of Australia either:
 - (A) has provided (either himself or through his delegate) written advice or confirmation which is unconditional or subject only to conditions acceptable to CPPIB (acting reasonably) that the acquisition of the Securities pursuant to the Schemes by BidCo is approved under FATA, or that there is no objection to that acquisition under FATA or the foreign investment policy of the Australian Government; or
 - (B) has become, or is, precluded from making an order in respect of the acquisition of the Securities by BidCo pursuant to the Schemes under Part II of FATA;
 - (2) **Antitrust approvals:** before 8.00am on the Second Court Date, all clearances or authorisations (whether formal or otherwise) from the Australian Competition and Consumer Commission that are required in order to implement the Transaction have been granted or obtained, and the Other Antitrust Clearances have been obtained in accordance with Attachment 10, and in each case are not withdrawn, cancelled or revoked;

- (3) **UK Regulatory Approvals:** before 8.00am on the Second Court Date, the conditions set out in Attachment 11 have been satisfied and where confirmations are required in satisfaction of such UK Regulatory Approvals, they are not withdrawn, cancelled or revoked;
- (4) **ASIC modification regarding Unitholder voting:** before the date of the Trust Scheme Meeting, ASIC has granted:
- (A) a modification of Item 7 of section 611 of the Corporations Act, allowing Unitholders (other than MCIML and its associates except where MCIML or its associates hold Units on behalf of a third party who is not an associate and such third party being entitled to vote, directs MCIML or the associate how to vote) to vote in favour of the Trust Scheme Resolution for the purpose of Item 7 of section 611 or indicated in writing that such a modification will not be required;
 - (B) an exemption from any requirement for CPPIB (or BidCo) to comply with Division 5A of Part 7.9 of the Corporations Act in relation to the Trust Scheme and the MMCGIL Share Scheme, or the transactions contemplated by, or in connection with, the Trust Scheme and the MMCGIL Share Scheme;
 - (C) an exemption from the requirements of Part 7.6 of the Corporations Act in relation to any general financial product advice by CPPIB (or BidCo) contained in the Scheme Booklet; and
- (5) **BMA approval:** before 8.00am on the Second Court Date, the BMA Approval has been provided,
(together **Regulatory Approvals**), and all such approvals or confirmations have been given either unconditionally or on conditions that are acceptable to the parties acting reasonably;
- (b) **Court approval:** the Court approves the MCIL Share Scheme in accordance with section 411(4)(b) of the Corporations Act and the Trust Scheme by granting the Judicial Advice;
- (c) **Bermuda Court approval:** the Bermuda Court approves the MMCGIL Share Scheme in accordance with section 99(2) of the Companies Act;
- (d) **Shareholder approval:** before 8.00am on the Second Court Date:
- (1) Scheme Meeting Participants approve both Share Schemes at the Share Scheme Meetings by the requisite majorities under the Corporations Act and the Companies Act (as applicable); and
 - (2) Shareholders approve the Additional Company Resolutions at the Company Meetings by the requisite majorities under the Listings Rules, the Corporations Act and the Companies Act (as applicable);
- (e) **Unitholder approval:** before 8.00am on the Second Court Date:
- (1) Unitholders approve the Trust Scheme Resolutions at the Trust Scheme Meeting by the requisite majorities (and subject to any voting exclusions) under the Corporations Act and in accordance with

Guidance Note 15 (subject to any exemption or modification granted by ASIC); and

- (2) Unitholders approve the Additional MCIT Resolutions at the Trust Meeting by the requisite majorities (and subject to any voting exclusions) under the Listings Rules and the Corporations Act;
- (f) **Restraining orders:** no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Regulatory Authority of competent jurisdiction, remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Transaction, or any Transaction Document;
- (g) **Prescribed Occurrence:** no Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date;
- (h) **Target Material Adverse Change:** there is no Target Material Adverse Change between the date of this agreement and 8.00 am on the Second Court Date;
- (i) **Director's recommendation:** before 8.00am on the Second Court Date, the Independent Directors do not:
- (1) change, qualify or withdraw their recommendation to Securityholders referred to in clause 5.5; or
- (2) otherwise make any public statement that suggests that the Schemes are no longer so recommended;
- (j) **Target's representations and warranties:** the representations and warranties given by Target under clause 8.1 and the undertakings given by Target under clause 8.2 that are qualified as to materiality are true and correct, and that are not so qualified are true and correct in all material respects, in each case at the times specified in the relevant clause (or in the case of clause 8.2(b), a reasonable time after becoming aware of such new information) and a certificate confirming this to the best of Target's knowledge is provided by Target to CPPIB by 8.00 am on the Second Court Date;
- (k) **CPPIB's representations and warranties:** the representations and warranties given by CPPIB under clause 8.3 and the undertakings given by CPPIB under clause 8.4 that are qualified as to materiality are true and correct, and that are not so qualified are true and correct in all material respects, in each case at the times specified in the relevant clause (or in the case of clause 8.4(b), a reasonable time after of becoming aware of such new information) and a certificate confirming this to the best of CPPIB's knowledge is provided by CPPIB to Target by 8.00 am on the Second Court Date;
- (l) **Target material breach:** before 8.00am on the Second Court Date, Target has not breached any provision of this agreement to a material extent in the context of the Schemes taken as a whole;
- (m) **CPPIB material breach:** before 8.00am on the Second Court Date, CPPIB is not in breach of clauses 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 4.2, 5.2, 5.3 or 5.4 to a material extent in the context of the Schemes taken as a whole;
- (n) **Macquarie Transaction:** before 8.00am on the Second Court Date, the Share Acquisition Agreement has not been terminated and the only outstanding

condition to the completion of the Macquarie Transaction is the implementation of the Schemes;

- (o) **PPL Unwind:** each of the Arqiva PPL Unwind Documents has been executed by all parties thereto (and the Escrow Documents have been placed into escrow pursuant to the Escrow Agreement) and none of the Arqiva PPL Unwind Documents has been terminated before 8.00am on the Second Court Date;
- (p) **Ambac consent:** before 8.00am on the Second Court Date either:
 - (1) a consent in writing to any Ownership Change of Control Event (as defined in the Reimbursement Agreements) arising from the Transaction under the Reimbursement Agreements signed by Ambac is received by CPPIB; or
 - (2) Broadcast Australia Finance Pty Ltd has provided to Ambac copies of the ratings affirmation from each of S&P and Moody's confirming that, notwithstanding the Transaction constituting an Ownership Change of Control Event (as defined in the Reimbursement Agreements), the Notes (as defined in the Reimbursement Agreements) (without the benefit of the Financial Guarantee (as defined in the Reimbursement Agreements)) will continue to be rated not less than BBB by S&P and Baa2 by Moody's, or the equivalent thereof;
- (q) **Net Cash:** no later than 10 April 2009 Target delivers to CPPIB a certificate in the form of Attachment 7 signed by two Independent Directors, certifying that, as at 31 March 2009, to the best of the Independent Directors' knowledge and belief, having made all due and reasonable enquiries, Adjusted Net Cash is not less than \$69.9 million;
- (r) **Tax Ruling:** Target delivers to CPPIB a ruling from the Australian Taxation Office confirming that there is no application of section 51AD of the *Income Tax Assessment Act 1936* to Broadcast Australia Pty Limited in response to the agreed form private ruling application entitled "Broadcast Australia – request for priority private ruling", dated 24 March 2009;
- (s) **First EBITDA confirmation:** Target delivers to CPPIB no later than 30 April 2009 a certificate in the form of Attachment 8 signed by two Independent Directors certifying that the EBITDA in respect of the Target Group taken as a whole for the three month period ended 31 March 2009 exceeded \$160 million, calculated with reference to the January 2009, February 2009 and March 2009 monthly management accounts for the Airwave Business, the Arqiva Business and the Broadcast Australia Business as well as any applicable quarterly accounts with any such adjustments required to comply with the definition of EBITDA; and
- (t) **Second EBITDA confirmation:** Target delivers to CPPIB no later than the earlier of (a) 10 October 2009 and (b) one Business Day before the Second Court Date, a certificate in the form of Attachment 9 signed by two Independent Directors certifying that, as at the date of the certificate, to the best of the Independent Directors' knowledge and belief, having made all due and reasonable enquiries (including enquiries of management of the Target Group Entities), the EBITDA for the Target Group taken as a whole for the six month period ending 30 September 2009 is reasonably expected to exceed \$350 million.
- (u) **BA consents from SBS:** before 8.00am on the Second Court Date, an irrevocable consent to the implementation of the Transaction has been obtained by CPPIB (in a form satisfactory to CPPIB acting reasonably) from SBS in

connection with each of the SBS Analogue Extension Agreement and the SBS Digital Agreement.

3.2 Waiver of Conditions Precedent

- (a) Subject to clause 3.2(c), the Conditions Precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d) and 3.1(e) cannot be waived.
- (b) The Conditions Precedent in clause 3.1(f) and 3.1(n), are for the joint benefit of Target and CPPIB and any breach or non-fulfilment of that Condition Precedent may only be waived with the written consent of Target and CPPIB.
- (c) The Conditions Precedent in:
- (1) clauses 3.1(a)(2) (other than in relation to the Other Antitrust Clearance referred to in paragraph 2 of Attachment 10) and 3.1(a)(3);
 - (2) clauses 3.1(g), 3.1(h), 3.1(i), 3.1(j), 3.1(l), 3.1(o), 3.1(p), 3.1(q), 3.1(r), 3.1(s), 3.1(t) and 3.1(u),
- are for the sole benefit of CPPIB and any breach or non-fulfilment of those Conditions Precedent may only be waived by CPPIB at its sole discretion (by written notice to Target).
- (d) CPPIB must waive the Condition Precedent in clause 3.1(i) if any of the Independent Directors:
- (1) change or withdraw their recommendation to Securityholders referred to in clause 5.5; or
 - (2) otherwise make any public statement that suggests that the Schemes are no longer so recommended,
- in circumstances where:
- (A) the Independent Expert gives a report to Target which opines that either of the Share Schemes is not in the best interests of Securityholders and/or that the Trust Scheme is not fair and reasonable or changes its previously given opinion that either of the Share Schemes is in the best interests of Securityholders or that the Trust Scheme is fair and reasonable, in circumstances where the reasons for the Independent Expert's opinion do not include the existence of a Competing Proposal; and
 - (B) in the case of the Independent Expert giving a report to Target which opines that the Trust Scheme is not fair but is reasonable, the Target Boards have consulted in good faith with CPPIB in advance concerning any proposed change of recommendation,
- unless CPPIB waives its rights under clause 14.2.
- (e) The Conditions Precedent in clauses 3.1(k) and 3.1(m) are for the sole benefit of Target and any breach or non-fulfilment of those Conditions Precedent may only be waived by Target by written notice to CPPIB.
- (f) Subject to 3.2(d), a party entitled to waive the breach or non-fulfilment of a Condition Precedent pursuant to this clause 3.2 may, as between Target and CPPIB, do so in its absolute discretion.

3.3 Reasonable endeavours to satisfy Conditions Precedent

Without prejudice to any other obligations of the parties under this agreement:

- (a) CPPIB must use its reasonable endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(k) and 3.1(m);
- (b) Target must use its reasonable endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(d), 3.1(e), 3.1(g), 3.1(h), 3.1(i), 3.1(j), 3.1(l), 3.1(o), 3.1(q), 3.1(r), 3.1(s), 3.1(t) and 3.1(u);
- (c) each of Target and CPPIB must use their respective reasonable endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(f), and 3.1(p), to the extent that it is within their respective control;
- (d) CPPIB must use its reasonable endeavours to satisfy or procure the satisfaction of, the conditions to the completion of the Macquarie Transaction (other than in relation to implementation of the Schemes, the obligations of Target and CPPIB in respect of which are governed by this agreement), to the extent that it is within its control and having regard to its rights in respect of the Macquarie Transaction;
- (e) subject to clause 13.4, neither party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition Precedent, except to the extent that such action is required by law or required to be done or procured pursuant to this agreement.

3.4 Pre implementation steps

Without limiting clause 3.3 and subject to clause 3.5, each of CPPIB and Target must:

- (a) promptly apply for all relevant Regulatory Approvals required by it or its Related Entities to satisfy a Condition Precedent and provide to the other a copy of all those applications;
- (b) take all steps for which it is responsible as part of the Regulatory Approval process, including responding to requests for information at the earliest practicable time;
- (c) provide the other party with all information reasonably requested by the other party in connection with the application for any Regulatory Approval and keep the other party informed promptly of developments which are material or reasonably likely to be material to the obtaining of the Other Antitrust Clearances and the UK Regulatory Approvals; and
- (d) procure that its Representatives work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other parties to satisfy the Conditions Precedent.

3.5 Other Antitrust Clearance and UK Regulatory Approvals

- (a) Without limiting clause 3.3:

- (1) CPPIB will have primary responsibility for obtaining all Other Antitrust Clearances and will prepare and submit a notification to the OFT as soon as practicable following such pre-notification as is reasonable;
 - (2) CPPIB will as soon as practicable:
 - (A) prepare and submit an application for assignment/transfer of control to the US FCC; and
 - (B) decide whether the parties shall submit a joint voluntary notice (the **Joint Voluntary Notice**) of the Transaction under the Exon-Florio Amendment, in which case the parties will proceed to file such Joint Voluntary Notice as soon as practicable;
 - (3) CPPIB and the MCG Entities will closely cooperate in the preparation of all such filings required to satisfy the Other Antitrust Clearances and in relation to the preparation of any other material submissions, correspondence or communications to any Antitrust and National Regulatory Authorities in connection with the Transaction.
- (b) CPPIB will make the filing to the OFT referred to in clause 3.5(a)(1) by submitting a merger notice to the OFT pursuant to section 96(1) of the Enterprise Act, provided that the OFT has not objected to CPPIB doing so.
 - (c) In respect of the Other Antitrust Clearance and the UK Regulatory Approvals, where reasonably requested by a party and where permitted by the Antitrust and National Regulatory Authorities, that party will have the right to nominate persons to attend meetings and participate in telephone conversations (and make oral submissions in such meetings and telephone calls) between the other party and their legal advisers and the Antitrust and National Regulatory Authorities (such consent not to be unreasonably withheld or delayed).
 - (d) The MCG Entities confirm that they are not aware of any fact, matter or circumstance, except as fairly disclosed to CPPIB prior to the execution of this agreement, which would prevent the Condition Precedent in clause 3.1(a)(3) insofar as it relates to paragraph (a) of Attachment 11 from being satisfied.
 - (e) If the MCG Entities become aware of any fact, matter or circumstance which might reasonably be considered to be material in the context of the satisfaction or waiver of the Condition Precedent in clause 3.1(a)(3) insofar as it relates to paragraph (a) of Attachment 11, they must as soon as practicable make the substance of any such matter known to CPPIB and, so far as they are aware of the same, provide such details and further information as CPPIB may request.

3.6 Notification obligations

- (a) Subject to clause 3.5, each of CPPIB and Target must:
 - (1) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;
 - (2) promptly notify the other if it becomes aware that a Condition Precedent has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition Precedent has been satisfied; and

- (3) promptly notify the other of a failure to satisfy a Condition Precedent or of any event that will prevent a Condition Precedent being satisfied.
- (b) Each of CPPIB and Target must give written notice to the other as soon as reasonably practicable (and in any event before 5.00pm on the day before the Second Court Date) as to whether or not it waives the breach or non-fulfilment of any Condition Precedent resulting from the occurrence of an event notified in accordance with 3.6(a)(3), specifying the Condition Precedent in question.
- (c) A waiver of such breach or non-fulfilment in respect of one Condition Precedent of this agreement will not constitute:
 - (1) a waiver of breach or non-fulfilment of any other Condition Precedent of this agreement resulting from the same event; or
 - (2) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event.
- (d) If a waiver by either of CPPIB or Target of a Condition Precedent is itself expressed to be conditional and the other party accepts the conditions, the terms of the conditions apply accordingly. If the other party does not accept the conditions, the relevant Condition Precedent has not been waived.
- (e) Target and CPPIB (as the case may be) must promptly after becoming aware advise each other 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 by the party in this agreement to be false;
 - (2) a breach or non-fulfilment of any of the Conditions Precedent; or
 - (3) a material breach of this agreement by the party.
- (f) Target must promptly after becoming aware advise CPPIB orally and in writing of any change or event causing, or which, so far as can reasonably be foreseen, would cause a Prescribed Occurrence or a Target Material Adverse Change.
- (g) Without limitation to anything else in this agreement, from the date of this agreement until 8.00am on the Second Court Date, Target or any of the Target Group Entities other than Target must notify CPPIB as soon as it becomes aware that the EBITDA of the Target Group, taken as a whole, for the 12 month period to 30 September 2010 may reasonably be expected to fall below \$700 million, and each Target Group Entity will provide such information and such other assistance as CPPIB may reasonably request in order for CPPIB to confirm if such EBITDA may reasonably be expected to fall below \$700 million.

3.7 Conditions Precedent not met

- (a) If:
 - (1) there is a breach or non-fulfilment of a Condition Precedent which is not waived in accordance with this agreement no later than 10 Business Days before the Sunset Date; or

- (2) there is an act, failure to act, event or occurrence which will prevent a Condition Precedent being satisfied by the date specified in clause 3.1 for its satisfaction (and the breach or non-fulfilment of the Condition Precedent which would otherwise occur has not already been waived in accordance with this agreement),

Target and CPPIB must consult in good faith with a view to:

- (3) determining whether the Schemes or a transaction that results in CPPIB or BidCo having beneficial ownership of all Securities may proceed by way of alternative means or methods;
 - (4) extending the time or date for satisfaction of the relevant Condition Precedent or Sunset Date; or
 - (5) changing the date of application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the MCIL Share Scheme or changing the date of application made to the Bermuda Court for an order under section 99(2) of the Companies Act approving the MMCGIL Share Scheme, or adjourning either such application (as applicable) to another date agreed to in writing by Target and CPPIB (being a date no later than five Business Days before the Sunset Date).
- (b) If Target and CPPIB are unable to reach agreement under clause 3.7(a) within the Required Consultation Period:
- (1) in respect of:
 - (A) the Conditions Precedent that cannot be waived in accordance with clause 3.2(a); or
 - (B) the Condition Precedent in clause 3.1(f) and 3.1(n), either Target or CPPIB; or
 - (2) in respect of all other Conditions Precedent, the party in respect of which the relevant Condition Precedent is for the benefit of,
- may terminate this agreement by notice in writing to the other, unless the relevant occurrence or the breach or non fulfilment of the Condition Precedent arises out of a breach of clause 3.3 by the terminating party.

4 The transaction steps

4.1 Schemes

- (a) Target must propose:
 - (1) the Share Schemes to Shareholders other than MCIML;
 - (2) the Trust Scheme to Unitholders; and
 - (3) the Additional Resolutions to Securityholders.

- (b) If all the Schemes become Effective, then on the Implementation Date:
- (1) all of the MCIL Shares held by MCIL Scheme Participants as at 5pm on the Scheme Record Date will be transferred to BidCo;
 - (2) all of the MCIT Units held by Trust Scheme Participants will be transferred to BidCo;
 - (3) all of the MMCGIL Shares held by MMCGIL Scheme Participants will be transferred to BidCo; and
 - (4) each Scheme Participant will be paid (which may be by way of payment into trust for the benefit of that Scheme Participant) the Scheme Consideration for each Security held by them as at 5pm on the Scheme Record Date.

4.2 Scheme Consideration

CPPIB undertakes to Target (in its own right and as trustee on behalf of Scheme Participants) that subject to the terms and conditions of this agreement, if all the Schemes become Effective, in consideration for the transfer to BidCo of each Security held by a Scheme Participant under the terms of the Schemes, CPPIB will procure that BidCo will accept such transfer and CPPIB will provide or procure that BidCo provides to each Scheme Participant (or to Target on trust for the benefit of each Scheme Participant) the Scheme Consideration in accordance with the terms of the Schemes. To facilitate the provision of the Scheme Consideration, in accordance with the terms of the Schemes and the Deed Poll, CPPIB must or must procure that Bidder must deposit or procure the deposit by 12 noon on the Implementation Date, into a trust account nominated by Target (the details of which must be notified in writing by Target to CPPIB at least five Business Days before the Implementation Date) of an amount in cleared funds equal to the aggregate of all Scheme Consideration payable to Scheme Participants under the Schemes, to be held on trust for Scheme Participants. The parties agree that, under the Schemes, Target will be obliged to draw on such amount to pay the Scheme Consideration to each Scheme Participant in accordance with the terms of the Schemes.

4.3 Timetable

Without limiting the obligations of the parties under this agreement and the Transaction Documents, the parties acknowledge the Timetable as an indicative timetable.

5 The Schemes and Additional Resolutions

5.1 Target's obligations in relation to the Schemes and Additional Resolutions

Target must (and must procure that its Wholly-Owned Subsidiaries will, and use its reasonable endeavours (which will include exercising or procuring the exercise of any and all contractual rights, voting rights and directing the conduct of nominee directors (subject to their legal and fiduciary duties as directors)) to ensure that all other Target Group Entities will) execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Schemes

on a basis consistent with this agreement and substantially in accordance with the Timetable, and in particular (but without limitation) Target must:

- (a) **draft Scheme Booklet:** use its reasonable endeavours to prepare a draft of the Scheme Booklet, including any disclosure materials required in relation to the Additional Resolutions, the Company Meetings and the Trust Meeting, in accordance with all applicable laws and in particular with the Corporations Act, RG60, RG74, RG142, Guidance Note 15 and the Listing Rules;
- (b) **commission Independent Expert's Report:** promptly appoint an Independent Expert (if an Independent Expert has not been so appointed prior to the date of this agreement) to provide a report for inclusion in the Scheme Booklet stating whether in its opinion:
 - (1) the MCIL Share Scheme is in the best interests of MCIL Shareholders;
 - (2) the MMCGIL Share Scheme is in the best interests of MMCGIL Shareholders; and
 - (3) the Trust Scheme is fair and reasonable to Unitholders,and Target must provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare its report;
- (c) **consultation with CPPIB:** as soon as practicable after the date of this agreement:
 - (1) provide to CPPIB drafts of the Scheme Booklet (including the draft Independent Expert's Report and disclosure materials in relation to the Additional Resolutions, the Company Meetings and the Trust Meeting) for the purpose of enabling CPPIB to review and comment on that draft document;
 - (2) provide comments made by CPPIB and its Representatives on drafts of the Independent Expert's Report to the Independent Expert for its consideration;
 - (3) consider, acting reasonably and in good faith, the comments made by CPPIB and its Representatives when producing any revised drafts of the Scheme Booklet;
 - (4) consult with CPPIB as to the content and presentation of the Scheme Booklet and this consultation must include obtaining CPPIB's consent (which it must not unreasonably withhold or delay) to the inclusion of the CPPIB Information; and
 - (5) provide CPPIB with a final draft of the Scheme Booklet (including the final draft of the Independent Expert's Report and disclosure materials in relation to the Additional Resolutions, the Company Meetings and the Trust Meeting) within a reasonable time to enable CPPIB to review and comment on the Regulator's Draft before its submission to ASIC in accordance with clause 5.1(h);
- (d) **review drafts of CPPIB Information:** as soon as practicable after delivery, review drafts of the CPPIB Information prepared by CPPIB and provide comments on those drafts acting reasonably and in good faith;

- (e) **Regulatory Approvals:**
- (1) as soon as practicable after the date of this agreement, apply to ASIC for a modification to the Corporations Act to enable all Unitholders (other than MCIML and its associates except where MCIML or its associates hold Units on behalf of a third party who is not an associate and such third party being entitled to vote, directs MCIML or the associate how to vote) to vote on the Trust Scheme Resolution pursuant to section 611 Item 7 of the Corporations Act to approve the acquisition of all the MCIT Units (other than those held by MCIML) by BidCo;
 - (2) promptly apply to the BMA for the BMA Approval; and
 - (3) promptly prepare and make all filings required (if any) to the Australian Competition and Consumer Commission to obtain any clearances or authorisations that are necessary for implementation of the Transaction;
- (f) **approval of Regulator's Draft:** procure that the Independent Directors approve the Regulator's Draft as being in a form appropriate for provision to ASIC for review;
- (g) **CPPIB Information in Regulator's Draft:** obtain written approval from CPPIB (not to be unreasonably withheld or delayed) in respect of the form and content in which the CPPIB Information appears in the Scheme Booklet prior to Target providing a copy of the Regulator's Draft to ASIC for its review under clause 5.1(h);
- (h) **liaise with ASIC:** as soon as practicable after the date of this agreement, but no later than 14 days before the First Court Date, provide a copy of the Regulator's Draft to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and RG74 and liaise with ASIC throughout the Regulatory Review Period;
- (i) **liaise with ASX:** prior to or during the Regulatory Review Period, provide the ASX (if required by the Listing Rules) drafts for examination of the disclosure material to be despatched to all Securityholders in relation to the Additional Resolutions, the Company Meetings and the Trust Meeting;
- (j) **keep CPPIB informed:** during the Regulatory Review Period, keep CPPIB informed of any matters raised by ASIC in connection with the Scheme Booklet or the Schemes and use its reasonable endeavours, in co-operation with CPPIB, to resolve any such matters (which will include allowing CPPIB to participate in Target's meetings and discussions with ASIC to the extent reasonably practicable);
- (k) **approval of Scheme Booklet:** procure that a meeting of the Independent Directors is convened to consider approving the Scheme Booklet for dispatch to the Securityholders, subject to approval of the Court;
- (l) **documents:** without limiting clause 5.1(c), consult with CPPIB and BidCo in relation to the content of the documents required for the purpose of the Schemes (including originating process, affidavits, submissions and draft minutes of court orders) and take into account, in good faith and acting reasonably, all reasonable comments provided for and on behalf of CPPIB and BidCo in relation to such documents;

- (m) **Court direction and advice:** apply to:
 - (1) the Court for:
 - (A) orders under section 411(1) of the Corporations Act directing Target to convene the Share Scheme Meeting to consider the MCIL Share Scheme; and
 - (B) the First Judicial Advice; and
 - (2) the Bermuda Court seeking leave to convene the MMCGIL Share Scheme Meeting to place the MMCGIL Share Scheme before MMCGIL Share Scheme Meeting Participants;
- (n) **registration of Scheme Booklet:** request ASIC to register the Explanatory Statement included in the Scheme Booklet in relation to the MCIL Share Scheme in accordance with section 412(6) of the Corporations Act;
- (o) **section 411(17)(b) Statement:** apply to ASIC for the production of a statement pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the MCIL Share Scheme;
- (p) **Share Scheme Meetings:** convene the Share Scheme Meetings in accordance with any orders which are made by:
 - (1) the Court pursuant to section 411(1) of the Corporations Act in respect of the MCIL Share Scheme; and
 - (2) the Bermuda Court pursuant to section 99(1) of the Companies Act in respect of the MMCGIL Share Scheme;
- (q) **Trust Scheme Meeting:** convene the Trust Scheme Meeting to be held on the same day but after the time for the Share Scheme Meetings in accordance with Guidance Note 15, the First Judicial Advice, the MCIT Constitution and the Corporations Act;
- (r) **Company Meetings:** convene the Company Meetings to be held on the same day but after the time for the Trust Scheme Meeting;
- (s) **Trust Meetings:** convene the Trust Meeting to be held on the same day but after the time for the Company Meetings;
- (t) **access to information; co-operation:** without limitation to anything else in this agreement, comply with its obligations under clause 6;
- (u) **court approval of Share Schemes:** if Scheme Meeting Participants approve the Share Schemes at the Share Scheme Meetings and the Unitholders approve the Trust Scheme Resolutions at the Trust Scheme Meeting (in each case, by the requisite majorities and subject to any voting exclusions), apply to the Court for orders approving the MCIL Share Scheme under section 411(4) of the Corporations Act and apply to the Bermuda Court for orders approving the MMCGIL Share Scheme under section 99(2) of the Companies Act;
- (v) **Second Judicial Advice:** if Unitholders approve the Trust Scheme Resolutions at the Trust Scheme Meeting and the Scheme Meeting Participants approve the Share Schemes at the Share Scheme Meetings (in each case, by the requisite majorities and subject to any voting exclusions), and on the same day it applies

to the Court for approval of the MCIL Share Scheme under clause 5.1(u), apply to the Court for the Second Judicial Advice;

- (w) **lodge copy of Court orders:** if the Court makes orders under section 411(4) of the Corporations Act approving the MCIL Share Scheme, lodge with ASIC an office copy of the orders of the Court approving the MCIL Share Scheme under section 411(10) of the Corporations Act on the Business Day after such office copy is received or such later date as agreed in writing by CPPIB;
- (x) **file copy of Bermuda Court orders:** if the Bermuda Court makes an order under section 99(2) of the Companies Act approving the MMCGIL Share Scheme, lodge a copy of the order with the Registrar of Companies in Bermuda before 5.00pm Bermuda time on the day after such copy is received or such later date as agreed in writing by CPPIB;
- (y) **lodge copy of Supplemental Deed:** if the Court gives the Second Judicial Advice, and on the same day Target lodges an office copy of the orders of the Court approving the MCIL Share Scheme under clause 5.1(w), lodge with ASIC a copy of the executed Supplemental Deed;
- (z) **registration:** if the Court makes orders under section 411(4) of the Corporations Act approving the MCIL Share Scheme and gives the Second Judicial Advice:
 - (1) register all transfers of Securities to BidCo as soon as practicable after the Implementation Date;
 - (2) close the Register as at 5pm on the Scheme Record Date to determine the identity of Scheme Participants and their entitlements to the Scheme Consideration;
 - (3) execute proper instruments of transfer, of and effect and register the transfer of, the Securities in accordance with the Schemes; and
 - (4) do all other things contemplated by or necessary to give effect to the Schemes and the orders of the Court and to effect the transfer of the Securities to BidCo;
- (aa) **information:** as soon as practicable after the Scheme Record Date, and in any event at least 5 Business Days before the Implementation Date, provide all necessary information, or have the Security registrar of Target provide all necessary information, in each case in a form reasonably requested by CPPIB, about the Schemes and Securityholders to CPPIB which CPPIB reasonably requires in order to facilitate the provision by BidCo of the Scheme Consideration;
- (bb) **CPPIB Information:** obtain written approval from CPPIB (not to be unreasonably withheld or delayed) in respect of the form and content in which the CPPIB Information appears in the Scheme Booklet prior to Target registering the Explanatory Statement included in the Scheme Booklet with ASIC under clause 5.1(n);
- (cc) **listing:** Target must not do anything to cause the Securities to cease being quoted on ASX or to become permanently suspended from quotation prior to completion of the Transaction unless CPPIB has agreed in writing;
- (dd) **Conduct of Schemes:** Unless required by law, the court or a Regulatory Authority:

- (1) once approved by CPPIB and ASIC, not seek to revise the Scheme Booklet, to amend the terms of the Transaction or to adjourn the Meetings without the prior written consent of CPPIB (not to be unreasonably withheld or delayed);
 - (2) not agree to an extension of time in connection with, or to any variation or amendment of, any of the Schemes without the prior written consent of CPPIB (not to be unreasonably withheld or delayed); and
 - (3) convene, hold and transact the relevant business at each of the Meetings at the time and date specified in the Scheme Booklet (or as soon as practicable thereafter provided that if a Superior Proposal is notified to the Target Board within 48 hours before the date of each of the Meetings in the Scheme Booklet the Target Board will be permitted to adjourn such meetings for up to 48 hours from the specified time and date) and propose the resolutions set out in the notices of those Meetings (as appropriate) without amendments;
- (ee) **appeal process:** if the Court or the Bermuda Court refuses to make any orders directing Target to convene the Share Scheme Meetings or approving the Share Schemes, appeal that decision to the fullest extent possible (except to the extent that the parties agree otherwise, or an independent Queen's Counsel or Senior Counsel appointed jointly by both Target and CPPIB indicates that, in his or her view, an appeal would have no reasonable prospect of success). If such an appeal is undertaken by Target then, unless the parties otherwise agree in writing, each party will bear its own costs of the appeal;
- (ff) **compliance with laws:** do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations; and
- (gg) **all things necessary:** Do all other things contemplated by or necessary to lawfully give effect to the Schemes and the orders of the Court and Bermuda Court (as applicable) approving the Schemes.

5.2 CPPIB's obligations in relation to the Schemes

CPPIB must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Schemes on a basis consistent with this agreement and substantially in accordance with the Timetable, and in particular CPPIB must (without limitation):

- (a) **Deed Poll:** prior to the First Court Date, execute (and procure that BidCo executes) the Deed Poll and deliver to Target a copy of the Deed Poll that has been duly executed by CPPIB and BidCo;
- (b) **CPPIB Information:** prepare and provide to Target all information in relation to CPPIB and its Controlled Entities that is required to be included in the Scheme Booklet to comply with applicable laws (and in particular with the Corporations Act, RG60, RG74, RG142, Guidance Note 15 and the Listing Rules), and any updates to that information provided by or on behalf of CPPIB to Target or any of its Representatives in accordance with clause 8.4(b) (**CPPIB Information**);
- (c) **accuracy of CPPIB Information:** CPPIB must confirm to Target the accuracy of the CPPIB Information in the Scheme Booklet;

- (d) **assist Independent Expert:** subject to the Independent Expert entering into arrangements with CPPIB including in relation to confidentiality in a form acceptable to CPPIB (acting reasonably), provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (e) **consultation with Target:** as soon as practicable after the date of this agreement:
 - (1) provide to Target a draft of the CPPIB Information for the purpose of enabling Target to review and comment on that draft document;
 - (2) consider the comments made by Target and its Representatives when producing a revised draft of the CPPIB Information; and
 - (3) provide Target with a revised draft of the CPPIB Information within a reasonable time before the Regulator's Draft is finalised and to enable Target to review it before the Regulator's Draft's submission;
- (f) **Regulatory Approvals:**
 - (1) promptly apply to the Treasurer of the Commonwealth of Australia for approval of the acquisition of the Securities by Bidder pursuant to the Schemes under FATA; and
 - (2) promptly prepare and make all filings required (if any) to the Australian Competition and Consumer Commission to obtain any clearances or authorisations which are necessary for implementation of the Transaction;
 - (3) promptly apply to ASIC for:
 - (A) an exemption from any requirement for CPPIB (or BidCo) to comply with Division 5A of Part 7.9 of the Corporations Act in relation to the Trust Scheme, or the transactions contemplated by, or in connection with, it; and
 - (B) an exemption from the requirements of Part 7.6 of the Corporations Act in relation to any general financial product advice by CPPIB (or BidCo) contained in the Scheme Booklet;
- (g) **review drafts of Scheme Booklet:** as soon as practicable after delivery, review drafts of the Scheme Booklet prepared by Target and provide comments on those drafts in good faith;
- (h) **approval of Regulator's Draft:** as soon as practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASIC, procure that a meeting of the appropriate decision making body of CPPIB is convened to consider the CPPIB Information as being in a form appropriate for provision to ASIC for review;
- (i) **approval of Scheme Booklet:** as soon as practicable after the end of the Regulatory Review Period, procure that a meeting of the appropriate decision making body of CPPIB is convened to consider approving the CPPIB Information appropriate for dispatch to the Securityholders, subject to the approval of the Court;

- (j) **documents:** without limiting clause 5.2(e), consult with Target in relation to the content of the documents required for the purpose of the Schemes (including originating process, affidavits, submissions and draft minutes of court orders) and take into account, in good faith and acting reasonably, all reasonable comments provided for and on behalf of Target in relation to such documents;
- (k) **representation:** procure that it has separate representation by counsel at the Court hearings convened for the purposes of section 411(1) and 411(4)(b) of the Corporations Act and for the purposes of the Judicial Advice, at which, through its counsel, Bidder will undertake (if requested by the Court) to do all such reasonable things and take all such reasonable steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this agreement and the Schemes;
- (l) **Scheme Consideration:** if all the Schemes become Effective, provide the Scheme Consideration in accordance with clause 4.2 and the Deed Poll on the Implementation Date;
- (m) **compliance with laws:** do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations; and
- (n) **all things necessary:** do all other things contemplated by or necessary to lawfully give effect to the Schemes and the orders of the Court and Bermuda Court (as applicable) approving the Schemes.

5.3 Scheme Booklet

- (a) The Scheme Booklet will include a statement:
 - (1) by Target that the CPPIB Indemnified Parties are not responsible for any information contained in the Scheme Booklet other than the CPPIB Information;
 - (2) by CPPIB that CPPIB is, and Target Indemnified Parties are not, responsible for any CPPIB Information; and
 - (3) in form and content reasonably satisfactory to CPPIB, by Target that the sole reason why Gerald Moriarty is not recommending the Schemes is a conflict between his duties as a director of Target and his role as a consultant to Macquarie Capital Group Limited.
- (b) Target must undertake due diligence and verification processes for the purposes of complying with clause 5.1(k).
- (c) CPPIB must undertake due diligence and verification processes for the purposes of complying with clause 5.2(i).
- (d) Until the Implementation Date, the parties must promptly inform the other if they become aware that any information in the Scheme Booklet, in the form and context in which it appears in the Scheme Booklet, is or has become misleading or deceptive in any material respect (whether by omission or otherwise) and provide to the other party such further or new information as is required to ensure that such information is no longer misleading or deceptive in any material respect (whether by omission or otherwise). The parties will cooperate with each other to ensure that the Scheme Booklet is updated appropriately.

5.4 Good faith co-operation

Each party must procure that its Representatives work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other parties to implement the Schemes and to prepare all documents required relating to the Schemes.

5.5 Target Board Recommendation

- (a) The Target Announcement to be issued by Target immediately after execution of this agreement must state that the Independent Directors unanimously recommend that Scheme Meeting Participants and Unitholders approve the Schemes:
- (1) in the absence of a Superior Proposal; and
 - (2) subject to the Independent Expert providing, and continuing to maintain, an opinion that the Share Schemes are in the best interests of Shareholders and that the Trust Scheme is fair and reasonable.
- (b) Target must procure that the Independent Directors:
- (1) do not withdraw the statements and recommendations set out in the Target Announcement;
 - (2) in the Scheme Booklet state that the Independent Directors unanimously recommend that Scheme Meeting Participants and Unitholders approve the Schemes and do not withdraw that recommendation once made; and
 - (3) do not make any public statement to the effect, or take any other action that suggests, that the Schemes are no longer so recommended,
- unless either:
- (A) the Independent Expert gives a report to Target which opines that either of the Share Schemes is not in the best interests of Shareholders or that the Trust Scheme is not fair and reasonable or changes its previously given opinion that either of the Share Schemes is in the best interests of Shareholders or that the Trust Scheme is fair and reasonable (but, in the case of the Independent Expert giving a report to Target which opines that the Trust Scheme is not fair but is reasonable, only after the Independent Directors have consulted in good faith with CPPIB concerning their proposed change of recommendation); or
 - (B) there is a Superior Proposal.
- (c) Target must procure that Gerald Moriarty does not make any public statement, or take any other action which would be prejudicial to the successful outcome of the Transaction. For the avoidance of doubt, confirming that the sole reason why he is not recommending the Schemes is a conflict between his duties as a director of Target and his role as a consultant of Macquarie Capital Group Limited would not breach this clause.

5.6 Appointment of Directors

On the Implementation Date, after the Scheme Consideration has been paid to Scheme Participants (or to Target on trust for the benefit of the Scheme Participants) in accordance with clause 4.2 and the terms of the Schemes, Target will procure that all directors on the Target Board (excluding the directors of MCIML, in their capacity as directors of MCIML) resign and the nominees of CPPIB are appointed as directors of Target (other than MCIML).

5.7 Third Party Consents

Target must procure that its relevant Wholly-Owned Subsidiaries, and use its reasonable endeavours (which will include exercising or procuring the exercise of any and all contractual rights, voting rights and directing the conduct of nominee directors (subject to their legal and fiduciary duties as directors)) to ensure that all other relevant Target Group Entities:

- (a) apply to the relevant third parties for the Third Party Consents as soon as practicable after the date of this agreement;
- (b) use their reasonable endeavours to obtain the Third Party Consents prior to the Second Court Date, and to ensure that once obtained, any Third Party Consent is not withdrawn, cancelled or revoked; and
- (c) their Representatives work (including by attending meetings and by providing information) with CPPIB and its Representatives in good faith and in a timely and co-operative fashion to obtain the Third Party Consents.

6 Information, access and cooperation

6.1 Access

Between the date of this agreement and the Implementation Date, Target must provide CPPIB and its authorised Representatives with reasonable access to the books, records, premises and key employees of the Target Group Entities at times mutually agreed or as are otherwise reasonable, for any one or more of the following purposes:

- (a) implementing the Transaction providing it is consistent with all applicable laws; and
- (b) holding discussions with third parties, with the consent of Target, such consent not to be unreasonably withheld (without limitation to CPPIB's obligations of confidence under its confidentiality agreement with Target) that CPPIB and its authorised Representatives reasonably wish to enter into with respect to the Transaction prior to the Implementation Date, including procuring that employees of MCG Entities or their Wholly-Owned Subsidiaries participate (and using reasonable endeavours to procure that employees of other Target Group Entities participate) to a reasonable degree in such discussions;
- (c) allowing CPPIB and its authorised Representatives to plan for the transition of the business of the Target Group when the Transaction completes.

6.2 Provision of certain materials and assistance

Between the date of this agreement and the Implementation Date, Target must provide CPPIB or its nominated authorised Representatives with complete copies of monthly accounts of the Target Group prepared by management of the Target Group Entities to the extent such accounts are prepared (which must be prepared in accordance with IFRS, AIFRS or Local GAAP (as applicable) applied to the entities on a basis consistent with past practice) as soon as practicable after those materials have been provided to the Target Board.

6.3 Voting proxies

Target must ensure that the Security registrar of Target delivers to CPPIB on the date three weeks before the date of the first of the Share Scheme Meetings and Trust Scheme Meeting and each Business Day in the two weeks prior to the date of the Share Scheme Meetings and Trust Scheme Meetings (inclusive) a computerised list of the total number of voting proxies in respect of the Schemes and the Additional Resolutions delivered by Securityholders to Target, providing details of the aggregate number of proxies in favour of, against and abstaining from the relevant Scheme resolutions and the Additional Resolutions and the aggregate number of Securities to which those proxies relate.

6.4 Without limitation

For the avoidance of doubt, this clause 6 is without limitation to anything else in this agreement, including clauses 3.6 and 5.1.

7 Conduct of business

7.1 Conduct of business by Target

Without limiting clause 3, from the date of this agreement until and including the Implementation Date, Target must (and must procure that each of its Wholly-Owned Subsidiaries will, and use its reasonable endeavours (which will include exercising or procuring the exercise of any and all contractual rights, voting rights and directing the conduct of nominee directors (subject to their legal and fiduciary duties as directors)) to ensure that any other Target Group Entity will):

- (a) conduct, its business in the usual and ordinary course of business consistent with past practice and in compliance in all material respects with all applicable laws, regulations and regulatory approvals;
- (b) without limiting clause 7.1(a), use its reasonable endeavours to preserve intact each Target Group Entity's current business organisation, to keep available the services of the current officers of it and its Controlled Entities, and to preserve each Target Group Entity's relationship with Regulatory Authorities, ratings agencies, customers, suppliers, licensors, licensees and others having business dealings with each of them; and
- (c) not do, or omit to do, anything that will, or is likely to, result in the occurrence of a Prescribed Occurrence,

unless CPPIB has given its prior written consent (which CPPIB must not unreasonably withhold or delay).

7.2 Permitted activities

Nothing in clause 7.1:

- (a) restricts Target Group (or any other Target Group Entity) from doing anything that is required by this agreement or in respect of which CPPIB has otherwise given its prior written consent;
- (b) requires Target or CPPIB to act at the direction of the other.

The business of each party will continue to operate independently of the other until the Implementation Date.

8 Representations, warranties and undertakings

8.1 Target representations and warranties

Each MCG Entity represents and warrants to CPPIB (on its own behalf and separately as trustee or nominee for each CPPIB Indemnified Party) that:

- (a) on each date from the date of this agreement until (and including) the Second Court Date:
 - (1) **incorporation:**
 - (A) in the case of MCIL, MMCGIL, and MCIML, each is a body corporate validly existing under the laws of its place of incorporation; and
 - (B) in the case of MCIT, it is validly established and registered under Part 5C of the Corporations Act;
 - (2) **power:**
 - (A) each of MCIL, MMCGIL and MCIML has the corporate power to enter into and perform or cause to be performed its obligations under this agreement and to carry out the transactions contemplated by this agreement; and
 - (B) MCIML has the power and authority in its capacity as responsible entity of MCIT to enter into and perform or cause to be performed its obligations under this agreement and to carry out the transactions contemplated by this agreement;
 - (3) **corporate authorisations:** each Scheme Entity has taken all necessary corporate action to authorise the entry into of this agreement and has taken all necessary corporate action to authorise the performance of this agreement and to carry out the transactions contemplated by this agreement;
 - (4) **binding obligations:** this agreement is valid and binding upon each Scheme Entity and enforceable in accordance with its terms;

- (5) **solvency:** that it and each of its Wholly-Owned Entities, and, so far as it is aware, each other Target Group Entity, is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against any of them for their winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of their assets;
- (6) **no default:** except as disclosed by Target to CPPIB in the Target Group Due Diligence, this agreement does not result in the breach of or default under any provision of the constitution or other constituent documents of any Target Group Entity or, any other material document or agreement that is binding on any Target Group Entity or its assets or any decree, ruling, writ, order or injunction, judgement, law, rule, regulation or instrument to which a Target Group Entity is party or subject;
- (7) **disclosure:** Target is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the carve-out in Listing Rule 3.1A to withhold any information from disclosure;
- (8) **interest:**
- (A) any Controlled Entity of Target is as set out in the Target Reporting Documents; and
 - (B) there is no other company, partnership, trust or other enterprise which any Target Group Entity owns or has an interest in (except to the extent disclosed to CPPIB in the Target Group Due Diligence);
- (9) **restrictions on business activities:** there is no judgment, injunction, order or decree binding on any Target Group Entity that has or would be likely to have the effect of prohibiting, restricting or materially impairing after the Effective Date any business of Target as presently being conducted;
- (10) **litigation:** so far as Target is aware:
- (A) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any Target Group Entity;
 - (B) no Target Group Entity is the subject of any pending investigation (except to the extent disclosed to CPPIB in the Target Group Due Diligence); and
 - (C) no Target Group Entity, nor the assets, properties or business of any Target Group Entity, is subject to any judgment, order, writ, injunction or decree of any court, Regulatory Authority or arbitration tribunal;
- (11) **compliance:** Target is not aware of any material breach by any Target Group Entity of any Australian and foreign laws and regulations applicable to them or orders of Australian and foreign Regulatory Authorities having jurisdiction over them and each Target Group Entity has all material licenses, permits and franchises necessary for it to conduct its business as presently being conducted;

- (12) **no ASIC/ASX determination:** as at the date of this agreement, neither ASIC nor ASX (as applicable) has made a determination against any Target Group Entity for any contravention of the requirements of the Corporations Act or the Listing Rules or any rules, regulations or policy statements under the Corporations Act or the Listing Rules;
- (13) **financial statements:**
- (A) so far as Target is aware, there has not been any event, change, effect or development which would require Target to restate its financial statements as disclosed to ASX; and
 - (B) Target's financial statements as disclosed to ASX have been prepared in accordance with Australian Accounting Standards on a basis consistent with past practice; and
- (14) **Target Group Due Diligence:** Target has used all reasonable endeavours in good faith to provide to CPPIB or its Representatives all information reasonably requested by CPPIB or its Representatives, and Target has not knowingly or recklessly:
- (A) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (B) included anything materially false or misleading in such information.
- (b) **issued Securities:** the issued Securities as of the date of this agreement are 546,254,151 Securities and it has not issued or agreed to issue any other securities, options or instruments which may convert into Securities other than:
- (1) one A special share in MCIL issued to MCIML in its personal capacity;
 - (2) one B special share in MCIL issued to MCIML in its capacity as responsible entity of MCIT;
 - (3) one A special share in MMCGIL issued to MCIML in its personal capacity;
 - (4) one B special share in MMCGIL issued to MCIML in its capacity as responsible entity of MCIT;
 - (5) 290,400,000 redeemable preference shares in MCIL issued to MCIML in its capacity as responsible entity of MCIT; and
 - (6) all the Exchangeable Bonds.

8.2 Target undertakings

Target undertakes to CPPIB that:

- (a) **Target Information:** as at the date of the Scheme Booklet, the First Court Date and the Second Court Date, the Target Information:
- (1) will have been prepared and included in the Scheme Booklet in good faith and on the understanding that CPPIB and each of its directors, officers and employees have relied on that information for the

purposes of considering and approving the CPPIB Information in the Scheme Booklet;

- (2) will comply in all material respects with the requirements of the Corporations Act, the Listing Rules, RG60, RG74, RG142 and Guidance Note 15; and
 - (3) in the form and context in which it will appear in the Scheme Booklet, will not be misleading or deceptive in any material respect, nor will there be any material omission from the Target Information, having regard to applicable disclosure requirements;
- (b) **updating information:** as a continuing obligation, it will promptly provide CPPIB all such further or new information which may arise after the date of the Scheme Booklet until the Second Court Date which may be necessary to ensure there would be no breach of clause 8.2(a) if it applied as at the date upon which that information arose; and
- (c) **provision of information to Independent Expert:** all information provided by or on behalf of Target to the Independent Expert to enable the Independent Expert's Report to be prepared and included in the Scheme Booklet will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purpose of preparing the Independent Expert's Report.

8.3 CPPIB representations and warranties

CPPIB represents and warrants to Target (on its own behalf and separately as trustee or nominee for each Target Indemnified Party) that:

- (a) on each date from the date of this agreement until (and including) the Second Court Date:
- (1) **incorporation:** it is and BidCo is or will be a body corporate validly existing under the laws of its place of incorporation;
 - (2) **power:** it has the corporate power to enter into and perform or cause to be performed its obligations under this agreement and the Deed Poll and to carry out the transactions contemplated by this agreement and the Deed Poll and BidCo has or will have the corporate power to enter into and perform or cause to be performed its obligations under the Deed Poll and to carry out the transactions contemplated by this agreement and the Deed Poll;
 - (3) **corporate authorisations:** it has taken all necessary corporate action to authorise the entry into of this agreement and the Deed Poll and has taken all necessary corporate action to authorise the performance of this agreement and the Deed Poll and to carry out the transactions contemplated by this agreement and the Deed Poll and BidCo has or will have taken all necessary corporate action to authorise the entry into of the Deed Poll and has or will have taken all necessary corporate action to authorise the performance of this agreement and the Deed Poll and to carry out the transactions contemplated by this agreement and the Deed Poll;
 - (4) **binding obligations:** this agreement is valid and binding upon it and enforceable in accordance with its terms;

- (b) **solvency:** it is and BidCo is or will be solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets;
- (c) **no default:** (i) this agreement does not conflict with or result in the breach of or default under any provision of CPPIB's constituent documents, any other material document or agreement that is binding on it or its assets or any decree, ruling, writ, order or injunction, judgement, law, rule, regulation or instrument to which CPPIB is party or subject; and (ii) this agreement will not conflict with or result in the breach of or default under any provision of BidCo's constituent documents, any other material document or agreement that will be binding on it or its assets or any decree, ruling, writ, order or injunction, judgement, law, rule, regulation or instrument to which BidCo will be party or subject; and
- (d) **no outstanding regulatory approvals:** no regulatory approvals (other than the Regulatory Approvals) are required to permit BidCo to acquire the Securities upon implementation of the Schemes.

8.4 CPPIB undertakings

CPPIB undertakes to Target that:

- (a) **CPPIB Information:** CPPIB Information to be provided in accordance with this agreement and included in the Scheme Booklet, as at the date of the Scheme Booklet, the First Court Date and the Second Court Date:
 - (1) will have been prepared in good faith and on the understanding that Target and each of its directors, officers and employees have relied on that information for the purposes of considering and approving the Target Information in the Scheme Booklet;
 - (2) will comply in all material respects with the requirements of the Corporations Act, the Listing Rules, RG60, RG74, RG142 and Guidance Note 15; and
 - (3) in the form and context in which it will appear in the Scheme Booklet, will not be misleading or deceptive in any material respect, nor will there be any material omission from the CPPIB Information, having regard to applicable disclosure requirements;
- (b) **updating information:** as a continuing obligation, it will promptly provide Target all such further or new information which may arise after the date of the Scheme Booklet until the Second Court Date which may be necessary to ensure there would be no breach of clause 8.4(a) if it applied on the date on which the information arose; and
- (c) **provision of information to the Independent Expert:** all information provided by or on behalf of CPPIB to the Independent Expert to enable the Independent Expert's Report to be prepared and included in the Scheme Booklet will be provided in good faith and on the understanding that the Independent Expert will rely on the information for the purpose of preparing the Independent Expert's Report.

8.5 Reliance by parties

Each party (**Representor**) acknowledges that:

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- (a) in entering into this agreement the other party has relied on the representations, warranties and undertakings provided by the Representor under this clause 7; and
- (b) any breach of the representations, warranties and undertakings provided by the Representor under this clause 7 after the Schemes become Effective may only give rise to a claim in damages and cannot result in a termination of this agreement.

8.6 Notifications

Each party will promptly advise the other party in writing if it becomes aware of any fact, matter or circumstance that constitutes or is likely to constitute a breach of any of the representations, warranties and undertakings given by it under this clause 7.

8.7 Survival of representations and warranties

Each representation, warranty and undertaking in clauses 8.1, 8.2, 8.3 and 8.4:

- (a) is severable;
- (b) will survive the termination of this agreement; and
- (c) is given with the intent that liability under them will not be confined to breaches which are discovered prior to the date of termination of this agreement.

9 Indemnities

9.1 Target Indemnity

Each MCG Entity:

- (a) indemnifies, and will keep indemnified, the CPPIB Indemnified Parties from and against all Liabilities that any of the CPPIB Indemnified Parties suffer or incur by reason of any breach of any representation or warranty in clause 8.1, of any undertakings in clause 8.2 or of any other obligation, undertaking or covenant of any Target Group Entity under any Transaction Document to which it is a party; and
- (b) acknowledges that the benefit of this indemnity is held on trust by CPPIB for the benefit of each CPPIB Indemnified Party that is not party to this agreement, and a reference to a Liability in that indemnity includes a Liability suffered or incurred by any of the CPPIB Indemnified Parties.

9.2 CPPIB Indemnity

CPPIB:

- (a) indemnifies, and will keep indemnified, Target Indemnified Parties from and against all Liabilities that any of the Target Indemnified Parties suffer or incur by reason of any breach of any representation or warranty in clause 8.3, of any

undertakings in clause 8.4 or of any other obligation, undertaking or covenant of CPPIB or BidCo under any Transaction Document to which it is a party; and

- (b) acknowledges that the benefit of this indemnity is held on trust by Target for the benefit of each Target Indemnified Party that is not party to this agreement, and a reference to a Liability in that indemnity includes a Liability suffered or incurred by any of the Target Indemnified Parties.

9.3 Survival of indemnities

Each indemnity in clauses 8.1 and 8.2 will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this agreement; and
- (d) survive the termination of this agreement.

10 Directors & Officers insurance and reliance

10.1 Directors and officer insurance

- (a) Subject to the Schemes becoming Effective, CPPIB undertakes that it will procure that :
 - (1) MCIL complies with the Deed of Indemnity, Access and Insurance dated 21 February 2003 made by it in favour of its directors and officers; and
 - (2) MMCGIL complies with Bye-law 90 of the MMCGIL Bye Laws ,
in each case, as disclosed to CPPIB by Target.
- (b) This clause 10 is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Target receives and holds the benefit of this clause 10 to the extent it relates to each Target Indemnified Party as trustee for them.
- (d) Subject to the Schemes becoming Effective, Target undertakes that it will in respect of all directors and officers of Target other than MCIML and each member of Target Group immediately prior to the Schemes becoming Effective (**Retired Directors**), prepay before the Implementation Date directors and officers insurance for their benefit for a period of 6 years from the retirement date of each Retired Director, provided it is on commercially reasonable terms with a reputable insurer at current coverage levels as disclosed to CPPIB prior to entry into this agreement. That policy must include a term that the policy cannot be cancelled unless the insured consents to the cancellation.

10.2 Due diligence investigations

Without prejudice to CPPIB's rights, including in respect of any representations and warranties given to the CPPIB Indemnified Parties under this agreement, CPPIB acknowledges that:

- (a) prior to entry into this agreement, it and its Representatives have undertaken due diligence investigations in relation to Target and have conducted discussions with Target and certain of its Representatives; and
- (b) in the course of those investigations and the negotiations and discussions prior to entry into this agreement, Target and its Representatives have provided Target Group Due Diligence Information to CPPIB.

10.3 Forward looking information

CPPIB acknowledges that each of Target and its Representatives (unless otherwise agreed in writing with Target and its Representatives) makes no representation or warranty in respect of any forward looking information, as to the reasonableness of any such information or the accuracy, completeness or relevance of any assumptions underlying any such information (and CPPIB expressly acknowledges that such information may not have taken into account any investment criteria or other considerations that may have determined or influenced the decision of CPPIB to enter into this agreement).

10.4 Own enquiries

Without prejudice to CPPIB's rights, including in respect of any representations and warranties given to the CPPIB Indemnified Parties under this agreement, CPPIB hereby acknowledges and agrees, that:

- (a) CPPIB has carried out relevant investigations in relation to the Target Group Due Diligence Information; and
- (b) there are uncertainties inherent in attempting to prepare forward looking information and CPPIB is familiar with these uncertainties.

10.5 Acknowledgments

- (a) Target acknowledges and agrees with CPPIB that:
 - (1) the warranties set out in this agreement are the only warranties that Target requires, and on which Target has relied, in entering into this agreement; and
 - (2) to the extent permitted by law, all other warranties, representations and undertakings (whether express or implied and whether oral or in writing) made or given by CPPIB or any of its Representatives are expressly excluded.
- (b) CPPIB acknowledges and agrees with Target that:
 - (1) the warranties set out in this agreement are the only warranties that CPPIB requires, and on which CPPIB has relied, in entering into this agreement; and

- (2) to the extent permitted by law, all other warranties, representations and undertakings (whether express or implied and whether oral or in writing) made or given by Target or any of its Representatives are expressly excluded.

10.6 Benefit

- (a) The acknowledgements, confirmations and agreements given and made by CPPIB in clause 10.5 are given to Target on its own behalf and separately as trustee for each of Target Indemnified Parties.
- (b) The acknowledgements, confirmations and agreements given and made by Target in clause 10.5 are given to CPPIB on its own behalf and separately as trustee for each of CPPIB Indemnified Parties.

10.7 Release

- (a) Subject to section 199A of the Corporations Act, no officer or employee of a party is liable for anything done or purported to be done in connection with the Transaction, except where the conduct involves wilful misconduct or deceit.
- (b) Each party receives and holds benefit of this release, to the extent that it relates to its officers and employees, as agent for them.

11 Termination rights

11.1 Termination events

Without limiting any other provision of this agreement:

- (a) either Target or CPPIB may terminate this agreement by notice in writing to the other parties:
- (1) if the Sunset Date has passed before the Transaction becomes Effective (other than as a result of a breach by the terminating party of its obligations under this agreement);
 - (2) if the required majorities of Scheme Meeting Participants do not approve both of the Share Schemes at the Share Scheme Meetings;
 - (3) if the required majorities of Unitholders (excluding MCIML) do not approve the Trust Scheme Resolutions at the Trust Scheme Meeting;
 - (4) at any time before 8.00am on the Second Court Date, if a court or other Regulatory Authority has issued an order, decree or ruling or taken other action that permanently restrains or prohibits the Transaction and that order, decree, ruling or other action has become final and cannot be appealed; or
 - (5) in accordance with clause 3.7(b);

- (b) CPPIB may terminate this agreement by notice in writing to Target if, at any time prior to 8.00am on the Second Court Date:
- (1) each of the following has occurred:
 - (A) at any time prior to 8.00am on the Second Court Date, Target is in breach of a provision of this agreement (other than for breach of a representation or warranty in clause 8.1) and the breach is material in the context of the Schemes taken as a whole;
 - (B) CPPIB has given notice to Target setting out the relevant circumstances of the breach and stating an intention to terminate this agreement; and
 - (C) the relevant circumstances have continued to exist for 10 Business Days (or any shorter period ending at 8.00am on the Second Court Date) from the time the notice in clause 11.1(b)(1)(B) is given;
 - (2) Target breaches any representation, warranty or undertaking in clause 8.1 or 8.2 and the breach either:
 - (A) cannot be remedied by subsequent action on the part of Target before 8.00am on the Second Court Date; or
 - (B) is capable of being, but is not, remedied by subsequent action on the part of Target before 8.00am on the Second Court Date,and in either case is material in the context of the Schemes taken as a whole;
 - (3) any of the Independent Directors:
 - (A) modifies or withdraws their recommendation referred to in clause 5.5(a) or
 - (B) does not recommend in the Scheme Booklet that holders of Securityholders approve the Schemes; or
 - (C) withdraws the recommendation in the Scheme Booklet that holders of Securityholders approve the Schemes; or
 - (D) makes any public statement to the effect that the Schemes are no longer so recommended;
 - (4) a Superior Proposal is announced or made and is publicly recommended, promoted or otherwise endorsed by any of the Target Boards or by any of the Independent Directors or Gerald Moriarty;; or
 - (5) a Prescribed Occurrence or a Target Material Adverse Change occurs; and
- (c) Target may terminate this agreement by notice in writing to CPPIB if, at any time prior to 8.00am on the Second Court Date:
- (1) each of the following has occurred:

- (A) at any time prior to 8.00am on the Second Court Date, CPPIB is in breach of clauses 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 4.2, 5.2, 5.3 or 5.4 and the breach is material in the context of the Schemes taken as a whole;
 - (B) Target has given notice to CPPIB setting out the relevant circumstances of the breach and stating an intention to terminate this agreement; and
 - (C) the relevant circumstances have continued to exist 10 Business Days (or any shorter period ending at 8.00am on the Second Court Date) from the time the notice in clause 11.1(c)(1)(B) is given;
- (2) CPPIB breaches any representation, warranty or undertaking in clause 8.3 or 8.4 and the breach:
- (A) cannot be remedied by subsequent action on the part of CPPIB before 8.00am on the Second Court Date; and
 - (B) is material in the context of the Schemes taken as a whole; or
- (3) if there is a Superior Proposal, and:
- (A) a majority of the Independent Directors changes or withdraws their recommendation of the Schemes referred to in clause 5.5(b) in the circumstances set out in clause 5.5(b)(3)(B) and recommend a Superior Proposal; and
 - (B) the Break Fee is payable in full by Target.

11.2 Notice of breach

Each party must give notice to the other as soon as practicable after it becomes aware of a breach by it of this agreement (including in respect of any representation or warranty).

11.3 Termination right

Any right to terminate this agreement under clause 11.1(b) or 11.1(c) that arises before the Second Court Date ceases at 8.00am on the Second Court Date, unless prior notice was given in accordance with clause 11.1(b) or 11.1(c) (as the case may be).

11.4 Effect of termination

- (a) If a party terminates this agreement, each party will be released from all further obligations under this agreement other than under clauses 1, 8.7, 9, this clause 11.4, and clauses 12, 14, 17, 18, 19 and 20.
- (b) Termination of this agreement does not affect any accrued rights or remedies of a party (including in respect of any past breach of this agreement by the other party).

12 Public announcements

12.1 Announcement of transaction

Promptly after the execution of this agreement, Target must publicly release the Target Announcement, which will attach this agreement.

12.2 Public announcements

- (a) Prior to making any public announcement or disclosure in connection with this agreement (including its termination), the Schemes, the Transaction or any other transaction contemplated by this agreement or the Schemes (other than the Target Announcement), each party must use its reasonable endeavours to consult with the other party as to, and to seek to agree with the other party (each acting reasonably and in good faith), the form and content of that announcement or disclosure.
- (b) Nothing in this clause 12.2 precludes communications or disclosures necessary to implement the provisions of this agreement or to comply with or satisfy legal requirements or legal obligations imposed on the parties, including any communications or disclosures required by a Regulatory Authority, although in that case it may only communicate or disclose in this way after it has given the other party as much notice as is reasonably practicable in the context of any deadlines imposed by law or applicable requirement, but in any event prior notice, and has to the extent reasonably practicable consulted with the other party as to the form and content of that communication or disclosure and taken all reasonable steps to restrict that disclosure to the greatest extent possible.
- (c) CPPIB and Target agree to consult with each other in advance in relation to:
 - (1) overall communications plans;
 - (2) approaches to Securityholders;
 - (3) approaches to media ; and
 - (4) written presentations ,concerning the Business and the Transaction (including to provide each other a reasonable advance opportunity to comment on drafts) and to ensure that the information used in (1) to (4) above is consistent with the information in the Scheme Booklet.
- (d) For the avoidance of doubt, this clause 12 does not apply in the event of any release or announcement made by Target that relates to a Competing Proposal.

12.3 Statements on termination

The parties must act in good faith and use all reasonable endeavours to issue agreed statements in respect of any termination of this agreement and, to that end but without limitation, clause 12.2 applies to any such statements or disclosures.

13 Exclusivity

13.1 No-shop

During the Exclusivity Period, Target must not, and must procure that its Representatives do not:

- (a) directly or indirectly solicit, initiate, invite, facilitate or encourage any inquiries, proposals or discussions in relation to, or which may be expected to lead to, a Competing Proposal (whether from a person with whom a MCG Entity has previously been in discussions or not);
- (b) directly or indirectly participate in any discussions or negotiations in relation to, or which may be expected to lead to, a Competing Proposal;
- (c) accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding in relation to, or which may be expected to lead to, a Competing Proposal; or
- (d) communicate to any person an intention to do any of the things referred to in clause 13.1(a) to clause 13.1(c) (inclusive).

13.2 Due diligence

Without limiting the nature of clause 13.1, but subject to clause 13.3(b), during the Exclusivity Period Target must not, and must procure that its Representatives do not, without the prior written consent of CPPIB:

- (a) without limiting clause 13.2(c), permit any party (other than CPPIB or its Representatives) to undertake due diligence investigations on any Target Group Entity for the purpose of obtaining, or which may reasonably be expected to lead to receipt of, a Competing Proposal;
- (b) without limiting clause 13.2(c), make available to any person (other than to CPPIB, its Representatives or as permitted by this agreement) or permit any person (other than CPPIB, its Representatives or as permitted by this agreement) to receive any confidential information relating to any Target Group Entity for the purpose of obtaining, or which may reasonably be expected to lead to receipt of, a Competing Proposal;
- (c) disclose any information about the business or affairs of Target, Airwave Holdco or Arqiva Holdco or a Controlled Entity of Target, Airwave Holdco or Arqiva Holdco to a third party (other than a Governmental Agency) other than in the ordinary course of business or as required by law or under a Target's existing contractual obligations to the extent that those obligations have been disclosed by Target to CPPIB and cannot be terminated by Target; or
- (d) communicate to any person an intention to do any of the things referred to in clause 13.2(a) to clause 13.2(b) (inclusive).

13.3 Competing Proposal

During the Exclusivity Period, Target must:

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- (a) notify CPPIB promptly on becoming aware of any negotiations or discussions, or approaches or attempts to initiate any negotiations or discussions regarding a Competing Proposal, including (if known) the identity of the relevant third party or parties and the nature of the approach or proposal; and
- (b) promptly notify CPPIB if a third party makes any request to Target to provide confidential information of Target Group which may reasonably be expected to lead to a Competing Proposal.

13.4 Fiduciary and other carve-out

The restrictions in clauses 13.1 and 13.2 (inclusive) (other than clause 13.1(a), and clause 13.1(d) to the extent that clause relates to clause 13.1(a)) do not apply to the extent that they restrict the Independent Directors from taking or refusing to take any action with respect to a Superior Proposal (which was not solicited, initiated, invited, facilitated or encouraged (whether directly or indirectly) by a MCG Entity, the Independent Directors, Gerald Moriarty or their respective Representatives, Advisers or agents in contravention of clause 13.1(a)).

13.5 Exceptions

Nothing in this clause 13 prevents Target or its Representatives from providing information required to be provided by law, a Court or any Regulatory Authority or to third parties in connection with satisfaction of any of the conditions in clause 3.1.

13.6 Warranty and representation

Each MCG Entity hereby represents, warrants and undertakes in respect of itself that:

- (a) as of the date of this agreement any and all discussions or negotiations in respect of any Competing Proposal between it or any Representative of it and any party other than CPPIB or any of its Representatives, including in connection with a sale of the issued securities of any Target Group Entity or any of the assets of any Target Group Entity, have been terminated;
- (b) as of the date of this agreement, it has not agreed to pay any form of work fee, break fee, inducement fee or similar fee in relation to any Competing Proposal; and
- (c) if it or any Representative or agent of it has provided any confidential information to any person other than CPPIB or any of its Representatives or Advisers pursuant to a confidentiality agreement and in connection with such person's consideration of a possible Competing Proposal, such MCG Entity has requested or will promptly request in writing the immediate return or destruction by such person and its Related Entities, Representatives, Advisers, agents and associates of such confidential information.

13.7 Legal advice

Target acknowledges that it has received legal advice on the operation of this clause 13.

13.8 Acknowledgement

CPPIB has required MCG and each MCG Entity to agree to the obligations set out in this clause 13 in consideration of it proceeding with the Schemes and incurring significant

costs in doing so. In the absence of obtaining these obligations from MCG and each MCG Entity, CPPIB would not have entered into this agreement.

14 Payment of Costs

14.1 Background

- (a) Target and CPPIB each acknowledge that, if they enter into this agreement and the Schemes are subsequently not implemented, CPPIB will have incurred significant transaction costs.
- (b) In the circumstances referred to in clause 14.1(a), CPPIB has requested that provision be made for the payment of the Break Fee in accordance with clause 14.2, without which CPPIB would not have entered into this agreement.
- (c) The Independent Directors acknowledge that they have received legal advice in relation to this clause 14 and believe that the Schemes will provide benefit to Target and Securityholders and acknowledge that it is reasonable and appropriate for Target to agree to the payment of the Break Fee in accordance with clause 14.2 in order to secure CPPIB's participation in the Transaction.
- (d) Target acknowledges that the payments referred to in this clause 14 in aggregate represent a reasonable amount to compensate CPPIB for the following:
 - (1) advisory costs (including costs of Advisers);
 - (2) costs of management and employees' time;
 - (3) out of pocket expenses; and
 - (4) reasonable opportunity costs in pursuing the Transaction or not pursuing other alternative acquisitions or strategic initiatives.
- (e) The parties agree that this clause 14 does not limit the rights of CPPIB in respect of any claims that it may have against any Target Group Entity, whether under this agreement or otherwise, except that liability in respect of any claims other than under this clause 14 in connection with the Transaction or this agreement must be calculated on the basis that if the Break Fee has been paid:
 - (1) the amount of the Break Fee is deducted from such liability of the Target Group Entity; and
 - (2) to the extent the Break Fee exceeds the actual loss of CPPIB in respect of the matter for which it is claimed, the difference between the Break Fee and the actual loss of CPPIB in respect of such matter must be deducted from any additional claim.

14.2 Payment of Break Fee

- (a) Subject to clause 14.3, if any of the following have occurred and either the Transaction has not been implemented by 11.59pm on the Sunset Date or

CPPIB has terminated this agreement, Target must pay CPPIB the Break Fee in accordance with clause 14.2(b), without withholding or set off:

- (1) any Independent Director changes or withdraws his recommendation to Securityholders referred to in clause 5.5(b) or otherwise makes any public statement that suggests that the Schemes are no longer so recommended, except in circumstances where:
 - (A) the Independent Expert has given a report to Target which opines that either of the Share Schemes is not in the best interests of Securityholders and/or that the Trust Scheme is not fair and reasonable or changes its previously given opinion that the Share Schemes are in the best interests of Securityholders and that the Trust Scheme is fair and reasonable, in circumstances where the reasons for the Independent Expert's opinion do not include the existence of a Competing Proposal; and
 - (B) either (i) CPPIB terminates this agreement (in which case it must waive the payment of the Break Fee pursuant to clause 3.2(d)); or (ii) Securityholders fail to approve the Schemes at the Scheme Meetings;
- (2) a Superior Proposal is announced or made and is publicly recommended, promoted or otherwise endorsed by any of the Target Boards or by any of the Independent Directors or Gerald Moriarty;
- (3) CPPIB terminates this agreement in accordance with clause 11.1(a)(5) (if as a result of the occurrence of a Target Material Adverse Change or Prescribed Occurrence), 11.1(b)(1) or 11.1(b)(2); or
- (4) the Transaction has not otherwise been implemented by 11.59pm on the Sunset Date, except where:
 - (A) that is as a result of any of the conditions in clauses 3.1(a)(1), 3.1(a)(2), 3.1(a)(3), 3.1(a)(4)(B), 3.1(a)(4)(C), 3.1(a)(5), 3.1(d), 3.1(e), 3.1(k), 3.1(m), 3.1(n), 3.1(p), 3.1(r) and 3.1(u) not being satisfied or waived within 10 Business Days of the Sunset Date or a party terminates this agreement under clause 3.7(b) of this agreement in respect of such condition;
 - (B) CPPIB waives payment of the Break Fee pursuant to clause 3.2(d);
 - (C) CPPIB has not waived the Condition Precedent in clause 3.1(i) in circumstances where it is required to do so pursuant to clause 3.2(d); or
 - (D) that is a result of the condition in clause 3.1(f) not being satisfied or waived within 10 Business Days of the Sunset Date or a party terminates this agreement under clause 3.7(b) of this agreement in respect of such condition but only to the extent that solely because of the Macquarie Transaction, a judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or

issued by any court or other Government Agency of competent jurisdiction, remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Schemes or the Macquarie Transaction.

- (b) Target must pay CPPIB the Break Fee, if it is payable pursuant to clause 14.2(a), within five Business Days after receiving a written demand from CPPIB to pay the Break Fee to CPPIB. The demand may only be made after:
 - (1) the occurrence of the event referred to in clauses 14.2(a); and
 - (2) this agreement is terminated in accordance with its terms.
- (c) Target can only be liable to pay the Break Fee once.

14.3 Compliance with law

If a court or the Takeovers Panel of Australia determines that any part of the Break Fee:

- (a) constitutes or would, if performed, constitute:
 - (1) a breach of the fiduciary or statutory duties of the Independent Directors; or
 - (2) unacceptable circumstances within the meaning of the Corporations Act; or
- (b) is unenforceable or would, if paid, be unlawful for any reason,
then Target will not be obliged to pay such part of the Break Fee and, if such fee has already been paid, then CPPIB must within five Business Days after receiving written demand from Target refund that part of the Break Fee to Target.

15 MCIML limitation of liability

- (a) MCIML enters into this agreement only in its capacity as responsible entity of MCIT.
- (b) Subject to paragraph (c):
 - (1) a liability arising under or in connection with this agreement is limited to and can be enforced against MCIML only to the extent to which it can be satisfied out of property of MCIT out of which MCIML is actually indemnified for the liability. This limitation of MCIML's liability applies despite any other provision of this agreement and extends to all liabilities and obligations of MCIML in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this agreement; and
 - (2) the other parties to this agreement may not sue MCIML in any capacity other than as responsible entity or trustee of MCIT, including seek the appointment of a receiver (except in relation to property of MCIT) a liquidator, an administrator or any similar person to MCIML or

prove in any liquidation, administration or arrangement of or affecting MCIML (except in relation to property of MCIT).

- (c) Despite any other provision of this or any other agreement (including a deed or deed poll), paragraph (b) does not apply to any obligation or liability of MCIML to the extent that it is not satisfied because:
- (1) under the MCIT Constitution, or by operation of law, there is a reduction in the extent of MCIML's indemnification out of the assets of MCIT, as a result of MCIML's fraud, negligence or breach of trust or MCIML's failure to properly perform or exercise any of its powers or duties in relation to MCIT;
 - (2) MCIML failed to exercise any right of indemnity it has under the MCIT Constitution, or by law, in respect of that obligation or liability; or
 - (3) MCIML released or waived any rights of indemnity it has under the MCIT constitution, or by law, or engaged in acts or omissions which deprive MCIML of such rights to be indemnified.

16 Conduct of Court Proceedings

- (a) Target and CPPIB and BidCo are entitled to separate representation at all proceedings of the Court and the Bermuda Court affecting the Transaction.
- (b) This agreement does not give Target on the one hand, or CPPIB or BidCo on the other, any right or power to give undertakings to either the Court or the Bermuda Court for or on behalf of the other party without that party's consent.

17 GST

17.1 Interpretation

In this clause 17 and the rest of this agreement, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that Act.

17.2 GST exclusive

- (a) Any consideration or amount payable under this agreement, including any non-monetary consideration, (as reduced in accordance with clause 17.2(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Taxable Supply made under or in connection with this agreement, an additional amount (**Additional Amount**) is payable by the party providing Consideration for the Taxable Supply (**Recipient**) equal to the amount of GST payable on that Taxable Supply under the GST Law.

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- (c) The Additional Amount payable under clause 17.2(b) is payable at the same time and in the same manner as the Consideration for the supply, subject to the provision of a valid Tax Invoice at or before that time. If a valid Tax Invoice is not provided at or before that time then the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including, without limitation, 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 17.2(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 determined 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 agreement:
 - (1) if an amount payable under or in connection with this agreement (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 17.2(b) in respect of a Supply to which section 84-5 of the GST Act applies.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party and to which the Representative Member of a GST Group of which the party is a member is entitled.

18 Notices

18.1 Service of notices

A notice, demand, consent, approval or communication under this agreement (**Notice**) must be:

- (a) in writing and in English directed to the recipient's address for notices specified in the Details, as varied by any Notice; and

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- (b) hand delivered (including in person or by courier) or sent by prepaid post or facsimile to that address.

18.2 Effective on receipt

A Notice given in accordance with clause 18.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the second Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from outside Australia); or
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery or transmission under clause 18.2(a) or 18.2(c) is not on a Business Day or after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.

19 No third party beneficiaries

Other than as set out in clauses 4.2 (which, for the avoidance of doubt, set forth the only rights of a Scheme Participant hereunder and only apply if the Scheme becomes Effective) and clauses 8.1, 8.3, 9.1, 9.2, and 10 no person who is not a party to this agreement shall have any rights or benefits under this agreement.

20 General

20.1 Variation

This agreement may be varied by a document signed by or on behalf of each of the parties.

20.2 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this agreement without the prior written consent of each other party.

20.3 Entire agreement

This agreement and the Confidentiality Deed supersedes all previous agreements in respect of its subject matter and embodies the entire agreement between the parties.

20.4 Survival and indemnities

- (a) Any indemnity or obligation of confidentiality in this agreement is independent and survives termination of this agreement. Any other term which by its nature is intended to survive termination of this agreement survives termination of this agreement.
- (b) Each indemnity given by a party to this agreement is given severally.
- (c) It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this agreement.

20.5 Costs and stamp duty

- (a) Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this agreement and the proposed, attempted or actual implementation of this agreement and the Schemes.
- (b) CPPIB must pay, or procure that BidCo pays, any stamp duty, fines and penalties with respect to stamp duty in respect of this agreement or the Scheme or the steps to be taken under this agreement or the Scheme.

20.6 Counterparts

- (a) This agreement may be executed in any number of counterparts.
- (b) All counterparts, taken together, constitute one document.
- (c) A party may execute this agreement by signing any counterpart.

20.7 No merger

The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this agreement. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

20.8 Severability

A term or part of a term of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or part of a term of this agreement continue in force.

20.9 Waiver

- (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 agreement 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 agreement.

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- (b) A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy.
- (c) Any waiver or consent given by any party under this agreement is only effective and binding on that party if it is given or confirmed in writing by that party.
- (d) No waiver of a breach of any term of this agreement operates as a waiver of another breach of that term or of a breach of any other term of this agreement.

20.10 Relationship

Except where this agreement expressly states otherwise, this agreement does not create a relationship of employment, trust, agency or partnership between the parties.

20.11 No representation or reliance

Each party acknowledges that:

- (a) no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this agreement, except for representations or inducements expressly set out in this agreement;
- (b) it does not enter into this agreement 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 this agreement; and
- (c) clauses 20.11(a) and 20.11(b) above do not prejudice any rights a party may have in relation to information which had been filed by the other party with ASIC or ASX.

20.12 Governing law and jurisdiction

- (a) This agreement is governed by the law of New South Wales, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, Australia, and courts competent to hear appeals from those courts, in connection with matters concerning this agreement.

20.13 Specific performance

The parties acknowledge that monetary damages alone would not be adequate compensation for a breach by any party of an obligation under this agreement and that specific performance of that obligation is an appropriate remedy.

20.14 Effect of agreement

- (a) This agreement supersedes any previous understandings or agreements between the parties concerning the subject matter of this agreement.
- (b) Despite clause 20.14(a), the Confidentiality Deed continues to apply to the parties in accordance with its terms.

20.15 Remedies cumulative

The rights, powers and remedies provided to each party in this agreement are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

20.16 Further Action

Each party must do all things and execute all further documents necessary or expedient to be done by it to give full effect to the provisions of this agreement and the transactions contemplated by it.

Executed as an agreement

Each attorney executing this agreement states that he or she has no notice of revocation or suspension of his or her power of attorney.

Signed for

Macquarie Communications Infrastructure Limited
by its attorney

sign here

▶ M. Buckner
Attorney

print name

MICHAEL BUCKNER
in the presence of

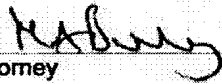
sign here

▶ M. van der Vlies
Witness

print name

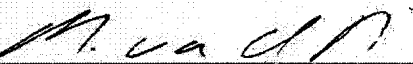
MICHAEL VAN DER VLIES

Signed for
**Macquarie Communications Infrastructure Management Limited in its
capacity as responsible entity of Macquarie Communications Infrastructure
Trust**
by its attorney

sign here ▶ 
Attorney

print name MICHAEL BUCKLING

in the presence of

sign here ▶ 
Witness


print name MICHAEL VAN DER VLIES

Signed for
Macquarie MCG International Limited
by its attorney

sign here ▶ 
Attorney

print name MICHAEL BUCKLING

in the presence of

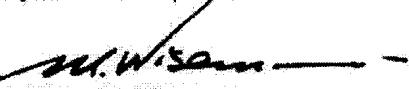
sign here ▶ 
Witness

print name MICHAEL VAN DER VLIES

Signed for:

Canada Pension Plan Investment Board
by its authorised representatives

sign here ▶



Authorised representative

print name

Mark D. Wiseman, Senior Vice President - Private Investments

sign here ▶



Authorised representative

print name

GRAEME BEVANS

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**Macquarie Communications Infrastructure Group
Recommended Offer To Security Holders**

- **CPPIB fully funded cash offer of A\$2.50 per MCG stapled security**
- **Unanimously recommended by Independent Directors to MCG stapled security holders**

Macquarie Communications Infrastructure Group (MCG) today announced that Canada Pension Plan Investment Board (CPPIB) has made formal cash offers to acquire MCG stapled securities for A\$2.50 per stapled security.

The A\$2.50 offer price values the equity of MCG at A\$1.37bn and implies an enterprise value at A\$ 7.3bn¹ and represents a 67% premium to the last closing price of MCG stapled securities, and a 134% premium to the three month average trading price.



MACQUARIE

Mr Malcolm Long, Chairman of the Independent Board Committee said today, "The Independent Directors of MCG are pleased to advise that they are unanimously recommending that security holders vote in favour of this offer by CPPIB, in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of MCG security holders.

"Our support for the Offer reflects its attractive premium to the recent trading price of MCG, that the Offer is fully cash funded and that it provides investors with certainty and an opportunity to crystallise value."

The MCG Offer (the Offer) is proposed to be implemented through inter-conditional Australian and Bermudan Schemes of Arrangement and an inter-conditional Trust Scheme (together the Scheme) and is subject to security holder approval. MCG has entered into a Scheme Implementation Agreement (SIA) with CPPIB in relation to the Offer.

If the Scheme is approved by MCG security holders, CPPIB will acquire MCG's manager, Macquarie Communications Infrastructure Management Limited² (MCIML), by way of a separate inter-conditional offer³ (the Ancillary Transaction) together with MCIML's entire holding of 18.3% of MCG stapled securities for A\$2.50 per stapled security.

The Ancillary Transaction provides for an upfront amount of A\$56.5m to be paid to Macquarie for the acquisition of MCIML and certain intellectual property and a payment of approximately A\$4m per annum for up to 10 years for ongoing advisory services in respect of Arqiva and Airwave and transitional services.

One of Canada's largest institutional investors, CPPIB is a professional investment management organisation which invests the pension contributions of 17 million Canadians, and has C\$108.9 billion⁴ of assets under management. CPPIB is an experienced infrastructure investor with an outstanding track record of owning and developing key infrastructure assets worldwide safely and responsibly. CPPIB intends to fund the cash offer of A\$2.50 per stapled security, and other commitments associated with the Offer, from its existing cash resources.

In order to assess the offer from CPPIB appropriately, MCG formed an Independent Board Committee (IBC) comprising only the independent directors of MCG. The IBC has made all decisions and recommendations in relation to the Offer. Mr Gerry Moriarty, Chairman of MCG, was an Executive Director of the Macquarie Group until December 2008 and

¹ Enterprise Value of A\$7.3 billion = A\$2.50 per MCG stapled security plus proportionate asset net debt of A\$5,341.9 million, exchangeable bonds of A\$570.8 million and corporate net debt of A\$39.6 million. Proportionate asset net debt, exchangeable bonds and corporate net debt are as at 31 December 2008

² MCIML is the responsible entity and manager of the MCG group.

³ The parties to the Offer may waive this as a condition to the Offer

⁴ As at 31 December 2008

None of the entities noted in this document is an authorised deposit-taking institution for the purposes of the Banking Act 1959 (Commonwealth of Australia) and their obligations do not represent deposits or other liabilities of Macquarie Bank Limited ABN 46 008 583 542 ("MBL"). MBL provides a limited A\$1.75 million guarantee to the Australian Securities and Investments Commission in respect of Corporations Act obligations of MCIML as a responsible entity of managed investment schemes. MBL does not otherwise guarantee or provide assurance in respect of the obligations of MCIML or any other entity noted in this document.

remains a consultant to Macquarie. Therefore, he is not a member of the IBC and is unable to make a recommendation with regard to the Offer.

Mr Malcolm Long, Chairman of the IBC went on to say, "As previously disclosed to the market the MCG Boards and management have implemented a range of timely initiatives seeking to restore value to MCG security holders.

"Despite these initiatives the MCG security price has continued to trade down. The MCG Boards therefore embarked on a review which explored several options to restore security holder value and de-leverage MCG, including divesting individual assets and additional capital management initiatives. It was through exploring all the options that an opportunity arose for CPPIB to submit a proposal to the Boards of MCG.

"The IBC consider CPPIB's fully financed cash offer to be attractive, especially when compared with the less certain and longer term alternatives that were explored. We are confident that the acquisition of MCG by CPPIB is a more certain means of providing increased value to security holders in the current climate.

"I reiterate that the Independent Directors unanimously recommend that security holders vote in favour of the Offer, in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of MCG security holders," Mr Long said.

Commenting on the Offer Mark Wiseman, Senior Vice President, Private Investments for the CPP Investment Board said, "This transaction enables us to acquire a diversified portfolio of outstanding communications infrastructure assets with leadership positions in their respective markets, stable cash flows and long-term growth potential. As a responsible shareholder and long-term investor, we look forward to working with the individual management teams to continue developing and growing their businesses."

Independent Experts and Independent Advisors

The Independent Directors have appointed Deloitte to prepare an Independent Expert's Report (IER) on the Offer to determine whether the Offer is in the best interests of security holders. In addition, Deloitte is undertaking a review of the Ancillary Transaction to determine whether the transactions are at arm's length and that they do not deliver a "collateral benefit" to Macquarie⁵. Both the reports will be included in the Scheme Booklet to be sent to security holders.

Grant Samuel has acted as independent financial advisor to the IBC in relation to any areas of potential conflict.

Security Holder Approval

The Scheme requires approval by the requisite majority of security holders whose securities are the subject of the Scheme. The Australian and the Bermudan Schemes of Arrangement must be approved by more than 50% by number of MCG security holders voting, and at least 75% of votes cast by value. The Trust Scheme requires the approval of at least 75% of votes cast at the meeting to amend the MCIT⁶ constitution. If the requisite security holder approval is obtained for the Scheme and relevant court approval is obtained, the Scheme will be binding on all security holders.

No Macquarie Group entity will vote on the Scheme, except to the extent that a Macquarie Group entity holds stapled securities on behalf of third parties who are not excluded from voting and who provide explicit voting instruction in relation to the Scheme.

The Scheme Booklet, including Notices of Meeting, is expected to be sent to security holders in May 2009 and the Scheme meetings are expected to be held in late June 2009.

MCG security holders should consult their stockbroker, accountant or financial adviser if they are uncertain about the impact of the Offer on their particular investment objectives.

⁵ For the purposes of the Corporation Act as interpreted by the Takeovers Panel in its Guidance Note 21

⁶ Macquarie Communications Infrastructure Trust

Scheme Implementation Agreement

A copy of the executed SIA accompanies this announcement. The SIA sets out the terms and conditions upon which MCG and CPPIB will now proceed to implement the proposed Scheme, and includes:

- an undertaking by MCG not to solicit, or participate in any discussions or negotiations in relation to any competing proposal, although this obligation will not prevent MCG from responding to an unsolicited superior proposal (as defined in the SIA)
- a break fee of approximately A\$13.65m, representing 1% of the equity value⁷ of MCG implied by the Offer, payable by MCG to CPPIB in certain circumstances (including where conditions are not satisfied or waived or if the Independent Directors change their recommendation in circumstances other than where the IER opines that the Australian and Bermudan Schemes of Arrangement are not in the best interest of security holders or that the Trust Scheme is not fair and reasonable)
- various conditions that must be satisfied or waived before the Scheme can be implemented⁸. These include:
 - Key customer approvals
 - UK regulatory approvals and Australian FIRB approval
 - All conditions of the Ancillary Transaction have been met other than the implementation of the Scheme
 - A MCG material adverse change or prescribed occurrence not having occurred
 - A tax ruling from the Australian Tax Office in relation to Broadcast Australia
- various undertakings, representations and warranties from MCG and CPPIB

The CPPIB offer is not conditional on financing.

The SIA may be terminated by the parties in a number of circumstances. It may be terminated by a party if there is material breach of the SIA by another party or if the Scheme does not become effective by 31 October 2009.

The Independent Directors may amend their unanimous recommendation in the event that the Independent Expert opines that the Offer is not in the best interests of the security holders or if the Boards of MCG receive an unsolicited superior proposal meeting certain requirements. In the latter circumstances, such amendment may trigger payment by MCG of the break fee to CPPIB.

Please see below conference call details for today at AST 11am

The conference will be hosted by IBC Chairman Mr Malcolm Long and MCG CEO Scott Davies.

Investors, analysts and media are invited to participate in a conference call to be hosted by IBC Chairman Malcolm Long and MCG CEO Scott Davies.

To participate in this call, please dial the number below and quote "MCG":

- from within Australia, 1800 157 000 (back-up # 02 8223 9380)
- from outside Australia, + 852 30021675

For further information, please contact:

Sam Dobson

Investor Relations Manager

Tel: 612 8232 4381

Mob: 614 0940 2118

Email: sam.dobson@macquarie.com

Jane Rotsey

Public Affairs Manager

Tel: 612 8232 5026

Mob: 614 0199 7160

Email: jane.rotsey@macquarie.com

⁷ Equity value is the value determined by multiplying the number of MCG stapled securities on issue by the offer price

⁸ A full list of the conditions is set out in the attached SIA

Deed Poll

Deed poll

Date ►

This deed poll is made by

Bidder	<p>[BidCo] [insert ACN/ABN/ARBN] of [insert address] (Bidder)</p>
CPPIB	<p>Canada Pension Plan Investment Board of One Queen Street East, Suite 2600, Toronto, MC5 2W5, Canada (CPPIB)</p>
in favour of	<p>Each Scheme Shareholder and Each Scheme Unitholder</p>
Background	<ol style="list-style-type: none"> 1 On [#] 2009, Macquarie Communications Infrastructure Limited (ACN 084 388 983) (MCIL), Macquarie MCG International Limited (ARBN 112 652 490) (a company incorporated in Bermuda) (MMCGIL), Macquarie Communications Infrastructure Management Limited (ACN 066 047 738) (MCIML) (as responsible entity of the Macquarie Communications Infrastructure Trust (ARSN 101 048 293) (MCIT)) (collectively, Target Group), and CPPIB entered into a scheme implementation agreement (Scheme Implementation Agreement). 2 Under the Scheme Implementation Agreement, CPPIB has agreed to execute, and to procure that Bidder execute, this deed poll. 3 CPPIB and Bidder are each entering into this deed poll to covenant in favour of each Scheme Participant to perform its obligations under this deed and the Schemes, including the provision of Scheme Consideration pursuant to the Schemes.
<p>This deed poll witnesses</p>	

1 Definitions and interpretation

1.1 Definitions

(a) The meanings of the terms used in this deed are set out below.

Term	Meaning
Business Day	<ol style="list-style-type: none"> 1 for receiving a notice under clause 6, a day that is not a Saturday, Sunday, bank holiday or public holiday in the place where the notice is sent; 2 for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.
MCIL Share Scheme	the scheme of arrangement pursuant to Part 5.1 of the Corporations Act proposed between MCIL and MCIL Shareholders, the form of which is contained in Attachment 1, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by CPPIB and Target.
MCIL Scheme Shareholder	each MCIL Shareholder as at 5.00pm on the Record Date, other than MCIML.
MMCGIL Share Scheme	the scheme of arrangement pursuant to section 99 of the Companies Act proposed between MMCGIL and MMCGIL Shareholders, the form of which is contained in Attachment 2, together with any alterations or conditions made or required by the Bermuda Court and approved in writing by CPPIB and Target.
MMCGIL Scheme Shareholder	each MMCGIL Shareholder as at 5.00pm on the Record Date, other than MCIML.
Scheme Shareholders	MMCGIL Scheme Shareholders and MCIL Scheme Shareholders.
Scheme Unitholder	each person who is a Unitholder as at 5.00pm on the Record Date, other than MCIML.
Supplemental Deed	a deed poll under which MCIML will amend the MCIT Constitution, the form of which is contained in Attachment 3, with any alterations or conditions approved in writing by CPPIB and Target.
Trust Scheme	the arrangement, in accordance with Guidance Note 15, under which Bidder acquires all of the MCIT Units from Trust Scheme Participants facilitated by amendments to the MCIT Constitution as set out in the Supplemental Deed, subject to the requisite Unitholder approvals.

- (b) A word or phrase defined in the Scheme Implementation Agreement has the same meaning in this deed unless otherwise defined or the context otherwise requires.

1.2 Interpretation

This deed poll is to be interpreted according to corresponding rules to those set out in clause 1.2 of the Scheme Implementation Agreement except that references to 'this agreement' in clause 1.2 will be taken as being references to 'this deed poll', unless the context makes it clear that a rule is not intended to apply.

1.3 Nature of deed poll

Each of CPPIB and Bidder acknowledges that this deed poll may be relied on and enforced by any Scheme Participant in accordance with its terms even though those persons are not party to this deed poll.

2 Conditions to obligations

2.1 Conditions

The obligations of Bidder and CPPIB in respect of the Schemes and pursuant to this deed poll are subject to all of the Schemes becoming Effective.

2.2 Termination

The obligations of Bidder and CPPIB under this Deed Poll with respect to the Schemes will automatically terminate, and the terms of this deed poll will be of no further force or effect, if the Scheme Implementation Agreement is terminated in accordance with its terms.

2.3 Consequences of termination

If the obligations of Bidder and CPPIB under this deed poll are terminated under clause 2.2 then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Participants:

- (a) each of CPPIB and Bidder is released from its obligations to further perform this deed poll; and
- (b) Scheme Participants retain the rights they have against CPPIB and Bidder in respect of any breach of this deed poll by Bidder or CPPIB which occurred before termination of this deed poll.

3 Compliance with Schemes Obligations

Subject to clause 2, CPPIB and Bidder each undertake to:

- (a) do all those things it is required to do under the MCIL Scheme, MMCGIL Scheme and the Trust Scheme; and
- (b) in consideration for the transfer of the Securities to Bidder in accordance with the MCIL Scheme, MMCGIL Scheme and the Trust Scheme, pay or procure the payment of the Scheme Consideration,

in accordance with the terms of the MCIL Scheme, MMCGIL Scheme and the Trust Scheme.

4 Warranties

Bidder and CPPIB represent and warrant each in respect of itself that:

- (a) **incorporation:** it is a corporation validly existing under the laws of its place of incorporation;
- (b) **corporate power:** 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) **corporate authorisations:** it has taken or will take all necessary corporate action to authorise the entry into of this deed poll and to authorise the performance of this deed poll and carry out the transactions contemplated by this deed poll;
- (d) **binding obligations:** this deed poll is valid and binding upon it;
- (e) **solvency:** it is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets;
- (f) **no default:** this deed poll does not conflict with or result in the breach of or default under any provision of its constitution, any material term or provision of any material agreement or any writ, order or injunction, judgement, law, rule, regulation or instrument to which it is party or subject or of which it is bound; and
- (g) **no outstanding regulatory approvals:** no regulatory approvals (other than the Regulatory Approvals) are required to permit Bidder to acquire the Securities upon implementation of the Schemes.

5 Continuing obligations

This deed poll is irrevocable and remains in full force and effect until each of CPPIB and Bidder has completely performed its obligations under this deed poll or the earlier termination of this deed poll under clause 2.

6 Notices

- (a) A notice, consent or other communication (**Notice**) under this deed poll is only effective if it is:
- (1) in writing, signed by or on behalf of the person giving it;
 - (2) addressed to the person to whom it is to be given; and
 - (3) either:
 - (A) delivered or sent by pre-paid mail to that person's address;
or
 - (B) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.
- (b) A Notice that complies with this clause 6 is regarded as given and received:
- (1) if hand delivered, on delivery;
 - (2) if sent by prepaid post, the second Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from outside Australia);
 - (3) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight hours after the transmission, the recipient informs the sender that it has not received the entire Notice,
- but if the delivery or transmission under clause 6(b)(1) or 6(b)(3) is not on a Business Day or after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.
- (c) Each of CPPIB and Bidder's notice details are as set out in the Details section of this deed poll (or are as most recently notified by CPPIB or Bidder (as applicable)).

7 General

7.1 Further assurances

Each of CPPIB and Bidder will do all things and execute all deeds, instruments, transfers or other documents as may be necessary to give full effect to the provisions of this deed poll and the transactions contemplated by it.

7.2 Remedies cumulative

The rights, powers and remedies of CPPIB, Bidder and Scheme Participants in this deed poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity.

7.3 Variation

A provision in this deed poll may only be varied by CPPIB and Bidder if:

- (a) the variation is agreed to by Target where such agreement may be given or withheld without reference to or approval by any Shareholder or Unitholder being required; and
- (b) the Court (and the Bermuda Court in respect of the MMCGIL Share Scheme) indicates that the amendment would not of itself preclude approval of the Share Schemes or provision of the First Judicial Advice or Second Judicial Advice,

in which event, Bidder and CPPIB will enter into a further deed poll in favour of the applicable Scheme Shareholders and Scheme Unitholders giving effect to any such amendment.

7.4 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

7.5 Stamp duty

All stamp duty that may be payable on or in connection with this deed poll and any instrument effected by, executed under or pursuant to this deed poll must be borne by CPPIB. CPPIB must indemnify each Scheme Participant on demand against any liability for that stamp duty.

7.6 Assignment

The rights and obligations of Bidder, CPPIB and each Scheme Participant under this deed poll are personal. They cannot be assigned, encumbered or otherwise dealt with and none of Bidder, CPPIB or any Scheme Participant may attempt, or purport, to do so without the prior written consent of Target and CPPIB.

7.7 Governing law and jurisdiction

This deed poll is governed by the laws of New South Wales, Australia. Bidder and CPPIB submit to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this deed poll.

MCIL Share Scheme

MMCGIL Share Scheme

Supplemental Deed

Executed as a deed

Signed for

Canada Pension Plan Investment Board
by its authorised representative

sign here



Authorised representative

print name

in the presence of

sign here



Witness

print name

Signed for

[Bidder]
by its attorney

sign here



Attorney

print name

in the presence of

sign here



Witness

print name

MCIL Share Scheme

MCIL Share Scheme

This scheme of arrangement is made pursuant to section 411 of the Corporations Act

Between the parties	
MCIL	Macquarie Communications Infrastructure Limited (ABN 18 084 388 983) of 1 Martin Place, Sydney NSW 2000
MCIL Shareholders other than MCIML	The holders of fully paid ordinary shares in MCIL, other than MCIML

1 Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Term	Meaning
ADI	the meaning given to the term 'authorised deposit-taking institution' in the <i>Banking Act 1959</i> (Cth) of Australia.
Aggregate Scheme Consideration	the aggregate of all Scheme Consideration payable to Scheme Participants under the Schemes.
ASIC	the Australian Securities and Investments Commission.
ASTC	ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532).

Term	Meaning
ASTC Settlement Rules	the operating rules of the settlement facility of the ASTC for the purposes of the Corporations Act.
ASX	ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market conducted by it.
Bermuda Court	the Supreme Court of Bermuda.
Bidder	[Bidco].
Business Day	a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.
CHESS	the Clearing House Electronic Subregister System for the electronic transfer of securities and other financial products operated by ASTC.
Companies Act	the <i>Companies Act 1981</i> of Bermuda.
Conditions Precedent	the conditions precedent set out in clause 3.1 of the Scheme Implementation Agreement.
Constitution	the constitution adopted by MCIL on 19 June 2002.
Corporations Act	the <i>Corporations Act 2001</i> (Cth) of Australia.
Court	the Supreme Court of New South Wales.
CPPIB	Canada Pension Plan Investment Board.
Deed Poll	the deed poll dated [#] 2009 executed by Bidder and CPPIB in favour of Scheme Participants.
Effective	when used in relation to the Schemes, all of the following events taking place: <ol style="list-style-type: none"> 1 the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the MCIL Share Scheme coming into effect pursuant to section 411(10) of the Corporations Act; 2 the order of the Bermuda Court made under section 99(2) of the

Term	Meaning
	<p>Companies Act in relation to the MMCGIL Share Scheme coming into effect pursuant to section 99(3) of the Companies Act; and</p> <p>3 the Supplemental Deed taking effect pursuant to section 601GC(2) of the Corporations Act.</p>
Effective Date	the date on which all the Schemes have become Effective.
Effective Time	the date and time at which all the Schemes have become Effective.
Explanatory Statements	<p>1 the statement pursuant to section 412 of the Corporations Act which has been, or will be, registered by ASIC in relation to this MCIL Share Scheme;</p> <p>2 the statement pursuant to section 100(1)(a) of the Companies Act in relation to the MMCGIL Share Scheme; and</p> <p>3 the statement to be sent to Unitholders in relation to the Trust Scheme, in accordance with Guidance Note 15 and the relevant provisions of the Corporations Act, explaining the effect of the Trust Scheme and setting out information that is material to the making of a decision by Unitholders whether or not to vote in favour of the Trust Scheme,</p> <p>copies of which will be included in the Scheme Booklet.</p>
Guidance Note 15	<i>Guidance Note 15: Listed Trusts and Managed Investment Scheme Mergers</i> issued by the Takeovers Panel of Australia.
Implementation Date	the fifth Business Day after the Scheme Record Date.
Independent Expert's Report	the report prepared by a person appointed by Target as independent expert to prepare a report to be provided to Target, Shareholders and Unitholders providing an opinion as to whether each of the Share Schemes is in the best interests of Shareholders and as to whether the Trust Scheme is fair and reasonable to Unitholders.
Macquarie Transaction	the meaning given to that term in the Share Implementation Agreement.
MCIL	Macquarie Communications Infrastructure Limited (ABN 18 084 388 983).
MCIL Register	the register of MCIL Shareholders maintained by MCIL pursuant to Chapter 2C of the Corporations Act.
MCIL Scheme Share	each MCIL Share on issue as at 5pm on the Scheme Record Date,

Term	Meaning
	other than MCIL Shares held by MCIML
MCIL Scheme Shareholder	each MCIL Shareholder as at 5.00pm on the Scheme Record Date, other than MCIML.
MCIL Share	one fully paid ordinary share issued in the capital of MCIL.
MCIL Share Scheme	this scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MCIL and MCIL Shareholders (other than MCIML), under which Bidder acquires all of the MCIL Shares (other than those held by MCIML) from the MCIL Scheme Shareholders, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by CPPIB and Target.
MCIL Share Scheme Meeting	the meeting of MCIL Shareholders convened by order of the Court in relation to this MCIL Share Scheme pursuant to section 411(1) of the Corporations Act, and includes any adjournment of such meeting.
MCIL Shareholder	a person who is registered in the MCIL Register as the holder of MCIL Shares, and MCIL Shareholders means all of them.
MCIML	Macquarie Communications Infrastructure Management Limited (ABN 29 066 047 738), in its personal capacity.
MMCGIL	Macquarie MCG International Limited (ARBN 112 652 490), a company incorporated in Bermuda with registration number 35258.
MMCGIL Register	the register of MMCGIL Shareholders maintained by MMCGIL pursuant to section 65 of the Companies Act.
MMCGIL Scheme Share	each MMCGIL Share on issue as at 5pm on the Scheme Record Date, other than MMCGIL Shares held by MCIML.
MMCGIL Scheme Shareholder	each MMCGIL Shareholder as at 5.00pm on the Scheme Record Date, other than MCIML.
MMCGIL Share	one fully paid ordinary share issued in the capital of MMCGIL.
MMCGIL Share Scheme	the scheme of arrangement pursuant to section 99 of the Companies Act between MMCGIL and MMCGIL Shareholders (other than MCIML),

Term	Meaning
	under which Bidder acquires all of the MMCGIL Shares (other than those held by MCIML) from MMCGIL Scheme Shareholders, together with any alterations or conditions made or required by the Bermuda Court and approved in writing by CPPIB and Target.
MMCGIL Share Scheme Meeting	the meeting of MMCGIL Scheme Shareholders convened by the Bermuda Court in relation to the MMCGIL Share Scheme pursuant to section 99(1) of the Companies Act, and includes any adjournment of such meeting.
MMCGIL Shareholder	a person who is registered in the MMCGIL Register as the holder of MMCGIL Shares, and MMCGIL Shareholders means all of them.
Register	the stapled security register of Target kept pursuant to the Corporations Act and the Companies Act.
Registered Address	in relation to a MMCGIL Shareholder, the address of the MMCGIL Shareholder as recorded in the MMCGIL Register.
Registry	Computershare Investor Services Pty Limited (ABN 48 078 279 277) of Level 3, Carrington Street, Sydney NSW 2000, Australia.
Scheme Booklet	the information to be despatched to all Securityholders, and approved by the Court and the Bermuda Court, in connection with the Schemes, including the Share Schemes, the Explanatory Statements, the Independent Expert's Report, the Deed Poll, the Supplemental Deed, and notices convening the Share Scheme Meetings and the Trust Scheme Meeting together with the proxy forms for those meetings.
Scheme Consideration	for each Security held by a Scheme Participant at 5pm on the Scheme Record Date, an amount of \$2.50.
Scheme Implementation Agreement	the agreement of that name dated [#] 2009 executed by MMCGIL acting in its own capacity, MCIL acting in its own capacity, Trustee acting in its capacity as responsible entity of Trust, and CPPIB.
Scheme Participant	each person who participates in each of the MMCGIL Share Scheme, this MCIL Share Scheme and the Trust Scheme by virtue of being a MMCGIL Scheme Shareholder, a MCIL Scheme Shareholder and a Scheme Unitholder.
Scheme Record Date	the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as Target and CPPIB may agree in writing.

Term	Meaning
Scheme Transfer	for each Scheme Participant, a proper instrument of transfer of their Securities for the purpose of section 1071B of the Corporations Act, which may be a master transfer of all Securities.
Scheme Unitholder	each person who is a Unitholder as at 5.00pm on the Scheme Record Date, other than MCIML.
Scheme Unit	each Unit on issue as at 5pm on the Scheme Record Date, other than those held by MCIML.
Schemes	the Share Schemes and the Trust Scheme.
Second Court Date	the first day on which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving this MCIL Share Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.
Security	a stapled security comprising one MCIL Scheme Share, one MMCGIL Scheme Share and one Scheme Unit.
Securityholder	each person who is registered in the Register as the holder of Securities.
Share Scheme Meetings	the MCIL Share Scheme Meeting and the MMCGIL Share Scheme Meeting.
Share Schemes	the MMCGIL Share Scheme and this MCIL Share Scheme.
Shareholder	a MCIL Shareholder and a MMCGIL Shareholder, and Shareholders means all of them.
Sunset Date	31 October 2009.
Supplemental Deed	a deed poll under which Trustee will amend the Trust Constitution, the form of which is contained in Annexure 5 of the Scheme Implementation Agreement, with any alterations or conditions approved in writing by CPPIB and Target.
Target	together, MMCGIL, MCIL and Trust (acting through Trustee in its capacity as responsible entity of Trust), or any of them as the context

Term	Meaning
	requires. For the avoidance of doubt, no security in Trustee will become subject to the Schemes or any other transaction referred to in the Scheme Implementation Agreement or this MCIL Share Scheme except for the Macquarie Transaction.
Trust	Macquarie Communications Infrastructure Trust (ARSN 101 048 293).
Trust Constitution	the constitution establishing Trust dated 19 June 2002.
Trust Scheme	the arrangement, in accordance with Guidance Note 15, under which Bidder acquires all of the Scheme Units from Scheme Unitholders facilitated by amendments to the Trust Constitution as set out in the Supplemental Deed, subject to the requisite Unitholder approvals.
Trust Scheme Meeting	the meeting of Unitholders convened by Trustee pursuant to clause 17.1 of the Trust Constitution to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.
Trust Scheme Resolutions	the resolutions of Scheme Unitholders to approve the Trust Scheme including: <ol style="list-style-type: none"> 1 a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all the Scheme Units by Bidder; and 2 a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the Trust Constitution as set out in the Supplemental Deed.
Trustee	the trustee for the time being of Trust being, as at the date of this deed, MCIML.
Unit	one fully paid ordinary unit in the Trust.
Unitholder	each person who is registered in the Register as the holder of Units, and Unitholders means all of them.

1.2 Interpretation

The following rules apply in interpreting this MCIL Share Scheme, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;

- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this MCIL Share Scheme, and a reference to this MCIL Share Scheme includes any schedule or annexure;
- (d) a reference to an agreement, document or instrument (including to this MCIL Share Scheme, and to any regulatory guide, standard or guidance note) includes the agreement, document or instrument as novated, amended, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, AUD, dollar or \$ is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) a reference to a party is to a party to this MCIL Share Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (j) a reference to a person, natural person, trust, partnership, body corporate, association, unincorporated body, governmental or local authority or agency or other entity includes any of them;
- (k) a reference to a statute, ordinance, code or other law, or regulation, includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (l) a word or expression defined in either the Corporations Act or the Companies Act (as applicable) has the corresponding meaning given to it in the Corporations Act or Companies Act;
- (m) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (n) 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;
- (o) 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;
- (p) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this MCIL Share Scheme or any part of it;
- (q) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (r) a reference to amend includes delete or replace.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2 Preliminary matters

- (a) MCIL is a public company limited by shares, incorporated in Australia and registered in Victoria. Its registered office is at level 12, 1 Martin Place, Sydney, New South Wales, 2000.
- (b) The MCIL Shares are stapled to MMCGIL Shares and Units on a one-for-one-for-one basis.
- (c) Target is admitted to the official list of ASX and the Securities are officially quoted on the financial market conducted by ASX.
- (d) As at the date of the Scheme Booklet, Securities, comprising [546,254,151] MCIL Shares, [546,254,151] MMCGIL Shares and [546,254,151] Units, were in issue.
- (e) MMCGIL is an exempted mutual fund company limited by shares, incorporated in Bermuda with registration number 35258. Its registered office is at Penboss Building, 50 Parliament Street, Hamilton HM 12, Bermuda.
- (f) Trustee is a public company limited by shares, incorporated in Australia and registered in New South Wales. Its registered office is at level 7, 1 Martin Place, Sydney, New South Wales, 2000.
- (g) Trustee is the responsible entity of Trust.
- (h) Bidder is [[Bidco], a company limited by shares, incorporated in [insert]. Its registered office is at [insert]]. Bidder is an entity wholly owned and controlled by CPPIB].
- (i) CPPIB is a Canadian Crown corporation established by the *Canada Pension Plan Investment Board Act 1997*. Its registered office is at One Queen Street East, Suite 2600, Toronto, M5C 2W5, Canada.
- (j) MMCGIL, MCIL, Trustee (as responsible entity for Trust) and CPPIB have agreed, by executing the Scheme Implementation Agreement, to propose and implement the terms of and to perform their respective obligations, and in the case of CPPIB, also to procure that Bidder will propose, implement and perform its respective obligations, under the MMCGIL Share Scheme, this MCIL Share Scheme and the Trust Scheme.
- (k) CPPIB and Bidder have executed a Deed Poll pursuant to which CPPIB and Bidder has covenanted in favour of each Scheme Participant:
 - (1) in the case of CPPIB, to do or to procure Bidder to do; and
 - (2) in the case of Bidder, to do,

all those things each of them is required to do under the Schemes, including the provision of the Scheme Consideration in accordance with the terms of the Schemes.

- (l) If this MCIL Share Scheme becomes Effective, MCIL undertakes in favour of each MCIL Scheme Shareholder that it will enforce the Deed Poll against CPPIB and/or Bidder on behalf of and as agent and attorney for MCIL Scheme Shareholders.

3 Conditions to the MCIL Share Scheme

- (a) This MCIL Share Scheme is conditional on:
- (1) all of the Conditions Precedent having been satisfied or waived (or taken to have been waived) in accordance with the terms of the Scheme Implementation Agreement before 8am on the Second Court Date, other than the conditions set out in clauses 3.1(b) and 3.1(c) of the Scheme Implementation Agreement;
 - (2) the Scheme Implementation Agreement having not been terminated as at 8am on the Second Court Date; and
 - (3) such other conditions imposed by the Court under section 411(6) of the Corporations Act as are acceptable to CPPIB and Target (acting through their respective counsel).
- (b) The fulfilment of each condition in clause 3(a) is a condition precedent to the binding effect of this MCIL Share Scheme.
- (c) On or before the Second Court Date, Target must provide to the Court a certificate confirming whether or not all the conditions precedent to this MCIL Share Scheme have been satisfied, waived or taken to have been waived other than the conditions set out in clauses 3.1(b) and 3.1(c) of the Scheme Implementation Agreement.
- (d) Without limiting any rights under the Scheme Implementation Agreement, in the event that the Scheme Implementation Agreement is terminated in accordance with its terms before 8am on the Second Court Date, Target, CPPIB and Bidder are each released from:
- (1) any further obligation to take steps to implement the MCIL Share Scheme; and
 - (2) any liability with respect to the MCIL Share Scheme.

4 The MCIL Share Scheme

4.1 Effective

- (a) Subject to clause 4.1(b), this MCIL Share Scheme will come into effect at the Effective Time.
- (b) This MCIL Share Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the Sunset Date or such later date as the Court, with the written consent of CPPIB and Target, may order and the Scheme Implementation Agreement has been terminated in accordance with its terms.

4.2 Binding

If this MCIL Share Scheme becomes Effective, it will:

- (a) bind MCIL and all MCIL Shareholders, including those who do not attend the MCIL Share Scheme Meeting, those who do not vote at that meeting and those who vote against this MCIL Share Scheme at that meeting; and
- (b) override the Constitution, to the extent of any inconsistency.

4.3 Lodgement of Court orders

If the Court makes the order under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the MCIL Share Scheme coming into effect pursuant to section 411(10) of the Corporations Act, MCIL will lodge with ASIC office copies of that order as soon as practicable and by no later than 5.00pm on the first Business Day after the date on which an office copy of the order is received by MCIL, or such later date as is agreed in writing by CPPIB.

4.4 Transfer of the MCIL Scheme Shares

If this MCIL Share Scheme becomes Effective then:

- (a) all the MCIL Scheme Shares (together with all rights and entitlements attaching to the MCIL Scheme Shares) will be transferred to Bidder simultaneously with the transfer of all the MMCGIL Scheme Shares and Scheme Units to Bidder under the MMCGIL Share Scheme and Trust Scheme respectively;
- (b) MCIL will enter the name of Bidder in the MCIL Register in respect of all the MCIL Scheme Shares; and
- (c) CPPIB will, or procure that Bidder will, provide the Scheme Consideration to MCIL in accordance with clause 5,

in accordance with the provisions of this MCIL Share Scheme.

4.5 Provision of Scheme Consideration

- (a) On or before 12.00 noon on the Implementation Date, in consideration for the transfer of the Securities to Bidder, CPPIB must provide, or procure that Bidder provide, the Scheme Consideration in the manner required by clause 5.
- (b) On the Implementation Date, subject to CPPIB or Bidder paying the Scheme Consideration in accordance with clause 5 and CPPIB providing MCIL with written confirmation of that payment:
 - (1) all of the MCIL Scheme Shares together with all rights and entitlements attaching to the MCIL Scheme Shares as at that time will be transferred to Bidder without the need for any further act by any MCIL Scheme Shareholder (other than acts performed by MCIL or Bidder (as applicable) (or its directors or officers) as attorney or agent of MCIL Scheme Shareholders under clauses 8.2 and 8.4 or otherwise) and must be transferred to Bidder simultaneously with the transfer of all of the MMCGIL Scheme Shares and Scheme Units under the MMCGIL Share Scheme and Trust Scheme respectively; and

- (2) MCIL will procure:
- (A) in the case of MCIL Scheme Shares in a CHES holding, a message to be transmitted to ASTC in accordance with ASTC Settlement Rules so as to transfer to Bidder the MCIL Scheme Shares held by the MCIL Scheme Shareholder from the CHES sub-register of Target to the issuer sponsored sub-register operated by Target; and
 - (B) the delivery to Bidder of transfers of all the MCIL Scheme Shares duly completed and executed on behalf of MCIL Scheme Shareholders in the form of Scheme Transfers which, together with transfers pursuant to the MMCGIL Share Scheme and the Trust Scheme, transfer all of the Securities to Bidder.
- (c) CPPIB must procure that Bidder, and Bidder must, immediately execute the transfers referred to in clause 4.5(b)(2) as transferee and deliver the Scheme Transfers to MCIL for registration.
- (d) MCIL must, immediately following receipt of the transfers under clause 4.5(c) (in the form of Scheme Transfers in respect of the Securities), enter the name and address of Bidder in:
- (1) the MCIL Register in respect of all the MCIL Scheme Shares; and
 - (2) the Register in respect of all Securities.

4.6 MCIL Board

On the Implementation Date, after the payment of the Scheme Consideration to MCIL in accordance with clause 5, the MCIL Board will be reconstituted by:

- (a) the appointment of Bidder's nominees to the MCIL board of directors; and
- (b) the resignation from the MCIL board of directors of all persons who are not nominees of Bidder.

5 Scheme Consideration

- (a) The obligations of CPPIB and Bidder to pay the Scheme Consideration will be satisfied by CPPIB or Bidder, before 12.00 noon on the Implementation Date, depositing or procuring the deposit of the Aggregate Scheme Consideration into an account nominated by Target (the details of which must be notified by Target to CPPIB at least five Business Days before the Implementation Date).
- (b) MCIL is to procure that the amount referred to in clause 5(a) be held by Target on trust for the Scheme Participants (except that any interest on the amount will be for the account of Bidder) for the purpose of sending the Scheme Consideration to the Scheme Participants, within [one Business Day] after the Implementation Date:
 - (1) where the Scheme Participant has nominated (by notice to MCIL or the Registry before 5pm on the Scheme Record Date) a bank account with an ADI in Australia for the purpose of payment of any dividends or distribution or the Scheme Consideration, then by depositing, or procuring the deposit of, directly to that bank account, an amount; or

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- (2) by dispatching or procuring the dispatch to each Scheme Participant by pre-paid post to their Registered Address a cheque drawn on an ADI in the name of that Scheme Participant for an amount,

in Australian currency, equal to the number of Securities held by that Scheme Participant as at 5pm on the Scheme Record Date multiplied by the Scheme Consideration (subject to any rounding pursuant to clause 5(c)). (For the avoidance of doubt, each Scheme Participant will only be entitled to receive one payment of the Scheme Consideration applicable to the number of Securities held by that Scheme Participant as at 5pm on the Scheme Record Date, which payment will apply in respect of all of the Schemes.)

- (c) If a fractional entitlement to part of a cent in cash arises from the calculation of the total amount of cash to be paid to a MCIL Scheme Participant, then any such fractional entitlement will be rounded:
- (1) where the fraction is 0.5 or more – up; and
- (2) where the fraction is less than 0.5 – down,
to the nearest whole cent.
- (d) In the case of joint holders of Securities, a cheque shall be payable to those joint holders and shall be forwarded to the holder whose name appears first in the Register as at 5pm on the Scheme Record Date.
- (e) In the event that the Target believes that a Scheme Participant is not known at the Scheme Participant's Registered Address, and no account has been notified in accordance with clause 5(b)(1) or a deposit into such an account is rejected or refunded, the Target may credit the amount payable to the relevant Scheme Participant to a separate bank account of Target to be held until the Scheme Participant claims the amount or the amount is dealt with in accordance with any applicable unclaimed money legislation. Target must hold the amount on trust, but any interest accruing on the amount will be for the account of Bidder. An amount credited to the account is to be treated as having been paid to the Scheme Participant when credited to the account. Target must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (f) In the case of a notice having been given to MCIL (or the Registry) of an order made by a court of competent jurisdiction:
- (1) which requires payment to a third party of a sum in respect of Securities held by a particular Scheme Participant, which would otherwise be payable to the particular Scheme Participant in accordance with clause 5(b), then MCIL shall procure that payment is made in accordance with that order; or
- (2) which would prevent Target from despatching payment to any particular Scheme Participant in accordance with clause 5(b), MCIL shall procure that Target (or Registry) retains an amount that would otherwise be payable to that Scheme Participant in accordance with clause 5(b) until such time as payment is permitted by law (and any interest accruing on the amount will be for the account of Bidder).

6 Dealings in MCIL Shares

- (a) For the purpose of establishing the persons who are MCIL Scheme Shareholders, dealings in MCIL Shares will only be recognised if:

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- (1) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the MCIL Register as the holder of the relevant MCIL Shares by 5pm on the Scheme Record Date; and
 - (2) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Registry by 5pm on the Scheme Record Date.
- (b) MCIL will register registrable transfers or transmission applications of the kind referred to in clause 6(a)(2) by, or as soon as practicable after, the Scheme Record Date. The persons shown in the MCIL Register, and the number of MCIL Shares shown as being held by them, after registration of those transfers and transmission applications will be taken to be MCIL Shareholders, and the number of MCIL Shares held by them, as at 5pm on the Scheme Record Date.
 - (c) MCIL will not accept for registration, nor recognise for any purpose (including the purpose of establishing the persons who are MCIL Scheme Shareholders), any transfer or transmission application in respect of MCIL Scheme Shares received after 5pm on the Scheme Record Date (or received prior to the Scheme Record Date not in registrable form).
 - (d) MCIL will maintain or procure the maintenance of the MCIL Register in accordance with this clause 6. The MCIL Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 6(a)(2) will solely determine the persons who are MCIL Scheme Shareholders and their entitlements to the Scheme Consideration.
 - (e) Other than Bidder (after registration of Bidder in respect of all MCIL Scheme Shares under clause 4.5(d)), no MCIL Shareholder (or any person purporting to claim through any MCIL Shareholder) may deal with MCIL Scheme Shares in any way after 5pm on the Scheme Record Date except as set out in this MCIL Share Scheme, and any attempt to do so will have no effect.
 - (f) Other than in respect of Bidder (after registration of Bidder in respect of all MCIL Scheme Shares under clause 4.5(d)), from the Scheme Record Date, all certificates and holding statements (as applicable) for MCIL Scheme Shares as at 5pm on the Scheme Record Date will cease to have any effect as evidence of title, and each entry on the Register as at 5pm on the Scheme Record Date will cease to have any effect other than as evidence of the entitlements of MCIL Scheme Shareholders to the Scheme Consideration.
 - (g) As soon as practical after the Scheme Record Date, and in any event at least five Business Days before the Implementation Date, MCIL must give to CPPIB, or procure that CPPIB is given, details of the names and addresses shown in the MCIL Register of all MCIL Scheme Shareholders and of the number of MCIL Scheme Shares held by each of them as at 5pm on the Scheme Record Date, in whatever form CPPIB or Bidder reasonably requires in order to implement the Schemes (including to facilitate the provision by Bidder of the Scheme Consideration).

7 Quotation of Securities

- (a) Target must apply to ASX for suspension of trading of the Target Shares on ASX with effect from the close of business on the Effective Date.

- (b) On a date to be determined by CPPIB (such date to be after the Implementation Date), MCIL will apply for termination of the official quotation on ASX of the Securities and apply to have Target removed from the official list of ASX.

8 General Scheme provisions

8.1 Consent to MCIL Share Scheme amendments

If the Court proposes to approve this MCIL Share Scheme subject to alterations or conditions, MCIL may, by its counsel or solicitors but subject to the prior written approval of CPPIB, consent on behalf of all MCIL Scheme Shareholders to those alterations or conditions.

8.2 MCIL Share Scheme Shareholders' agreements and representations

Each MCIL Scheme Shareholder irrevocably:

- (a) acknowledges that this MCIL Share Scheme binds MCIL and all of the MCIL Shareholders from time to time (including those who do not attend the MCIL Scheme Meeting, do not vote at that meeting or vote against the MCIL Share Scheme);
- (b) agrees to the transfer of all of their MCIL Scheme Shares to Bidder in accordance with this MCIL Share Scheme;
- (c) agrees to the modification or variation (if any) of the rights attaching to their MCIL Scheme Shares arising from this MCIL Share Scheme;
- (d) without the need for any further act, appoints MCIL and each of its directors and officers, jointly and severally, as that MCIL Scheme Shareholder's attorney and agent (and MCIL and each of its directors and officers accepts that appointment) for the purpose of executing any document or doing any other act necessary to give full effect to this MCIL Share Scheme, the MMCGIL Share Scheme and the Trust Scheme, and the transactions contemplated by each of them, including:
 - (1) in the case of MCIL Scheme Shares in a CHES holding, causing a message to be transmitted to ASTC in accordance with ASTC Settlement Rules so as to transfer to Bidder the MCIL Scheme Shares held by the MCIL Scheme Shareholder from the CHES sub-register of Target to the issuer sponsored sub-register operated by Target notwithstanding that, at the time of such transfer, the Scheme Consideration that is due under this MCIL Share Scheme has not been provided to the MCIL Scheme Shareholders; and
 - (2) executing a proper instrument of transfer of its MCIL Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all Securities; and
- (e) consents to MCIL, CPPIB and Bidder doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this MCIL Share Scheme, the MMCGIL Share Scheme and the Trust Scheme, and the transactions contemplated by them.

8.3 Title to and rights to MCIL Shares

- (a) To the extent permitted by law, the MCIL Scheme Shares transferred to Bidder under this MCIL Share Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) MCIL Scheme Shareholders are deemed to have warranted to MCIL in its own right and on behalf of CPPIB and Bidder, to have warranted to CPPIB and to Bidder, that all their MCIL Scheme Shares (including any rights and entitlements attaching to those MCIL Scheme Shares) which are transferred to Bidder under this MCIL Share Scheme will, at the date they are transferred to Bidder, be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind (other than that they must be transferred together with the other securities comprising a Security) and that they have full power and capacity to sell and to transfer such MCIL Scheme Shares (including any rights and entitlements attaching to those securities).

8.4 Appointment of Bidder

From the Implementation Date, subject to CPPIB or Bidder paying the Scheme Consideration in accordance with clause 5 and CPPIB providing MCIL with written confirmation of that payment, until MCIL registers Bidder as the holder of all MCIL Scheme Shares in the Register, each MCIL Scheme Shareholder is deemed to have appointed Bidder and each of its directors and officers, jointly and severally, as its attorney and agent (and directed Bidder and its directors and officers in such capacity) to appoint the Chairman of Bidder (or other nominee of CPPIB) as its sole proxy and, where applicable, corporate representative to attend shareholder meetings of MCIL and MMCGIL and unitholder meetings of the Trust, exercise the votes attaching to the MCIL Scheme Shares, the MMCGIL Scheme Shares and the Scheme Units of which they are the registered holder and sign any MCIL Shareholders' resolution, MMCGIL Shareholders' resolution or Unitholders' resolution (and it is acknowledged and agreed that in exercising such powers the attorney may act in the interests of Bidder as the intended registered holder of those shares), and no MCIL Scheme Shareholder, MMCGIL Scheme Shareholder or Scheme Unitholder (as applicable) may attend or vote at any of those meetings or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than pursuant to this clause 8.4. Bidder undertakes in favour of each MCIL Scheme Shareholder that it will appoint the Chairman of Bidder (or other nominee of CPPIB) as proxy or, where applicable, corporate representative for the relevant MCIL Scheme Shareholder, MMCGIL Scheme Shareholder or Scheme Unitholder in accordance with this clause 8.4.

8.5 Beneficial title

Bidder will be beneficially entitled to the MCIL Scheme Shares transferred to it under this MCIL Share Scheme pending registration by MCIL of the name and address of Bidder in the Register as the holder of the MCIL Scheme Shares.

9 General

9.1 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in this MCIL Share Scheme is sent by post to MCIL, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at MCIL's registered office.

9.2 Further assurances

MCIL must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this MCIL Share Scheme and the transactions contemplated by it.

9.3 Stamp duty and other costs

- (a) Subject to clause 9.3(b), Target will pay the costs of this MCIL Share Scheme.
- (b) CPPIB will, or will procure that Bidder will, pay any stamp duty payable on the transfer by MCIL Scheme Shareholders of the MCIL Scheme Shares to Bidder pursuant to the MCIL Share Scheme.

9.4 Governing law

- (a) This MCIL Share Scheme is governed by the laws in force in New South Wales, Australia.
- (b) Each party irrevocably submits 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 MCIL Share Scheme. Each party irrevocably waives 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.

MMCGIL Share Scheme

MMCGIL Share Scheme

This scheme of arrangement is made pursuant to section 99 of the Companies Act 1981

Between the parties	
MMCGIL	Macquarie MCG International Limited (ARBN 112 652 490, incorporated in Bermuda with registration number 35258) of Penboss Building, 50 Parliament Street, Hamilton HM 12, Bermuda
MMCGIL Shareholders other than MCIML	The holders of fully paid ordinary shares in MMCGIL, other than MCIML

1 Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Term	Meaning
ADI	the meaning given to the term 'authorised deposit-taking institution' in the <i>Banking Act 1959</i> (Cth) of Australia.
Aggregate Scheme Consideration	the aggregate of all Scheme Consideration payable to Scheme Participants under the Schemes.
ASIC	the Australian Securities and Investments Commission.
ASTC	ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532).

Term	Meaning
ASTC Settlement Rules	the operating rules of the settlement facility of the ASTC for the purposes of the Corporations Act.
ASX	ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market conducted by it.
Bermuda Court	the Supreme Court of Bermuda.
Bidder	[Bidco].
Business Day	a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.
Bye-laws	the bye-laws of MMCGIL.
CHESS	the Clearing House Electronic Subregister System for the electronic transfer of securities and other financial products operated by ASTC.
Companies Act	the <i>Companies Act 1981</i> of Bermuda.
Conditions Precedent	the conditions precedent set out in clause 3.1 of the Scheme Implementation Agreement.
Corporations Act	the <i>Corporations Act 2001</i> (Cth) of Australia.
CPPIB	Canada Pension Plan Investment Board.
Deed Poll	the deed poll dated [#] 2009 executed by Bidder and CPPIB in favour of Scheme Participants.
Effective	<p>when used in relation to the Schemes, all of the following events taking place:</p> <ol style="list-style-type: none"> 1 the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the MCIL Share Scheme coming into effect pursuant to section 411(10) of the Corporations Act; 2 the order of the Bermuda Court made under section 99(2) of the Companies Act in relation to the MMCGIL Share Scheme coming into effect pursuant to section 99(3) of the Companies Act; and 3 the Supplemental Deed taking effect pursuant to section 601GC(2) of

Term	Meaning
	the Corporations Act.
Effective Date	the date on which all the Schemes have become Effective.
Effective Time	the date and time at which all the Schemes have become Effective.
Explanatory Statements	<ol style="list-style-type: none"> 1 the statement pursuant to section 412 of the Corporations Act which has been, or will be, registered by ASIC in relation to the MCIL Share Scheme; 2 the statement pursuant to section 100(1)(a) of the Companies Act in relation to this MMCGIL Share Scheme; and 3 the statement to be sent to Unitholders in relation to the Trust Scheme, in accordance with Guidance Note 15 and the relevant provisions of the Corporations Act, explaining the effect of the Trust Scheme and setting out information that is material to the making of a decision by Unitholders whether or not to vote in favour of the Trust Scheme, <p>copies of which will be included in the Scheme Booklet.</p>
Guidance Note 15	<i>Guidance Note 15: Listed Trusts and Managed Investment Scheme Mergers</i> issued by the Takeovers Panel of Australia.
Implementation Date	the fifth Business Day after the Scheme Record Date.
Independent Expert's Report	the report prepared by a person appointed by Target as independent expert to prepare a report to be provided to Target, Shareholders and Unitholders providing an opinion as to whether each of the Share Schemes is in the best interests of Shareholders and as to whether the Trust Scheme is fair and reasonable to Unitholders.
Macquarie Transaction	the meaning given to that term in the Share Implementation Agreement.
MCIL	Macquarie Communications Infrastructure Limited (ABN 18 084 388 983).
MCIL Register	the register of MCIL Shareholders maintained by MCIL pursuant to Chapter 2C of the Corporations Act.
MCIL Scheme Share	each MCIL Share on issue as at 5pm on the Scheme Record Date, other than those held by MCIML.

Term	Meaning
MCIL Scheme Shareholder	each MCIL Shareholder as at 5.00pm on the Scheme Record Date, other than MCIML.
MCIL Share	one fully paid ordinary share issued in the capital of MCIL.
MCIL Share Scheme	the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MCIL and MCIL Shareholders (other than MCIML), under which Bidder acquires all of the MCIL Shares (other than those held by MCIML) from the MCIL Scheme Shareholders, together with any alterations or conditions made or required by the NSW Court under section 411(6) of the Corporations Act and approved in writing by CPPIB and Target.
MCIL Share Scheme Meeting	the meeting of MCIL Shareholders convened by order of the NSW Court in relation to the MCIL Share Scheme pursuant to section 411(1) of the Corporations Act, and includes any adjournment of such meeting.
MCIL Shareholder	a person who is registered in the MCIL Register as the holder of MCIL Shares, and MCIL Shareholders means all of them.
MCIML	Macquarie Communications Infrastructure Management Limited (ABN 29 066 047 738), in its personal capacity.
MMCGIL	Macquarie MCG International Limited (ARBN 112 652 490), a company incorporated in Bermuda with registration number 35258.
MMCGIL Register	the register of MMCGIL Shareholders maintained by MMCGIL pursuant to section 65 of the Companies Act.
MMCGIL Scheme Share	each MMCGIL Share on issue as at 5pm on the Scheme Record Date, other than those held by MCIML.
MMCGIL Scheme Shareholder	each MMCGIL Shareholder as at 5.00pm on the Scheme Record Date, other than MCIML.
MMCGIL Share	one fully paid ordinary share issued in the capital of MMCGIL.
MMCGIL Share Scheme	this scheme of arrangement pursuant to section 99 of the Companies Act between MMCGIL and MMCGIL Shareholders (other than MCIML), under which Bidder acquires all of the MMCGIL Shares (other than those held by MCIML) from MMCGIL Scheme Shareholders, together with any alterations or conditions made or required by the Bermuda

Term	Meaning
	Court and approved in writing by CPPIB and Target.
MMCGIL Share Scheme Meeting	the meeting of MMCGIL Shareholders convened by the Bermuda Court in relation to this MMCGIL Share Scheme pursuant to section 99(1) of the Companies Act, and includes any adjournment of such meeting.
MMCGIL Shareholder	a person who is registered in the MMCGIL Register as the holder of MMCGIL Shares, and MMCGIL Shareholders means all of them.
NSW Court	the Supreme Court of New South Wales, Australia.
Register	the stapled security register of Target kept pursuant to the Corporations Act and the Companies Act.
Registered Address	in relation to a MMCGIL Shareholder, the address of the MMCGIL Shareholder as recorded in the MMCGIL Register.
Registry	Computershare Investor Services Pty Limited (ABN 48 078 279 277) of Level 3, Carrington Street, Sydney NSW 2000, Australia.
Scheme Booklet	the information to be despatched to all Securityholders, and approved by the NSW Court and the Bermuda Court, in connection with the Schemes, including the Share Schemes, the Explanatory Statements, the Independent Expert's Report, the Deed Poll, the Supplemental Deed, and notices convening the Share Scheme Meetings and the Trust Scheme Meeting together with the proxy forms for those meetings.
Scheme Consideration	for each Security held by a Scheme Participant at 5pm on the Scheme Record Date, an amount of \$2.50.
Scheme Implementation Agreement	the agreement of that name dated [#] 2009 executed by MMCGIL acting in its own capacity, MCIL acting in its own capacity, Trustee acting in its capacity as responsible entity of Trust, and CPPIB.
Scheme Participant	each person who participates in each of the MMCGIL Share Scheme, the MCIL Share Scheme and the Trust Scheme by virtue of being a MMCGIL Scheme Shareholder, a MCIL Scheme Shareholder and a Scheme Unitholder.
Scheme Record Date	the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as Target and CPPIB may agree in writing.

Term	Meaning
Scheme Transfer	for each Scheme Participant, a proper instrument of transfer of their Securities for the purpose of section 1071B of the Corporations Act, which may be a master transfer of all Securities.
Scheme Unitholder	each person who is a Unitholder as at 5.00pm on the Scheme Record Date, other than MCIML.
Scheme Unit	each Unit on issue as at 5pm on the Scheme Record Date, other than those held by MCIML.
Schemes	the Share Schemes and the Trust Scheme.
Second Court Date	the first day on which an application made to the Bermuda Court for an order pursuant to section 99(2) of the Companies Act approving this MMCGIL Share Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.
Security	a stapled security comprising one MCIL Scheme Share, one MMCGIL Scheme Share and one Scheme Unit.
Securityholder	each person who is registered in the Register as the holder of Securities.
Share Scheme Meetings	the MCIL Share Scheme Meeting and the MMCGIL Share Scheme Meeting.
Share Schemes	this MMCGIL Share Scheme and the MCIL Share Scheme.
Shareholder	a MCIL Shareholder and a MMCGIL Shareholder, and Shareholders means all of them.
Sunset Date	31 October 2009.
Supplemental Deed	a deed poll under which Trustee will amend the Trust Constitution, the form of which is contained in Annexure 5 of the Scheme Implementation Agreement, with any alterations or conditions approved in writing by CPPIB and Target.
Target	together, MMCGIL, MCIL and Trust (acting through Trustee in its capacity as responsible entity of Trust), or any of them as the context requires. For the avoidance of doubt, no security in Trustee will become

Term	Meaning
	subject to the Schemes or any other transaction referred to in the Scheme Implementation Agreement or this MMCGIL Share Scheme except for the Macquarie Transaction.
Trust	Macquarie Communications Infrastructure Trust (ARSN 101 048 293).
Trust Constitution	the constitution establishing Trust dated 19 June 2002.
Trust Scheme	the arrangement, in accordance with Guidance Note 15, under which Bidder acquires all of the Scheme Units from Scheme Unitholders facilitated by amendments to the Trust Constitution as set out in the Supplemental Deed, subject to the requisite Unitholder approvals.
Trust Scheme Meeting	the meeting of Unitholders convened by Trustee pursuant to clause 17.1 of the Trust Constitution to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.
Trust Scheme Resolutions	the resolutions of Unitholders to approve the Trust Scheme including: <ol style="list-style-type: none"> 1 a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all the Scheme Units by Bidder; and 2 a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the Trust Constitution as set out in the Supplemental Deed.
Trustee	the trustee for the time being of Trust being, as at the date of this deed, MCIML.
Unit	one fully paid ordinary unit in the Trust.
Unitholder	each person who is registered in the Register as the holder of Units, and Unitholders means all of them.

1.2 Interpretation

The following rules apply in interpreting this MMCGIL Share Scheme, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;

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- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this MMCGIL Share Scheme, and a reference to this MMCGIL Share Scheme includes any schedule or annexure;
- (d) a reference to an agreement, document or instrument (including to this MMCGIL Share Scheme, and to any regulatory guide, standard or guidance note) includes the agreement, document or instrument as novated, amended, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, AUD, dollar or \$ is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) a reference to a party is to a party to this MMCGIL Share Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (j) a reference to a person, natural person, trust, partnership, body corporate, association, unincorporated body, governmental or local authority or agency or other entity includes any of them;
- (k) a reference to a statute, ordinance, code or other law, or regulation, includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (l) a word or expression defined in either the Corporations Act or the Companies Act (as applicable) has the corresponding meaning given to it in the Corporations Act or Companies Act;
- (m) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (n) 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;
- (o) 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;
- (p) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this MMCGIL Share Scheme or any part of it;
- (q) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (r) a reference to amend includes delete or replace.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2 Preliminary matters

- (a) MCIL is a public company limited by shares, incorporated in Australia and registered in Victoria. Its registered office is at level 12, 1 Martin Place, Sydney, New South Wales, 2000.
- (b) The MCIL Shares are stapled to MMCGIL Shares and Units on a one-for-one-for-one basis.
- (c) Target is admitted to the official list of ASX and the Securities are officially quoted on the financial market conducted by ASX.
- (d) As at the date of the Scheme Booklet, Securities, comprising [546,254,151] MCIL Shares, [546,254,151] MMCGIL Shares and [546,254,151] Units, were in issue.
- (e) MMCGIL is an exempted mutual fund company limited by shares, incorporated in Bermuda with registration number 35258. Its registered office is at Penboss Building, 50 Parliament Street, Hamilton HM12, Bermuda.
- (f) Trustee is a public company limited by shares, incorporated in Australia and registered in New South Wales. Its registered office is at level 7, 1 Martin Place, Sydney, New South Wales, 2000.
- (g) Trustee is the responsible entity of Trust.
- (h) Bidder is [[Bidco], a [company limited by shares, incorporated in [insert]]. Its registered office is at [insert]]. Bidder is an entity wholly owned and controlled by CPPIB].
- (i) CPPIB is a Canadian Crown corporation established by the *Canada Pension Plan Investment Board Act 1997*. Its registered office is at One Queen Street East, Suite 2600, Toronto, M5C 2W5, Canada.
- (j) MMCGIL, MCIL, Trustee (as responsible entity for Trust) and CPPIB have agreed, by executing the Scheme Implementation Agreement, to propose and implement the terms of and to perform their respective obligations, and in the case of CPPIB, also to procure that Bidder will propose, implement and perform its respective obligations, under this MMCGIL Share Scheme, the MCIL Share Scheme and the Trust Scheme.
- (k) CPPIB and Bidder have executed a Deed Poll pursuant to which CPPIB and Bidder has covenanted in favour of each Scheme Participant:
 - (1) in the case of CPPIB, to do or to procure Bidder to do; and
 - (2) in the case of Bidder, to do,all those things each of them is required to do under the Schemes, including the provision of the Scheme Consideration in accordance with the terms of the Schemes.
- (l) If this MMCGIL Share Scheme becomes Effective, MMCGIL undertakes in favour of each MMCGIL Scheme Shareholder that it will enforce the Deed Poll against CPPIB and/or Bidder on behalf of and as agent and attorney for MMCGIL Scheme Shareholders.

3 Conditions to the MMCGIL Share Scheme

- (a) This MMCGIL Share Scheme is conditional on:
 - (1) all of the Conditions Precedent having been satisfied or waived (or taken to have been waived) in accordance with the terms of the Scheme Implementation Agreement before 8am on the Second Court Date, other than the conditions set out in clauses 3.1(b) and 3.1(c) of the Scheme Implementation Agreement;
 - (2) the Scheme Implementation Agreement having not been terminated as at 8am on the Second Court Date; and
 - (3) such other conditions imposed by the Bermuda Court as are acceptable to CPPIB and Target (acting through their respective counsel).
- (b) The fulfilment of each condition in clause 3(a) is a condition precedent to the binding effect of this MMCGIL Share Scheme.
- (c) On or before the Second Court Date, Target must provide to the Bermuda Court a certificate confirming whether or not all the conditions precedent to this MMCGIL Share Scheme have been satisfied, waived or taken to have been waived, other than the conditions set out in clauses 3.1(b) and 3.1(c) of the Scheme Implementation Agreement.
- (d) Without limiting any rights under the Scheme Implementation Agreement, in the event that the Scheme Implementation Agreement is terminated in accordance with its terms before 8am on the Second Court Date, Target, CPPIB and Bidder are each released from:
 - (1) any further obligation to take steps to implement the MMCGIL Share Scheme; and
 - (2) any liability with respect to the MMCGIL Share Scheme.

4 The MMCGIL Share Scheme

4.1 Effective

- (a) Subject to clause 4.1(b), this MMCGIL Share Scheme will come into effect at the Effective Time.
- (b) This MMCGIL Share Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the Sunset Date or such later date as the Bermuda Court, with the written consent of CPPIB and Target, may order and the Scheme Implementation Agreement has been terminated in accordance with its terms.

4.2 Binding

If this MMCGIL Share Scheme becomes Effective, it will:

- (a) bind MMCGIL and all MMCGIL Shareholders, including those who do not attend the MMCGIL Share Scheme Meeting, those who do not vote at that meeting and those who vote against this MMCGIL Share Scheme at that meeting; and
- (b) override the Bye-laws, to the extent of any inconsistency.

4.3 Lodgement of Court orders

If the Bermuda Court makes the order under section 99(2) of the Companies Act in relation to the MMCGIL Share Scheme coming into effect pursuant to section 99(3) of the Companies Act, MMCGIL will lodge with the Registrar of Companies in Bermuda a copy of that order as soon as practicable and by no later than 5.00pm on the first Business Day after the date on which an office copy of the order is received by MMCGIL, or such later date as is agreed in writing by CPPIB.

4.4 Transfer of MMCGIL Scheme Shares

If this MMCGIL Share Scheme becomes Effective then:

- (a) all the MMCGIL Scheme Shares (together with all rights and entitlements attaching to the MMCGIL Scheme Shares) will be transferred to Bidder simultaneously with the transfer of all the MCIL Scheme Shares and Scheme Units to Bidder under the MCIL Share Scheme and Trust Scheme respectively;
- (b) MMCGIL will enter the name of Bidder in the MMCGIL Register in respect of all the MMCGIL Scheme Shares; and
- (c) CPPIB will, or procure that Bidder will, provide the Scheme Consideration to MMCGIL in accordance with clause 5,
in accordance with the provisions of this MMCGIL Share Scheme.

4.5 Provision of Scheme Consideration

- (a) On or before 12.00 noon on the Implementation Date, in consideration for the transfer of the Securities to Bidder, CPPIB must provide, or procure that Bidder provide, the Scheme Consideration in the manner required by clause 5.
- (b) On the Implementation Date, subject to CPPIB or Bidder paying the Scheme Consideration in accordance with clause 5 and CPPIB providing MMCGIL with written confirmation of that payment:
 - (1) all of the MMCGIL Scheme Shares together with all rights and entitlements attaching to the MMCGIL Scheme Shares as at that time will be transferred to Bidder without the need for any further act by any MMCGIL Scheme Shareholder (other than acts performed by MMCGIL or Bidder (as applicable) (or its directors or officers) as attorney or agent of MMCGIL Scheme Shareholders under clauses 8.2 and 8.4 or otherwise) and must be transferred to Bidder simultaneously with the transfer of all of the MCIL Scheme Shares and Scheme Units under the MCIL Share Scheme and Trust Scheme respectively; and
 - (2) MMCGIL will procure:
 - (A) in the case of MMCGIL Scheme Shares in a CHES holding, a message to be transmitted to ASTC in accordance with ASTC

Settlement Rules so as to transfer to Bidder the MMCGIL Scheme Shares held by the MMCGIL Scheme Shareholder from the CHES sub-register of Target to the issuer sponsored sub-register operated by Target; and

- (B) the delivery to Bidder of transfers of all the MMCGIL Scheme Shares duly completed and executed on behalf of MMCGIL Scheme Shareholders in the form of Scheme Transfers which, together with transfers pursuant to the MCIL Share Scheme and the Trust Scheme, transfer all of the Securities to Bidder.
- (c) CPPIB must procure that Bidder, and Bidder must, immediately execute the transfers referred to in clause 4.5(b)(2) as transferee and deliver the Scheme Transfers to MMCGIL for registration.
- (d) MMCGIL must, immediately following receipt of the transfers under clause 4.5(c) (in the form of Scheme Transfers in respect of the Securities), enter the name and address of Bidder in:
 - (1) the MMCGIL Register in respect of all the MMCGIL Scheme Shares; and
 - (2) the Register in respect of all Securities.

4.6 MMCGIL Board

On the Implementation Date, after the payment of the Scheme Consideration to MMCGIL in accordance with clause 5, the MMCGIL Board will be reconstituted by:

- (a) the appointment of Bidder's nominees to the MMCGIL board of directors; and
- (b) the resignation from the MMCGIL board of directors of all persons who are not nominees of Bidder.

5 Scheme Consideration

- (a) The obligations of CPPIB and Bidder to pay the Scheme Consideration will be satisfied by CPPIB or Bidder, before 12.00 noon on the Implementation Date, depositing or procuring the deposit of the Aggregate Scheme Consideration into an account nominated by Target (the details of which must be notified by Target to CPPIB at least five Business Days before the Implementation Date).
- (b) MMCGIL is to procure that the amount referred to in clause 5(a) be held by Target on trust for the Scheme Participants (except that any interest on the amount will be for the account of Bidder) for the purpose of sending the Scheme Consideration to the Scheme Participants, within one Business Day after the Implementation Date:
 - (1) where the Scheme Participant has nominated (by notice to MMCGIL or the Registry before 5pm on the Scheme Record Date) a bank account with an ADI in Australia for the purpose of payment of any dividends or distribution or the Scheme Consideration, then by depositing, or procuring the deposit of, directly to that bank account, an amount; or

- (2) by dispatching or procuring the dispatch to each Scheme Participant by pre-paid post to their Registered Address a cheque drawn on an ADI in the name of that Scheme Participant for an amount,

in Australian currency, equal to the number of Securities held by that Scheme Participant as at 5pm on the Scheme Record Date multiplied by the Scheme Consideration (subject to any rounding pursuant to clause 5(c)). (For the avoidance of doubt, each Scheme Participant will only be entitled to receive one payment of the Scheme Consideration applicable to the number of Securities held by that Scheme Participant as at 5pm on the Scheme Record Date, which payment will apply in respect of all of the Schemes.)

- (c) If a fractional entitlement to part of a cent in cash arises from the calculation of the total amount of cash to be paid to a MMCGIL Scheme Participant, then any such fractional entitlement will be rounded:
- (1) where the fraction is 0.5 or more – up; and
- (2) where the fraction is less than 0.5 – down,
to the nearest whole cent.
- (d) In the case of joint holders of Securities, a cheque shall be payable to those joint holders and shall be forwarded to the holder whose name appears first in the Register as at 5pm on the Scheme Record Date.
- (e) In the event that the Target believes that a Scheme Participant is not known at the Scheme Participant's Registered Address, and no account has been notified in accordance with clause 5(b)(1) or a deposit into such an account is rejected or refunded, the Target may credit the amount payable to the relevant Scheme Participant to a separate bank account of Target to be held until the Scheme Participant claims the amount or the amount is dealt with in accordance with any applicable unclaimed money legislation. Target must hold the amount on trust, but any interest accruing on the amount will be for the account of Bidder. An amount credited to the account is to be treated as having been paid to the Scheme Participant when credited to the account. Target must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (f) In the case of a notice having been given to MMCGIL (or the Registry) of an order made by a court of competent jurisdiction:
- (1) which requires payment to a third party of a sum in respect of Securities held by a particular Scheme Participant, which would otherwise be payable to the particular Scheme Participant in accordance with clause 5(b), then MMCGIL shall procure that payment is made in accordance with that order; or
- (2) which would prevent Target from despatching payment to any particular Scheme Participant in accordance with clause 5(b), MMCGIL shall procure that Target (or Registry) retains an amount that would otherwise be payable to that Scheme Participant in accordance with clause 5(b) until such time as payment is permitted by law (and any interest accruing on the amount will be for the account of Bidder).

6 Dealings in MMCGIL Shares

- (a) For the purpose of establishing the persons who are MMCGIL Scheme Shareholders, dealings in MMCGIL Shares will only be recognised if:

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- (1) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the MMCGIL Register as the holder of the relevant MMCGIL Shares by 5pm on the Scheme Record Date; and
 - (2) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Registry by 5pm on the Scheme Record Date.
- (b) MMCGIL will register registrable transfers or transmission applications of the kind referred to in clause 6(a)(2) by, or as soon as practicable after, the Scheme Record Date. The persons shown in the MMCGIL Register, and the number of MMCGIL Shares shown as being held by them, after registration of those transfers and transmission applications will be taken to be MMCGIL Shareholders, and the number of MMCGIL Shares held by them, as at 5pm on the Scheme Record Date.
 - (c) MMCGIL will not accept for registration, nor recognise for any purpose (including the purpose of establishing the persons who are MMCGIL Scheme Shareholders), any transfer or transmission application in respect of MMCGIL Scheme Shares received after 5pm on the Scheme Record Date (or received prior to the Scheme Record Date not in registrable form).
 - (d) MMCGIL will maintain or procure the maintenance of the MMCGIL Register in accordance with this clause 6. The MMCGIL Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 6(a)(2) will solely determine the persons who are MMCGIL Scheme Shareholders and their entitlements to the Scheme Consideration.
 - (e) Other than Bidder (after registration of Bidder in respect of all MMCGIL Scheme Shares under clause 4.5(d)), no MMCGIL Shareholder (or any person purporting to claim through any MMCGIL Shareholder) may deal with MMCGIL Scheme Shares in any way after 5pm on the Scheme Record Date except as set out in this MMCGIL Share Scheme, and any attempt to do so will have no effect.
 - (f) Other than in respect of Bidder (after registration of Bidder in respect of all MMCGIL Scheme Shares under clause 4.5(d)), from the Scheme Record Date, all certificates and holding statements (as applicable) for MMCGIL Scheme Shares as at 5pm on the Scheme Record Date will cease to have any effect as evidence of title, and each entry on the Register as at 5pm on the Scheme Record Date will cease to have any effect other than as evidence of the entitlements of MMCGIL Scheme Shareholders to the Scheme Consideration.
 - (g) As soon as practical after the Scheme Record Date, and in any event at least five Business Days before the Implementation Date, MMCGIL must give to CPPIB, or procure that CPPIB is given, details of the names and addresses shown in the MMCGIL Register of all MMCGIL Scheme Shareholders and of the number of MMCGIL Scheme Shares held by each of them as at 5pm on the Scheme Record Date, in whatever form CPPIB or Bidder reasonably requires in order to implement the Schemes (including to facilitate the provision by Bidder of the Scheme Consideration).

7 Quotation of Securities

- (a) Target must apply to ASX for suspension of trading of the Target Shares on ASX with effect from the close of business on the Effective Date.

- (b) On a date to be determined by CPPIB (such date to be after the Implementation Date), MMCGIL will apply for termination of the official quotation on ASX of the Securities and apply to have Target removed from the official list of ASX.

8 General Scheme provisions

8.1 Consent to MMCGIL Share Scheme amendments

If the Bermuda Court proposes to approve this MMCGIL Share Scheme subject to alterations or conditions, MMCGIL may, by its counsel or solicitors but subject to the prior written approval of CPPIB, consent on behalf of all MMCGIL Scheme Shareholders to those alterations or conditions.

8.2 MMCGIL Share Scheme Shareholders' agreements and representations

Each MMCGIL Scheme Shareholder irrevocably:

- (a) acknowledges that this MMCGIL Share Scheme binds MMCGIL and all of the MMCGIL Shareholders from time to time (including those who do not attend the MMCGIL Scheme Meeting, do not vote at that meeting or vote against the MMCGIL Share Scheme);
- (b) agrees to the transfer of all of their MMCGIL Scheme Shares to Bidder in accordance with this MMCGIL Share Scheme;
- (c) agrees to the modification or variation (if any) of the rights attaching to their MMCGIL Scheme Shares arising from this MMCGIL Share Scheme;
- (d) without the need for any further act, appoints MMCGIL and each of its directors and officers, jointly and severally, as that MMCGIL Scheme Shareholder's attorney and agent (and MMCGIL and each of its directors and officers accepts that appointment) for the purpose of executing any document or doing any other act necessary to give full effect to this MMCGIL Share Scheme, the MCIL Share Scheme and the Trust Scheme, and the transactions contemplated by each of them, including:
 - (1) in the case of MMCGIL Scheme Shares in a CHES holding, causing a message to be transmitted to ASTC in accordance with ASTC Settlement Rules so as to transfer to Bidder the MMCGIL Scheme Shares held by the MMCGIL Scheme Shareholder from the CHES sub-register of Target to the issuer sponsored sub-register operated by Target notwithstanding that, at the time of such transfer, the Scheme Consideration that is due under this MMCGIL Share Scheme has not been provided to the MMCGIL Scheme Shareholders; and
 - (2) executing a proper instrument of transfer of its MMCGIL Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all Securities; and
- (e) consents to MMCGIL, CPPIB and Bidder doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this MMCGIL Share Scheme, the MCIL Share Scheme and the Trust Scheme, and the transactions contemplated by them.

8.3 Title to and rights to MMCGIL Shares

- (a) To the extent permitted by law, the MMCGIL Scheme Shares transferred to Bidder under this MMCGIL Share Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) MMCGIL Scheme Shareholders are deemed to have warranted to MMCGIL in its own right and on behalf of CPPIB and Bidder, to have warranted to CPPIB and to Bidder, that all their MMCGIL Scheme Shares (including any rights and entitlements attaching to those MMCGIL Scheme Shares) which are transferred to Bidder under this MMCGIL Share Scheme will, at the date they are transferred to Bidder, be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind (other than that they must be transferred together with the other securities comprising a Security) and that they have full power and capacity to sell and to transfer such MMCGIL Scheme Shares (including any rights and entitlements attaching to those securities).

8.4 Appointment of Bidder

From the Implementation Date, subject to CPPIB or Bidder paying the Scheme Consideration in accordance with clause 5 and CPPIB providing MMCGIL with written confirmation of that payment, until MMCGIL registers Bidder as the holder of all MMCGIL Scheme Shares in the Register, each MMCGIL Scheme Shareholder is deemed to have appointed Bidder and each of its directors and officers, jointly and severally, as its attorney and agent (and directed Bidder and its directors and officers in such capacity) to appoint the Chairman of Bidder (or other nominee of CPPIB) as its sole proxy and, where applicable, corporate representative, to attend shareholder meetings of MMCGIL and MCIL and unitholder meetings of the Trust, exercise the votes attaching to the MMCGIL Scheme Shares, the MCIL Scheme Shares and the Scheme Units of which they are the registered holder and sign any MMCGIL Shareholders' resolution, MCIL Shareholders' resolution or Unitholders' resolution (and it is acknowledged and agreed that in exercising such powers the attorney may act in the interests of Bidder as the intended registered holder of those shares), and no MMCGIL Scheme Shareholder, MCIL Scheme Shareholder or Scheme Unitholder (as applicable) may attend or vote at any of those meetings or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than pursuant to this clause 8.4. Bidder undertakes in favour of each MMCGIL Scheme Shareholder that it will appoint the Chairman of Bidder (or other nominee of CPPIB) as proxy or, where applicable, corporate representative for the relevant MMCGIL Scheme Shareholder, MCIL Scheme Shareholder or Scheme Unitholder in accordance with this clause 8.4.

8.5 Beneficial title

Bidder will be beneficially entitled to the MMCGIL Scheme Shares transferred to it under this MMCGIL Share Scheme pending registration by MMCGIL of the name and address of Bidder in the Register as the holder of the MMCGIL Scheme Shares.

9 General

9.1 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in this MMCGIL Share Scheme is sent by post to MMCGIL, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at MMCGIL's registered office.

9.2 Further assurances

MMCGIL must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this MMCGIL Share Scheme and the transactions contemplated by it.

9.3 Stamp duty and other costs

- (a) Subject to clause 9.3(b), Target will pay the costs of this MMCGIL Share Scheme.
- (b) CPPIB will, or will procure that Bidder will, pay any stamp duty payable on the transfer by MMCGIL Scheme Shareholders of the MMCGIL Scheme Shares to Bidder pursuant to the MMCGIL Share Scheme.

9.4 Governing law

This MMCGIL Share Scheme is governed by the laws in force in Bermuda.

Supplemental Deed

Deed poll

Supplemental Deed

Macquarie Communications Infrastructure
Management Limited

Freehills

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GPO Box 4227 Sydney NSW 2001 Australia

Sydney Melbourne Perth Brisbane Singapore

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Supplemental Deed

Date ►

This deed poll is made by

Manager	<p>Macquarie Communications Infrastructure Management Limited (ACN 066 047 738) of 1 Martin Place, Sydney NSW 2000 in its capacity as responsible entity of Macquarie Communications Infrastructure Trust (ARSN 101 048 293) (Manager)</p>
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Recitals	<p>1 Manager is a public company limited by shares, incorporated in Australia and registered in New South Wales. Its registered office is at 1 Martin Place, Sydney, New South Wales 2000.</p> <p>2 Manager is the responsible entity of the Macquarie Communications Infrastructure Trust (ARSN 101 048 293) (Trust) established under a deed poll dated 19 June 2002 (Constitution).</p> <p>3 The Trust has been registered by the Australian Securities and Investments Commission (ASIC) as a managed investment scheme pursuant to section 601EB of the Corporations Act 2001 (Cth) (Corporations Act).</p> <p>4 Units are Stapled to MMCGIL Shares and MCIL Shares on a one-for-one-for-one basis and the Stapled Securities are officially quoted on the financial market conducted by ASX. As at the date of this deed, [546,254,151] Stapled Securities, comprising [546,254,151] Units, [546,254,151] MMCGIL Shares and [546,254,151] MCIL Shares, were on issue.</p> <p>5 [[Bidco] (Bidder) is a [company limited by shares, incorporated in [insert]]. Its registered office is at [insert]]. Bidder is an entity wholly owned and controlled by CPPIB].</p> <p>6 CPPIB is a Canadian Crown corporation established by the <i>Canada Pension Plan Investment Board Act 1997</i>. Its registered office is at One Queen Street East, Suite 2600, Toronto, M5C 2W5, Canada.</p> <p>7 Manager (acting in its capacity as responsible entity of the Trust), MMCGIL, MCIL and CPPIB agreed, by executing a Scheme Implementation Agreement dated [#] 2009, to propose and implement, and in the case of CPPIB, also to procure that Bidder will propose and implement, the Trust Scheme and the Share Schemes.</p>
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	<p>8 The Constitution must be amended to facilitate the Trust Scheme.</p> <p>9 Section 601GC(1)(a) of the Corporations Act provides that the Constitution may be modified by special resolution of Unitholders.</p> <p>10 Clause 24 of the Constitution provides that Manager may, by executing a supplemental deed, give effect to a resolution of Unitholders to amend the Constitution.</p> <p>11 At a meeting held on [#] 2009 convened in accordance with the Corporations Act and clause 17.1 of the Constitution, Unitholders approved the Trust Scheme Resolutions, including a special resolution to make the amendments to the Constitution contained in this deed.</p> <p>12 Pursuant to section 601GC(2) of the Corporations Act, Manager must lodge a copy of this deed with ASIC and the amendments to the Constitution contained in this deed cannot take effect until a copy of this deed has been lodged with ASIC.</p>
<p>This deed witnesses as follows:</p>	

1 Definitions and interpretation

1.1 Definitions

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

Term	Meaning
ASX	ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market conducted by it.
Bermuda Court	the Supreme Court of Bermuda.
Bidder	[Bidco].
Business Day	a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia.
Companies Act	the <i>Companies Act 1981</i> of Bermuda.
Court	the Supreme Court of New South Wales.
Effective	when used in relation to the Schemes, all of the following events taking place: <ol style="list-style-type: none"> 1 the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the MCIL Share Scheme coming into effect pursuant to section 411(10) of the Corporations Act; 2 the order of the Bermuda Court made under section 99(2) of the Companies Act in relation to the MMCGIL Share Scheme coming into effect pursuant to section 99(3) of the Companies Act; and 3 this deed taking effect pursuant to section 601GC(2) of the Corporations Act.
Effective Date	the date on which all the Schemes have become Effective.
Effective Time	the date and time at which all the Schemes have become Effective.

Term	Meaning
MCIL	Macquarie Communications Infrastructure Limited (ABN 18 084 388 983).
MCIL Share	one fully paid ordinary share issued in the capital of MCIL.
MCIL Share Scheme	the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MCIL and registered holders of MCIL Shares, under which Bidder acquires all of the MCIL Shares (other than those held by MCIML), together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by CPPIB and MCIL.
MCIML	Macquarie Communications Infrastructure Management Limited (ABN 29 066 047 738), in its personal capacity.
MMCGIL Share	one fully paid ordinary share issued in the capital of MMCGIL.
MMCGIL	Macquarie MCG International Limited (ARBN 112 652 490), a company incorporated in Bermuda with registration number 35258.
MMCGIL Share Scheme	the scheme of arrangement pursuant to section 99 of the Companies Act between MMCGIL and registered holders of MMCGIL Shares, under which Bidder acquires all of the MMCGIL Shares (other than those held by MCIML), together with any alterations or conditions made or required by the Bermuda Court and approved in writing by CPPIB and MMCGIL.
Scheme Record Date	the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as Target and CPPIB may agree in writing.
Scheme Unitholder	each person who is a Unitholder as at 5.00pm on the Scheme Record Date, other than MCIML.
Schemes	the Share Schemes and the Trust Scheme.
Share Schemes	the MMCGIL Share Scheme and the MCIL Share Scheme.
Stapled	the linking together of Units, MCIL Shares and MMCGIL Shares so that one may not be transferred, or otherwise dealt with, without the other or others and which are quoted on the ASX jointly as a 'stapled security' or such other term as the ASX permits.
Stapled Security	a Unit, a MCIL Share and a MMCGIL Share which are Stapled together

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Term	Meaning
	and registered in the name of the Unitholder.
Trust Scheme	the arrangement facilitated by the amendments to the Constitution contained in this deed under which Bidder acquires all of the Units from Scheme Unitholders (other than MCIML).
Trust Scheme Resolutions	the resolutions of Unitholders to approve the Trust Scheme set out in the notice of meeting of Unitholders dated [#] 2009, including: <ol style="list-style-type: none"> 1 a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition by Bidder of all the Units held by Scheme Unitholders; and 2 a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to the Constitution as set out in this deed.
Unit	one fully paid ordinary unit in the Trust.
Unitholder	each person who is registered as the holder of Units, and Unitholders means all of them.

1.2 Interpretation

The following rules apply in interpreting this deed, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (d) a reference to an agreement, document or instrument (including to this deed, and to any regulatory guide, standard or guidance note) includes the agreement, document or instrument as novated, amended, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, AUD, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;

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- (h) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (i) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (j) a reference to a person, natural person, trust, partnership, body corporate, association, unincorporated body, governmental or local authority or agency or other entity includes any of them;
- (k) a reference to a statute, ordinance, code or other law, or regulation, includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (l) a word or expression defined in either the Corporations Act or the Companies Act (as applicable) has the corresponding meaning given to it in the Corporations Act or Companies Act;
- (m) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (n) 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;
- (o) 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;
- (p) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (q) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (r) a reference to amend includes delete or replace.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2 Lodgement with ASIC

Manager must lodge a copy of this deed with ASIC on the same day that MCIL lodges with ASIC an office copy of the order of the court approving the MCIL Scheme under section 411(4)(b) of the Corporations Act.

3 Amendments to the Constitution

With effect on and from the Effective Time, the Constitution is amended as follows:

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- (a) in clause 21.1(a), inserting the words 'and clause 21.2A' after the words 'Subject to the Corporations Act';
- (b) in clause 21.2(a), inserting the words ' and clause 21.2A' after the words ' Subject to the Corporations Act';
- (c) by inserting new clause 21.2A after clause 21.2 as follows:

Fees where Trust Scheme implemented

21.2A The Manager is not entitled to the Base Fee or a Performance Fee in respect of any period after 31 March 2009.

- (d) in clause 31.1, by amending the definitions to read as set out below:

Business Day

- (1) for the purposes of clause 32, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales, Australia; and
- (2) for all other purposes, a day other than a Saturday or Sunday on which banks are open for general banking business in Sydney and Melbourne but if the Units are Officially Quoted has the meaning given to that term in the Listing Rules.

Security

- (a) for the purposes of clause 32, a stapled security comprising one MCIL Scheme Share, one MMCGIL Scheme Share and one Scheme Unit; and
 - (b) for all other purposes:
 - (i) while the Units are Stapled, a Stapled Security; and
 - (ii) while the Units are not Stapled, a Unit.
- (e) in clause 31.1, by inserting the following new definitions in alphabetical order:

ADI the meaning given to the term 'authorised deposit-taking institution' in the *Banking Act 1959* (Cth) of Australia.

Aggregate Scheme Consideration the aggregate of all Scheme Consideration payable to Scheme Participants under the Schemes.

ASTC ASX Settlement and Transfer Corporation Pty Limited (ABN 49 008 504 532).

ASTC Settlement Rules the operating rules of the settlement facility of the ASTC for the purposes of the Corporations Act.

Bermuda Court the Supreme Court of Bermuda.

Bidder [Bidco].

CHESS the Clearing House Electronic Subregister System for the electronic transfer of securities and other financial products operated by ASTC.

Companies Act the *Companies Act 1981* of Bermuda.

Conditions Precedent the conditions precedent set out in clause 3.1 of the Scheme Implementation Agreement.

Court the Supreme Court of New South Wales, Australia.

CPPIB Canada Pension Plan Investment Board.

Deed Poll the deed poll dated [#] 2009 executed by CPPIB and Bidder in favour of Scheme Participants.

Effective when used in relation to the Schemes, all of the following events taking place:

- (1) the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act in relation to the MCIL Share Scheme coming into effect pursuant to section 411(10) of the Corporations Act;
- (2) the order of the Bermuda Court made under section 99(2) of the Companies Act in relation to the MMCGIL Share Scheme coming into effect pursuant to section 99(3) of the Companies Act; and
- (3) the Supplemental Deed making amendments to this constitution to facilitate the Trust Scheme, including the insertion of clause 32, taking effect pursuant to section 601GC(2) of the Corporations Act.

Effective Date the date on which all the Schemes have become Effective.

Implementation Date the fifth Business Day after the Scheme Record Date.

Macquarie Transaction the meaning given to that term in the Scheme Implementation Agreement.

MCIL Macquarie Communications Infrastructure Limited (ABN 18 084 388 983).

MCIL Register the register of MCIL Shareholders maintained by MCIL pursuant to Chapter 2C of the Corporations Act.

MCIL Scheme Share each MCIL Share on issue as at 5pm on the Scheme Record Date, other than MCIL Shares held by MCIML

MCIL Scheme Shareholder each MCIL Shareholder as at 5.00pm on the Scheme Record Date, other than MCIML.

MCIL Share one fully paid ordinary share issued in the capital of MCIL.

MCIL Share Scheme the scheme of arrangement pursuant to Part 5.1 of the Corporations Act between MCIL and MCIL Shareholders (other than MCIML), under which Bidder acquires all of the MCIL Shares (other than those held by MCIML), together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by CPPIB and Target.

MCIL Share Scheme Meeting the meeting of MCIL Shareholders convened by order of the Court in relation to the MCIL Share Scheme pursuant to section 411(1) of the Corporations Act, and includes any adjournment of such meeting.

MCIL Shareholder a person who is registered in the MCIL Register as the holder of MCIL Shares, and **MCIL Shareholders** means all of them.

MCIML Macquarie Communications Infrastructure Management Limited (ABN 29 066 047 738), in its personal capacity.

MMCGIL Macquarie MCG International Limited (ARBN 112 652 490), a company incorporated in Bermuda with registration number 35258.

MMCGIL Register the register of MMCGIL Shareholders maintained by MMCGIL pursuant to section 65 of the Companies Act.

MMCGIL Scheme Share each MMCGIL Share on issue as at 5pm on the Scheme Record Date, other than MMCGIL Shares held by MCIML

MMCGIL Scheme Shareholder each MMCGIL Shareholder as at 5.00pm on the Scheme Record Date, other than MCIML.

MMCGIL Share one fully paid ordinary share issued in the capital of MMCGIL.

MMCGIL Share Scheme the scheme of arrangement pursuant to section 99 of the Companies Act between MMCGIL and MMCGIL Shareholders (other than MCIML) under which Bidder acquires all of the MMCGIL Shares (other than those held by MCIML), together with any alterations or conditions made or required by the Bermuda Court and approved in writing by CPPIB and Target.

MMCGIL Share Scheme Meeting the meeting of MMCGIL Shareholders convened by the Bermuda Court in relation to the MMCGIL Share Scheme pursuant to section 99(1) of the Companies Act, and includes any adjournment of such meeting.

MMCGIL Shareholder a person who is registered in the MMCGIL Register as the holder of MMCGIL Shares, and **MMCGIL Shareholders** means all of them.

Registered Address in relation to a Securityholder, the address of the Securityholder as recorded in the Register.

Registry Computershare Investor Services Pty Limited (ABN 48 078 279 277) of Level 3, Carrington Street, Sydney NSW 2000, Australia.

Scheme Consideration for each Security held by a Scheme Participant at 5pm on the Record Date, an amount of \$2.50.

Scheme Implementation Agreement the agreement of that name dated [#] 2009 executed by MMCGIL acting in its own capacity, MCIL acting in its own capacity, Manager acting in its capacity as responsible entity of Trust and CPPIB.

Scheme Participant each person who participates in each of the MMCGIL Share Scheme, the MCIL Share Scheme and the Trust Scheme by virtue of being a MMCGIL Scheme Shareholder, a MCIL Scheme Shareholder and a Scheme Unitholder.

Scheme Record Date the fifth Business Day following the Effective Date, or such other date (after the Effective Date) as Target and CPPIB may agree in writing.

Scheme Security one MMCGIL Scheme Share, one MCIL Scheme Share and one Scheme Unit.

Scheme Transfer for each Scheme Participant, a proper instrument of transfer of their Scheme Securities for the purpose of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Securities.

Scheme Unitholder each person who is a Unitholder as at 5.00pm on the Scheme Record Date, other than MCIML.

Scheme Unit each Unit on issue as at 5pm on the Scheme Record Date, other than those held by MCIML.

Schemes the Share Schemes and the Trust Scheme.

Securityholder for the purposes of clause 32, each person who is registered in the Register as the holder of Securities.

Share Scheme Meetings the MMCGIL Share Scheme Meeting and the MCIL Share Scheme Meeting.

Share Schemes the MMCGIL Share Scheme and the MCIL Share Scheme.

Supplemental Deed the deed poll dated [#INSERT DATE] made by Manager in relation to amendment of this constitution.

Target together, MMCGIL, MCIL and the Trust (acting through Manager in its capacity as responsible entity of the Trust), or any of them as the context requires. For the avoidance of doubt, no security in Manager will become subject to the Schemes or any other transaction referred to in this constitution or the Scheme Implementation Agreement except for the Macquarie Transaction.

Target Register the stapled security register of Target kept pursuant to the Corporations Act and the Companies Act.

Trust Scheme the arrangement by which all of the Scheme Units will be transferred to Bidder for the Scheme Consideration, as provided for in the Scheme Implementation Agreement and set out in clause 32.

Trust Scheme Meeting the meeting of Unitholders held on [#] 2009 convened by Manager pursuant to clause 17.1 of this constitution to consider the Trust Scheme Resolutions, and includes any adjournment of that meeting.

Trust Scheme Resolutions the resolutions of Unitholders set out in the notice of meeting of Unitholders dated [#] 2009, including:

- (1) a resolution for the purposes of item 7 of section 611 of the Corporations Act to approve the acquisition of all the Scheme Units by Bidder; and
- (2) a resolution for the purposes of section 601GC(1) of the Corporations Act to approve amendments to this constitution as set out in the Supplemental Deed.

Unitholder each person who is registered in the Register as the holder of Units, and Unitholders means all of them.

(f) by inserting a new clause 32 as set out below:

32 Trust Scheme

32.1 Dealings in Units

- (a) For the purpose of establishing the persons who are Scheme Unitholders, dealings in Units will only be recognised if:
 - (i) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Register as the holder of the relevant Units by 5pm on the Scheme Record Date; and
 - (ii) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Registry by 5pm on the Scheme Record Date.
- (b) Manager will register registrable transfers or transmission applications of the kind referred to in clause 32.1(a)(ii) by, or as soon as practicable after, the Scheme Record Date. The persons shown in the Register, and the number of Units shown as being held by them, after registration of those transfers and transmission applications will be taken to be the Scheme Unitholders, and the number of Units held by them, as at 5pm on the Scheme Record Date.
- (c) Manager will not accept for registration, nor recognise for any purpose (including the purpose of establishing the persons who are Scheme Unitholders), any transfer or transmission application in respect of Scheme Units received after 5pm on the Scheme Record Date (or received prior to the Scheme Record Date but not in registrable form).

- (d) Manager will maintain, or procure the maintenance of, the Register in accordance with this clause 32.1. The Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 32.1(a)(ii), and the terms of the Trust Scheme, will solely determine the persons who are Scheme Unitholders and their entitlements to the Scheme Consideration.
- (e) Other than Bidder (after registration of Bidder in respect of all Scheme Units under clause 32.3(c)), no Scheme Unitholder (or any person purporting to claim through any Scheme Unitholder) may deal with Scheme Units in any way after 5pm on the Scheme Record Date except as set out in this clause 32, and any attempt to do so will have no effect.
- (f) Other than in respect of Bidder (after registration of Bidder in respect of all Scheme Units under clause 32.3(c)), from the Scheme Record Date, all unit certificates and holding statements (as applicable) for Scheme Units as at 5pm on the Scheme Record Date will cease to have any effect as evidence of title, and each entry on the Register as at 5pm on the Scheme Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Unitholders to the Scheme Consideration.
- (g) As soon as practical after the Scheme Record Date, and in any event at least five Business Days before the Implementation Date, Manager must give to CPPIB, or procure that CPPIB is given, details of the names and addresses shown in the Register of all Scheme Unitholders and of the number of Scheme Units held by each of them as at 5pm on the Scheme Record Date, in whatever form CPPIB or Bidder reasonably requires in order to implement the Schemes (including to facilitate the provision by Bidder of the Scheme Consideration).

32.2 Scheme Consideration

- (a) The obligations of CPPIB and Bidder to pay the Scheme Consideration will be satisfied by CPPIB or Bidder, before 12.00 noon on the Implementation Date, depositing or procuring the deposit of the Aggregate Scheme Consideration into an account nominated by Target (the details of which must be notified by Target to CPPIB at least five Business Days before the Implementation Date).
- (b) Manager is to procure that the amount referred to in clause 32.2(a) be held by Target on trust for the Scheme Participants (except that any interest on the amount will be for the account of Bidder) for the purpose of sending the Scheme Consideration to the Scheme Participants, within [one Business Day] after the Implementation Date:
 - (i) where the Scheme Participant has nominated (by notice to Manager or the Registry before 5pm on the Scheme Record Date) a bank account with an ADI in Australia for the purpose of payment of any dividends or distribution or the Scheme Consideration, then by depositing, or by procuring the deposit of, directly to that bank account, an amount; or
 - (ii) dispatching or procuring the dispatch to each Scheme Participant by pre-paid post to their Registered Address a cheque drawn on an ADI in the name of that Scheme Participant for an amount,

in Australian currency, equal to the number of Securities held by that Scheme Participant as at 5pm on the Scheme Record Date, multiplied by the Scheme Consideration (subject to any rounding pursuant to

clause 32.2(c)). (For the avoidance of doubt, each Scheme Participant will only be entitled to receive one payment of the Scheme Consideration applicable to the number of Securities held by that Scheme Participant as at 5pm on the Scheme Record Date, which payment will apply in respect of all of the Schemes.)

- (c) If a fractional entitlement to part of a cent in cash arises from the calculation of the total amount of cash to be paid to a Scheme Participant, then any such fractional entitlement will be rounded:
 - (i) where the fraction is 0.5 or more – up; and
 - (ii) where the fraction is less than 0.5 – down,
to the nearest whole cent.
- (d) In the case of joint holders of Securities, a cheque shall be payable to those joint holders and shall be forwarded to the holder whose name appears first in the Register as at 5pm on the Scheme Record Date.
- (e) In the event that the Target believes that a Scheme Participant is not known at the Scheme Participant's Registered Address, and no account has been notified in accordance with clause 32.2(b)(i) or a deposit into such an account is rejected or refunded, the Target may credit the amount payable to the relevant Scheme Participant to a separate bank account of Target to be held until the Scheme Participant claims the amount or the amount is dealt with in accordance with any applicable unclaimed money legislation. Target must hold the amount on trust, but any interest accruing on the amount will be for the account of Bidder. An amount credited to the account is to be treated as having been paid to the Scheme Participant when credited to the account. Target must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (f) In the case of a notice having been given to Manager (or the Registry) of an order made by a court of competent jurisdiction:
 - (i) which requires payment to a third party of a sum in respect of Securities held by a particular Scheme Participant, which would otherwise be payable to the particular Scheme Participant in accordance with clause 32.2(b), then Manager shall procure that payment is made in accordance with that order; or
 - (ii) which would prevent Target from despatching payment to any particular Scheme Participant in accordance with clause 32.2(b), Manager shall procure that Target (or Registry) retains an amount that would otherwise be payable to that Scheme Participant in accordance with clause 32.2(b) until such time as payment is permitted by law (and any interest accruing on the amount will be for the account of Bidder).

32.3 Transfers to Bidder

- (a) On the Implementation Date, subject to CPPIB and Bidder paying the Scheme Consideration in accordance with clause 32.2 and CPPIB providing Manager with written confirmation of that payment:
 - (i) all of the Scheme Units together with all rights and entitlements attaching to the Scheme Units as at the Implementation Date will be transferred to Bidder without the need for any further act by any Scheme Unitholder (other than acts performed by Manager (or its directors or officers) as attorney or agent of the Scheme Unitholders under

clause 32.4 or otherwise) and must be transferred to Bidder simultaneously with the transfer of all of the MMCGIL Scheme Shares and MCIL Scheme Shares to Bidder under the Share Schemes; and

- (ii) Manager will procure:
 - (A) in the case of Scheme Units in a CHESS holding, a message to be transmitted to ASTC in accordance with ASTC Settlement Rules so as to transfer to Bidder the Scheme Units held by the Scheme Unitholder from the CHESS sub-register of Target to the issuer sponsored sub-register operated by Target; and
 - (B) the delivery to Bidder of transfers of all the Scheme Units to Bidder duly completed and executed on behalf of the Scheme Unitholders, in the form of Scheme Transfers which together with transfers pursuant to the MCIL Share Scheme and the MMCGIL Share Scheme transfer all of the Scheme Securities to Bidder.
- (b) CPPIB must procure that Bidder, and Bidder must, immediately execute the transfers referred to in clause 32.3(a)(ii) as transferee by executing the Scheme Transfers as transferee and delivering the Scheme Transfers to Manager for registration.
- (c) Manager must, immediately following receipt of the transfers under clause 32.3(b) (in the form of Scheme Transfers in respect of the Scheme Securities), enter the name and address of Bidder in:
 - (i) the Register in respect of all the Scheme Units; and
 - (ii) the Target Register in respect of all Securities.

32.4 Covenants by Manager and Unitholders

- (a) Each Scheme Unitholder and Manager must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the Trust Scheme and the transactions contemplated by it.
- (b) Each Scheme Unitholder irrevocably:
 - (i) acknowledges that this clause 32 binds Manager and all of the Unitholders from time to time (including those who do not attend the Trust Scheme Meeting, do not vote at that meeting or vote against the Trust Scheme Resolutions);
 - (ii) agrees to the transfer of all of their Scheme Units, together with all rights and entitlements attaching to those Scheme Units, to Bidder in accordance with this clause 32;
 - (iii) agrees to the modification or variation (if any) of the rights attaching to their Scheme Units arising from this clause 32;
 - (iv) without the need for any further act, appoints Manager and each of its directors and officers, jointly and severally, as that Scheme Unitholder's attorney and agent (and Manager and each of its directors and officers accepts that appointment) for the purpose of executing any document or doing any other act necessary to give full effect to the Trust Scheme, the MCIL Share Scheme and the MMCGIL Share Scheme, this clause 32, and the transactions contemplated by each of them, including:

- (A) in the case of Scheme Units in a CHES holding, causing a message to be transmitted to ASTC in accordance with ASTC Settlement Rules so as to transfer to Bidder the Scheme Units held by the Scheme Unitholder from the CHES sub-register of Target to the issuer sponsored sub-register operated by Target notwithstanding that, at the time of such transfer, the Scheme Consideration that is due under this clause 32 has not been provided to the Scheme Unitholders; and
 - (B) executing a proper instrument of transfer of its Scheme Units for the purposes of section 1071B of the Corporations Act which may be a master transfer of all Securities;
 - (v) consents to Manager, CPPIB and Bidder doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the Trust Scheme, the MCIL Share Scheme and the MMCGIL Share Scheme, this clause 32 and the transactions contemplated by them; and
 - (vi) appoints Manager to enforce the Deed Poll against CPPIB and/or Bidder on behalf of and as agent and attorney for the Scheme Unitholder.
- (c) From the Implementation Date, subject to CPPIB or Bidder paying the Scheme Consideration in accordance with clause 32.2 and CPPIB providing Manager with written confirmation of that payment, until Manager registers Bidder as the holder of all Scheme Units in the Register, each Scheme Unitholder is deemed to have appointed Bidder and each of its directors and officers, jointly and severally, as its attorney and agent (and directed Bidder and its directors and officers in such capacity) to appoint the Chairman of Bidder (or other nominee of CPPIB) as its sole proxy and, where applicable, corporate representative to attend unitholder meetings of the Trust and shareholder meetings of MCIL and MMCGIL, exercise the votes attaching to the Scheme Units, MCIL Scheme Shares and the MCIL Scheme Shares of which they are the registered holder and sign any Unitholders' resolution, MCIL Shareholders' resolution or MMCGIL Shareholders' resolution, and no Scheme Unitholder, MCIL Scheme Shareholder or MMCGIL Scheme Shareholder (as applicable) may attend or vote at any of those meetings or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than pursuant to this clause 32.4(c). Bidder undertakes in favour of each Scheme Unitholder that it will appoint the Chairman of Bidder (or other nominee of CPPIB) as proxy or, where applicable, corporate representative for the relevant Scheme Unitholder, MCIL Scheme Shareholder or MMCGIL Scheme Shareholder in accordance with this clause 32.4(c).

32.5 Status of Scheme Units

- (a) To the extent permitted by law, the Scheme Units transferred to Bidder under this clause 32 will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) The Scheme Unitholders are deemed to have warranted to Manager in its own right and on behalf of Bidder, to have warranted to CPPIB and to Bidder, that all their Scheme Units (including any rights and

entitlements attaching to those Scheme Units) which are transferred to Bidder under this clause 32 will, at the time they are transferred to Bidder, be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind not referred to in this constitution (other than that they must be transferred together with the other securities comprising a Security), and that they have full power and capacity to sell and to transfer their Scheme Units (including any rights and entitlements attaching to those Scheme Units).

- (c) Bidder will be beneficially entitled to the Scheme Units transferred to it under this clause 32 pending registration by Manager of the name and address of Bidder in the Register as the holder of the Scheme Units.

32.6 Effect of clause 32

This clause 32:

- (a) binds Manager and all Unitholders, including those who do not attend the Trust Scheme Meeting, those who do not vote at that meeting and those who vote against the Trust Scheme Resolutions at that meeting; and
- (b) overrides the other provisions of this constitution to the extent of any inconsistency, except clauses 24.2 and 27.

32.7 Manager's limitation of liability

Without limiting clauses 19.1 and 19.2, subject to the Corporations Act, Manager will not have any liability of any nature whatsoever beyond the assets of the Trust to Unitholders arising, directly or indirectly, from Manager doing or refraining from doing any act (including the execution of a document), matter or thing pursuant to or in connection with the implementation of the Trust Scheme.

- (g) by inserting a new clause 33 as set out below:

33 Interpretation of Supplemental Deed amendments

- (a) The following rules apply in interpreting the amendments to this constitution as set out in the Supplemental Deed, except where the context otherwise requires:
 - (i) the singular includes the plural and vice versa, and a gender includes other genders;
 - (ii) another grammatical form of a defined word or expression has a corresponding meaning;
 - (iii) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
 - (iv) a reference to an agreement, document or instrument (including to this deed, and to any regulatory guide, standard or guidance note) includes the agreement, document or instrument as novated, amended, altered, supplemented or replaced from time to time;
 - (v) a reference to **A\$, AUD, dollar** or **\$** is to Australian currency;

- (vi) a reference to time is to Sydney, Australia time;
 - (vii) if a time period is specified and dates from a given date or the day of an act or event, it is to be calculated exclusive of that day;
 - (viii) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
 - (ix) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
 - (x) a reference to a person, natural person, trust, partnership, body corporate, association, unincorporated body, governmental or local authority or agency or other entity includes any of them;
 - (xi) a reference to a statute, ordinance, code or other law, or regulation, includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
 - (xii) a word or expression defined in either the Corporations Act or the Companies Act (as applicable) has the corresponding meaning given to it in the Corporations Act or Companies Act;
 - (xiii) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
 - (xiv) 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;
 - (xv) 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;
 - (xvi) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
 - (xvii) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
 - (xviii) a reference to amend includes delete or replace.
- (b) For the avoidance of doubt, clause 31.2 of this constitution does not apply in interpreting the amendments to this constitution as set out in the Supplemental Deed.

4 Pre-existing rights

Except as specifically provided under this deed, nothing in this deed:

- (a) prejudices or adversely affects any right, power, authority, discretion or remedy arising under the Constitution before the date of this deed;
- (b) discharges releases or otherwise affects any liability or obligation arising under the Constitution before the date of this deed.

5 No resettlement

The Manager confirms that it is not by this deed intending to:

- (a) resettle or redeclare the Trust declared under the Constitution; or
- (b) cause the transfer, vesting or accruing of any property comprising the assets of the Trust in any person.

6 Governing law

This deed will be governed by the laws of the State of New South Wales, Australia.

Executed as a deed

Signed sealed and delivered for
Macquarie Communications Infrastructure Management Limited
by his/her/its attorney

sign here ► _____
Attorney

print name _____

in the presence of

sign here ► _____
Witness

print name _____

Indicative Timetable

Event	Day
Sign Scheme Implementation Agreement Transaction and proposal for schemes announced	31 March 2009
Lodge Scheme Booklet with ASIC	9 April 2009
First Bermuda Court Hearing	27 April 2009
First Court Hearing	29 April 2009
Dispatch Scheme Booklet	11 May 2009
MCIL Share Scheme Meeting and MCIL Meeting	17 June 2009
Trust Scheme Meeting and Trust Meeting	17 June 2009
MMCGIL Share Scheme Meeting and MMCGIL Meeting	17 June 2009
Second Court Hearing	26 June 2009
Second Bermuda Court Hearing	25/26 June 2009
Lodgement of Bermuda Court Order with Registrar of Companies	29 June 2009
Lodgement of Court Orders with ASIC, Effective Date	30 June 2009
Scheme Record Date	7 July 2009
Implementation Date	14 July 2009

Attachment 7

Net Cash certificate

To: Canada Pension Plan Investment Board

Net Cash Certificate under clause 3.1(q) of the Scheme Implementation Agreement dated [*] ("SIA")

The Target certifies that as at 5pm on 31 March 2009 the Adjusted Net Cash, to the best of the Independent Directors' knowledge and belief having made all due and reasonable enquiries is not less than A\$69.9 million.

Terms defined in the SIA have the same meaning when used in this Certificate, and all references to date and time are to the date and time in Sydney, Australia.

Dated: [*] April 2009

Independent Director
For and on behalf of
Target

Independent Director
For and on behalf of
Target

Attachment 8

31 March EBITDA certificate

To: Canada Pension Plan Investment Board

First EBITDA Confirmation Certificate under clause 3.1(s) of the Scheme Implementation Agreement dated [*] ("SIA")

The Target certifies that on 31 March 2009 the EBITDA in respect of the Target Group taken as a whole for the three month period ended 31 March 2009 exceeded A\$160 million, calculated with reference to the January 2009, February 2009 and March 2009 monthly management accounts for the Airwave Business, the Arqiva Business and the Broadcast Australia Business, as well as any applicable quarterly accounts, with any such adjustments required to comply with the definition of EBITDA in the SIA.

Terms defined in the SIA have the same meaning when used in this Certificate, and all references to date and time are to date and time in Sydney, Australia.

Dated: [*] April 2009

Independent Director
For and on behalf of
Target

Independent Director
For and on behalf of
Target

Attachment 9

30 September EBITDA certificate

To: Canada Pension Plan Investment Board

Second EBITDA Confirmation Certificate under clause 3.1(t) of the Scheme Implementation Agreement dated [*] ("SIA")

The Target certifies that on the date of this certificate, to the best of the Independent Director's knowledge and belief, having made all due and reasonable enquiries (including enquiries of management of the Target Group Entities), the EBITDA for the Target Group taken as a whole for the six month period ending 30 September 2009 is reasonably expected to exceed A\$350 million.

Terms defined in the SIA have the same meaning when used in this Certificate, and all references to date and time are to the date and time in Sydney, Australia.

Dated: [*] 2009

Independent Director

For and on behalf of
Target

Independent Director

For and on behalf of
Target

Other Antitrust Clearances

1. **OFT merger control approval**

The Transaction is conditional upon confirmation having been received in writing by CPPIB from the OFT in terms satisfactory to CPPIB acting reasonably, that the OFT does not intend to refer the Transaction or any matters arising therefrom to the CC.

2. **US FCC approval**

In respect of the United States, regulatory approval being received, without imposing conditions or on other terms satisfactory to CPPIB acting reasonably, from the US FCC for transfer of control of the following licenses held by Arqiva, Inc. under the U.S. Communications Act of 1934, as amended:

- (a) the Fixed Earth Stations License (Callsign E000622);
- (b) the Fixed Earth Stations License (Callsign E000623);
- (c) the Fixed Earth Stations License (Callsign E000590);
- (d) Fixed Earth Stations License (Callsign E980183); and
- (e) the VSAT Network License (Callsign E030053).

3. **US CFIUS approval**

In the event that CPPIB deems it necessary to file a joint voluntary notice of the Transaction with CFIUS pursuant to the Exon-Florio Amendment:

- (a) CFIUS having advised CPPIB in writing of CFIUS' determination not to investigate the Transaction under the regulations promulgated by the U.S. Treasury Department (31 C.F.R. Part 800)(the "Exon-Florio Regulations"); or
- (b) if CFIUS decides to investigate the Transaction pursuant to the Exon-Florio Regulations:
 - (1) CFIUS having advised CPPIB in writing of CFIUS' decision to conclude action; or
 - (2) CPPIB not having received notice from the President of the United States of a decision to take action to prohibit, suspend or modify the Transaction by the 15th day after completion or termination of the CFIUS investigation, or the following business day if the 15th day after completion or termination of any investigation is not a business day under the Exon-Florio Regulations.

Attachment 11

UK Regulatory Approvals

- (a) Confirmation having been received in writing in terms satisfactory to CPPIB acting reasonably that the OFT and/or the CC (as appropriate) will not as a result of the Transaction:
 - (1) vary the CC Undertakings; or
 - (2) take enforcement action in respect of the CC Undertakings including, without limitation, making a reference to the CC.
- (b) No person having applied to the CAT under section 120(1) of the Enterprise Act in relation to the confirmation having been provided under paragraph (a) above.
- (c) OFCOM not having revoked or threatened to revoke, varied or threatened to vary, as a result of the Transaction:
 - (1) the “Multiplex C” licence granted to Arqiva Services Limited to provide a multiplex service under part 1 of the Broadcasting Act 1996, dated 16 August 2002 (as amended); or
 - (2) the “Multiplex D” licence granted to Arqiva Services Limited to provide a multiplex service under part 1 of the Broadcasting Act 1996, dated 16 August 2002 (as amended).
- (d) OFCOM not having revoked or threatened to revoke, suspended or threatened to suspend, varied or threatened to vary, as a result of the Transaction:
 - (1) the Spectrum Access Licence: 28 GHz National (licence no. 307328), granted by OFCOM to Arqiva Limited on 21 February 2008 under the Wireless Telegraphy Act 2006; or
 - (2) the Public Safety Radio Licence (licence no. 000006), granted by OFCOM to Airwave Solutions Limited on 23 November 2001 under the Wireless Telegraphy Acts 1949 and 1998.