

DRP Underwriting Agreement

Dated *28 May* 2008

Macquarie Capital Advisers Limited (ABN 79 123 199 548)
("Underwriter")

BrisConnections Management Company Limited (ACN 128 614 291)
("RE1")

BrisConnections Management Company Limited (ACN 128 614 291)
("RE2")

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DRP Underwriting Agreement Details

Interpretation – definitions are at the end of the General terms

Parties	Underwriter and RE 1 and RE 2	
Underwriter	Name	Macquarie Capital Advisers Limited
	ABN	79 123 199 548
	Address	Level 9, 1 Martin Place, Sydney, New South Wales, 2000
	Telephone	02 8232 9906
	Fax	02 8232 4109
	Attention	Joanne Spillane
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RE1	Name	BrisConnections Management Company Limited
	ACN	ACN 128 614 291
	Capacity	As responsible entity for the BrisConnections Holding Trust ("Trust 1")
	Address	Level 26, 60 Margaret Street, Sydney, NSW 2000
	Telephone	02 9080 8382
	Fax	02 9080 8144
	Attention	Tamira Herbst
	With a copy to	Mark Snape, Units 5a & 5b, West End Corporate Park, 305 Montague Road, West End, Queensland, 4101
	Telephone	07 3226 4233
Fax	07 3226 4229	

RE2	Name	BrisConnections Management Company Limited
	ACN	ACN 128 614 291
	Capacity	As responsible entity for the BrisConnections Investment Trust ("Trust 2")
	Address	Level 26, 60 Margaret Street, Sydney, NSW 2000
	Telephone	02 9080 8382
	Fax	02 9080 8144
	Attention	Tamira Herbst
	With a copy to	Mark Snape, Units 5a & 5b, West End Corporate Park, 305 Montague Road, West End, Queensland, 4101
	Telephone	07 3226 4233
	Fax	07 3226 4229

Recitals

- A** The Responsible Entities propose to offer Stapled Securities to investors under their distribution reinvestment plan and to apply for quotation of those Stapled Securities by ASX.
- B** The Underwriter has agreed to underwrite a total amount of up to \$700 million of cash Distributions subject to the terms and conditions of this deed in order to fund cash distributions to those Unitholders who are not participating in the distribution reinvestment plan.

Business Day place Brisbane

Governing law Victoria

Date of deed See signing page

General terms

1 Agreement to underwrite

1.1 Underwrite

The Underwriter agrees, subject to clause 1.3 (“Nomination by Responsible Entities”), clause 2 (“Conditions”) and clause 9 (“Relief of Underwriters Obligations”) and the terms of this deed, to underwrite the Underwritten Amount in relation to each Distribution up to the Available Amount in respect of a Distribution and, in aggregate, the Underwritten Distribution Amount and, pursuant to that underwriting, subscribe for any Underwritten Securities for each Distribution in accordance with clause 4.2 (“Valid Applications to be lodged”).

1.2 Sub-underwrite

The Underwriter may at any time appoint sub-underwriters for a Distribution to sub-underwrite up to the total amount of that Distribution and nominate the allottees of all or any of the Underwritten Securities for that Distribution.

1.3 Nomination by Responsible Entities

The Responsible Entities must nominate by notice in writing to the Underwriter, on or prior to the Declaration Date for each Distribution, the Nominated Amount for that Distribution, which Nominated Amount may be nil. In determining the Nominated Amount for a Distribution, the Responsible Entities will use their best endeavours to ensure that the amount determined and nominated is their best estimate of the amount likely to become the Underwritten Amount for that Distribution.

1.4 Other capital raisings

- (a) Subject to clause 1.4(b), if the Responsible Entities resolve to undertake any capital raising during the DRP Underwriting Period a purpose of which is to fund, in whole or in part, the Distributions, including a capital raising by way of:
- (i) an underwriting of a greater proportion of a Distribution which was not fully underwritten under this deed;
 - (ii) an underwriting of all or part of a Distribution during the DRP Underwriting Period but after the termination of this deed; or
 - (iii) a placement or the underwriting of a placement to fund all or part of a Distribution during the DRP Underwriting Period,

the Responsible Entities will offer to the Underwriter on an exclusive basis, on terms no less favourable than those in this deed, the right to act as underwriter to those capital raisings with the terms of those capital raisings being no less favourable than those being offered in relation to an underwriting by any other party (“**Capital Raising Offer**”). If the Underwriter does not accept the Capital Raising Offer within 14 days of receipt of the offer (subject only to the execution of an appropriate agreement), the Responsible Entities may offer the Capital

Raising Offer to any other party on terms no more favourable than those offered to the Underwriter. This clause 1.4(a) shall survive termination of this deed.

- (b) The Responsible Entities will not be obliged to make the Capital Raising Offer to the Underwriter in respect of a Distribution if the Underwriter has Terminated its obligations in respect of that Distribution, in accordance with clause 9.

2 Conditions

2.1 Conditions Precedent

The obligation of the Underwriter to subscribe for the Underwritten Securities for a Distribution under clause 4.2 ("Valid Applications to be lodged") is conditional on:

- (a) the Equity Underwriting Agreement not having been Terminated prior to the Allotment Date;
- (b) no member of the Group being subject to an Insolvency Event as at the Business Day before the Distribution Payment Date for that Distribution;
- (c) no provider of debt or other financial accommodation to the Responsible Entities or the Group pursuant to the Debt Financing Documents having terminated or cancelled (and not replaced on terms reasonably acceptable to the Underwriters) its commitment to provide that financial accommodation, the availability period of that financial accommodation not having expired without it being provided (or replaced on terms reasonably acceptable to the Underwriters) and no condition precedent to drawdown of any part of that financial accommodation not having been satisfied or waived or having become incapable of being satisfied, in each case on or prior to the Distribution Payment Date for that Distribution;
- (d) neither the Responsible Entities nor any member of the Group being in material breach of a Transaction Document as at the Business Day before the Distribution Payment Date for that Distribution and that breach is not remedied or waived;
- (e) the Responsible Entities remaining listed on ASX and quotation of the Stapled Securities continuing (without suspension) from the Declaration Date for that Distribution until the Distribution Payment Date for that Distribution.

2.2 Conditions not satisfied

If any of the conditions precedent in clause 2.1 ("Conditions Precedent") are not satisfied by their respective deadlines ("Deadline"), the Underwriter (in its absolute and unfettered discretion) may by notice to the Responsible Entities, Terminate its obligations under this deed in respect of that Distribution by giving written notice to the Responsible Entities within 2 Business Days of the relevant Deadline. The rights and obligations of the Underwriter in respect of any other Distribution will not be affected by any Termination of obligations in respect of a Distribution pursuant to this clause 2.2 ("Conditions not satisfied").

3 Conduct of the Offer

3.1 Timetable

The Responsible Entities must conduct the DRP for each Distribution in accordance with the Timetable for that Distribution, unless the Underwriter consents to a variation.

3.2 Restriction

The Stapled Entities must ensure that, unless the Underwriter otherwise agrees:

- (a) the Pricing Period for the first Distribution (being the second distribution made by the Stapled Entities) does not commence until after the First Call Payment Date; and
- (b) the Pricing Period for the second Distribution (being the third distribution made by the Stapled Entities) does not commence until the Stapled Securities are fully paid.

3.3 Notification

If the Responsible Entities intend to pay a Distribution in respect of a Distribution period, the Responsible Entities must notify the ASX of their intention to announce the Distribution Payment Date, the Record Date, the amount per Stapled Security to be distributed and the Closing Date (DRP election).

3.4 Declaration

If the Responsible Entities have provided a notification to ASX under clause 3.3 ("Notification"), unless the Underwriter has terminated the deed in respect of a Distribution, the Responsible Entities must declare the Distribution on the Declaration Date for that Distribution.

3.5 Allotment

The Responsible Entities must take all necessary and appropriate steps to allot, on or before the Distribution Payment Date for each Distribution, the Offer Securities for that Distribution to eligible holders of Stapled Securities under the terms of the DRP as at the Record Date for that Distribution who have not, before the Closing Date for that Distribution, lodged valid elections under the terms of the DRP to cease participation in the DRP in relation to that Distribution.

3.6 Particulars

The Responsible Entities must, or must direct its securities registry, whenever requested by the Underwriter, to provide the Underwriter with such information that the Underwriter reasonably require to determine the amount of a Distribution which is to be reinvested under the DRP.

3.7 Quotation

The Responsible Entities must use their reasonable endeavours to procure that official quotation is granted for the Offer Securities for each Distribution on ASX as soon as practicable after the Distribution Payment Date for each Distribution.

4 Underwritten Amount notification

4.1 Underwriting Notice and Closing Certificate

Not later than 10.00 am on the Underwritten Amount Notification Date for each Distribution, the Responsible Entities may give the Underwriter an Underwriting Notice. If the Responsible Entities give the Underwriter an Underwriting Notice, the Responsible Entities must give the Underwriter a Closing Certificate on the Quotation Approval Date for that Distribution.

4.2 Valid Applications to be lodged

If the Responsible Entities give the Underwriter an Underwriting Notice and a Closing Certificate under clause 4.1 (“Underwriting Notice and Closing Certificate”), the Underwriter must not later than 3.00 pm on the Business Day prior to the Distribution Payment Date for that Distribution lodge or cause to be lodged with the Responsible Entities valid applications for the Underwritten Securities for that Distribution together with payment in immediately available funds of the DRP Reinvestment Price for each Underwritten Security of the Underwritten Securities for that Distribution unless the Underwriter has Terminated this deed under clause 2.2 (“Condition not satisfied”) or clause 9 (“Relief of Underwriter’s Obligations”).

4.3 Allotment of Underwritten Securities

The Responsible Entities must take all necessary and appropriate steps to allot, on or before the Distribution Payment Date for each Distribution, the Underwritten Securities for that Distribution in accordance with applications lodged under clause 4.2 (“Valid applications to be lodged”).

5 Due Diligence Investigations

5.1 Information

The Underwriter, its officers and advisers may request information and copies of relevant documents of the Group at all reasonable times:

- (a) before the Distribution Payment Date for each Distribution; or
- (b) during any regulatory enquiry or litigation proceedings in relation to the Offer for each Distribution (other than litigation proceedings between the Underwriter and the Responsible Entities),

to enable the Underwriter to obtain information about the Group which the Underwriter reasonably requires for the purpose of this deed in relation to the Offer for each Distribution. The Responsible Entities must provide, as soon as reasonably possible following such a request, the information and copies of the relevant documents within their possession or control which the Underwriter reasonably requires for those purposes.

5.2 Confidentiality

The Underwriter must keep and must procure that it and its officers and advisers keep confidential all information obtained under this clause 5 (“Due Diligence Investigations”) other than as required by law.

6 Representations and warranties by the Responsible Entities

6.1 Representations and warranties

The Responsible Entities represent and warrant to the Underwriter that:

- (a) **(sole trustee for Trust 1)** RE1 is the sole trustee of Trust 1; and
- (b) **(sole trustee for Trust 2)** RE2 is the sole trustee of Trust 2; and
- (c) **(power)** the Responsible Entities have power (including under the constitutions of the Trusts) to enter into and comply with all of the terms and conditions of this deed; and
- (d) **(authorisations)** all approvals and authorities that may be required to permit the Responsible Entities to enter into this deed and to perform this deed in accordance with its terms have been obtained and remain valid and subsisting; and
- (e) **(validity of obligations)** this deed is a valid and binding obligation of it; and
- (f) **(Offer Securities)** the Offer Securities for each Distribution will be free from all Encumbrances, other than those provided for in the constitutions of the Trusts; and
- (g) **(Offer Documents and Public Information disclosure)** the Offer Documents for each Distribution and the Public Information will not contain any statements that are materially misleading or deceptive or any material omissions and the issue and distribution of the Offer Documents for each Distribution or the Public Information will not constitute conduct by any person which is misleading or deceptive in a material respect; and
- (h) **(compliance with Regulation S)** the Offer Securities have not been, and will not be, registered with the US Securities Act and the Responsible Entities will only offer and sell the Offer Securities to non-US Persons in offshore transactions in compliance with Regulation S under the US Securities Act; and
- (i) **(no directed selling efforts)** none of the Responsible Entities, their Affiliates (as such term is defined in Rule 501(b) under the US Securities Act), nor any person acting on behalf of any of them (other than the Underwriter, any of its Affiliates or any person acting on behalf of it, as to whom the Responsible Entities makes no representation) has engaged or will engage in any "directed selling efforts" (as that term is defined in Rule 902(c) under the US Securities Act), and each of the Responsible Entities, its Affiliates or any person acting on behalf of any of them (other than the Underwriter, any of its Affiliates or any person acting on behalf of it as to whom the Responsible Entities makes no representation) has complied and will comply with the offering restrictions requirements of Regulation S; and
- (j) **(no registration)** subject to compliance by the Underwriter with its obligations under this deed, it is not necessary in connection with the initial offer, sale and delivery of the Offer Securities in the manner contemplated by this deed to register the Offer Securities under the US Securities Act; and
- (k) **(Responsible Entities disclosure)** none of the information in relation to the Group or the Offer supplied to the Underwriters by or on behalf of the Responsible Entities is misleading or deceptive in a material respect or contains any material omissions; and

- (l) **(no breach)** the Responsible Entities are not in breach of any provision of the Corporations Act to an extent that is material to either of the Trusts or the outcome of the Offer for each Distribution; and
- (m) **(Listing Rules)** the Responsible Entities are not in material breach of the Listing Rules (as affected by the ASX Waivers) or any legally binding requirements of ASX, and have procedures in place to ensure continued compliance with those requirements; and
- (n) **(no legal action)** the Responsible Entities are not engaged in or threatened with any legal action or other proceedings which may be material in the context of the Offer for each Distribution or the DRP and there are no circumstances known or which on reasonable enquiry would be known to the Responsible Entities that are reasonably likely to give rise to any such legal action or other proceedings; and
- (o) **(true copy of constitution)** the copy of the constitutions of the Trusts previously provided to the Underwriters by the Responsible Entities is a true, correct, up-to-date and complete copy of that document and the Responsible Entities are complying with their constitutions in all respects; and
- (p) **(Offer securities continuously quoted)** the Offer Securities for each Distribution including the Underwritten Securities for each Distribution are and will be in a class of securities that were Quoted ED Securities quoted on the financial market operated by ASX at all times (without being suspended from trading for more than a total of 5 trading days) in the 12 months before the Distribution Payment Date for each Distribution; and
- (q) **(no exemptions or orders)** no:
 - (i) exemption under sections 111AS or 111AT of the Corporations Act; or
 - (ii) order under sections 340 or 341 of the Corporations Act,does or will cover the Responsible Entities, or any person, as a director or auditor of the Responsible Entities at any time in the 12 months before the date of the issue of the Offer Securities for each Distribution including the Underwritten Securities for each Distribution;
- (r) **(no contravention)** ASIC has not, and will not before the date of issue of the Offer Securities for each Distribution including the Underwritten Securities for each Distribution, make a determination for contravention by the Responsible Entities within the previous 12 months of any of the provisions listed in section 1012DA(2) of the Corporations Act;
- (s) **(valid scheme)** each of the Trusts is a validly subsisting trust and is, or will be on and from Contractual Close, registered as a managed investment scheme in accordance with Chapter 5C, RE1 and RE2 are the Responsible Entities of Trust 1 and Trust 2 respectively in terms of Chapter 5C, neither Trust has been terminated, nor is there any proposal or requirement to wind up, deregister, terminate, reconstitute or resettle either of the Trusts; and
- (t) **(issue purpose)** the Responsible Entities will not issue the Offer Securities for each Distribution including the Underwritten Securities for each Distribution for the purpose of investors selling or transferring them or granting, issuing or transferring interests in, or options or warrants over them.

6.2 True and correct

Subject to the disclosures made in the Closing Certificate, the Responsible Entities further warrant that each of the representations and warranties set out in:

- (a) clause 6.1(a)-(o) is true and correct in every respect as at the date of this deed and will be so at all times before Completion for each Distribution; and
- (b) clause 6.1(p), (q) and (r) will be true and correct in every respect as at the Record Date for each Distribution and will be so at all times between the Record Date and Completion for each Distribution.

6.3 Representations and warranties by the Underwriter

The Underwriter represents, warrants and undertakes to the Responsible Entities that:

- (a) **(acknowledgement)** the Underwriter acknowledges that the Offer Securities have not been, and will not be, registered under the US Securities Act; and
- (b) **(compliance with Regulation S)** the Underwriter will only offer and sell the Offer Securities to persons it reasonably believes are non-US Persons acquiring the Offer Securities in compliance with Regulation S under the US Securities Act. The Responsible Entities expressly authorises the Underwriter to offer and sell the Offer Securities to such persons; and
- (c) **(no directed selling efforts)** with respect to those Offer Securities sold in reliance on Regulation S, none of the Underwriter, any of its Affiliates nor any person acting on behalf of it has engaged or will engage in any "directed selling efforts" (as that term is defined in Rule 902(c) under the US Securities Act).

6.4 Affiliates

For purposes of the representations, warranties and undertakings of the Underwriter in **clause 6.3** ("Representations and warranties by the Underwriter"), the term "Affiliates" does not include the Responsible Entities or any of the Responsible Entities' Affiliates if the Responsible Entity controls the Affiliate.

6.5 True and correct

The Underwriter further warrants that each of the warranties set out in **clause 6.3(a) - 6.3(c)** ("Representations and warranties by the Underwriter") is true and correct in every respect as at the date of this deed and will be so at all times before Completion for each Distribution.

7 Undertakings by the Responsible Entities

7.1 Undertakings by the Responsible Entities

The Responsible Entities must:

- (a) immediately notify the Underwriter of any breach of any warranty or undertaking given by them under this deed or the occurrence of any event as set out in clause 9.1 ("Termination events") or the non-satisfaction of any of the conditions in clause 2 ("Conditions");

- (b) not, before Completion for any Distribution, commit, be involved in or acquiesce in any activity which breaches in any material respect:
 - (i) the Corporations Act; or
 - (ii) any other applicable legislation; or
 - (iii) the Listing Rules; or
 - (iv) its constitution; or
 - (v) the DRP; or
 - (vi) any legally binding requirement of ASIC or ASX;
- (c) not, before Completion for any Distribution, vary any term of its constitution without the prior written consent of the Underwriter to the terms of the variation, such consent not to be unreasonably withheld;
- (d) obtain the prior written consent of the Underwriter to the form and content of, and any amendments to, any Offer Document for any Distribution, such consent not to be unreasonably withheld or delayed; and
- (e) if the Responsible Entities issue Underwritten Securities for any Distribution – take all necessary steps to ensure that any sale of the Underwritten Securities by the Underwriter does not require a PDS under section 1012C.

7.2 Consultation

To the extent practicable and subject to applicable law, each of the Responsible Entities and the Underwriter will consult with the other with respect to material public releases concerning the Offer for any Distribution prior to Completion for that Distribution.

8 Fees and Costs

8.1 Underwriting fees

The Responsible Entities must pay the Underwriter, by bank cheque or electronic transfer, an underwriting commission of:

- (a) 2% of the Underwritten Distribution Amount on Financial Close; and
- (b) if a Distribution is to be underwritten, 2% of the Underwritten Amount for that Distribution on the earlier to occur of the Distribution Payment Date for that Distribution and the date the Underwriter is required to subscribe for Underwritten Securities for that Distribution under clause 4.2 (“Valid Applications to be lodged”) (if applicable).

8.2 Other Costs

The Responsible Entities must pay, or reimburse the Underwriter:

- (a) for all reasonable legal Costs and additional out of pocket expenses that the Underwriter incurs in respect of the Offer for each Distribution. The Underwriter will seek approval (not to be unreasonably withheld or delayed) from the

Responsible Entities prior to incurring any out of pocket expenses which in aggregate for an Offer exceed \$2,000; and

- (b) any stamp duty payable in respect of this deed; and
- (c) all reasonable Costs in respect of any review of the Offer for each Distribution undertaken by ASX, ASIC or any other regulatory body,

as soon as reasonably practicable after a request for payment or reimbursement is made by the Underwriter.

8.3 Set-off

The Underwriter may set-off all amounts payable under this clause 8 ("Fees and Costs") against any payment obligation owed by the Underwriter or its Related Bodies Corporate to the Responsible Entities (including in relation to the subscription for Offer Securities).

9 Relief of Underwriter's obligations

9.1 Termination events

Subject to this clause 9 ("Relief of Underwriter's obligations"), the Underwriter may Terminate its obligations in respect of a Distribution by notice to the Responsible Entities at any time after the Underwriter becomes aware that any one or more of the events set out in Schedule 2 has occurred between the Declaration Date for that Distribution and 9.00am on the Confirmation Date for that Distribution. The rights and obligations of the Underwriter in respect of any other Distribution will not be affected by any Termination of obligations in respect of a Distribution pursuant to this clause 9.1 ("Termination events").

9.2 Notice

A notice given under clause 2.2 ("Conditions not satisfied") or clause 9.1 ("Termination events") must specify the event or events in relation to which the notice is given.

9.3 Reasonableness

If an event referred to in paragraphs (a) ("disclosures in Offer Documents and Public Information"), (b) ("other information"), (c) ("adverse change"), (d) ("hostilities"), (g) ("change in management"), (h) ("indictable offence"), (i) ("compliance with regulatory requirements"), (k) ("ASIC"), (m) ("default") and (n) ("representations and warranties") of Schedule 2 occurs, the Underwriter may not Terminate unless it has reasonable and bona fide grounds to believe and does believe that the event has or is likely to have a materially adverse effect on the price at which the Underwritten Securities are likely to trade or could give rise to a material liability of the Underwriter in connection with the Offer under any law or regulation.

9.4 Termination

Without prejudice to its rights under this clause 9 ("Relief of Underwriter's obligations"), the Underwriter may, at any time after becoming aware of the happening of any one or more of the events specified in clause 9.1 ("Termination events"), by notice in writing to the Responsible Entities:

- (a) advise the Responsible Entities that it has become aware of the happening of the event and that in its view it is entitled to Terminate its obligations in respect of a Distribution as a consequence of the event; and
- (b) set out the grounds which have led the Underwriter to form that view and that, as a consequence, the Underwriter reserves the right to Terminate its obligations in respect of a Distribution unless the event is remedied to the satisfaction of the Underwriter within a period specified by the Underwriter, if capable of remedy, or the Underwriter determines that it is prepared to waive its rights in relation to that event.

Unless the event is so remedied or the Underwriter determines that it is prepared to waive its rights in relation to that event, the Underwriter may by notice in writing to the Responsible Entities then Terminate its obligations in respect of a Distribution without cost or liability to the Underwriter in accordance with the terms of this clause 9 ("Relief of Underwriter's obligations").

10 Indemnities

10.1 Indemnity

Each of the Responsible Entities unconditionally and irrevocably undertakes to indemnify the Indemnified Parties against all Losses incurred directly or indirectly (excluding Costs covered by clause 8.2 ("Other Costs")) as a result of:

- (a) any statement in the Offer Documents for any Distribution or the Public Information being misleading or deceptive, containing an omission, or the Offer Documents for any Distribution or the Public Information constituting misleading or deceptive conduct by any person;
- (b) any of the representations and warranties by the Responsible Entities contained in this deed not being true and correct;
- (c) the distribution of the Offer Documents for any Distribution and the making of the Offer for any Distribution; and
- (d) any advertising or publicity of the Offer for any Distribution issued with the knowledge and consent of the Responsible Entities.

10.2 Limited indemnity

The indemnity in clause 10.1 ("Indemnity") does not extend to and is not to be taken to be an indemnity against any Losses of an Indemnified Party if those Losses are judicially determined to result primarily from any fraud, recklessness, wilful misconduct or negligence of that Indemnified Party.

10.3 Release

The Responsible Entities agrees that no Claim may be made by it against the Indemnified Parties, and the Responsible Entities unconditionally and irrevocably releases and discharges each Indemnified Party, from any Claim that may be made by it to recover from the Indemnified Parties any Losses suffered or incurred by the Responsible Entities arising directly or indirectly as a result of the participation of that Indemnified Party in relation to the making of the Offer for any Distribution, except in relation to matters where those

Losses are judicially determined to result primarily from any fraud, recklessness, wilful misconduct or negligence of that Indemnified Party.

10.4 Notice of potential action

- (a) **(notice)** If any of the Indemnified Parties receives notice of any act, matter or thing which in the opinion of the Indemnified Party will give rise to an action or proceeding against any of them in relation to which the Responsible Entities would be required to indemnify any of them under clause 10.1 ("Indemnity"), then the relevant person must notify the Responsible Entities giving full details so far as is practicable within 20 Business Days of it forming that opinion.
- (b) **(failure to notify)** Failure on the part of an Indemnified Party to notify the Responsible Entities in accordance with clause 10.4(a) will not release the Responsible Entities from any obligation or liability which it may have pursuant to this deed except that such liability will be reduced in relation to that Indemnified Party to the extent to which the Responsible Entities has suffered damage or loss or the amount the subject of the indemnity under clause 10.1 ("Indemnity") has increased as a result of the failure to so notify.

10.5 Conduct of proceedings

The Responsible Entities are, subject to clause 10.7 ("Further indemnity"), entitled to defend or to institute legal or other proceedings of the type referred to in clause 10.4 ("Notice of potential action") in the name of any of the Indemnified Parties and to have those proceedings conducted under the sole management and control of the Responsible Entities provided that:

- (a) the Responsible Entities diligently pursue or defend any such proceedings;
- (b) the Indemnified Party has the right to information, consultation and representation concerning the development and defence of any litigation or threatened litigation; and
- (c) no admission of liability or compromise whatsoever in connection with the claim or action may take place without the appropriate Indemnified Party's prior written consent (such consent not to be unreasonably withheld),

10.6 Obligations of Indemnified Party

Each Indemnified Party, subject only to clause 10.7 ("Further indemnity"), is required, and the Underwriter must take reasonable steps to cause the Indemnified Parties:

- (a) promptly to take such reasonable action as the Responsible Entities request to avoid, dispute, resist, appeal, compromise or defend the Claim or any adjudication in respect of it;
- (b) not to settle or compromise any Claim without the prior written consent of the Responsible Entities;
- (c) promptly to give all reasonable assistance and co-operation to the Responsible Entities in the conduct of any Claim, including providing the Responsible Entities with any documents in their possession and signing all documents, authorities and directions which the Responsible Entities may reasonably require for the prosecution or advancement of any legal or other proceedings; and

- (d) to do anything reasonably necessary or desirable to ensure that the Responsible Entities are subrogated to and enjoys the benefit of the rights of the Indemnified Parties in relation to any cross claim and to render such assistance as may be reasonably requested by the Responsible Entities for that purpose,

and, subject to clause 10.7 ("Further indemnity"), the indemnity in clause 10.1 ("Indemnity") will not extend to an Indemnified Party if that Indemnified Party fails to comply with the terms of this clause 10.6.

An Indemnified Party is under no obligation to take or refrain from taking action under this clause 10.6 if to do so would in the reasonable opinion of the Indemnified Party, lead to a risk of material damage to its reputation or standing.

10.7 Further indemnity

The Indemnified Parties are under no obligation under clause 10.6 ("Obligations of Indemnified Party") nor are the terms of clause 10.5 ("Conduct of proceedings") to apply, unless, at the time at which the Responsible Entities request any of the Indemnified Parties to take any action, the Responsible Entities irrevocably and unconditionally agree in a form acceptable to the Indemnified Party, acting reasonably, to indemnify those Indemnified Parties against all Costs incurred by or awarded against the Indemnified Parties in taking the action required, as and when they fall due, including legal costs and disbursements of their lawyers on a full indemnity basis and the cost of any involvement of any officers of the Underwriter at normal commercial rates.

10.8 Contractual contribution

If for any reason the indemnities contained in this clause 10 ("Indemnities") are unavailable or insufficient to fully indemnify any indemnified Party against any Loss against which the Indemnified Party is stated to be indemnified under this clause 10 (other than as a result of the operation of clause 10.2 ("Limited indemnity")), then the Responsible Entities agree to contribute to the relevant Loss in accordance with this clause 10.8 to clause 10.12 ("Reimbursement by Indemnified Party"), in all cases to the maximum extent allowable by law.

10.9 Proportional contribution

The respective proportional contribution of the Responsible Entities and the Indemnified Parties in relation to the relevant Loss will be as agreed by the Responsible Entities and the Indemnified Parties (and failing agreement as determined by a court of competent jurisdiction) having regard to the participation in, instigation of or other involvement of the Responsible Entities on the one hand (in relation to the proportional contribution of the Responsible Entities) and the Indemnified Parties on the other hand (in relation to the proportional contribution of the Indemnified Parties) in the act complained of. Without limiting the generality of this clause 10.9, regard must be had to the Indemnified Parties and the Responsible Entities' relative intent, knowledge, access to information and opportunity to correct any untrue statement or omission.

10.10 No excess contribution

The Responsible Entities agree with the Indemnified Parties that the Indemnified Parties in relation to the Underwriter will not be required to contribute under clause 10.9 ("Proportional contribution") to any Claim or Cost an aggregate amount exceeding the aggregate commission and fees paid to that Underwriter by the Responsible Entities under this deed.

10.11 Reimbursement by Responsible Entities

If an Indemnified Party pays an amount in relation to a Loss where it is entitled to contribution from the Responsible Entities under this clause 10 ("Indemnities") the Responsible Entities agree promptly to reimburse the Indemnified Party for that amount.

10.12 Reimbursement by Indemnified Party

If the Responsible Entities pay an amount in relation to a Loss where it is entitled to contribution from the Indemnified Parties under this clause 10 ("Indemnities") the Indemnified Parties must promptly reimburse the Responsible Entities for that amount.

11 Goods and services tax (GST)

11.1 Amounts exclusive of GST

Unless otherwise expressly stated, all amounts or consideration to be provided under or in accordance with this deed are expressed exclusive of GST.

11.2 Supply subject to GST

If the Underwriter is or becomes liable to pay an amount of GST in respect of any supply under or in connection with this deed (including, without limitation, the supply of any Services), then, in addition to any fee or other amount or consideration payable to the Underwriter in respect of the supply, the Underwriter is entitled to be paid an additional amount on account of the additional GST equal to the additional GST that the Underwriter has become liable to pay in respect of the services.

12 Notices

12.1 Form

Unless expressly stated otherwise in this deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this deed must be in writing, signed by an Authorised Officer of the sender and marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

12.2 Delivery

They must be:

- (a) left at the address set out or referred to in the Details;
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out or referred to in the Details;
- (c) sent by fax to the fax number set out or referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed postal address or changed fax number, then the communication must be to that address or number.

12.3 When effective

They take effect from the time they are received unless a later time is specified.

12.4 Receipt - post

If sent by post, they are taken to be received three days after posting (or seven days after posting if sent to or from a place outside Australia).

12.5 Receipt - fax

If sent by fax, they are taken to be received at the time shown in the transmission report as the time that the whole fax was sent.

13 General

13.1 Discretion in exercising rights

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this deed expressly states otherwise.

13.2 Partial exercising of rights

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

13.3 No liability for loss

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this deed.

13.4 Conflict of interest

The parties' rights and remedies under this deed may be exercised even if this involves a conflict of duty or a party has a personal interest in their exercise.

13.5 Remedies cumulative

The rights and remedies provided in this deed are in addition to other rights and remedies given by law independently of this deed.

13.6 Variation and waiver

A provision of this deed or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

13.7 Indemnities and warranties

Each warranty and indemnity in this deed are continuing obligations, independent from the other obligations of the Responsible Entities under this deed and continue after this deed ends. It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this deed.

13.8 Further assurances

Each party agrees, at its own expense, on the request of the other parties, to do everything reasonably necessary to give effect to this deed and the transactions contemplated by it, including, but not limited to, the execution of documents.

13.9 Enforceability

For the purpose of this deed, the Underwriter is taken to be acting as agent and trustee on behalf of and for the benefit of all Indemnified Parties and all of those persons are to this extent taken to be parties to this deed.

13.10 Amendment

This deed may be amended by the Underwriter and the Responsible Entities (including in a manner that adversely affects the interests of the Indemnified Parties) without obtaining the consent of the Indemnified Parties.

13.11 No Fiduciary Relationship

The Responsible Entities acknowledge that the Underwriter will be acting pursuant to a contractual relationship on an arm's length basis and in no event do the parties to this deed intend that the Underwriter act or be responsible as a fiduciary to the Responsible Entities, its management, shareholders, creditors or any other person. Each of the Responsible Entities and the Underwriter hereby expressly disclaims any fiduciary relationship and agrees they are each responsible for making their own independent judgments with respect to the Offer and any transactions entered into between them.

13.12 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

13.13 Assignment

The rights and obligations of each party under this deed cannot be assigned without the prior written consent of the other which consent cannot be unreasonably withheld.

13.14 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to the deed. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed will be the date of the deed.

13.15 Governing law

This deed and the transactions contemplated by this deed are governed by the law in force in the place specified in the Details. Each party submits to the non-exclusive jurisdiction of the courts of that place.

14 Interpretation

14.1 Definitions

The following words have these meanings in this deed unless the contrary intention appears.

ALNB means the Airport Link/Northern Busway (Windsor to Kedron) in the form of either:

- (a) the Conforming Proposal which meets the Performance Specification described in Exhibit A to the Project Deed included in the Bid (the "Conforming Proposal"); or
- (b) the Alternative Proposal comprising the Conforming Proposal as amended by all or any of the options referred to in the Deed of Confirmation and Commitment between the State, BrisConnections, the Underwriters and others dated on or about the date of this deed which the State may select.

Allotment Date means the date on which the Stapled Securities are first allotted to the public.

ASIC means the Australian Securities & Investments Commission.

ASX means ASX Limited.

ASX Waivers means the waivers from the Listing Rules (if any) given by ASX in relation to the Offer for a Distribution or the Offer Securities for a Distribution.

Authorised Officer means a person appointed by a party to act as an Authorised Officer for the purposes of this deed.

Available Amount means, in relation to a Distribution, the lesser of:

- (a) the Underwritten Distribution Amount less the aggregate of the Underwritten Amounts for each prior Distribution;
- (b) the amount determined by multiplying the number of Stapled Securities in respect of which the holders of those Stapled Securities have elected under the terms of the DRP, on or before the Closing Date for the Distribution, not to participate in the DRP for that Distribution by the Fixed Amount for that Distribution; and
- (c) an amount equal to 3.5% of the market capitalisation of the Trust 1 and of Trust 2 (excluding Stapled Securities subscribed for under the Deferred Equity Commitment Deeds) as at the close of trading on the Record Date for that Distribution (or such later date as agreed between the parties) plus 50% of the amounts (if any) sub-underwritten by sub-underwriters appointed by the Underwriter under clause 1.2 as at the Record Date for that Distribution (or such later date as agreed between the parties).

Business Day means a day on which:

- (a) ASX is open for trading in securities; and
- (b) banks are open for general banking business in the Business Day place set out in the Details.

Claim means any allegation, 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.

Closing Certificate means a certificate signed by two directors of the Responsible Entities which certifies to the Underwriter as at the date of the Closing Certificate that to the best of those directors' knowledge and information after due enquiry, other than as disclosed in the Closing Certificate:

- (a) the Responsible Entities have complied with all obligations on their part to be performed:
 - (i) under this deed; and
 - (ii) in respect of the Offer under statute or otherwise;
- (b) none of the events set out in clause 9.1 ("Termination events") has occurred; and
- (c) the representations and warranties set out in clause 6.1 ("Representations and warranties") are true and correct.

Closing Date means, in relation to a Distribution, the Closing Date for that Distribution as determined in accordance with the Timetable.

Completion, in relation to a Distribution, will occur when all of the Offer Securities for that Distribution have been allotted by the Responsible Entities in accordance with the Offer for that Distribution.

Confirmation Date means in relation to a Distribution the Confirmation Date for that Distribution, as determined in accordance with the Timetable.

Contractual Close means the date on which the Project Deed is executed by all parties,

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

Costs means any costs, charges or expenses.

Debt Financing Documents has the meaning given to that term in the Project Deed.

Declaration Date means, in relation to a Distribution, the Declaration Date for that Distribution as determined in accordance with the Timetable.

Deferred Equity Commitment Deeds means the version of the documents specified in Schedule 6 of the Equity Underwriting Agreement which contain the words "Deferred Equity Commitment Deed" in the title.

Details means the section of this deed headed "Details".

Disclosure Document has the meaning given to that term in the Equity Underwriting Agreement.

Distribution means a distribution:

- (a) of the Fixed Amount to the extent declared and paid by the Responsible Entities during the DRP Underwriting Period; and

- (b) which is payable by the Responsible Entities to holders of Stapled Securities as at the Record Date for that Distribution.

Distribution Payment Date means in relation to a Distribution, the Distribution Payment Date for that Distribution as determined in accordance with the Timetable for that Distribution.

Dollars and \$ means the lawful currency of Australia.

DRP means the distribution reinvestment plan operated by the Responsible Entities in relation to its Stapled Securities in respect of the reinvestment of the Distributions in Stapled Securities on the basis that:

- (a) the total subscription price for a Stapled Security will be the DRP Subscription Price;
- (b) the DRP Subscription Price may be payable in instalments with the amount payable on the date of reinvestment being the DRP Reinvestment Price; and
- (c) the balance of the DRP Subscription Price may be payable when called,

and in such form as is agreed by the Underwriter, as at the date of this deed or as is amended thereafter with the written consent of the Underwriter.

DRP Reinvestment Price means, in relation to a Distribution, the price at which Offer Securities for that Distribution will be issued being:

- (a) where on the Distribution Payment Date for that Distribution the Stapled Securities will be paid to an amount greater than they were during the Pricing Period for that Distribution, the aggregate of:
- (i) an amount equal to the arithmetic average of the daily volume weighted average price for Stapled Securities sold on the ASX (excluding any special crossings) during the Pricing Period for the Distribution; and
- (ii) the amount by which the amount paid on the Stapled Securities increased, less a discount of 5%; or
- (b) otherwise, an amount equal to the arithmetic average of the daily volume weighted average price for Stapled Securities sold on the ASX (excluding any special crossings) during the Pricing Period for that Distribution, less a discount of 5%,

DRP Subscription Price means, in relation to a Distribution, the price at which Offer Securities for that Distribution will be issued being the DRP Reinvestment Price, except where on the Distribution Payment Date there are Partly Paid Stapled Securities, in which case the DRP Subscription Price will be the DRP Reinvestment Price plus the unpaid amount on a Partly Paid Stapled Security.

DRP Underwriting Period means the period commencing immediately following the payment by the Stapled Entities of the first distribution to Unitholders and expires on the earlier of:

- (c) the date on which the 12th distribution is paid by the Stapled Entities; and

(d) the later of 30 September 2014 and 75 months following the Listing Date..

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.

Equity Underwriters means the Underwriter, J.P. Morgan Australia Limited (ABN 52 002 888 011), Credit Suisse (Australia) Limited (ABN 94 007 016 300) and Deutsche Bank AG, Sydney Branch (ABN 13 064 165 162).

Equity Underwriting Agreement means the deed of that name between the Responsible Entities and the Equity Underwriters and dated on or about the date of this deed.

Financial Close means the date on which the last of the conditions precedent to the Project Deed to be satisfied or waived has been satisfied or waived.

First Call Payment Date means the last date for payment by the holder of Stapled Securities of the amount owing under the first call by the Stapled Entities after the Listing Date for an instalment of the price payable for Stapled Securities.

Fixed Amount means for each Distribution during the DRP Underwriting Period, the amount per Stapled Security specified in the Disclosure Document as being the distribution for that Distribution.

Group means the Responsible Entities and each Subsidiary of the Responsible Entities.

GST has the same meaning as in the GST Law.

GST Law has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999 (Cth) and any other Act or regulation relating to the imposition or administration of GST.

Indemnified Parties means the Underwriter, its Related Bodies Corporate and their officers, employees and advisers.

Insolvency Event means in relation to a member of the Group the occurrence of any of the following events in relation to that member:

- (a) the member becomes insolvent as defined in the Corporations Act, states that it is insolvent or is presumed to be insolvent under an applicable law;
- (b) the member is wound up or dissolved;
- (c) a liquidator, provisional liquidator, controller (as that term is defined in the Corporations Act) administrator, trustee for creditors, or other similar person is appointed to, or takes possession or control of, any or all of the member's assets or undertaking;
- (d) the member enters into or becomes subject to:
 - (i) any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or

- (ii) any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (e) an application or order is made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 5 days), resolution passed, proposal put forward, or any other action taken which is preparatory to or could result in any of paragraphs (b), (c), or (d) of this definition;
- (f) the member is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;
- (g) the member suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business or becomes unable to pay its debts when they fall due; or
- (h) anything occurs under the law of any jurisdiction which has a substantially similar effect to any of the other paragraphs of this definition,

unless the event occurs as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved in writing by the Underwriter.

Listing Date means the date on which the Stapled Securities are first quoted on ASX.

Listing Rules means the Listing Rules of ASX, except as waived or modified from time to time.

Losses means all Claims, demands, damages, losses, costs, expenses and liabilities.

Nominated Amount means in respect of a Distribution, the amount nominated by the Responsible Entities pursuant to clause 1.3 ("Nomination by Responsible Entities") expressed as a percentage of the amount referred to in paragraph (b) of the definition of the Available Amount for that Distribution.

Notification Date means, in relation to a Distribution, the date on which the Responsible Entities notify ASX of the intention to announce the Distribution Payment Date, the Record Date, the amount per Stapled Security to be distributed and the Closing Date, in accordance with the Timetable.

Offer means, in relation to a Distribution, the offer of Offer Securities for that Distribution at the DRP Subscription Price (but, with only so much of the DRP Subscription Price that equals the DRP Reinvestment Price being payable on reinvestment and the balance payable when called) in and by the Responsible Entities under the DRP.

Offer Documents means, in relation to a Distribution, the documents issued or published by or on behalf of the Responsible Entities in respect of the Offer for that Distribution.

Offer Securities means, in relation to a Distribution, the Stapled Securities to be issued upon reinvestment of the Distribution in Stapled Securities in accordance with the DRP, and includes any Underwritten Securities for that Distribution.

Partly Paid Stapled Securities means Stapled Securities that are not fully paid.

Pricing Period means, in relation to a Distribution, period of 20 Trading Days from and including the 9th Trading Day after the Declaration Date for that Distribution.

Project Deed means the project deed pursuant to which BrisConnections Nominee Company Pty Ltd, in its capacity as trustee of the BrisConnections Asset Trust and BrisConnections Pty Ltd are granted the right to build, own and operate the ALNB.

Public Information means public and other media statements made by or on behalf of the Responsible Entities in relation to the affairs of the Responsible Entities or the Offer.

Quotation Approval Date means, in relation to a Distribution, the Quotation Approval Date for that Distribution as determined in accordance with the Timetable for that Distribution.

Quoted ED Securities has the meaning given by section 111AM.

Record Date means, in relation to a Distribution, the Record Date for that Distribution as determined in accordance with the Timetable for that Distribution.

Regulation S has the meaning given to it in the US Securities Act.

Related Body Corporate has the meaning given in section 50.

Responsible Entities means RE1 and RE2.

Services means goods, services rights, benefits or things.

Stapled Securities means each security comprising an ordinary unit in Trust 1 and an ordinary unit in Trust 2 stapled together such that the unit in Trust 1 and unit in Trust 2 can only be issued, transferred or traded together as a stapled security.

Subsidiary has the meaning given by section 46.

Terminate means the termination by the Underwriter of all further obligations of the Underwriter under this deed (including the obligation to subscribe for the Underwritten Securities under clause 4.2 ("Valid Applications to be lodged")).

Timetable means, in relation to a Distribution, the Timetable determined for that Distribution using the time periods set out in Schedule 1 as it may be varied under clause 3.1 ("Timetable").

Trading Day has the meaning given to that term in the Listing Rules.

Transaction Documents the documents defined as Project Documents in the Project Deed.

Trusts means Trust 1 and Trust 2.

Underwriting Notice means, in relation to a Distribution, a notice from the Responsible Entities to the Underwriter specifying the Underwritten Amount for that Distribution.

Underwritten Amount means in respect of a Distribution, the amount (if any) to be underwritten by the Underwriter for that Distribution, which must not exceed the Available Amount for that Distribution.

Underwritten Amount Notification Date means in relation to a Distribution, the underwriting notification date for that Distribution as determined in accordance with the Timetable for that Distribution.

Underwritten Distribution Amount means \$700 million or such larger amount as the Underwriter may agree in writing.

Underwritten Securities means, in relation to a Distribution, the number of Offer Securities determined by dividing the Underwritten Amount for that Distribution by the DRP Reinvestment Price for that Distribution.

US Person has the meaning given to the term "U.S. Person" in Regulation S under the US Securities Act.

US Securities Act means the U.S. Securities Act of 1933 (as amended).

14.2 References to certain general terms

Unless the contrary intention appears, a reference in this deed to:

- (a) **(variations or replacement)** a document (including this deed) includes any variation or replacement of it;
- (b) **(clauses, annexures and schedules)** a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this deed;
- (c) **(reference to statutes)** a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) **(Corporations Act)** a reference to a section, Part, Chapter or Division is a reference to a section, Part, Chapter or Division of the Corporations Act;
- (e) **(singular includes plural)** the singular includes the plural and vice versa;
- (f) **(person)** the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Government Agency;
- (g) **(executors, administrators, successors)** a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novating) and assigns;
- (h) **(two or more persons)** an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (i) **(jointly and severally)** an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (j) **(reference to a group of persons)** a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) **(dollars)** Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (l) **(calculation of time)** if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;

- (m) **(reference to a day)** a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) **(meaning not limited)** the words “include”, “including”, “for example” or “such as” are not used as, nor are they to be interpreted as, words of limitations, and, when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind; and
- (o) **(time of day)** time is a reference to time in the Business Day place.

14.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed.

14.4 RE1's capacity

- (a) Subject to clause 14.4(c), RE1 enters into this deed only in its capacity as responsible entity of the Trust 1 and in no other capacity. A liability arising under or in connection with this deed can be enforced against RE1 only to the extent to which it can be satisfied out of the property of the Trust 1 out of which the RE1 is actually indemnified for the liability. This limitation of RE1's liability applies despite any other provision of this deed (other than clause 14.4(c)) and extends to all liabilities and obligations of RE1 in any way connected with any representation, warranty, conduct, omission, agreement or transactions related to this deed.
- (b) Subject to clause 14.4(c), a party to this deed may not sue RE1 in any capacity other than as RE1 in respect of the Trust 1, including seeking the appointment to RE1 of a receiver (except in relation to property of the Trust 1), a liquidator, administrator or any similar person or proving in any liquidation, administration or arrangement of or affecting RE1 (except in relation to property of Trust 1).
- (c) The provisions of this clause 14.4 will not apply to any obligation or liability of RE1 to the extent that it is not satisfied because under the constitution establishing the Trust 1, or by operation of law, there is a reduction in the extent, or elimination of, RE1's right of indemnification out of the assets of the Trust 1, or such right does not exist at all, as a result of RE1's fraud, wilful misconduct, gross negligence or breach of trust.
- (d) Nothing in clause 14.4(c) will make RE1 liable to any claim for an amount greater than the amount which any other party to this deed would have been able to claim and recover from the assets of Trust 1 in relation to the relevant liability if RE1's right of indemnification out of the assets of Trust 1 had not been reduced or eliminated as a result of RE1's fraud, wilful misconduct, gross negligence or breach of trust.
- (e) RE1 is not obliged to do or refrain from doing anything under this deed (including incur any liability) unless its liability is limited in the same manner as set out in clauses 14.4(a) to (d).

14.5 RE2's capacity

- (a) Subject to clause 14.5(c), RE2 enters into this deed only in its capacity as responsible entity of the Trust 2 and in no other capacity. A liability arising under or in connection with this deed can be enforced against RE2 only to the extent to

which it can be satisfied out of the property of the Trust 2 out of which the RE2 is actually indemnified for the liability. This limitation of RE2's liability applies despite any other provision of this deed (other than clause 14.5(c)) and extends to all liabilities and obligations of RE2 in any way connected with any representation, warranty, conduct, omission, agreement or transactions related to this deed.

- (b) Subject to clause 14.5(c), a party to this deed may not sue RE2 in any capacity other than as RE2 in respect of the Trust 2, including seeking the appointment to RE2 of a receiver (except in relation to property of the Trust 2), a liquidator, administrator or any similar person or proving in any liquidation, administration or arrangement of or affecting RE2 (except in relation to property of Trust 2).
- (c) The provisions of this clause 14.5 will not apply to any obligation or liability of RE2 to the extent that it is not satisfied because under the constitution establishing the Trust 2, or by operation of law, there is a reduction in the extent, or elimination of, RE2's right of indemnification out of the assets of the Trust 2, or such right does not exist at all, as a result of RE2's fraud, wilful misconduct, gross negligence or breach of trust.
- (d) Nothing in clause 14.5(c) will make RE2 liable to any claim for an amount greater than the amount which any other party to this deed would have been able to claim and recover from the assets of Trust 2 in relation to the relevant liability if RE2's right of indemnification out of the assets of Trust 2 had not been reduced or eliminated as a result of RE2's fraud, wilful misconduct, gross negligence or breach of trust.
- (e) RE2 is not obliged to do or refrain from doing anything under this deed (including incur any liability) unless its liability is limited in the same manner as set out in clauses 14.5(a) to (d).

14.6 Termination of Previous Agreement

The DRP Underwriting Agreement between the parties dated on or about 9 May 2008 and all rights and obligations of the parties pursuant to it are terminated with effect on and from the execution of this deed by the last party to execute it.

**DRP Underwriting
Agreement
Schedule 1 – Timetable**

Event	Date (references to +/- a number is a reference to +/- that number of Business Days)
Notification Date – date on which Responsible Entities notify ASX of intention to declare a distribution.	T – 7
Closing Date – Last day for election not to participate in the DRP for the Distribution.	T – 3
Declaration Date – the date on which the estimated amount of the Distribution and the Record Date is declared and the date on or prior to which the Nominated Amount is provided to the Underwriter.	T
“Ex Date”	T + 3
Record Date – record date for participation in the Distribution.	T + 7
Underwritten Amount Notification Date – last date on which Underwriting Notice is to be given (clause 4.1 (“Underwriting Notice and Closing Certificate”)).	T + 8
Pricing Period – the period during which the DRP Subscription Price and the DRP Reinvestment Price is determined	T + 9 to T + 29
Quotation Approval Date – ASX approval deadline (Schedule 2(j) (“quotation approvals”)).	T + 27
Confirmation Date – day on which the Responsible Entities confirm whether the Distribution will be satisfied by a cash payment or by the issue of Stapled Units or by a combination of both.	T + 30
Distribution Payment Date – day of allotment of the Offer Securities (clauses 3.4 (“Allotment”) and 4.3 (“Allotment of Underwritten Securities”)).	T + 31

DRP Underwriting Agreement

Schedule 2 - Termination Events

- (a) **(disclosures in Offer Documents and Public Information)** the Offer Documents or the Public Information contain a statement that is misleading or deceptive, omit material required to be contained in them, or constitute conduct by any person which is misleading or deceptive; or
- (b) **(other information)** any information supplied by or on behalf of the Responsible Entities to the Underwriter in relation to the Group, or the Offer is misleading or deceptive; or
- (c) **(adverse change)** any adverse change occurs in the assets, liabilities, financial position or performance, profits, losses or prospects of the Responsible Entities and the Group (insofar as the position in relation to an entity in the Group affects the overall position of the Responsible Entities), from those respectively disclosed publicly or to the Underwriter prior to the Declaration Date for that Distribution; or
- (d) **(hostilities)** hostilities not presently existing commence (whether war has been declared or not) or a major act of terrorism or escalation in existing hostilities occurs (whether war has been declared or not) involving any one or more of Australia, New Zealand, the United States of America, Japan, Russia or the People's Republic of China; or
- (e) **(market fall)** the S&P/ASX200 Index of ASX falls by an amount that is 10% or more of the level as at the close of trading on the Business Day before the Underwritten Amount Notification Date for that Distribution, and remains at or below that level for a period of three consecutive Business Days or until the close of trading two Trading Days before the Distribution Payment Date for that Distribution; or
- (f) **(change of law)** there is introduced or there is a public announcement of a proposal to introduce, into the Parliament of Australia or any State of Australia a new law, or the Reserve Bank of Australia, or any Commonwealth or State authority, adopts or announces a proposal to adopt a new policy (other than a law or policy which has been announced before the date of this deed), any of which does or is likely to prohibit or materially adversely regulate the Offer, capital issues or stock markets; or
- (g) **(change in management)** a change in senior management or the board of directors of the Responsible Entities occurs; or
- (h) **(indictable offence)** a director of the Responsible Entities is charged with an indictable offence; or
- (i) **(compliance with regulatory requirements)** a contravention by the Responsible Entities or any entity in the Group of the Corporations Act, its constitution, the DRP or any of the Listing Rules; or
- (j) **(quotation approvals)** on or before the Quotation Approval Date official quotation of all of the Offer Securities on ASX is refused or approval is not granted which is

unconditional (or approval is granted that is conditional on customary listing conditions which in the reasonable opinion of the Underwriter would have a material adverse effect on the market price of Stapled Securities having regard to the DRP Subscription Price and the DRP Reinvestment Price), or if granted, the approval is subsequently (whether before or after the Quotation Approval Date) withdrawn, qualified or withheld, or ASX removes the Responsible Entities from the official list of ASX or suspends trading in the Stapled Securities; or

- (k) **(ASIC)** an application is made by ASIC for an order under Part 9.5 in relation to the Offer or ASIC commences any investigation or hearing under Part 3 of the Australian Securities and Investments Commission Act 1989 (Cth) in relation to the Offer; or
- (l) **(withdrawal)** the Responsible Entities withdraws the DRP, or the DRP in relation to the Distribution; or
- (m) **(default)** a default by the Responsible Entities in the performance of any of its obligations under this deed occurs; or
- (n) **(representations and warranties)** a representation or warranty contained in this deed on the part of the Responsible Entities is not true or correct; or
- (o) **(Commonwealth of Australia bonds)** at any time up to and including the close of business two Trading Days before the Distribution Payment Date for a Distribution, the Index Indicator Rate for bonds issued by the Commonwealth of Australia, which have a tenor of 10 years, is 100 basis points or more above its level as at the close of business on the Business Day immediately before the Underwritten Amount Notification Date for that Distribution.
- (p) **(disruption in financial markets)** either of the following occurs:
 - (i) a general moratorium on commercial banking activities in Australia, the United States of America or the United Kingdom is declared by the relevant central banking authority in any of those countries, or there is a material disruption in commercial banking or security settlement or clearance services in any of those countries; or
 - (ii) trading in all securities quoted or listed on ASX, the London Stock Exchange or the New York Stock Exchange is suspended or limited in a material respect for two days on which that exchange is open for trading,

in either case the effect of which is such as to make it, in the reasonable judgment of the Underwriter, impractical to promote or complete the Offer or to enforce contracts to issue and allot the Offer Securities.

DRP Underwriting Agreement
Signing page


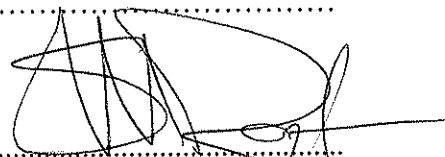
EXECUTED as a deed

DATED: 28 May 08

SIGNED by)
..... Wayne Kent)
and)
..... Stuart Payne)
as attorneys for **MACQUARIE**)
CAPITAL ADVISERS LIMITED)
under power of attorney dated)
16 Nov 2007 in the presence of:)

Vanessa Burke)
.....)
Signature of witness

Vanessa Burke)
.....)
Name of witness (block letters)

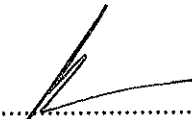

.....


By executing this deed each attorney states that the attorney has received no notice of revocation of the power of attorney.

SIGNED by DAVID WARREN as)
attorney for **BRISCONNECTIONS**)
MANAGEMENT COMPANY)
LIMITED IN ITS CAPACITY AS)
RESPONSIBLE ENTITY OF)
BRISCONNECTIONS HOLDING)
TRUST under power of attorney dated)
07/12/07 in the presence)
of:)

Airle Kaye Leanne Fox)
.....)
Signature of witness

Airle Kaye Leanne Fox)
.....)
Name of witness
Goms Chambers Westgarth
800 Bourke Street, Melbourne Vic 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004


.....)
Attorney

DAVID WARREN)
.....)
By executing this deed the attorney states that the attorney has received no notice of revocation of the power of attorney

SIGNED by .. *DAVID WARREN*)
as attorney for **BRISCONNECTIONS**)
MANAGEMENT COMPANY)
LIMITED IN ITS CAPACITY AS)
RESPONSIBLE ENTITY OF)
BRISCONNECTIONS)
INVESTMENT TRUST:)

.....
Signature of witness

.....
Name of witness
Airdle Kaye Leanne Fox
Coffs Chambers Westgarth
600 Bourke Street, Melbourne Vic 3000
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

.....
Attorney

.....
DAVID WARREN

By executing this deed the attorney
states that the attorney has received no
notice of revocation of the power of
attorney