

# News Release

## **PRIME INFRASTRUCTURE AND BROOKFIELD INFRASTRUCTURE STRIKE MERGER AGREEMENT**

**Transaction will create a leading global infrastructure company with a market capitalization in excess of US\$2.5 billion; Prime security holders to receive 0.24 Units of Brookfield Infrastructure, representing a price of AUD\$4.60 per Prime Security, a premium of approximately 30% over the closing prices on 20 August 2010<sup>1</sup>.**

**August 23, 2010 (East Australia Time)** – Prime Infrastructure (ASX: PIH) and Brookfield Infrastructure Partners L.P. (NYSE: BIP; TSX: BIP.UN) today announced that they have entered into a definitive merger agreement to create a leading global infrastructure company, in a transaction with an implied value of AUD\$1.6 billion (US\$1.4 billion) for Prime Infrastructure.

Under the terms of the transaction, Prime security holders will receive 0.24 Brookfield Infrastructure units (“BIP Units”) for each Prime stapled security held, representing a price of AUD\$4.60 per Prime Security. The transaction represents a premium of approximately 28% and 32% if calculated based on the five-trading day and 30-trading day, respectively, volume weighted average prices of the Prime and BIP securities prior to the date of this announcement<sup>2</sup>.

In addition, to accommodate holders of smaller numbers of Prime securities, each Prime security holder is also entitled to receive cash in lieu of BIP Units, up to a limit of 4,000 BIP Units per holder. As described in greater detail below, based on analysis of the current Prime register, this liquidity facility is expected to enable the vast majority of holders of smaller numbers of Prime securities to receive a cash exit price of AUD\$4.55 per unit<sup>3</sup> for their entire holding, if they so elect. In addition, Prime security holders will be entitled to a distribution of 7.5 cents per security in respect of the quarter ended 30 September 2010.

Upon successful completion of the transaction, Brookfield Infrastructure will increase its ownership of Prime from 40% to 100%.

---

1. Based on closing prices on the ASX and NYSE and an exchange rate of US\$0.8939 per AUD.

2. Calculation also assumes an average exchange rate over the relevant periods.

3. This amount will be paid in U.S. dollars and (subject to the terms of the liquidity facilities described in greater detail herein) at a stipulated amount of \$17.02 per BIP Unit (being the most recent 5 trading day volume weighted average price for BIP Units on the New York Stock Exchange). This equates to a price per Prime security of AUD\$4.55 at the five-day average exchange rate over the same period.

## **Merits of the Transaction**

“We believe that this merger provides significant benefits to investors of both Prime and Brookfield Infrastructure,” said Sam Pollock, chief executive officer of Brookfield Infrastructure Partners. Pollock added: “Over the past several months, we have heard from a number of large Prime investors encouraging us to undertake a merger transaction of this nature, and we are pleased to bring this opportunity to all Prime security holders.”

In unanimously agreeing to propose the transaction, the board of directors of Brookfield Infrastructure noted that the transaction is expected to realize the following key benefits to Brookfield Infrastructure:

- accretive immediately to all holders of Brookfield Infrastructure;
- significantly expands Brookfield Infrastructure’s global franchise as a leading owner and operator of high quality, long-life infrastructure assets with increased scale and growth opportunities;
- substantially enhances the trading liquidity of Brookfield Infrastructure within a combined enterprise having a market capitalization in excess of US\$2.5 billion; and
- greatly simplifies the ownership structure of the two businesses.

The Independent Directors of Prime have unanimously recommended the transaction in the absence of a superior proposal, and subject to the required independent expert report determining that the transaction is in the best interests of Prime security holders. Grant Samuel has been engaged to prepare the independent expert’s report.

“Joining forces with established partners at Brookfield Infrastructure enables us to continue to participate in the returns from our current investments, within a larger, more diversified portfolio of high quality infrastructure assets,” said Hon. Dr. David Hamill, Independent Chairman of the Board of Directors of Prime Infrastructure. “The Independent Directors believe that a combination of these platforms offers Prime security holders an opportunity to invest in a stronger global group with access to greater financing options and significant growth prospects. In addition, the transaction if successful will allow Prime security holders to achieve a significant value enhancement to their investment in Prime Infrastructure, through the receipt of either Brookfield Infrastructure units or cash.”

The execution of the merger agreement was unanimously approved by Prime’s board of directors after receiving the unanimous recommendation of a Transaction Committee comprised of all of Prime’s Independent Directors, including The Hon. Dr David Hamill (who served as Chairman of the Committee), Mr. Leigh Hall, Mr. James Sloman and Mr. Barry Upson. The Transaction Committee received independent financial advice from Gresham Advisory Partners and legal advice from Freehills.

In recommending the transaction, the Transaction Committee had regard to the fact that the Brookfield Infrastructure offer:

- represents a significant premium to the market price of Prime's stapled securities;
- substantially increases the enterprise's access to equity and debt markets, paving the way for expansion of existing operations and growth in funds from operations;
- provides an attractive opportunity for security holders to own a broader, globally diverse portfolio of long-life, high quality infrastructure assets; and
- enables Prime security holders to further benefit from access to global platforms and the sponsorship of Brookfield Infrastructure.

## **Distributions**

Upon successfully completing the acquisition of 100% of Prime, Brookfield Infrastructure plans to increase its target annual distribution in calendar 2011 to US\$1.24 per Unit (an increase of 13%), subject to board approval, based on business conditions at that time. Based on the current exchange rate<sup>4</sup> and the exchange ratio of 0.24, this would translate to an equivalent annual distribution to Prime security holders who receive BIP Units of AUD\$0.33 an effective 10% increase in the current annualised quarterly distribution per Prime security. The planned increase in Brookfield Infrastructure's distribution reflects the anticipated strong cash flow generation of the merged company and its superior portfolio of infrastructure assets. Due to the merged enterprise's increased opportunity to invest in accretive growth projects, this estimated distribution level has been set at a payout ratio at or below the low end of Brookfield Infrastructure's targeted payout ratio of 60% to 70% of funds from operations.

The Board of Prime has resolved to pay a distribution of 7.5 cents<sup>5</sup> per security in respect of the quarter ending 30 September 2010. The Record Date for this distribution will be 30 September 2010 and the distribution will be paid on or about 30 November 2010.

## **Summary of the Transaction**

The transaction is being implemented by way of a Scheme of Arrangement (Scheme) under Australian law<sup>6</sup>. Brookfield Infrastructure will also make a concurrent takeover bid (Bid) for Prime under Australian law.

### *Scheme of Arrangement*

Under the Scheme, each Prime security holder will receive 0.24 BIP Units in exchange for each Prime security held, subject to receipt of all applicable approvals and consents. The Scheme requires approval by at least 75 per cent of votes cast by Prime security holders (other than Brookfield Infrastructure) and support from the majority by number of such holders who vote<sup>7</sup>. Prime plans to hold security holders' meetings to approve the Scheme in early November 2010, pending receipt of applicable regulatory approvals and satisfaction of other conditions.

In order to accommodate holders of smaller numbers of Prime securities, Brookfield Infrastructure will make available a liquidity facility pursuant to which each Prime security holder is entitled to receive cash in lieu of BIP Units, up to a limit of 4,000 units per holder (Voluntary

---

4. US\$0.8939 per AUD

5. AUD\$0.075 cents per security

6. A scheme of arrangement under section 411 of the Australian Corporations Act and concurrent 'trust schemes' effected by constitutional changes and approvals under section 611, item 7 of the Australian Corporations Act.

7. Subject to an ability of the Court to dispense with the majority by number requirement in some circumstances.

Liquidity Facility). In addition, a separate liquidity facility will be implemented for all ineligible Prime security holders in jurisdictions where it may be impracticable to issue BIP Units (Compulsory Liquidity Facility). Details of these liquidity facilities are provided below.

### *Takeover Bid*

Brookfield Infrastructure also intends to make an 'any or all' takeover offer for Prime securities, for the same consideration as proposed under the Scheme, other than that, due to securities law restrictions, the Voluntary Liquidity Facility will not be made available under the Bid and the nature of the Compulsory Facility will require regulatory approval, the receipt of which is a condition of the Bid. The Bid will also be subject to the Scheme not proceeding, and other conditions substantially similar to those applicable to the Scheme which are described in the attached summary of the merger agreement.

The Bid will not be subject to any minimum acceptance threshold, and Brookfield Infrastructure will take up all Prime securities that are tendered, subject to satisfaction or waiver of the conditions to the Bid. Brookfield Infrastructure has decided to undertake the concurrent Bid in order to ensure that Prime security holders are able to obtain the stock consideration offered under this transaction, regardless of the outcome of the Scheme.

### *The Liquidity Facilities*

Under the Scheme, Prime security holders may elect to receive cash by accessing a Voluntary Liquidity Facility for up to 4,000 BIP Units that would otherwise be received under the transaction. Under this Voluntary Liquidity Facility, subject to the requirement to effect market sales as described below, each electing holder will receive (subject to the limitation described below) US\$17.02 for each eligible Unit, representing the five-day volume-weighted average trading price of BIP Units on the New York Stock Exchange immediately preceding the date of this announcement. This equates to a price per Prime security of AUD\$4.55, based on the most recent five-day average exchange rate over the same period

In addition, as is customary in transactions of this nature, under the Scheme, a Compulsory Sale Facility will be established to enable the payment of cash to Prime security holders who are ineligible to receive BIP Units under the transaction. Under this facility, ineligible holders are expected to receive (subject to the requirement to effect market sales described below) a price for their Prime securities based on a 20-day volume weighted average trading price ending on or about the completion of the transaction.

In order to support these facilities, Brookfield Asset Management has provided an equity commitment of up to US\$300 million. Since cash available under this commitment is limited, the possibility exists that market sales under each of the above facilities may be required. Accordingly, the ultimate price to be paid to participants under the Voluntary Liquidity Facility or the Compulsory Liquidity Facility cannot be assured. In the event that cash proceeds are insufficient, excess units will be sold on the market and participants in the applicable facility will receive the blended price. Based on analysis of the current Prime register, however, it is reasonably likely that the amount of these facilities combined will not exceed Brookfield Asset Management's US\$300 million commitment, providing greater pricing certainty to participants in these facilities.

### *Commitment from Brookfield Asset Management*

As described above, in order to support the liquidity facilities, Brookfield Asset Management has provided an equity commitment of up to US\$300 million. Brookfield Infrastructure will draw amounts under this commitment first to fund amounts required under the Voluntary Liquidity Facility, and second to fund amounts required under the Compulsory Liquidity Facility (to the extent of any then undrawn amounts under the commitment). Under this commitment, Brookfield Asset Management will subscribe for equity at a price per unit of US\$17.02, being the same price to be paid to holders who elect to receive cash under the Voluntary Liquidity Facility, except that the first US\$50 million to fund the Compulsory Facility will be subscribed at a price per unit based on the same 20-day volume-weighted average trading price received by holders under the Compulsory Liquidity Facility. These subscriptions may be for units of either Brookfield Infrastructure or Brookfield Infrastructure L.P.

Following successful completion of the transaction, Brookfield Asset Management is expected to hold between 28% and 39% of Brookfield Infrastructure on a fully-diluted basis, depending on the amounts ultimately required to be funded pursuant to these facilities. If all Prime security holders (other than BIP) were to receive BIP Units in exchange for their Prime securities, those former Prime security holders would hold approximately 32% of Brookfield Infrastructure.

### **Process**

The transaction is subject to regulatory approvals in Australia, New Zealand, Europe and the United States. The Scheme will also be subject to Court approval in Australia.

In addition to the approval of Prime security holders of the Scheme as described above, the transaction is also subject to approval of holders of a majority of Brookfield Infrastructure units. Brookfield Asset Management has confirmed that it will vote its approximate 40% holding of BIP Units in favour of the transaction.

It is anticipated that meetings of security holders to seek these approvals will be held in early November 2010, and that the merger will be completed prior to year end.

Detailed documentation in relation to both the Scheme and the Bid is expected to be mailed to Prime Infrastructure security holders in early October 2010. Materials in respect of the meeting of unitholders of Brookfield Infrastructure are expected to be mailed shortly thereafter.

The Scheme is also subject to a number of other matters as referred to in the attached summary of the merger agreement.

\* \* \*

**Brookfield Infrastructure Partners L.P.** (NYSE: BIP; TSX: BIP.UN) owns and operates long-life assets that generate stable cash flows, require relatively minimal maintenance capital expenditures and, by virtue of barriers to entry and other characteristics, tend to appreciate in value over time. Its current business consists of the ownership and operation of premier utilities, fee for service, and timber assets in North and South America, Australasia, and Europe. It also seeks acquisition opportunities in other infrastructure sectors with similar attributes. The payout policy targets 3% to 7% annual growth in distributions to unit holders. The Partnership's units

trade on the New York and Toronto Stock Exchanges under the symbols BIP and BIP.UN, respectively. For more information, please visit Brookfield Infrastructure Partners' website at [www.brookfieldinfrastructure.com](http://www.brookfieldinfrastructure.com).

**Prime Infrastructure** (ASX: PIH) is a specialist infrastructure operator which owns and manages a portfolio of high quality infrastructure assets. Prime invests in businesses across two operating platforms based on their underlying economic drivers – utilities and fee for service. Its portfolio of infrastructure assets is primarily in the energy and transport sectors located in Australasia, North America and Europe. For further information please visit the Prime Infrastructure's website at [www.primeinfrastructure.com](http://www.primeinfrastructure.com)

*Note: This news release contains forward-looking information within the meaning of Canadian provincial securities laws and "forward-looking statements" within the meaning of Section 27A of the U.S. Securities Act of 1933, as amended, Section 21E of the U.S. Securities Exchange Act of 1934, as amended, "safe harbour" provisions of the United States Private Securities Litigation Reform Act of 1995 and in any applicable Canadian securities regulations. The words "will", "grow", "expect", "potential", "stable", "tend", "seeks", derivations thereof and other expressions that are predictions of or indicate future events, trends or prospects and which do not relate to historical matters identify forward-looking statements. Forward-looking statements in this news release include statements about the benefits of the proposed transaction to security holders of each of Prime and Brookfield Infrastructure, the anticipated successful completion of the transaction described herein, the amounts likely to be received under the Voluntary Liquidity Facility, Brookfield Infrastructure's ability to generate resilient cash flow streams, the future prospects of the assets that Brookfield Infrastructure operates and Brookfield Infrastructure's plans for growth through acquisitions. Although Brookfield and Brookfield Infrastructure believe that the anticipated future results, performance or achievements expressed or implied of such assets by the forward-looking statements and information are based upon reasonable assumptions and expectations, the reader should not place undue reliance on forward-looking statements and information as such statements and information involve known and unknown risks, uncertainties and other factors which may cause the actual results, performance or achievements to differ materially from anticipated future results, performance or achievement expressed or implied by such forward-looking statements and information.*

*Factors that could cause actual results to differ materially from those contemplated or implied by forward-looking statements include: the possible exercise of termination rights under the definitive merger agreement described herein, economic and financial conditions in the countries in which Brookfield, Brookfield Infrastructure and Prime Infrastructure each do business; the behaviour of financial markets, the fact that success of Brookfield Infrastructure and Prime Infrastructure is dependent on market demand for an infrastructure company, the availability of equity and debt financing, the ability to complete acquisitions in the competitive infrastructure space and to integrate acquisitions into existing operations, other risks and factors detailed from time to time in Brookfield's form 40-F filed with the Securities and Exchange Commission as well as other documents filed by Brookfield with the securities regulators in Canada and the United States including Brookfield's most recent Management's Discussion and Analysis of Financial Results under the heading "Business Environment and Risks" and other risks and factors described in the documents filed by Brookfield Infrastructure with the securities regulators in Canada and the United States including under "Risk Factors" in the Partnership's most recent Annual Report on Form 20-F and other risks and factors that are described therein, and we caution that the foregoing factors that may affect future results is not exhaustive.*

*When relying on our forward-looking statements to make decisions with respect to Brookfield or Brookfield Infrastructure, investors and others should carefully consider the foregoing factors and other uncertainties and potential events. Except as required by law, neither Brookfield nor Brookfield Infrastructure undertakes any obligation to publicly update or revise any forward-looking statements or information, whether written or oral, as a result of new information, future events or otherwise.*

For more information, please contact:

**Prime Infrastructure**

**Media Relations and Investor Relations**

David Akers  
Investor Relations Manager  
Tel: + 61 2 9692 2870  
Email: david.akers@primeinfrastructure.com

**Brookfield Infrastructure Partners**

**Media Relations**

Andrew Willis  
SVP, Communications and Media  
Tel: 416-369-8236  
Email: Andrew.willis@brookfield.com

**Investor Relations**

Michael Botha  
SVP, Finance  
Tel: 416.359.7871  
Email: mbotha@brookfield.com

# Summary of Implementation Deed

## 1 Overview

Prime Infrastructure Holdings Limited (**PIHL**), Prime Infrastructure RE Limited (**PIRE**) as responsible entity for Prime Infrastructure Trust (**PIT**) and Prime Infrastructure Trust 2 (**PIT2**) and Brookfield Infrastructure Partners Limited as general partner of Brookfield Infrastructure Partners L.P (**BIP**) have entered into the Implementation Deed under which, subject to the Schemes becoming effective, each Prime Securityholder on the register on the record date other than BIP Bermuda Holdings IV Limited (**Scheme Participant**) will receive 0.24 of a limited partnership interest in BIP (**BIP Interests**) in consideration for each of their Prime Securities<sup>1</sup>. If the Schemes become effective, BIP will acquire all the Prime Securities (other than those held by BIP Bermuda Holdings IV Limited).

In conjunction with the Schemes, BIP will also make a takeover offer for all Prime Securities (**Offer**). The Offer is conditional upon the Schemes not becoming effective.

## 2 The Schemes and Offer

### 2.1 Schemes

The Schemes consist of:

- a company scheme of arrangement of PIHL pursuant s411 of the Corporations Act (**Company Scheme**); and
- a trust scheme of arrangement for each of PIT and PIT2 under which the constitutions of PIT and PIT2 will be amended (**Trust Schemes**),

pursuant to which BIP will acquire all the Prime Securities (other than those held by BIP Bermuda Holdings IV Limited) in exchange for 0.24 of a BIP Interest per Prime Security<sup>1</sup>.

A liquidity facility will be provided under which Scheme Participants may elect, in lieu of up to 4000 BIP Interests per Holder, to receive cash on the basis of US\$17.02 per BIP Interest (subject to the limitation described below). Cash available to fund this facility will be capped at a value of US\$300 million and any excess BIP Interests that Scheme Participants elect into the facility will be sold on-market, and Scheme Participants will receive the blended price.

Foreign holders who are ineligible to receive BIP Interests will have the BIP Interests that they would otherwise receive, participate in a sales facility. To the extent that the overall US\$300 million liquidity facility cap is not exhausted by the voluntary liquidity facility, such foreign holders will be paid from the surplus cash a price per BIP Interest equal to the volume weighted average price of BIP Interests over the 20 trading days prior to the implementation of the Schemes and, to the extent required, any excess BIP Interests that would otherwise have been issued to ineligible foreign holders will be sold on-market, and Scheme Participants will receive the blended price.

The Company Scheme and the Trust Schemes are inter-conditional so that each of the Company Scheme and the Trust Schemes must become effective in order for BIP to acquire the Prime Securities.

---

<sup>1</sup> Subject to provisions allowing holders other than ineligible foreign holders to elect to receive cash in lieu of up to 4,000 BIP Interests and provisions under which ineligible foreign holders will receive cash in lieu of BIP Interests.

## 2.2 Offer

If the Schemes do not become effective, BIP will continue to make the Offer for all of the Prime Securities subject to satisfaction or waiver of all conditions thereto. This Offer may result in BIP acquiring less than 100% of Prime. If the Offer proceeds, and subject to receipt of appropriate regulatory relief, a sales facility will be available to foreigners ineligible to receive BIP Interests. In lieu of their BIP Interests, such foreign holders will receive cash up to a cap at a price based on the volume weighed average price of BIP Interests over the 20 trading days prior to the expiry of the Bid and, to the extent required, any excess BIP Interests that would otherwise have been issued to ineligible foreign holders will be sold on-market, and Scheme Participants will receive the blended price. The cap will be US\$100 million or such greater amount (not exceeding \$300 million) determined by BIP.

If regulatory relief is not received and the associated condition is waived, all BIP Interests that would otherwise be issued to ineligible foreigners will be sold on-market on their behalf.

There will not be a voluntary liquidity facility under the Offer.

The Offer price will be 0.24 of a BIP Interest per Prime Security (which is the same as under the Schemes).

## 3 Conditions

### 3.1 Schemes

The Schemes are subject to the following Conditions Precedent:

- all waiting and other time periods under applicable laws or regulations having expired and all regulatory obligations having been complied with (including obtaining approvals, consents or relief from ASIC, ASX, FIRB, the Overseas Investment Office of New Zealand, the European Competition Commission, the Committee on Foreign Investment in the United States, the Federal Energy Resources Commission, the Federal Trade Commission and Assistant Attorney General in charge of the Anti-Trust Division of the Department of Justice, the Toronto Stock Exchange, the New York Stock Exchange and the Ontario Securities Commission);
- no order being issued (and no application being made, and no action or investigation being announced) by a regulatory authority that restrains or prohibits the completion of the Schemes or requires the divestiture by BIP or BIP Bermuda Holdings IV Limited of any Prime Securities or the divestiture of any assets of Prime (unless such order is no longer effective by the end of the Offer);
- no objection being lodged within the applicable 30 day period to the final approval of the NGPL Settlement approved by the Federal Energy Regulatory Commission (**FERC**);
- the distribution by PIHL to its ordinary shareholders of Prime AET&D Holdings No.1 Pty Ltd shares occurring;
- the Company Scheme and the Trust Schemes being approved by Prime Securityholders in accordance with the Corporations Act;
- the interest holders of BIP approving the issue of BIP Interests for the purposes of providing consideration under the Schemes;
- the Toronto Stock Exchange and the New York Stock Exchange approving the listing of the BIP Interests to be offered as consideration under the Schemes;
- the Court approving the Company Scheme in accordance with section 411(4)(b) of the Corporations Act and providing the requested confirmation under section 63 of the Trustee Act 1925 (NSW) in respect of each Trust Scheme;

- all approvals of third parties which are necessary or desirable to implement the Schemes being obtained, including consents to avoid breach of any change of control provisions;
- the Independent Expert issuing a report concluding that the Schemes are in the best interests of the Scheme Participant and are fair and reasonable;
- there being no Prime Prescribed Occurrence, without BIP's consent and no Brookfield Prescribed Occurrence, without Prime's consent;
- there being no Prime Material Adverse Change and no Brookfield Material Adverse Change;
- the Implementation Deed not being terminated;
- BIP signing and delivering the Deed Poll before the date of despatching the Scheme Booklet to Prime Securityholders;
- there being no change in law that restrains or prohibits the implementation of the Schemes or requires the divestiture by BIP or BIP Bermuda Holdings IV Limited of any Prime Securities or the divestiture of any assets of Prime;
- Prime does not breach or threaten to breach any provisions of any agreement to which Prime (or its subsidiaries) is party which results in any monies owed by Prime being repayable earlier than the original repayment date, or another specified event, that has a materially adverse effect on Prime;
- all material approvals or authorisations required for the operation of the business by Prime remaining in force; and
- the Prime Board not withdrawing its recommendation of the Schemes to Prime Securityholders.

### 3.2 Offer

It is intended that the Offer will be subject to the following conditions:

- the Schemes do not become effective including because the Schemes are not approved or the Schemes are withdrawn;
- no objection being lodged within the applicable 30 day period to the final approval of the NGPL Settlement approved by the Federal Energy Regulatory Commission;
- there being no Prime Prescribed Occurrence, without BIP's consent;
- there being no Prime Material Adverse Change;
- the distribution by PIHL to its ordinary shareholders of Prime AET&D Holdings No.1 Pty Ltd shares occurring;
- all waiting and other time periods under applicable laws or regulations having expired and all regulatory obligations having been complied with (including obtaining approvals, consents or relief from ASIC, ASX, FIRB, the Overseas Investment Office of New Zealand, the European Competition Commission, the Committee on Foreign Investment in the United States, the Federal Energy Resources Commission, the Federal Trade Commission and Assistant Attorney General in charge of the Anti-Trust Division of the Department of Justice, the Toronto Stock Exchange, the New York Stock Exchange and the Ontario Securities Commission);
- all approvals of third parties and lender consents for the Offer to proceed are obtained, including consents to avoid breach of any change of control provisions;
- no order being issued (and no application being made, and no action or investigation being announced) by a regulatory authority, other than ASIC or the

Takeovers Panel, that restrains or prohibits the completion of the Offer or requires the divestiture by BIP or BIP Bermuda Holdings IV Limited of any Prime Securities or the divestiture of assets of Prime (unless such order is no longer effective by the end of the Offer);

- there being no change in law that restrains or prohibits the completion of the Offer or requires the divestiture by BIP or BIP Bermuda Holdings IV Limited of any Prime Securities or the divestiture of any assets of Prime;
- Prime does not breach or threaten to breach any provision of any agreement to which Prime (or its subsidiaries) is party which results in any monies owed by Prime being repayable earlier than the original repayment date, or another specified event, that has a materially adverse effect on Prime;
- all material approvals or authorisations required for the operation of the businesses of Prime remaining in force;
- the Prime Board not withdrawing its recommendation of the Offer to Prime Securityholders;
- the interest holders of BIP approving the issue of BIP Interests as consideration for Prime Securities under the Offer;
- the Toronto Stock Exchange and the New York Stock Exchange approving the listing of the BIP Interests to be offered as consideration under the Scheme;
- the Independent Expert issuing a report concluding that the Offer is fair and reasonable and not changing its opinion to one that the offer is not fair and reasonable;
- ASIC granting relief to permit the operation of the foreign holders sale facility as described above; and
- consents and waivers necessary under the Prime Corporate Facility Agreement and ANZ Bank Guarantee Facility Agreement have been obtained by 4 October 2010.

#### **4 Prime Prescribed Occurrences**

Where BIP has not consented to the event and where Prime has not disclosed the occurrence of the event to BIP prior to the date of the Implementation Deed (and the event is not required or contemplated by the Implementation Deed), a Prime Prescribed Occurrence Event means the occurrence of any of the following:

- Prime converts all or any of its shares or units into a larger or smaller number of shares or units;
- Prime resolves to reduce its capital or reclassifies, combines, splits or redeems or repurchases any of its issued securities or financial products;
- Prime enters into or approves a buy-back agreement or withdrawal offer;
- Prime makes or declares any distribution excluding any distributions made in the ordinary course not exceeding 7.5 cents per Prime Security per quarter;
- Prime or any of its subsidiaries issues, grants an option over or agrees to issue or grant an option over its securities to a person other than Prime or a controlled entity which is wholly owned, directly or indirectly, by Prime or by the relevant issuer or grantor;
- Prime or a controlled entity of Prime issues, or agrees to issue, securities or instruments convertible into securities to a person other than Prime or a controlled entity wholly owned, directly or indirectly, by Prime or by the relevant issuer;
- Prime adopts a new constitution or modifies or repeals its constitution or a provision of it other than as required for the Trust Schemes;

- Prime or any of its subsidiaries disposes, or agrees to dispose of the whole or a substantial part of the Prime Group's business, property or undertaking;
- Prime or any of its subsidiaries acquires or disposes of, agrees to acquire or dispose of, or offers, proposes or announces a bid or tenders for any assets exceeding \$50 million;
- Prime or any of its subsidiaries create, or agree to create, any new encumbrance over the whole of its business or property of over \$50 million in value;
- Prime enters into or agrees to enter into a contract requiring payments in excess of \$50 million over the term of the contract and under which a person does not have an unconditional right to terminate within 12 months without penalty;
- Prime or any of its subsidiaries becomes insolvent, is wound up or terminated which results, or is reasonably likely to result, in a Prime Material Adverse Change;
- either of PIHL or PIRE effects or facilitates the retirement, removal or replacement of PIRE as trustee or responsible entity of PIT or PIT2 or a meeting is convened in response to a notice (otherwise than a notice signed by or on behalf of BIP or its related entities) received by PIRE requisitioning a meeting of Prime Securityholders to replace PIRE as the responsible entity of PIT or PIT2;
- either of PIHL or PIRE does or omits to do anything that could restrict PIRE's right of indemnity from trust property;
- either of PIHL or PIRE effects or facilitates the termination of PIT or PIT2;
- either of PIHL or PIRE effects or facilitates the resettlement of the property of PIT and PIT2;
- the occurrence of any review event or event of default under any third party loan to any member of the Prime Group and the taking of any step by any lender thereunder to enforce the terms thereof and which results, or is reasonably likely to result, in a Prime Material Adverse Change; or
- Prime ceases to be admitted to the official list of ASX.

## 5 Brookfield Prescribed Occurrence

Where Prime has not consented to the event and where BIP has not disclosed the occurrence of the event to Prime prior to the date of the Implementation Deed (and the event is not required or contemplated by the Implementation Deed), a Brookfield Prescribed Occurrence Event means the occurrence of any of the following:

- BIP converts all or any of its partnership interests into a larger or smaller number of partnership interests;
- BIP or a controlled entity of BIP issues, grants an option over or agrees to issue or grant an option over its securities to a person other than BIP or a controlled entity which is wholly owned, directly or indirectly, by BIP or by the relevant issuer or grantor other than BIP interests issued under the BIP Distribution Reinvestment Plan, or issued (subject to specified limitations) to fund the liquidity facility or issued upon conversion of existing specified convertible interests;
- BIP or a controlled entity of BIP issues, or agrees to issue, securities or instruments convertible into securities to a person other than BIP or a controlled entity wholly owned, directly or indirectly, by BIP or by the relevant issuer except for the issue of 'redeemable equity units' issued (subject to specified limitations) for the purposes of funding the Schemes or the Offer;

- BIP adopts a new limited partnership agreement or other constitutional document or modifies or repeals any such document or a provision of it;
- BIP makes or declares any distribution, reduction of capital, contribution reduction or otherwise other than distributions made by BIP in the ordinary course in accordance with guidance issued on or prior to the Announcement Date;
- BIP disposes, or agrees to dispose, of the whole or a substantial part of BIP's business, property or undertaking;
- BIP or a controlled entity of BIP becomes insolvent, is dissolved, wound up or terminated which results, or is reasonably likely to result, in a Brookfield Material Adverse Change;
- another entity replaces Brookfield Infrastructure Partners Limited as the general partner of BIP (except Brookfield Asset Management Inc., BIP Bermuda Holdings IV Limited or their associates who are wholly-owned (directly or indirectly) by Brookfield Asset Management Inc.);
- the occurrence of any review event or event of default under any third party loan to BIP or a Controlled Entity and the taking of any step by any lender thereunder to enforce the terms thereof and which results, or is reasonably likely to result, in a Brookfield Material Adverse Change;
- BIP Interests cease to be quoted on both of the New York Stock Exchange and the Toronto Stock Exchange;
- BIP or a controlled entity of BIP creates, or agrees to create, any new encumbrance over the whole of its business or property of over US\$100 million in value; or
- BIP contravenes the Limited Partnership Act 1883 of Bermuda, The Partnership Act 1902 of Bermuda or the Exempted Partnerships Act 1992 of Bermuda which results in a Brookfield Material Adverse Change.

## **6 Prime Material Adverse Change**

Any event, change or matter which has occurred or becomes known to BIP and which (individually or when aggregated with all such events, changes or matters) has, or could reasonably be expected to have a material adverse effect on the businesses, assets, liabilities, financial or trading position, profitability or prospects of Prime and its controlled entities (taken as a whole), other than events or matters required to be done by Prime pursuant to the Implementation Deed or an event, occurrence or matter apparent or reasonably ascertainable by BIP from public announcements made by Prime to any stock exchange or information disclosed in writing by Prime to BIP or Brookfield Asset Management Inc. prior to the date of the Implementation Deed.

## **7 Brookfield Material Adverse Change**

Any event, change or matter which has occurred or becomes known to Prime and which (individually or when aggregated with all such events, changes or matters) has, or could reasonably be expected to have a material adverse effect on the businesses, assets, liabilities, financial or trading position, profitability or prospects of BIP and its controlled entities (taken as a whole), other than events or matters required to be done by BIP pursuant to the Implementation Deed or an event, occurrence or matter apparent or reasonably ascertainable by Prime from public announcements made by BIP to any stock exchange or information disclosed in writing by BIP to Prime prior to the date of the Implementation Deed.

## **8 Exclusivity**

Prime has warranted that other than the discussions with BIP in respect of the Schemes and the Offer, it is not currently in discussions in respect of any proposal or transaction

that would result in a person other than BIP acquiring a relevant interest in 20% or more of Prime Securities or 20% or more of Prime's assets or obtaining control of Prime (**Competing Bid**).

Prime has agreed to a 'no shop' provision. In addition, subject to their statutory and fiduciary duties, the Prime Directors must notify BIP if Prime receives any unsolicited approaches with respect to a Competing Bid (or certain events likely to lead to, or relate to, a Competing Bid). BIP (or a related entity) has the right to match any Competing Bid.

## 9 Termination

Either Prime or BIP may terminate the Implementation Deed:

- if the other party is in material breach of the Implementation Deed and that breach remains unremedied within 10 business day of receiving notice of that breach;
- if the other party becomes insolvent or a related body corporate of the other party becomes insolvent and this constitutes a Brookfield Material Adverse Change or a Prime Material Adverse Change (as appropriate);
- if the Independent Expert opines that, or changes its previously given opinion to an opinion that, the Schemes are not in the best interests of Prime Securityholders and the Offer is not fair and reasonable;
- if a Court, governmental body or regulator has taken action which permanently restrains or prohibits the Schemes or Offer;
- if a Competing Bid that is more favourable to Prime Securityholders in the reasonable, good faith opinion of all the Prime Directors (after taking financial and legal advice) is made;
- 6 months after the date of the Implementation Deed; or
- if agreed by Prime and BIP.

BIP may terminate the Implementation Deed if:

- a majority of the Prime Directors (excluding the Prime Directors who were nominated by BIP) withdraw their recommendation to Prime Securityholders to approve the Schemes or accept the Offer;
- the Independent Expert opines that the Schemes are not in the best interests of Prime Securityholders or the Offer is not fair and reasonable;
- Prime breaches a representation and warranty contained in the Implementation Deed and this breach results in a Prime Material Adverse Change; or
- the Schemes have not become effective on or before 31 December (**End Date**) or cannot be effective or implemented on or before the End Date.

Prime may terminate the Implementation Deed if:

- BIP breaches a representation and warranty contained in the Implementation Deed and this breach results in a Brookfield Material Adverse Change;
- a majority of the Prime Directors (excluding the Prime Directors who were nominated by BIP) withdraw their recommendation in relation to the Schemes and the Offer as permitted by the Implementation Deed; or
- the financing facility which BIP is required to provide to Prime is not executed before dispatch of the Offer.

In addition, Prime may terminate the Schemes only, if:

- a majority of the Prime Directors (excluding the Prime Directors who were nominated by BIP) withdraw their recommendation in relation to the Schemes as permitted by the Implementation Deed; or

- the Independent Expert opines that the Schemes are not in the best interests of Prime Securityholders.

Prime may terminate its obligations in relation to the Offer only, if:

- a majority of the Prime Directors (excluding the Prime Directors who were nominated by BIP) withdraw their recommendation in relation to the Offer as permitted by the Implementation Deed; or
- the Independent Expert opines that the Offer is not fair and reasonable.

If a termination right is exercised, the Schemes will not proceed and, in certain circumstances, BIP will be able to withdraw the Offer.

## **10 Representations, warranties and other obligations**

Each of Prime and BIP has given representations and warranties to the other which are customary for an agreement of this kind. The Implementation Deed also contains the usual mechanical provisions relating to the formulation, documentation and prosecution of the Schemes and the Offer.

## **11 End Date**

Prime and BIP have committed to implement the Schemes by the End Date. If the Schemes are not effective by the End Date, Prime and BIP must consult in good faith to determine whether the Schemes can proceed by way of alternative means, to extend the relevant time or date for the satisfaction of the Conditions Precedent or to extend the End Date.

If the parties cannot reach agreement within 5 business days, either party may terminate the Implementation Deed insofar it relates to the Schemes.

**ENDS**