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# **CMTS LEASE OF LAND**

**(Queensland)**

**Property: 15 Enterprise Street, Svensson Heights  
QLD 4670 (Bundaberg Svenssons Heights CMTS)**

**Stewart and Sons (BDC) Super Pty Ltd A.C.N.  
153 262 321 Trustee under Instrument 710801841**

**Telstra Corporation Limited  
ABN 33 051 775 556**

Dealing Number



OFFICE USE ONLY

Privacy Statement

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<b>1. Lessor</b>	<b>Lodger</b> (Name, address, E-mail & phone number)	<b>Lodger Code</b>
Stewart and Sons (BDC) Super Pty Ltd A.C.N. 153 262 321 Trustee under Instrument 710801841	Australian Government Solicitor GPO Box 1408 BRISBANE QLD 4001 P: 07 3360 5600 Ref: 16009392/JS	67A

<b>2. Lot on Plan Description</b>	<b>County</b>	<b>Parish</b>	<b>Title Reference</b>
Lot 183 on SP 104386			50349812

<b>3. Lessee</b> Given names	Surname/Company name and number (include tenancy if more than one)
	TELSTRA CORPORATION LIMITED ABN 33 051 775 556

**4. Interest being leased**  
Fee Simple

**5. Description of premises being leased**  
Lease E in Lot 183 on SP 104386 as shown on SP 278126

<b>6. Term of lease</b>	<b>7. Rental/Consideration</b>
Commencement date/event: 01/12/2016 Expiry date: 30/11/2021 and/or Event: Options: Nil	See schedule

**8. Grant/Execution**

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in:- the attached schedule

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

.....signature	
.....full name	See Enlarged Panel
.....qualification / /	.....
<b>Witnessing Officer</b>	<b>Execution Date</b>
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	<b>Lessor's Signature</b>

**9. Acceptance**

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

.....signature	
.....full name	See Enlarged Panel
.....qualification / /	.....
<b>Witnessing Officer</b>	<b>Execution Date</b>
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)	<b>Lessee's Signature</b>

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8. Grant/Execution

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in:- the attached schedule

Witnessing officer must be aware of his/her obligations under section 162 of the Land Title Act 1994

Executed by Stewart and Sons (BDC) Super Pty Ltd  
A.C.N. 153 262 321 by persons authorised to sign on its  
behalf pursuant to section 127 of the Corporations Act 2001  
(Cth)

*[Signature]* .....signature  
CHRISTOPHER ARTHUR SMITH full name  
JP (qual) .....qualification 30/11/17  
Witnessing Officer Execution Date Director



*[Signature]* .....signature  
CHRISTOPHER ARTHUR SMITH full name  
JP (qual) .....qualification 30/11/17  
Witnessing Officer Execution Date Director/Secretary  
(Witnessing officer must be in accordance with Schedule 1 of Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

9. Acceptance

The Lessee accepts the lease and acknowledges the amount payable or other considerations for the lease.

Lessee's Signature

*[Signature]* .....signature  
TING HUNG LAM full name  
JP REGISTERED No 193748 qualification 19/12/16  
Witnessing Officer Execution Date  
SIGNED BY *[Signature]*  
CON 246OURAS

The following parties may witness execution:

- a notary public;
- a Justice of the Peace;
- a commissioner for declarations;
- a barrister;
- a solicitor; or
- a legal practitioner.

as attorney for TELSTRA CORPORATION LIMITED ABN 33 051 775 556 under power of attorney registered no. 708678956

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

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REFERENCE SCHEDULE

- Item 1 Lessor:**
- Name:** Stewart and Sons (BDC) Super Pty Ltd A.C.N.  
153 262 321 Trustee under Instrument  
710801841
- Address:** Attention: Brian Stewart  
Managing Director  
11-17 Production Street  
BUNDABERG QLD 4670
- Telephone:** (07) 4152 6311  
**Fax:** (07) 4153 1513
- Item 2 Lessee:**
- Name:** **Telstra Corporation Limited  
Director, Telstra Property**
- Address:** c/- Jones Lang LaSalle  
Level 34, 242 Exhibition Street  
MELBOURNE VIC 3000
- Attention:** Property Management Director  
**Email:** Telstra.Notices@ap.jll.com and  
F0901953@team.telstra.com
- Item 3 Premises:**  
(Clause 1.1)
- An area of approximately 367 square metres being part of the Land shown on the plan annexed to this Lease in Annexure "A" being Lease E in Lot 183 on SP 104386 as shown on Survey Plan 278126 and situated at 15 Enterprise Street, Svensson Heights QLD 4670.
- Item 4 Land:**  
(Clause 1.1)
- Lot 183 on SP 104386 (Title Reference 50349812)
- Item 5 Term:**  
(Clause 1.1)
- Five (5) years
- Item 6 Commencement Date:**  
(Clause 1.1)
- 1 December 2016
- Item 7 Terminating Date:**  
(Clause 1.1)
- 30 November 2021
- Item 8 Rent:**  
(Clause 1.1)
- \$10,613.63 per annum, subject to clause 3.1(b).
- Item 9 Payment of Rent:**  
(Clause 3.1)
- Yearly in advance on each anniversary of the Commencement Date by way of electronic funds transfer.

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<b>Item 10</b> (Clause 3.6)	<b>Permitted Use:</b>	Installation, inspection, maintenance, construction, excavation, replacement, repair, renewal, alteration, upgrade, cleaning, operation, access to and from and removal of the Facility on the Land in accordance with this Lease including the exercise of any rights as set out in the Act.
<b>Item 11</b> (Clause 5.4)	<b>Further Term:</b>	Not Applicable.
<b>Item 12</b> (Clause 3.1)	<b>Review of Rent:</b>	The Rent is to be increased on each Review Date by 5% per annum during the Term and any Further Term.
<b>Item 13</b> (Clauses 9 and 10)	<b>Existing Carrier:</b>	Not Applicable.
<b>Item 14</b> (Clause 1.2)	<b>Statutory provisions not applying:</b>	Sections 105 to 107 (inclusive) of the <i>Property Law Act 1974</i> (Qld)

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**DATE**

**PARTIES**

The Lessor.

The Lessee.

**RECITALS**

- A. The Lessor is the owner of the Land.
- B. The Lessor has agreed to grant and the Lessee has agreed to accept a lease of the Premises on the terms and conditions of this Lease.

**OPERATIVE PROVISIONS**

1. **INTERPRETATION**

1.1 **Definitions**

In this Lease:

**Act** means the *Telecommunications Act 1997* (Cth).

**Active Area** means those areas around the antennas marked red and yellow in the drawings contained in the SSD.

**Ancillary Equipment** means any associated fixtures, fittings and equipment required to maintain transmission and includes remote radio units, tower mounted amplifiers and associated mounts and supports.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in the State.

**Carrier** has the same meaning as is contained in the Act and includes a party acting in reliance upon a nominated carrier declaration made under Part 3 of the Act.

**Carrier Requirements** means the Lessee's obligation to comply with legislation, by-laws, policies, industry standards or codes, community obligations and technical requirements.

**Commencement Date** means the date specified in Item 6.

**Emergency** means circumstances where access must be provided without delay to protect:

- (a) the integrity of the Lessee's telecommunications network or the Facility; or
- (b) the health or safety of persons; or
- (c) the environment; or
- (d) property; or



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(e) maintenance of an adequate level of service or to prevent loss of transmission.

**Facility** means the telecommunications facility being the equipment housing, tower (if any), security fence, antennas, associated ancillary equipment and/or any other fixtures, fittings, structures, and cabling as altered, upgraded and/or added to in the Lessee's absolute discretion from time to time.

**Further Term** means a further term of this Lease, if any, as specified in Item 11.

**Item** means an item in the Reference Schedule.

**Land** means the land described in Item 4.

**Lease** means this lease and any equitable lease or common law tenancy evidenced by this lease.

**Lessee** means the party named in Item 2.

**Lessor** means the party named in Item 1.

**Permitted Use** means the use specified in Item 10.

**Premises** means the premises leased to the Lessee as described in Item 3.

**Reference Schedule** means the reference schedule in this Lease.

**Related Body Corporate** means:

- (a) a related body corporate; or
- (b) a body corporate of which the Lessee is either an associated entity or a related body corporate of an associated entity

as each of those terms are defined in the *Corporations Act 2001* (Cth).

**Rent** means the amount specified in Item 8 as varied on any Review Date under this Lease.

**Review Date** means each anniversary of the Commencement Date during the Term or any Further Term.

**Services** means electricity and any telecommunications services.

**SSD** means the Site Safety Documentation comprising the EME guide (formerly known as the radio communications site management book), the Site Compliance Report and the Site Compliance Certificate (as updated from time to time), access to a copy of which has been or will be provided to the Lessor by the Lessee.

**State** means the state or territory in which the Land is located.

**Term** means the term of this Lease as specified in Item 5 which begins on the Commencement Date and ends on the Terminating Date.

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**Terminating Date** means the date specified in Item 7.

**1.2 Rules for interpreting this Lease**

Unless the context otherwise requires:

- (a) A singular word includes the plural, and vice versa.
- (b) A word which suggests one gender includes the other genders.
- (c) If a word is defined, another part of speech using contextual variations of that word has a corresponding meaning.
- (d) Words of inclusion or example are not words of limitation.
- (e) Headings are for convenience only, and do not affect interpretation.
- (f) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Lease or any part of it.
- (g) As far as possible all provisions will be construed so as not to be invalid, illegal or unenforceable.
- (h) If anything in this Lease is unenforceable, illegal or void then it is severed and the rest of this Lease remains in force.
- (i) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this document or to any other document or agreement includes an executor, an administrator, a permitted substitute or a permitted assign of that party and where the party is a corporation, includes the corporation, its successors and assigns;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (j) Unless the context otherwise requires, the terms *installation* and *maintenance* (and contextual variations of those terms) where they are used in this Lease, have the same meanings and include the same activities as are provided under the Act.
- (k) The word *agreement* includes an undertaking or other binding arrangement or understanding in writing (and, only where expressly allowed by this Lease, includes oral agreement).

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- (l) Where a party consists of two or more persons or a term is used in this Lease to refer to more than one party:
  - (i) an obligation of those persons is joint and several;
  - (ii) a right of those persons is held by each of them severally; and
  - (iii) any other reference to that party or that term is a reference to each of those persons separately, so that (for example):
    - (A) a representation, warranty or undertaking is given by each of them separately; and
    - (B) a reference to that party or that term in the default clause in this Lease is a reference to each of those persons separately.
- (m) Any right given to the Lessor or the Lessee (as the case may be) may where the context so permits be exercised by that party's employees, agents, contractors or others authorised (expressly or implicitly) by that party.
- (n) Any obligation on the Lessor or the Lessee (as the case may be) will, where the context so permits, extend to the actions of that party or its authorised employees, agents, contractors, licensees, invitees, or others claiming under or through that party.
- (o) Without limiting any other rights of the Lessee, all licence, appurtenant and ancillary rights created in favour of the Lessee under this Lease in respect of or in connection with the Land run with the leasehold interest granted to the Lessee and will bind all successors, executors, transferees, assigns and other persons having an interest in the Land or any part of it from time to time.
- (p) The statutory provisions in Item 14 (if any) do not apply to this Lease.

**1.3 Good Faith**

The parties enter into this Lease in good faith and agree to act in a reasonable and co-operative manner.

**1.4 Consents**

Where the consent or approval of either party is required under this Lease, then the consenting party must:

- (a) not unreasonably withhold or delay its consent or approval;
- (b) not impose any conditions on any consent or approval which are inconsistent with the terms of this Lease; and
- (c) if withholding consent or approval, provide written reasons for this at the time the withholding is notified.

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**2. DEMISE**

**2.1 Lessee Rights**

The Lessor leases the Premises to the Lessee for the Term and for the Permitted Use and grants a licence to the Lessee over the Land (which licence is coupled with and runs with the leasehold interest) to:

- (a) have unrestricted access to and from the Premises and the Facility at all times, with or without all necessary vehicles, equipment and workmen;
- (b) lay electricity cables over, under or within the Land to connect the Facility to the public electricity supply and to transmit electricity through those cables;
- (c) lay communication cables and any other cables through or within the Land in connection with the Permitted Use and to use those cables;
- (d) repair, replace, renew, alter, maintain and upgrade the cables referred to in clauses 2.1(b) and 2.1(c);
- (e) install any and all antennas and associated Ancillary Equipment where necessary, including, where applicable, as specified on the plan annexed and to this Lease in Annexure "B", and alter the location of the antennas and associated Ancillary Equipment on the Land from time to time, in the Lessee's absolute discretion;
- (f) use the common areas and services on the Land (if any) as may be necessary for the Lessee's use and enjoyment of the Premises and the Facility; and
- (g) use so much of the Land adjoining and adjacent to:
  - (i) the Premises ; or
  - (ii) any installation, improvement or property of the Lessee,

as is reasonably required during installation, erection, construction, repair, replacement, renewal, maintenance and operation of the Facility (including the alteration, installation, upgrade, maintenance and use of an access track). The Lessee must restore the adjoining and adjacent Land as far as practicably possible to its condition prior to such use by the Lessee. In exercising these rights the Lessee will endeavour not to materially and substantially interfere with the rights of the other occupants of the land.

**2.2 Security**

- (a) In accessing the Premises and the Facility pursuant to clause 2.1(a), the Lessee must comply with any reasonable security arrangements of the Lessor of which the Lessee has received notice.
- (b) The Lessor must notify the Lessee of the Lessor's contact person for security purposes (including name, postal address, email address and phone number) who will be available 24 hours a day 7 calendar days a week. This person will be an Authorised Representative as contemplated by clause 7.1.

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- (c) In an Emergency, the Lessor must arrange for its security staff or contractor to give the Lessee access to the Premises and the Facility within 2 hours of notification by the Lessee to the Lessor or the Lessor's contact person nominated under clause 2.2(b). The Lessee's notification may be given in person, by post, telephone or email.
- (d) As soon as practicable after the Commencement Date, the Lessor must:
  - (i) notify its contact person nominated under clause 2.2(b) of the obligation set out at clause 2.2(c); and
  - (ii) ensure that its contact person nominated under clause 2.2(b) and any relevant security staff or contractor have processes in place to facilitate the Lessor's access obligations in clause 2.2(c).
- (e) The Lessee will reimburse the Lessor the cost of the Lessor's reasonable security expenses in providing Emergency access under clause 2.2(c) within 20 Business Days of receipt of a tax invoice from the Lessor.

**3. LESSEE'S COVENANTS**

**3.1 Rent and Rent Review**

- (a) The Lessee must pay the Rent in the manner set out in Item 9.
- (b) The Rent is a gross rent inclusive of all outgoings and is to be reviewed on each Review Date in accordance with Item 12.

**3.2 Condition of Premises**

- (a) Subject to clause 3.2(b), the Lessee must keep the Premises in good repair and condition (having regard to the condition of the Premises as at the Commencement Date) excluding fair wear and tear and any damage caused by fire, flood, lightning, storm, war or act of God.
- (b) The Lessee is not obliged to carry out any capital or structural works under clause 3.2(a) unless the work is required because of the negligent act or omission of the Lessee.

**3.3 Reinstatement and Make Good**

- (a) Within 3 months after the Terminating Date or earlier determination of the Lease the Lessee must remove that part of the Facility located above the surface of the Land, and make good at its cost any damage to the Land or Premises caused by such removal.
- (b) The parties agree that the period of 3 months referred to in clause 3.3(a) is not regarded as holding over for the purposes of clause 5.3 and Rent is not payable by the Lessee during this period.

**3.4 Assignment**

- (a) The Lessee must not assign this Lease, sublet or part with possession of the whole or part of the Premises, without the consent of the Lessor.

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- (b) Despite clause 3.4(a), the Lessee may assign the Lease, sublet, licence or part with possession of the whole or part of the Premises to a:
- (i) Related Body Corporate; or
  - (ii) a Carrier
- without the Lessor's consent. The Lessee must notify the Lessor of any dealing referred to in this clause 3.4(b) within 3 months of its occurrence.
- (c) With effect from the date of assignment of this Lease by the Lessee, the assignor Lessee and the Lessor release each other from all obligations and liabilities under this Lease, but without prejudice to any prior claim or remedy which either party may have against the other.
- (d) For the avoidance of doubt, and for the purposes of this clause 3.4 a reference to the 'Lease' includes any licence rights granted to the Lessee in this Lease and any rights which are appurtenant or ancillary to this Lease, and a reference to the 'Premises' includes any areas over which the Lessee holds licence, appurtenant or ancillary rights.

**3.5 Services**

- (a) The Lessee may install separate metering for the Services to the Premises.
- (b) The Lessee must install separate metering for the Services to the Premises if:
- (i) requested by the Lessor; and
  - (ii) it is reasonably able and permitted by any relevant authority to do so.
- (c) The Lessee will bear the cost of separate metering under clause 3.5(a) or under clause 3.5(b) and must pay to the suppliers all charges for the separately metered Services that are consumed or used by the Lessee.

**3.6 Use of Premises**

The Lessee:

- (a) may carry out any structural work required for the installation of the Facility;
- (b) may only use the Premises for the Permitted Use.

**4. LESSOR'S COVENANTS**

**4.1 Quiet Enjoyment**

- (a) So long as the Lessee pays the Rent and performs its obligations under this Lease, it is entitled to quiet enjoyment of the Premises and to undertake the Permitted Use on the Land without any interruption by the Lessor or any person lawfully claiming through the Lessor or in any other manner.

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- (b) The Lessor must not manipulate, tamper with, interfere with, damage, deface, remove or destroy the Facility or any part of it or its operation and must comply with the Lessee's reasonable directions in relation to the Facility.
- (c) The Lessor agrees that it must notify the Lessee, both in accordance with the contact details in Item 2 and any contact details provided on the signage referred to in clause 4.1(d) of any proposed access by the Lessor which requires entry to the Premises or approach to the Active Area so that the Lessee can ensure that the Lessor is aware of the Lessee's safety and security procedures. The Lessor must comply with the Lessee's safety and security procedures.
- (d) The Lessee has the right to erect signage around the Premises and the Facility for the purposes of complying with Australian safety standards. The Lessor must comply with the Lessee's signage when entering the Premises or approaching the Active Area.

**4.2 Non-derogation from Grant**

The Lessor must not derogate from its grant of this Lease to the Lessee and this obligation of the Lessor is not excluded or in any way limited by any other provision of this Lease.

**4.3 Subsequent Occupiers**

- (a) Where the Lessor proposes to grant rights of occupancy on the Land to:
  - (i) other Carriers or occupiers; or
  - (ii) third parties and those rights include the right to operate radio communications and/or telecommunications equipment on the Landthe Lessor must first:
  - (iii) promptly give notice to the Lessee of such a proposal; and
  - (iv) where the grant is likely to adversely affect, impair or interfere with (**Affect**) the Lessee's Permitted Use, the Lessor must also obtain the Lessee's consent to such a proposal.
- (b) In considering a request for consent under clause 4.3(a) the Lessee will determine if its Permitted Use will be Affected.
- (c) If the Lessee establishes during the Term that changes to other Carriers' or occupiers' facilities after the initial installation of the facility by the other Carrier or occupier Affect the Lessee's Permitted Use, the Lessor, immediately upon receipt of notice from the Lessee, use its best endeavours to either:
  - (i) arrange for the other Carrier or occupier to modify its facility or the operation of it so that it no longer Affects the Lessee's Permitted Use;
  - (ii) arrange for the relocation of the other Carrier's or occupier's facility so that it no longer Affects the Lessee's Permitted Use; or



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- (iii) terminate the arrangement with the other Carrier or occupier.
- (d) The Lessor's obligations under clauses 4.3(a)(iv) are essential terms of this Lease. The Lessee may treat the Lessor's breach of an essential term as a repudiation of this Lease and may terminate this Lease for breach of this essential term and for repudiation. This clause does not prevent any other obligations under this Lease from being essential terms.

**4.4 Condition of Land**

The Lessor must repair, maintain and keep in good and substantial repair the Land (including all fixtures and fittings of the Lessor if any) subject always to the obligations of the Lessee under this Lease.

**4.5 Permits and Approvals**

The Lessor:

- (a) irrevocably authorises the Lessee, at the Lessee's expense, to make applications to any relevant authority for any necessary permits, consents and approvals to enable the development, construction and use of the Facility in accordance with the Permitted Use and to exercise and procure (at the Lessee's discretion) every right of appeal arising from the determination of any such application or the failure to determine such application; and
- (b) must sign all documentation and provide all assistance required by the Lessee, or any person nominated by the Lessee to obtain the permits, consents and approvals referred to in clause 4.5(a).

**4.6 Consent of Mortgagee or Chargee**

If the Premises are subject to a mortgage or charge, the Lessor must obtain the unconditional mortgagee's or chargee's consent to this Lease and the Lessee must pay the mortgagee's or chargee's reasonable consent costs.

**4.7 Intentionally Deleted**

**4.8 Surrender**

- (a) The Lessee may terminate this Lease on giving the Lessor no less than 20 Business Days' notice at any time where it is unable to comply with or satisfy any Carrier Requirements provided that this right to terminate is only available to the Lessee prior to completion of the initial installation of the Facility.
- (b) Despite any other provision of this Lease, the Lessor covenants that if factors affect the Lessee's use of the Premises to the extent that:
  - (i) the Permitted Use is compromised or the Premises are no longer required by the Lessee; or
  - (ii) the level of service provided by the Lessee to its customers falls below the coverage level acceptable to the Lessee or as a result of significant network changes, the Facility ceases to operate as a part of the Lessee's telecommunications network; or



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- (iii) there is an emergence of radio interference or physical interference which, in the Lessee's opinion, materially interferes with the Permitted Use or the performance of the Facility

then the Lessee may terminate this Lease on giving to the Lessor no less than 6 months' notice at any time.

- (c) If the Lessee exercises its right to terminate this Lease under clause 4.8(a) or clause 4.8(b):
  - (i) it must at its cost reinstate the Premises in accordance with clause 3.3; and
  - (ii) that termination is without prejudice to any prior claim or remedy which either party may have against the other.

**4.9 No Restriction on Commonwealth Legislation**

- (a) Nothing in this Lease affects, restricts, limits or derogates from the rights, powers and immunity of the Lessee under and by virtue of the Act or any other applicable legislation and/or regulations of the Commonwealth.
- (b) The Lessor agrees pursuant to clause 17(5) Division 5 Part 1 of Schedule 3 of the Act to waive its right to:
  - (i) be given a notice under clause 17(1) Division 5 Part 1 of Schedule 3 of the Act of the Lessee's exercise of its powers to inspect and/or install a low impact installation and to maintain the Facility; and
  - (ii) object to an activity which would have been the subject of a notice if not for the operation of this clause.
- (c) The operation of this clause survives the expiry or termination of this Lease.

**4.10 Access Track and/or Power Connection**

Where the Lessee installs, upgrades or maintains at its cost any access track or power connection then any other person (except the Lessor) who wishes to utilise the access track or power connection, must share in the cost of installation, upgrading and maintenance as apportioned by the Lessee. The Lessor must ensure that any subsequent grant of a lease or licence to a third party includes an obligation on that lessee or licensee to bear such apportioned costs.

**4.11 Lessee's Property**

The Facility remains at all times the property of the Lessee, even if it becomes attached to the Land.

**4.12 Contamination**

The Lessor:

- (a) warrants that, to the best of its knowledge at the Commencement Date, the Land and the Premises do not contain substances hazardous to health or safety; and

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- (b) confirms that:
- (i) in respect of the Land; and
  - (ii) in respect of the Premises, so far as the Lessor is aware or reasonably should be aware, the warranty in clause 4.12(a) remains true at all times during the Term and any holding over period.

**4.13 Refund of Rent on Termination**

If this Lease is terminated by the Lessee prior to the Terminating Date pursuant to clauses 4.8 or 5.1(c), the Lessor must, within 20 Business Days of the date of termination, refund to the Lessee any Rent paid in advance for that portion of the Term after the date of termination.

**4.14 Events Affecting Land**

If:

- (a) the Lessor sells or otherwise disposes of its interest in the whole or any part of the Land;
- (b) the Lessor receives a notice, or would reasonably be aware, of a proposal for development occurring on adjoining land;
- (c) the Lessor changes its address for notices; or
- (d) a mortgagee or any other person becomes entitled to the receipt of Rent and other payments under the Lease or becomes entitled to any of the rights and obligations of the Lessor under this Lease

the Lessor must give the Lessee prompt notice of the above circumstances and, if it fails to do so, then the Lessor releases the Lessee from, and must compensate the Lessee for, all claims for which the Lessee may become liable as a result of the Lessor's failure or delay in notifying the Lessee of the above circumstances.

**5. MUTUAL COVENANTS**

**5.1 Default and Re-entry**

- (a) If the Rent is 1 month in arrears or if the Lessee fails to perform its other obligations under this Lease and the Lessee does not within:
- (i) 20 Business Days in the case of non-payment of Rent; and
  - (ii) 60 Business Days in the case of all other breaches,
- from the date of receipt of notice from the Lessor providing reasonable particulars of the default:
- (iii) remedy the default; or

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- (iv) if the default cannot be remedied, pay reasonable compensation to the Lessor for the loss or damage suffered by the Lessor as a consequence of the default,

then the Lessor may re-enter upon the Premises without interfering with the Facility and subject to all laws relating to the Facility.

- (b) This Lease determines on the Lessor's re-entry but without prejudice to any prior claim or remedy which either party may have against the other.
- (c) If any of the Lessor's covenants and conditions contained or implied in this Lease are not punctually performed or observed, and such default continues for a period of 30 Business Days after notice specifying such default is served on the Lessor, then the Lessee may terminate this Lease by notice to the Lessor. On the serving of the notice of termination by the Lessee this Lease is at an end, but without prejudice to any prior claim or remedy which either party may have against the other.

**5.2 Costs of Lease**

- (a) The Lessee must contribute to the Lessor's reasonable legal fees and disbursements for the preparation, negotiation and execution of this Lease an amount not exceeding \$750.00.
- (b) If stamp duty or registration fees are:
  - (i) payable on this Lease; and
  - (ii) the relevant law makes the Lessee liable to pay themthe Lessee will pay the applicable stamp duty or registration fees.

**5.3 Holding Over**

- (a) If the Lessee occupies the Premises after the Terminating Date without demand for possession by the Lessor and the Lessee is not entitled to or does not want a new lease, then the Lessee occupies the Premises under a yearly tenancy.
- (b) The Lessee occupies the Premises at the same Rent payable prior to the Terminating Date, subject to review in accordance with clause 3.1, and otherwise on the same terms as this Lease, so far as they can be applied to a yearly tenancy.
- (c) Either party may terminate the yearly tenancy by giving no less than 1 year's notice to the other (which notice may expire at any time).

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**5.4 Intentionally Deleted**

**6. INSURANCE AND INDEMNITY**

**6.1 Property Insurance - Lessee to self insure**

For so long as Telstra Corporation Limited (or its corporate successor) is the Lessee, the Lessor acknowledges that the Lessee will self insure the respective rights and interests of the Lessor and the Lessee for damage which must be repaired by the Lessee under this Lease.

**6.2 Lessee to insure if self insurance ceases**

If the Lessee:

- (a) elects to discontinue; or
- (b) is unable to continue,

the self insurance referred to in clause 6.1, the Lessee must effect such insurance with an insurer reasonably approved by the Lessor against the insurable risks required under this Lease.

**6.3 Workers' Compensation Insurance**

For so long as Telstra Corporation Limited (or its corporate successor) is the Lessee, the Lessor acknowledges that the Lessee holds a licence pursuant to the *Safety, Rehabilitation and Compensation Act 1988* (Cth).

**6.4 Public Liability Insurance**

- (a) For so long as Telstra Corporation Limited (or its corporate successor) is the Lessee, the Lessor acknowledges that the Lessee has a global insurance policy which includes public liability insurance in excess of \$20 million and which includes the Lessor as an insured to the extent required in this Lease.
- (b) If requested in writing by the Lessor, the Lessee will provide the Lessor with a letter confirming the Lessee's insurance as specified under this clause, such request not to be made more than once a year during the Term.

**6.5 Indemnity**

- (a) The Lessee indemnifies the Lessor against any liability, loss, damage, costs or expenses incurred or suffered by the Lessor which is caused solely and directly by:
  - (i) a breach of this Lease by the Lessee; or
  - (ii) the negligence of the Lessee or an employee or agent of the Lessee acting within the scope of their authority.
- (b) The indemnity provided by the Lessee under this clause 6.5 will not exceed \$20 million per event and in the aggregate.

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- (c) The liability of the Lessee to indemnify the Lessor under this clause 6.5 must be reduced proportionately to the extent that any act or omission of the Lessor contributed to the liability, loss, damage, costs or expenses.
- (d) In defending or settling any claim, action or demand the subject of an indemnity under this clause 6.5, the Lessor must follow the Lessee's reasonable instructions.
- (e) The Lessor must not settle any claim, action or demand the subject of an indemnity under this clause 6.5 without obtaining the prior consent of the Lessee, and the Lessor must take reasonable steps to mitigate any liability, loss, damage, costs or expenses including taking reasonable court action to defend any claim, action or demand made against the Lessor.

**7. NOTICES**

**7.1 Authorised Representative**

In this clause 7.1 Authorised Representative:

- (a) *in the case of the Lessor* - means the Lessor, a director of the Lessor (if the Lessor is a company) or any other person (including an agent or lawyer) notified by the Lessor to the Lessee as its Authorised Representative; and
- (b) *in the case of the Lessee* - means the Property Management Director set out at Item 2, or any other person (including an authorised employee or officer of the Lessee, an agent or lawyer) notified by the Lessee to the Lessor as its Authorised Representative.

**7.2 How to give a notice**

Subject to clause 7.3, a notice, consent or other communication under this Lease is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address; or
  - (ii) sent by email to that person's email address or email addresses (where they are specified in the Reference Schedule, or as notified to the other party in writing from time to time). Where more than one email address is specified, the notice consent or other communication must be sent to all specified email addresses.

**7.3 Oral Notice**

Where this Lease expressly permits that a notice may be given orally, then:

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- (a) *in the case of a notice from the Lessor* - the notice can be given by the Lessor's Authorised Representative; and
- (b) *in the case of a notice from the Lessee* - the notice can be given by the Lessee's Authorised Representative.

**7.4 When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) where it is given by email:
  - (i) *if delivered by 5.00 pm on a Business Day* - at the time (local time in the place of receipt) specified in the delivery confirmation or receipt generated by the sender's email; or
  - (ii) *if delivered after 5.00 pm on a Business Day or on a day that is not a Business Day* - on the next Business Day after the time (local time in the place of receipt) specified in the delivery confirmation or receipt generated by the sender's email;
- (b) where it is sent by mail:
  - (i) within Australia - 7 Business Days after posting; or
  - (ii) to or from a place outside Australia - 10 Business Days after posting; and
- (c) if it is given orally - at the time it is given.

**7.5 Address for notices**

A person's address and email are those set out below that person's name in the relevant Item in the Reference Schedule in this Lease, or as the person notifies the sender.

**8. GST**

**8.1 Recovery of GST**

If one party (**supplying party**) makes a taxable supply and the consideration for that supply does not expressly include GST, the party that is liable to provide the consideration (**receiving party**) must also pay an amount (**GST amount**) equal to the GST payable in respect of that supply.

**8.2 Time for payment of GST amount**

Subject to first receiving a tax invoice or adjustment note as appropriate, the receiving party must pay the GST amount when it is liable to provide the consideration.

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**8.3 Indemnity and reimbursement payments**

If one party must indemnify or reimburse another party (**payee**) for any loss or expense incurred by the payee, the required payment does not include any amount which the payee (or an entity that is in the same GST group as the payee) is entitled to claim as an input tax credit, but will be increased under clause 8.1 if the payment is consideration for a taxable supply.

**8.4 Adjustment events**

If an adjustment event arises in respect of a taxable supply made by a supplying party, the GST amount payable by the receiving party under clause 8.1 will be recalculated to reflect the adjustment event and a payment will be made by the receiving party to the supplying party, or by the supplying party to the receiving party, as the case requires.

**8.5 Time limit on payment of the GST amount**

Notwithstanding any other provision in this Lease, the receiving party is not required to pay the GST amount referred to in clause 8.2 unless it has received a tax invoice in respect of the supply (or, if section 156-5(1) of the GST Act applies to the supply, the periodic or progressive component of the supply) from the supplying party within three years and 11 months after the end of:

- (a) the first calendar month in which any of the consideration for the supply (or the periodic or progressive component of the supply) is provided; or
- (b) if an invoice is issued prior to the provision of any of the consideration for the supply (or the periodic or progressive component of the supply), the calendar month in which the invoice is issued.

**8.6 Interpretation**

In this Lease:

- (a) terms used that are defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) (**GST Act**) have the meaning given in that Act, unless the context makes it clear that a different meaning is intended; and
- (b) consideration includes non-monetary consideration, in respect of which the parties must agree on a market value, acting reasonably; and
- (c) in addition to the meaning given in the GST Act, the term "GST" includes a notional liability for GST.

**9. INTENTIONALLY DELETED**

**10. INTENTIONALLY DELETED**

**11. TERMINATION OF SUBSEQUENT LEASES AND PRIOR LEASE**

- (a) In this clause 11:



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- (i) **Subsequent Lease** means a lease, if any, between the Lessor and the Lessee of the Premises for a period of time commencing after the Terminating Date; and
  - (ii) **Prior Lease** means a lease, if any, between the Lessor and Lessee of the Premises for a period of time prior to the Commencement Date.
- (b) The Lessee may terminate any Subsequent Lease for any reason in its absolute discretion by giving the Lessor written notice at least 1 month before the Terminating Date. The Subsequent Lease terminates on the date of the Lessee's notice.
- (c) If a Prior Lease is validly terminated (other than by the effluxion of time), this Lease will automatically terminate on the same date the Prior Lease is validly terminated.
- (d) If:
- (i) the Lessee gives the Lessor notice that it is terminating a Subsequent Lease under clause 11(b);  
or
  - (ii) a result of the termination of a Prior Lease, this Lease terminates under clause 11(c),
- the Lessor and Lessee agree:
- (iii) to promptly execute a surrender of the Subsequent Lease or this Lease in registrable form;
  - (iv) the termination of the Subsequent Lease or this Lease is without prejudice to any prior claim or remedy which either party may have against the other under the Subsequent Lease or this Lease;
  - (v) the Lessee must at its cost attend to the preparation, stamping and registration of the surrender of the Subsequent Lease or this Lease; and
  - (vi) the Lessor must immediately produce the certificate of title for the Land to the Queensland Land Registry, if it is required, to enable the surrender of the Subsequent Lease or this Lease to be registered

**12. CAVEAT**

The Lessor agrees to provide contemporaneously with execution of this Lease its written consent in registrable form to any caveat which the Lessee may wish to lodge by way of protecting the Lessee's interest under this Lease, pending registration of the Lease.

**13. PROVISIONAL PLANS**

- (a) The Lessor and the Lessee acknowledge and agree that:
  - (i) as at the date of execution of this Lease by the Lessor, the plans annexed to this Lease at Annexure A and Annexure B (Plans) are provisional plans; and

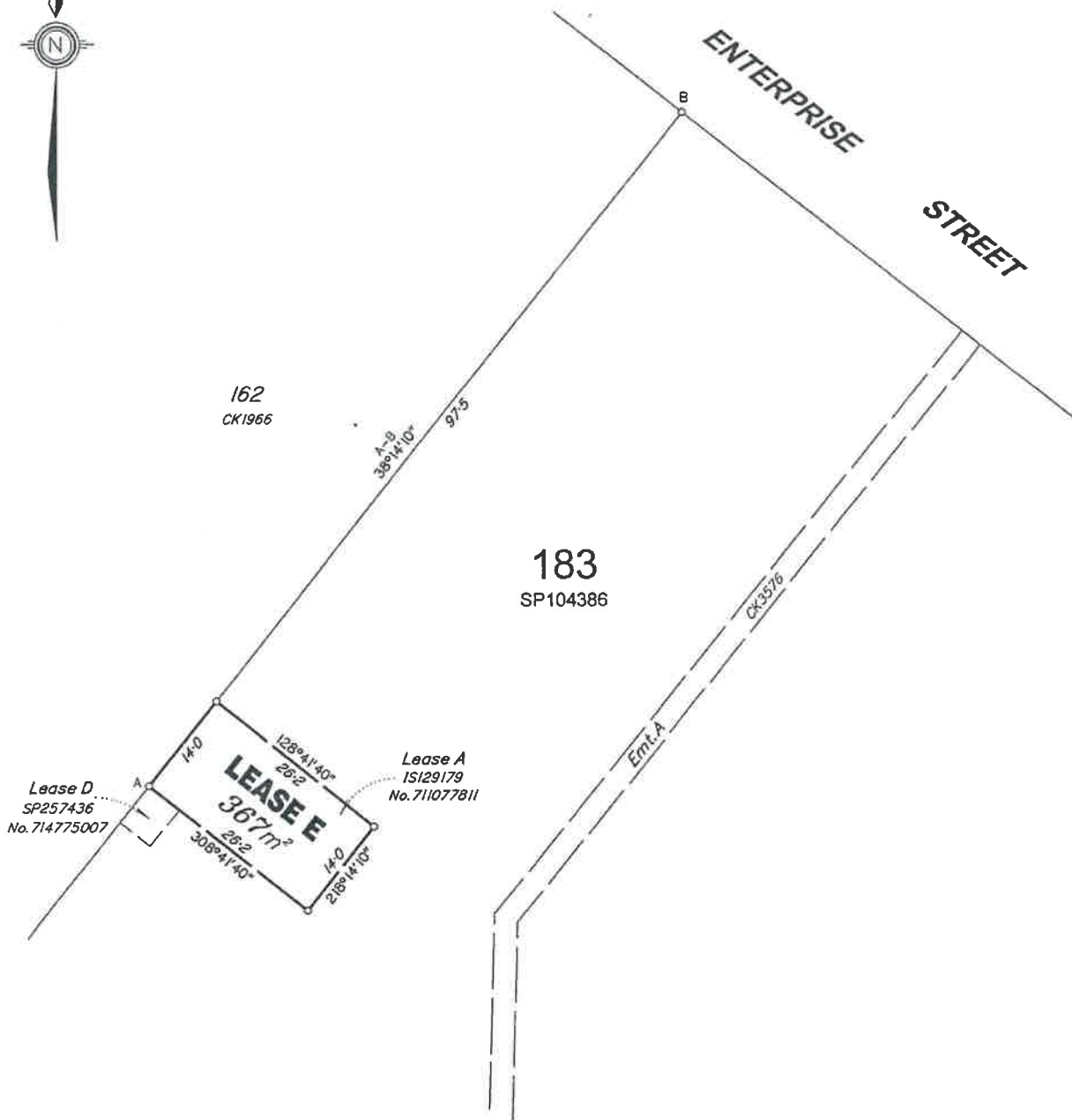


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- (ii) the Lessee will prepare the final plans to reflect the actual dimensions and location of the Premises and the Facility; and
  - (iii) once the Lessee replaces the Plans with the final plans, the final plans will prevail and this clause 13 will be deemed to be deleted.
- (b) The Lessor authorises the Lessee to:
- (i) replace the Plans with final plans once such final plans are prepared; and
  - (ii) make such consequential changes to the Lease (including the description of the Premises) as may be required.

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**ANNEXURE A - PREMISES PLAN**



State copyright reserved.

P.J.RILEY SURVEYORS PTY. LTD, ACN 010 824 381, hereby certify that the corporation, by Paul James RILEY, Cadastral Surveyor, for whose work the corporation accepts responsibility, has made this plan under Section 16 of the Survey and Mapping Infrastructure Regulation 2014 and pursuant to the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the plan is true and correct and compiled from IS129179 in the Department of Natural Resources & Mines.



Date 29.8.16

**Plan of Lease E in Lot 183 on SP104386**

Scale: 1:600

Format: STANDARD



**SP278126**

LOCAL GOVERNMENT: **BUNDABERG REGIONAL COUNCIL** LOCALITY: **SVENSSON HEIGHTS**

Meridian: **IS129179**

Survey Records: **No**

DRAWN - Stenfields

PRY/603.2

2234

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**ANNEXURE B - ANTENNA PLAN**

**Title Reference 50349812**

**ANNEXURE C – INTENTIONALLY DELETED**