

Land Title Act
REGISTRAR-GENERAL'S DIRECTIONS



NORTHERN TERRITORY OF AUSTRALIA

Commissioner of Territory Revenue use only

L	S	No: <u>891038</u>
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(NOTE 1)

IMPORTANT NOTICE

Please Note Privacy Statement Overleaf

LEASE

The owner leases to the tenant the land described and the tenant accepts this lease of the land for the term and at the rent stipulated and subject to the covenants and conditions contained below or on the back of this document and acknowledges the amount payable or other consideration for the lease.

(NOTES 2
-3)

Register	Volume	Folio	Location	Lot Description	Plan	Unit
CUFT	817	165	NT Portion NT Portion NT Portion	1640 1644 3042	CP 004186 CP 004194 CP 004186	n/a

(NOTE 4)

INTEREST BEING LEASED

That part of the land described in Part 11 to this lease and shown on the attached Plan in Annexure 1 being NT Portion 7363(A)

(NOTE 5)

MARKET RENT UNDER THE LEASE

Refer Clause 9 of lease

GST Amount

Refer Clause 9 and Clause 11 of lease

(NOTE 6)

OTHER CONSIDERATION

Nil

GST Amount

Nil

OWNER

Tiwi Aboriginal Land Trust

(NOTE 7)

TENANT

Name: Executive Director of Township Leasing
Address: GPO Box 3671 Darwin NT 0801

(NOTE 8)

TENANCY

Joint Tenants/Tenants in Common (Shareholding) Sole

(NOTE 9)

TERM OF LEASE

Commencing:	Expiring:	Right of Renewal:
26 June 2017	25 June 2116	No

(NOTE 10)

CONSENTS

Ministerial Consent

(NOTE 11)

See pages 53 & 54 of the attached provisions of this lease

SIGNED by the Owner

on (Date)

In the presence of:

.....
Signature of qualified witness

.....
Full name of qualified witness

.....
Witness contact address/phone number

See pages 53 & 54 of the attached provisions of this lease

SIGNED by the Tenant

on (Date)

In the presence of:

.....
Signature of qualified witness

.....
Full name of qualified witness

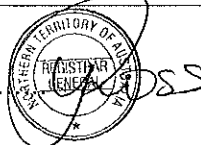
.....
Witness contact address/phone number

(NOTE 12)

Registered on 18.17

At

14.11



CONSENT OF INTEREST HOLDERS

Instrument type:

Instrument type:

Instrument No:

Instrument No:

Name of Parties:

Name of Parties:

I the registered proprietor of the interest shown above
consent to the registration of this instrument.

I the registered proprietor of the interest shown above
consent to the registration of this instrument.

Signed:

Signed:

(Date):

(Date):

In the presence of:

In the presence of:

Name of Qualified Witness:

Name of Qualified Witness:

Address or Telephone No.:

Address or Telephone No.:

COVENANTS

It is hereby covenanted by and between the owner and the tenant as follows:

- ☐ To comply with the provisions contained in Memorandum of Common Provisions recorded in the Register
as LTO No.
- ☐ The conditions and covenants implied by Sections 117 & 119 *Law of Property Act* shall/shall not apply. (delete one)
- ☐ To comply with the provisions annexed to this lease.

SCHEDULE OF NOTES

1. A lease signed on or after 1 July 2007 is required to be stamped by the Commissioner of Territory Revenue where there is valuable consideration other than rent under the lease.
2. This form may be lodged in triplicate. The original must be typed or completed in ink or biro. The duplicate and triplicate may be a copy of the original but the signatures of all parties and their witnesses must be in ink or biro on the original, duplicate and triplicate. If the words "owner" and "tenant" are considered in appropriate other words (lessor/lessee) may be used. Alterations to information entered on the form should be crossed out (not erased or obliterated by painting over) and initialled by the parties.
3. If there is insufficient space in any panel use the space above or an annexure sheet (Form 95).
4. Volume and Folio references must be given together with a description of the location, the lot number and unit plan number if applicable. If a certificate as to title has been issued it must be produced.
5. Insert whole of the land or if part of a lot the instrument of lease must also include a sketch plan identifying the part of the lot drawn to a standard to the Registrar-General's satisfaction, if required by the Registrar-General, a plan of survey identifying the part of the lot; or if required by the *Planning Act*, consent under Part 5 of the *Planning Act*.
6. Pursuant to Section 66 (1)(c) of the *Land Title Act* state whether the rent under the lease is market rent, or nil or nominal rent. Market rent means any rent that is not nominal. A lease for other consideration must show the imprint of the Commissioner of Territory Revenue. For the GST amount, if the lease is subject to the margin scheme and the GST amount is unknown insert "margin scheme" in the box provided. Show the words "Nil" or "Not applicable" if not subject to rent or other consideration.
7. Insert full name. Address is not required.
8. Insert full name and an address for the service of notices. The address can be a postal address.
9. If two or more tenants, state whether as joint tenants or tenants in common. If tenants in common, specify shares. If no tenancy is stated, the Registrar-General must register the co-owners as tenants in common pursuant to Section 57(2) of the *Land Title Act*.
10. Insert first day of the lease, last day of the lease and whether a right of renewal ("Yes" or "No").
11. Consents by mortgagee should be provided. A lease or amendment of a lease executed after registration of a mortgage of a lot is valid against the mortgagee only if the mortgagee consents to the lease or amendment before its registration. A lease which has not been consented to by a prior mortgagee will not be protected in the event of the mortgagee exercising the power of sale.
12. Persons who may witness this document are a Commissioner for Oaths, a member of the Legislative Assembly, a legal practitioner within the meaning of the *Legal Profession Act*, a person holding office under the *Supreme Court Act*, the *Justices Act*, the *Local Court Act* or the *Registration Act*, a member of the Police Force, a person licensed as a conveyancing agent or real estate agent under the *Agents Licensing Act*, a Notary Public and any other person approved by the Registrar-General.
A witness to an instrument executed by an individual must first:
 - take reasonable steps to ensure that the individual is the person entitled to sign the instrument;
 - have the individual execute the document in the presence of the witness;
 - not be a party to the instrument; and
 - if witnessing more than one signature, clearly state that he/she has witnessed more than one signature. (ie I have witnessed the two signatures appearing above).After signing, witnesses must legibly write, type or stamp their names and contact address or telephone number below their signature.
For a corporation, an instrument must be executed in a way permitted by law or sealed with the corporation's seal in accordance with the *Law of Property Act*, Section 48.
For witnessing of instruments executed outside the Northern Territory refer to Schedule 1 of the *Land Title Act* and the Registrar-General's Directions.

PRIVACY STATEMENT – LAND REGISTER FORMS

The Registrar-General's Office is authorised by the *Land Title Act* to collect the information on this form for the establishment and maintenance of the Land Register, which is made available for search by any person, anywhere, including through the Internet, upon payment of a fee. The information is regularly provided to other NT Government agencies, the Australian Valuation Office, local governments, the Australian Bureau of Statistics, the Australian Taxation Office or other Commonwealth Agencies as required or authorised by law, and some private sector organisations for conveyancing, local government, valuation, statistical, administrative and other purposes. The NT Government also uses the information to prepare and sell or licence property sales reports to commercial organisations concerned with the development, sale or marketing of property.

Failure to provide the information in full or in part may prevent your application or transaction being completed.

Your personal information provided on this form can be subsequently accessed by you on request. If you have any queries please contact the Deputy Registrar-General on 8999 5318.

Pirlangimpi Township Lease

Tiwi Aboriginal Land Trust

and

Executive Director of Township Leasing

and

Tiwi Land Council



MINISTER FOR INDIGENOUS AFFAIRS

Reference: MS17-001411

Mr Gibson Farmer Illortaminni
Chair
Tiwi Land Council
PO Box 38545
WINNELLIE NT 0821

Dear Mr Illortaminni *Gibson*

Thank you for the letter of 20 June 2017, seeking my consent and approval under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Land Rights Act) in respect of the Pirlangimpi Township Lease.

I would like to acknowledge the significant efforts of the Tiwi Land Council and Munupi traditional owners in negotiating this township lease. I am pleased that after many years of negotiations we have been able to deliver a township lease for Pirlangimpi that supports the community's vision for its future. This is a clear demonstration of this Government's commitment to working in partnership with Land Councils and traditional owners to deliver outcomes that respond to the needs and desires of communities.

In relation to your request for my consent and approval under the Land Rights Act, I am satisfied from the information provided in your letter that the Tiwi Land Council has met its obligations under section 19A(2) and section 23(3) of the Land Rights Act. On this basis, I give my consent under section 19A(1)(a) and my approval under section 27(3).

I have copied this letter to the Executive Director of Township Leasing.

I look forward to celebrating this achievement with you.

Yours sincerely


NIGEL SCULLION

22/6 / 2017

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Schedule – Lease particulars

Item:	Particulars:
1. Date of this Lease	26 JUNE . 2017
2. Land Trust	Tiwi Aboriginal Land Trust established pursuant to section 4(1) of the Land Rights Act.
3. Lessee	Executive Director of Township Leasing (ABN 36 342 015 855), established by section 20B of the Land Rights Act, on behalf of the Commonwealth of Australia.
4. Land Council	Tiwi Land Council (ABN 86 106 441 085), established by notice dated 18 August 1978 under the Land Rights Act.
5. Land	The land comprised in Northern Territory Certificate of Title Volume 817 Folio 165.
6. Township (clause 1.1)	As described in Annexure 1.
7. Reservations	See clause 2 and Annexure 4.
8. Permitted Use	See clauses 1.1 and 15.1.
9. Commencement Date (clause 1.1)	26 JUNE . 2017
10. Term (clause 1.1)	99 years.
11. Replacement Lease	See clause 6.
12. Over holding	See clause 7.
13. Review of Lease	See clause 24.
14. Transfer of Lease to Township Entity	See clause 8.
15. Lease Payment	See clause 9.1.
16. Operating Expenses	See clause 9.3.

Pirlangimpi Township Lease

Parties

1. The party described in Item 2 of the Schedule ("the **Land Trust**")
2. The party described in Item 3 of the Schedule ("the **Lessee**")
3. The party described in Item 4 of the Schedule ("the **Land Council**")
(collectively referred to as "the **Parties**")

Background

- A. The Land Trust is the registered proprietor of an estate in fee simple in the Land, which includes the Township.
- B. The Parties have agreed that the Township (including all Improvements and Services) will be leased by the Land Trust to the Lessee pursuant to subsection 19A(1) of the Land Rights Act.
- C. During the Term, the Land Council may request that the Lessee transfer this Lease to a Township Entity.
- D. The Land Trust has received written consent from the Commonwealth Minister as required by subsection 19A(1)(a) of the Land Rights Act for the grant of this Lease.
- E. The Land Trust has received written direction from the Land Council as required pursuant to subsection 19A(1)(b) of the Land Rights Act for the grant of this Lease.
- F. The Land Council, as required by subsection 19A(2) of the Land Rights Act, is satisfied that:
 - (a) the traditional Aboriginal owners of the Land understand the nature and purpose of this Lease and, as a group, consent to it;
 - (b) any Aboriginal community or group that may be affected by this Lease has been consulted and has had adequate opportunity to express its view to the Land Council; and
 - (c) the terms and conditions of this Lease are reasonable.
- G. The Land Council has received the approval of the Minister to enter into, and permit the Land Trust to enter into, this Lease, as required by subsection 27(3) of the Land Rights Act.
- H. The Lessee is a person authorised under subsection 20C(a) of the Land Rights Act to enter into leases and under subsection 20C(b) of the Land Rights Act to administer such leases granted to the Commonwealth under section 19A of the Land Rights Act, including administering other rights and interests derived from such leases, in accordance with their terms and conditions.
- I. The Land Trust grants and the Lessee accepts a grant of a lease of the Township on the terms set out in this Lease.

- J. The Parties acknowledge that this Lease is intended to facilitate the Development of the Township, and thereby improve of the prosperity and wellbeing of its residents.

Part 1 - Preliminary

Agreed terms

1. Definitions and interpretation

1.1 Definitions

In this Lease and in the Background, unless the context requires otherwise:

Aboriginal has the same meaning as in the Land Rights Act;

Aboriginals Benefit Account means the account referred to in section 62 of the Land Rights Act;

Annexure means an annexure to this Lease;

Approval means any permit, licence, consent, grant, certificate, sealing or other approval obtained or required to be obtained from a Government Agency or any Relevant Authority exercising jurisdiction in relation to the Township or the use and occupation of the Township and includes any requisition, condition or requirement from a Government Agency or any other Relevant Authority exercising jurisdiction in relation to the Township;

Background means paragraphs A to J above entitled as such;

Building includes:

- (a) a structure and part of a building or a structure;
- (b) fences, walls, out-buildings, service installations and other appurtenances of a building; or
- (c) a boat or a pontoon which is permanently moored or fixed to a building or land;

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Darwin;

Comcover means the Australian Government's general insurance fund known as *Comcover*;

CATSI Act means the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth);

Commencement Date means the date specified in Item 9 of the Schedule;

Construct in relation to a Building, Works, roads, signs or other infrastructure includes:

- (a) to build, re-build, erect or re-erect;
- (b) to make alterations;
- (c) to enlarge or extend; and
- (d) to place or relocate on land;

and **Construction** has a corresponding meaning.

Note: this definition equates with the definition of construct in the Planning Act.

Consult means to:

- (a) meet with, as reasonably requested by;
- (b) ask the views of;
- (c) listen to the views of; and
- (d) have regard to the views of, including taking account of the views, acting reasonably,

the body or person to be or being consulted;

Consultative Forum means the Consultative Forum established under clause 23.2;

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

Cultural Heritage means:

- (a) literary, artistic and performance works (including music, songs, dances, ceremonies, narratives, poetry, symbols and designs);
- (b) languages;
- (c) spiritual knowledge;
- (d) scientific, technical, agricultural and ecological knowledge (including cultigens, medicines and sustainable use of flora and fauna);
- (e) human genetic material (including DNA and tissues);
- (f) ancestral remains;
- (g) burial artefacts;
- (h) cultural environment resources (including Indigenous sites of significance); and
- (i) representation of Aboriginals in all media (including scientific and ethnographic research reports and papers, books, films, sound recordings, CD-ROM and other digital formats);

Cure Period means a reasonable period of time within which the Lessee must cure a Default Event (other than a Financial Default) in accordance with clause 26.1(c), including any extensions of that period under clause 26.3(c);

Cure Plan means a plan by the Lessee to remedy a Default Event which is proposed during the Cure Period and details a work plan setting out each task to be undertaken in order to rectify the Default Event and the time for each task to be completed;

Custodian means an Aboriginal who, by Tiwi Tradition, has responsibility for a Sacred Site;

Default Event means:

- (a) a Financial Default;
- (b) a material failure by the Lessee to comply with this Lease;
- (c) a failure by the Lessee to take all reasonable steps to enforce material provisions of any one or more Township Subleases; or
- (d) a failure by the Lessee to take all reasonable steps to enforce material provisions of any one or more Township Licences;

Default Notice means a notice given under clause 26.1;

Development, in relation to land, means an activity that involves:

- (a) the establishment of, or a change in, the use of the land;
- (b) the subdivision or consolidation of the land, including Buildings or airspace; or
- (c) the carrying out of Works on or in relation to the land, including:
 - (i) excavation or land-filling;
 - (ii) the clearing of native vegetation;
 - (iii) the Construction of a Building;
 - (iv) the Construction or putting up for display of signs or hoardings;
 - (v) the Construction or upgrading of roads and drains, other than:
 - (A) by a Government Agency or a Relevant Authority; or
 - (B) if the Works are carried out in pursuance of a statutory responsibility;
 - (vi) the Construction or upgrading of hardstand car parking or landscaping; and
 - (vii) any other operation that affects the physical character of the land;

Note: this definition equates with the definition of development in the Planning Act.

EDTL means the Executive Director of Township Leasing (ABN 36 342 015 855), established by section 20B of the Land Rights Act;

Environment includes the meaning given to that term at common law and in any Law in force in the Northern Territory, including any land, water,

Pirlangimpi Township Lease

atmosphere, climate, sound, odours, tastes and the biological factors of animals and plants and the word **Environmental** has a corresponding meaning;

Environmental Law means any Law relating to the Environment, including any Law relating to land use, planning, pollution of air, water, soil or groundwater, chemicals, waste, the use of transport, the storage and handling of dangerous goods, the health or safety of any person, or any other matters relating but not limited to the protection of the Environment, health or property;

Existing Improvements means all Improvements erected on or attached to the Township as at the Commencement Date;

Existing right, title or other interest means any right, title or other interest in the Township which existed immediately before the Commencement Date;

Existing Services means all Services on or connected to the Township as at the Commencement Date;

Existing Services Provider means each service provider who use their occupation in the Township to provide Services to the Township;

Final Lease Year means the period starting on 1 July immediately before the expiry of the Term or earlier determination of this Lease and ending on the expiry of the Term or earlier determination of this Lease;

Financial Default means a failure by the Lessee to pay when due any money which the Lessee is obliged to pay to the Land Council under this Lease;

Government Agency means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity, department or authority and includes any self-regulatory organisation established under statute;

GST has the meaning given to that term in the GST Act;

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);

Housing Authority means a body which provides or which has been established to provide Social Housing services for residents in the Township;

Improvements means all Buildings, structures, fixtures, fittings, plant, equipment, partitions, signs or other materials or articles which are erected on or attached to the Township;

Income means:

- (a) The amount of:
 - (i) all payments received or receivable by the Lessee from the holders of Existing rights, titles or other interests, in relation to their or any other person's occupation, use or enjoyment of or access to the Township, any part of the Township or any Improvements or Services within the Township;
 - (ii) all payments or amounts credited to the Lessee or received or receivable by the Lessee from any Government Agency in relation

to its or any other person's occupation, use or enjoyment of or access to the Township, any part of the Township or any Improvements or Services within the Township; and

- (iii) any pre-paid lease amount which is recognised as income on a straight-line basis over the relevant term; plus
- (b) Any interest earned on an accruals basis by the Lessee on amounts under paragraph (a).
- (c) For the avoidance of doubt Income does not include:
 - (i) unless paid to the Lessee, the value or any Improvements or Services provided by the Commonwealth or any other person in the Township; or
 - (ii) money appropriated by the Commonwealth for the purposes of the Lessee or otherwise provided by the Commonwealth for the use of the Lessee, other than payments referred to in paragraph (a)(iii).

Information means any information, whether oral, graphic, electronic, written or in any other form, including:

- (d) forms, memoranda, letters, specifications, processes, procedures, statements, research and development information, know-how, designs, plans, photographs, microfiche, business records, notes, accounting procedures or financial information, names and details of agents, employee details, reports, drawings and data;
- (e) copies and extracts made of or from that information and data, whether translated from the original form, recompiled, partially copied, modified, updated or otherwise altered; and
- (f) samples or specimens (if any) disclosed either before or after execution of this Lease;

Insolvency Event means, in relation to a Party, any one or more of the following events or circumstances:

- (a) being in liquidation or provisional liquidation or under administration;
- (b) having a controller or analogous person appointed to it or any of its property;
- (c) being taken under subsection 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (d) being unable to pay its debts or being otherwise insolvent;
- (e) becoming an insolvent under administration, as defined in section 9 of the Corporations Act;
- (f) entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors; or
- (g) any analogous event or circumstance under the Laws of any jurisdiction,

unless such event or circumstance occurs as part of a solvent reconstruction, amalgamation, compromise, arrangement, merger or consolidation approved by the other Parties;

Item means an item specified in the Schedule;

Land means the land described in Item 5 of the Schedule;

Land Rights Act means the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth);

Land Trust's Improvements means all Existing Improvements which are the property of the Land Trust;

Law means:

- (a) principles of law or equity established by decisions of courts;
- (b) statutes, regulations, ordinances or by-laws of the Commonwealth, a State, a Territory or any other Government Agency; and
- (c) requirements and approvals (including conditions) of the Commonwealth, a State, a Territory or any other Government Agency that have the force of law;

LEADR means LEADR (ACN: 008 651 232) (formerly, Lawyers Engaged in Alternative Dispute Resolution);

Lease means this lease including the Background, the Schedule and the Annexures;

Lease Year means the Preliminary Lease Year, each 12 month period expiring on 30 June in each year during the Term and the Final Lease Year;

Lessee's Improvements means all Improvements erected on or attached to the Township by:

- (a) the Lessee;
- (b) any Sublessee; or
- (c) any Licensee,

after the Commencement Date;

Lessee's Percentage means, in respect of an Outgoing, the same percentage as the area of the Township bears to the area of the land to which an Outgoing relates;

Lessee's Services means all Services installed in or on the Township by the Lessee after the Commencement Date;

Licensee means any person who has been granted a Township Licence by the Lessee and includes a sublicensee of that person;

Master Plan means a plan created pursuant to clause 16 of the Lease;

Minister means the Minister responsible for the Land Rights Act;

Non-Vacant Land means any land in the Township which is:

- (a) subject to an Existing right, title or other interest other than this Lease;
- (b) subject to a Township Sublease or Township Licence; or
- (c) fenced;

Operating Expenses means the costs of the Lessee in administering this Lease, and includes:

- (a) the costs of the Lessee undertaking functions, exercising powers and complying with its obligations under this Lease;
- (b) the costs of the Lessee complying with any other obligations under a Law in relation to the Township;
- (c) the costs of the Lessee in preparing land for, and negotiating, arranging and granting, Township Subleases, Township Licences and other rights and interests in relation to occupation or use or enjoyment of or access to the Township; and
- (d) the costs of management of Township Subleases, Township Licences and other rights and interests (including Existing rights, titles or other interests) in relation to occupation or use or enjoyment of or access to the Township, and undertaking functions, exercising powers and complying with obligations under them,

provided that any expense the subject of paragraph (a), (b), (c) or (d) in connection with a matter which provides benefits or rights to the Lessee in or over future periods shall be allocated over the full duration of such periods and, in the case of capital costs, in each case recognised as an expense on a straight-line basis over the relevant term.

Operating Expenses include:

- (e) the direct costs of the Lessee in relation to the Township (including Outgoings and insurance premiums); and
- (f) the proportion of administration and management costs of the Lessee, and wages of the Lessee and employees, and payments to contractors of the Lessee, directly incurred and attributable to the Lessee's activities in relation to the Township.

For the avoidance of doubt, Operating Expenses do not include:

- (g) depreciation on any Improvements in the Township;
- (h) costs incurred before the Commencement Date; or
- (i) without limitation to paragraph (h), any costs in relation to the establishment of the Lessee and this Lease.

Outgoings means all existing and future amounts (including rates, duties and taxes):

- (a) which are properly imposed, charged or levied under statute or by a Government Agency on the Township, or the Land Trust; or

Pirlangimpi Township Lease

(b) which a Government Agency properly requires the Land Trust to spend, and which are:

- (c) paid or payable by the Land Trust during a Lease Year;
- (d) in relation to the Township or Improvements in the Township; and
- (e) either capital or non-capital in nature;

Permitted Use has the meaning given to that term in clause 15.1;

Planning Act means the *Planning Act* (NT);

Planning Laws means any planning scheme under any applicable Law setting the framework for planning the use, development and protection of the Township or any part of the Township and includes the Planning Act and the Planning Regulations;

Planning Regulations means the *Planning Regulations* (NT);

Preliminary Lease Year means the period starting on the Commencement Date and ending on the following 30 June;

Regulation means regulation 5AA of the *Aboriginal Land Rights (Northern Territory) Regulations 2007*, being a regulation pursuant to section 3AB of the Land Rights Act prescribing an area of land to be the Township;

Relevant Authority means any government, municipal, statutory, public or other authority or body having authority or jurisdiction over or in relation to the Township;

Sacred Site has the meaning given in the Land Rights Act;

Sacred Sites Act means the *Northern Territory Aboriginal Sacred Sites Act 1989* (NT);

Sacred Site Certificate means a certificate issued by the Aboriginal Areas Protection Authority under subsection 22(1) of the Sacred Sites Act;

Schedule means the schedule to this Lease;

Services means all utilities and services on or connected to the Township including water, gas, electricity, lighting, sanitation, drainage, stormwater, communication and telecommunication systems and includes all wires, cables, pipes, ducts, conduits, tanks, electrical and mechanical plant and all other ancillary or associated parts and accessories;

Services Provider means a person who provides Services in the Township;

Social Housing means public and/or community housing;

Sublessee means any person who has been granted a Township Sublease by the Lessee and includes an underlessee of that person;

Term means the period specified in Item 10 of the Schedule;

Termination Event means:

- (a) the occurrence of an Insolvency Event in respect of the Lessee; or
- (b) the occurrence of the event contemplated in clause 26.3(e) [failure by the Lessee to cure a Default Event within the Cure Period];

the Territory means the body politic established as the Northern Territory of Australia;

Third Party means a party other than a Party to this Lease;

Tiwi Tradition means the body of traditions, observances, customs and beliefs of Tiwis or of a community or group of Tiwis, and includes those traditions, observances, customs and beliefs as applied in relation to particular persons, sites, areas of land, things or relationships;

Township means that part of the Land described in Item 6 of the Schedule and Annexure 1 and as set out in the Regulation which, as at the Commencement Date, comprises Pirlangimpi;

Township Entity means a corporation established under the CATSI Act for the primary purpose of holding and administering the Lease that has been approved by the Minister as a Commonwealth entity pursuant to section 3AAA of the Land Rights Act;

Township Licence means a licence granted by the Lessee pursuant to clause 20;

Township Licensee means any person who has been granted a Township Licence from the Lessee;

Township Sublease means a sublease granted by the Lessee pursuant to clause 19;

Township Sublessee means any person who has been granted a Township Sublease from the Lessee;

traditional Aboriginal owners has the same meaning as in the Land Rights Act;

Vacant Land means any land in the Township other than Non-Vacant Land; and

Works means:

- (a) any activity on land, other than mining or agriculture, resulting in a physical change to the land or a part of the land; or
- (b) the results of such an activity, including a Building.

Note: this definition equates with the definition of works in the Planning Act.

1.2 Interpretation

In this Lease, unless the context requires otherwise:

- (a) the singular (including the singular of defined terms) includes the plural and vice versa;

- (b) reference to a right includes a remedy, authority or power;
- (c) the headings are used for convenience only and do not affect the interpretation of this Lease;
- (d) as far as possible, all provisions must be construed so as not to be invalid, illegal or unenforceable;
- (e) wherever "include" or any form of that word is used, it must be construed as if it were followed by "(without being limited to)";
- (f) reference to a thing is a reference to all or part of that thing;
- (g) unless the context requires or is otherwise stated in this Lease, a Party's obligations must be performed at that Party's own cost;
- (h) a gender includes the other genders;
- (i) other grammatical forms of defined words or expressions have corresponding meanings;
- (j) a reference to a document includes the document as modified from time to time and any document replacing it;
- (k) if something is to be or may be done on a day that is not a Business Day then it must be done on the next Business Day;
- (l) the word "person" includes a natural person and any body or entity whether incorporated or not;
- (m) the word "month" means calendar month and the word "year" means 12 months;
- (n) the words "in writing" include any communication sent by letter, facsimile transmission or email or any other form of communication capable of being read by the recipient;
- (o) a reference to all or any part of a statute, rule, regulation or ordinance (**statute**) includes that statute as amended, consolidated, re-enacted or replaced from time to time;
- (p) a reference to a Party means a reference to the Land Trust, the Lessee, or the Land Council and a reference to the "Parties" means two or more of them collectively, having regard to the clause or the context in which the term is used;
- (q) a reference to a Party includes a reference to the Party's respective successors and permitted assigns;
- (r) money amounts are stated in Australian currency unless otherwise specified;
- (s) a reference to any agency or body, if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or functions removed (**defunct body**), means the agency or body which performs most closely the functions of the defunct body;

- (t) a reference in this Lease to a Sublessee or the holder of a Township Sublease is, where the Sublessee has granted a further estate or interest in the relevant area of the Township, to be taken to include a reference to an underlessee or any person claiming an estate or interest in land through such a Sublessee; and
- (u) a reference in this Lease to a Township Licensee or the holder of a Township Licence is, where the Township Licensee has granted a further licence in the relevant area of the Township, to be taken to include a reference to any such sublicensee or any person claiming a licence in land through such a Township Licensee.

1.3 Role of Land Council

Anything required or permitted to be done by the Land Trust in relation to this Lease may be done by the Land Council on behalf of the Land Trust. All rights and entitlements of the Land Trust concerning this Lease (including entitlement to receive payments from the Lessee) will be exercisable by the Land Council on behalf of and in the name of the Land Trust, and the Land Trust appoints the Land Council to act on its behalf and in its name.

1.4 Good faith

The Parties must act reasonably and in good faith in performing their respective obligations under this Lease.

1.5 Survival

In addition to this clause 1 [Definitions and interpretation], the following clauses survive the expiration or earlier determination of this Lease: clauses 7 [Overholding], 22 [Reinstatement], 26.7 [Opportunity to transfer or surrender before termination], 28 [Obligations on expiration or termination], 29 [Dispute resolution] and 30 [General].

Part 2 – Reservations and grant of Lease

2. Reservations in Land Rights Act

The Lessee acknowledges that the grant of this Lease is subject to any applicable reservations in the Land Rights Act (set out in Annexure 2).

3. Respect for Culture

3.1 Lessee acknowledgement

The Lessee acknowledges that:

- (a) the traditional Aboriginal owners of the Land, upon which is the Township, have a spiritual and custodial relationship with that Land and surrounding seas;

- (b) the traditional Aboriginal owners of the Land remain the custodians of the Cultural Heritage of the Land;
- (c) some knowledge belongs only to specific traditional Aboriginal owners;
- (d) certain information is inaccessible to all except those deemed appropriate by the traditional Aboriginal owners; and
- (e) secret and sacred materials are items of special cultural and spiritual significance to Aboriginals, and are usually associated with men's and women's private ceremonies.

3.2 Lessee must work respectfully

The Lessee must work respectfully with the traditional Aboriginal owners and other Aboriginal members of the Township. The Lessee must have due regard to any reasonable guidelines developed by the Consultative Forum, from time to time, relating to familiarity with, and respect for, Tiwi Tradition as it applies to the Township.

4. Implied covenants

The covenants, powers and provisions implied in leases under any relevant legislation are hereby expressly excluded except to the extent that they are expressly embodied in this Lease or to the extent only that it would be unlawful to exclude any such covenant, power or provision.

5. Grant of Lease and consents

5.1 Grant of Lease

- (a) The Land Trust grants to the Lessee a lease of the Township, subject to any Existing rights, titles or other interests; commencing on the Commencement Date for the Term.
- (b) The Lessee accepts the grant of a lease of the Township for the Term and otherwise subject to the provisions of this Lease.
- (c) For the avoidance of doubt, the lease of the Township includes a lease of all Existing Improvements and Existing Services.

5.2 Land Trust consents to Lease

The Land Trust consents to this Lease pursuant to a direction of the Land Council to the Land Trust pursuant to subsection 19A(1) and in accordance with subsection 19A(2) of the Land Rights Act.

6. Replacement Lease

The Parties agree to negotiate in good faith for a new lease over the Township within a reasonable period that would allow for a new lease (if agreed) to be granted not later than 30 years before the end of the Term.

7. Overholding

If the Lessee remains in occupation of the Township without objection by the Land Trust following the expiration or earlier determination of this Lease, then:

- (a) the Lessee will be deemed to be a biannual tenant upon the same terms and conditions as are contained in this Lease so far as they are applicable to such a tenancy; and
- (b) such a tenancy will be determinable by either Party on 6 month's prior written notice expiring on any day.

8. Transfer of Lease to Township Entity

8.1 Consultation prior to transfer of Lease

Prior to the Land Council giving a direction or consent to a transfer of the Lease under this clause 8, the Land Council must Consult with the Lessee.

8.2 Transfer of Lease to Township Entity under subsection 19A(8) of the Land Rights Act

- (a) Where:
 - (i) a Township Entity has made an application to the Land Council for the purpose of the Lessee transferring this Lease to the Township Entity; and
 - (ii) the Land Council believes the Township Entity is able to comply with a Lessee's obligations under the Lease, then

the Land Council must make a request to the Lessee to transfer this Lease to the Township Entity.

- (b) The Land Council's request for transfer of this Lease must be in the form of a written determination setting out the reasons why the Land Council considers it is appropriate for the Township Entity to hold and administer this Lease, and must include:
 - (i) the rules or constitution of the Township Entity and a copy of the most recent report(s) required under the CATSI Act;
 - (ii) each of the directors and officers of the Township Entity and their qualifications and experience appropriate to hold and administer the Lease;
 - (iii) the proposed decision-making processes and relevant policies of the Township Entity, including the Township Entity's conflict of interest management policy;
 - (iv) a statement by the Township Entity that it is ready, willing and able to comply with the lessee's obligations under the Lease;
 - (v) a statement by the Township Entity, which sets out how the Township Entity proposes to resource and manage the administration of the Lease; and

- (vi) the role of the Land Council in providing support to the Township Entity with respect to the administration of the Lease.
- (c) The Land Council must provide the Lessee with any other information reasonably requested by the Lessee.
- (d) Subject to the provision of the information required under clause 8.2(b) and any other information requested under clause 8.2(c), and subject to the Minister's written approval in accordance with subsection 19A(8) of the Land Rights Act, the Lessee will transfer the Lease to the Township Entity.
- (e) The Land Trust consents to any transfer of the Lease to the Township Entity under this clause.
- (f) Any transfer under this clause 8.2 shall be effected voluntarily by deed without consideration flowing from any Party together with a land titles office transfer instrument in registrable form.
- (g) Upon transfer of the Lease under this clause 8.2, conditions will be included in the transfer deed whereby the Lessee will be released from any liability or obligation arising under or in connection with the Lease from the date of assignment subject only to the Commonwealth remaining a party to the Lease for the purposes of subsection 19A(8) of the Land Rights Act and to approve any agreed variations to the Lease.
- (h) The Parties acknowledge that a transfer under this clause 8.2 may necessitate some consequential variations to the Lease the terms of which will need to be agreed by the Parties within the timeframe for the transfer stated in clause 8.2(d), otherwise the terms of the Lease will apply mutatis mutandis from the date of assignment (including any necessary changes to the Lease particulars in the Schedule, the definitions and this clause 8).

Part 3 – Financial matters

9. Lease Payment and Operating Expenses

9.1 Lease Payment

- (a) The Lessee must pay the Land Council for the Land Trust the amounts specified in clause 9.1(b) (**Lease Payments**). The Lease Payments are to be paid in accordance with clause 9.2.
- (b) The Lease Payments are:
 - (i) a one-time only payment of \$2,000,000.00 (**Advance Payment**);
 - (ii) in relation to each year after the Initial Period for the remainder of the Term or until the Lease is otherwise terminated, all Income generated by the Lessee under this Lease during such year(**Annual Payment**).
- (c) In this clause 9.1, the **Initial Period** is the period commencing on the Commencement Date and ending on the first to occur of the following:

- (i) the day on which the sum of all accumulated Income generated by the Lessee under this Lease since the Commencement Date first exceeds the Advance Payment; or
- (ii) the day prior to the tenth anniversary of the Commencement Date.
- (d) The Advance Payment is a prepayment for this Lease.
- (e) For avoidance of doubt, the parties acknowledge that the Lessee will be responsible for all Operating Expenses during the Initial Period, and will not deduct any Operating Expenses from Income generated under this Lease during that time.

9.2 Sublease/Licence Payments

- (a) The Lessee must pay the Advance Payment:
 - (i) within 5 Business Days of the Commencement Date;
 - (ii) free of all deductions and with no right of set-off; and
 - (iii) in accordance with the relevant provisions of the Land Rights Act to the Land Council for the Land Trust.
- (b) The Lessee must pay each Annual Payment:
 - (i) within 3 months after the relevant anniversary of this Lease (subject to clause 9.2(c);
 - (ii) free of all deductions and with no right of set-off; and
 - (iii) in accordance with the relevant provisions of the Land Rights Act to the Land Council for the Land Trust.
- (c) The Parties may agree in writing to the Lessee paying the Annual Payment in regular instalments during the relevant Lease Year (such as on a quarterly or half-yearly basis, or at some other frequency).
- (d) For avoidance of doubt, apart from the Advance Payment, all Lease Payments are payable by the Lessee in arrears.

9.3 Use of Lease Payments for economic and community development purposes

- (a) The parties acknowledge that, in accordance with subsection 35(4) of the Land Rights Act, the Land Council must pay amounts equal to the Advance Payment and the Annual Payment to or for the benefit of the traditional Aboriginal owners of the land.
- (b) The Land Council will put arrangements in place to ensure that the monies referred to in clause 9.3(a) are used for economic and community development purposes in the Township.
- (c) In complying with its obligations under clause 9.3(b), the Land Council will have due regard to the views of the Consultative Forum or the Township Entity as appropriate.

9.4 Operating Expenses

The Parties acknowledge that:

- (a) the Lessee will be responsible for all Operating Expenses during the Term, and will not deduct any Operating Expenses from Income generated under this Lease during that time; and
- (b) the Lessee may seek to have its Operating Expenses paid from the Aboriginals Benefit Account, subject to the direction of the Minister pursuant to subsection 64(4A) of the Land Rights Act.

10. Rates, Taxes and Charges

10.1 Outgoings

- (a) The Lessee must pay any Outgoing (or, in the Preliminary Lease Year or Final Lease Year, the appropriate part of any Outgoing).
- (b) Where any Outgoing is issued against the Land Trust or the Land Council, the Land Trust or the Land Council as the case may be must give the Lessee a copy of the invoice in respect of that Outgoing within 7 Business Days after receiving the invoice.
- (c) The Lessee must pay the amounts under this clause 10.1 direct to any Government Agency or other person imposing the charge on time.
- (d) If the Township is not separately assessed for an Outgoing, the Lessee must pay the Lessee's Percentage of the Outgoing to the Party upon whom the Outgoing has been levied within 7 Business Days after demand.
- (e) The Lessee must, upon request by the relevant Party, give the Party upon whom an Outgoing has been levied receipts for any Outgoings paid by the Lessee.
- (f) For avoidance of doubt, the Parties acknowledge that an Outgoing is an Operating Expense for the purposes of this Lease.
- (g) Nothing in this clause 10.1 prevents the Lessee from recovering Outgoings from any Township Sublessee or Township Licensee.

10.2 Charges for Services

- (a) The Land Trust and the Land Council will not be liable for the cost of any Services used, metered, connected or supplied to the Township, except to the extent the Services are consumed by the Land Trust or the Land Council (as the case may be).
- (b) Subject to clause 10.2(a), the Lessee must pay on time any amounts charged or levied for Services used or supplied to the Township, such amounts to be paid direct to the Government Agency or other person imposing the charge.
- (c) Nothing in this clause 10.2 prevents the Lessee from recovering amounts relating to the use or supply of services from any Township Sublessee or Community Licensee.

10.3 Stamp duty

For the avoidance of doubt, the Lessee must, if legally liable, pay any stamp duty assessed on this Lease.

11. GST

11.1 Definitions

In this clause 11:

- (a) the expressions **Consideration**, **Input Tax Credit**, **Recipient**, **Supply**, **Tax Invoice** and **Taxable Supply** have the meanings given to those expressions in the GST Act; and
- (b) **Supplier** means any party treated by the GST Act as making a Supply under this Lease.

11.2 Consideration is GST exclusive

Unless otherwise expressly stated, sums payable or Consideration to be provided under or in accordance with this Lease are exclusive of GST.

11.3 Payment of GST

- (a) If GST is imposed on any Taxable Supply made under or in accordance with this Lease, the Recipient of the Taxable Supply must pay to the Supplier an additional amount equal to the GST payable on or for the Taxable Supply, subject to the Recipient receiving a valid Tax Invoice in respect of the Taxable Supply at or before the time of payment.
- (b) Payment of the additional amount must be made at the same time and in the same way as payment for the Taxable Supply is required to be made in accordance with this Lease.

11.4 Reimbursement of expenses

If this Lease requires a party (the **First Party**) to pay for, reimburse, set-off or contribute to any expense, loss or outgoing (**Reimbursable Expense**) suffered or incurred by another party (the **Other Party**), the amount required to be paid, reimbursed, set-off or contributed by the First Party will be the sum of:

- (a) the amount of the Reimbursable Expense net of Input Tax Credits (if any) to which the Other Party is entitled in respect of the Reimbursable Expense (**Net Amount**); and
- (b) if the Other Party's recovery from the First Party is a Taxable Supply, any GST payable in respect of that Supply,

such that after the Other Party meets the GST liability, it retains the Net Amount.

Part 4 – Access, transition from existing arrangements, Housing Authority

12. Access

12.1 General

- (a) A person wishing to enter or access the Township is not required to have a Permit if:
 - (i) such entry or access is otherwise permitted or authorised by or pursuant to the Land Rights Act or other relevant Law;
 - (ii) the person has a defence under the Land Rights Act or other relevant Law to any allegation that such person improperly entered or remained in or on the Township.
- (b) The Land Trust and the Land Council agree to allow persons to have access through the Land by roads open to the public to gain access to the Township for any purposes related to the use or enjoyment of an estate or interest in land within the Township by the owner of the estate or interest, so as to allow those persons to pass across the Land to get to and from the Township.

12.2 Land Trust and Land Council right of access

The Land Trust and the Land Council may, so often as they reasonably require (at reasonable times and on reasonable notice - except in the case of an emergency), enter the Township for the purposes of investigating whether or not there has been a breach of the Lease.

13. Transition from existing arrangements

13.1 Existing rights, titles or other interests

- (a) The Parties agree that any Existing right, title or other interest is preserved as a right, title or interest in the Township under this Lease.
- (b) The Parties agree that rent or any other money payable under or in connection with such an Existing right, title or other interest to the Land Trust is from the Commencement Date payable to the Lessee.
- (c) The Parties acknowledge that an Existing right, title or other interest might not include all obligations on the Lessee under this Lease. The Lessee is not required to comply with an obligation under this Lease in respect of the area the subject of the Existing right, title or other interest to the extent that the same obligation is not contained in the relevant Existing right, title or other interest.

13.2 Formalisation of tenure

The Lessee will use its best endeavours to formalise existing tenure arrangements in the Township within 12 months after the Commencement Date.

14. Housing Services

- (a) Subject to clause 13.1, the Lessee must use its best endeavours to enter into a Township Sublease or other arrangement with a Housing Authority to provide Social Housing services in the Township during the Term.
- (b) Where possible, in discharging its obligations under clause 14(a), the Lessee must prioritise any non-government Housing Authority to deliver Social Housing services in the Township.

Part 5 – Permitted Use

15. Use of Township

15.1 Permitted Use

The Lessee must only use, and permit the use of, the Township for those purposes which are permitted under the Master Plan and any other applicable Law including applicable Planning Laws.

15.2 Approvals

The Lessee must, at its cost, obtain and comply with all Approvals which from time to time may be necessary or appropriate for the Township or the use or occupation of the Township unless the Approval is required in respect of any activity carried out by the Land Trust or any Third Party, in which case the party carrying out the activity is responsible for obtaining the Approval.

15.3 Compliance with notices

The Lessee must comply with all notices, orders and directions issued or given by a Government Agency in relation to the Township or the use or occupation of the Township regardless of whether the notice, order or direction is addressed to or requires compliance by the Lessee, the Land Trust or any Third Party except to the extent that such compliance requires the Lessee to undertake structural alterations or additions to the Land Trust's Improvements, unless such structural alterations or additions are occasioned or required by reason of the Lessee's use or occupation of the Township.

15.4 Notices

A Party which receives a notice, order or direction from a Government Agency which affects or relates to the Township or the use or occupation of the Township must promptly give a copy of that notice, order or direction to the Lessee.

16. Master Plan

16.1 Purpose of Master Plan

The Parties acknowledge that the purpose of the Master Plan is to promote the sustainable social, cultural and economic development of the Township for the benefit of relevant Aboriginals.

16.2 Development and approval of Master Plan

- (a) The Lessee agrees to develop a Master Plan for approval in accordance with paragraphs 16.2(e) or (f), within 24 months after the Commencement Date or such further period approved by the Parties.
- (b) The Master Plan will (among other things):
 - (i) provide a framework for the strategic direction for the sustainable social, cultural and economic development of the Township;
 - (ii) take into account all existing Improvements and Services within the Township;
 - (iii) collate existing information and resources relating to the Township;
 - (iv) have regard to the future needs and aspirations for the Township in relation to municipal services, parks, sporting infrastructure and facilities, and other community use facilities; and
 - (v) identify appropriate land uses for the Township including but not limited to residential, industrial, commercial, community and sporting, cultural and future development.
- (c) When developing or amending the Master Plan, the Lessee will take into account the guidelines in Annexure 3.
- (d) The Lessee must Consult with the Consultative Forum (subject to clause 23) and the Parties in the development of the Master Plan.
- (e) Where the EDTL is the Lessee, the Master Plan must be approved by the Consultative Forum and the Parties.
- (f) Where the Township Entity is the Lessee, the Master Plan must be approved by the Township Entity (in accordance with its constitution or rules) and the Parties.
- (g) The Parties acknowledge that upon a transfer of this Lease to a Township Entity under clause 8, the Township Entity can amend as necessary the Master Plan to further incorporate the matters in Annexure 4, to the extent that they are not already covered in the Master Plan and where the Township Entity believes they are necessary for its use and enjoyment of the Township.

16.3 Amendments to Master Plan

- (a) Where the EDTL is the Lessee, the Lessee may only amend the Master Plan:

- (i) following consultation with the Consultative Forum and the Parties about the proposed amendment; and
 - (ii) with the consent of the Consultative Forum.
- (b) Where the Township Entity is the Lessee, the Lessee may only amend the Master Plan:
- (i) following consultation with the Parties about the proposed amendment; and
 - (ii) in accordance with its constitution or rules.

16.4 Master Plan Period

- (a) The Master Plan will apply for the period starting on the Commencement date and ending on the day prior to the 20th anniversary of the Commencement Date (**Master Plan Period**).
- (b) Upon the expiry of the Master Plan Period:
- (i) where the EDTL is the Lessee, the members of the Consultative Forum will review the operation of the Master Plan and will consider:
 - (A) whether or not the existing Master Plan should be re-adopted in the Lease without amendment;
 - (B) whether or not the existing Master Plan should be re-adopted in the Lease with amendment; and
 - (C) whether or not the Lease should include a Master Plan at all, and
 - (ii) where the Township Entity is the Lessee, the Township Entity will review the operation of the Master Plan and will consider:
 - (A) whether or not the existing Master Plan should be re-adopted in the Lease without amendment;
 - (B) whether or not the existing Master Plan should be re-adopted in the Lease with amendment; and
 - (C) whether or not the Lease should include a Master Plan at all.

16.5 Inconsistency with Laws

Notwithstanding any other provision of this Lease, the Lessee is not required to comply with the Master Plan to the extent that it is inconsistent with any applicable Laws including the Planning Laws.

16.6 Application of Master Plan to Township Subleases and Township Licences

To the extent that a Master Plan is in existence as at the date a Township Sublease or Township Licence is granted, the Parties agree that:

- (a) the Master Plan will only apply to the relevant Township Sublease or Township Licence in the form it is in as at the date of the grant of the relevant Township Sublease or Township Licence; and
- (b) the Lessee can agree with the relevant Township Sublessee or Township Licensee to vary the subject Township Sublease or Township Licence to incorporate an amended Master Plan into the relevant Township Sublease or Township Licence.

17. Development

17.1 Compliance with Master Plan and Planning Laws

- (a) Any Development must be undertaken in accordance with the Master Plan and any other applicable Laws including the Planning Laws.
- (b) To the extent it is necessary for the proposed Development, the Land Trust and the Land Council authorise the Lessee and the Lessee's agents and contractors to apply for any consent required under the Master Plan, Planning Laws and any other applicable Laws for the purpose of undertaking any Development in the Township. The Land Trust and the Land Council also undertake to provide the Lessee, at the Lessee's cost, with such further written authorisation as may be necessary for the purposes of this clause 17.1.

17.2 Works and Sacred Sites

- (a) The Lessee must, prior to commencing any Works on and use of the land in the Township (including any additions or external renovations to Buildings involving ground disturbances or any removal of adult trees), obtain a Sacred Site Certificate.
- (b) The Lessee can rely upon and will not otherwise be in breach of this clause 17.2 if it undertakes any Works on or use of land referred to in clause 17.1(a) as permitted by, and in accordance with, a Sacred Site Certificate.
- (c) The Parties acknowledge that confidential Information relating to Sacred Sites may only be disclosed with the express permission of the Custodian for that Sacred Site.

18. Repairs and Maintenance – Improvements, Roads and Services

18.1 Existing Improvements

- (a) Subject to clause 18.1(c), during the Term, all Improvements are the property of the Lessee who is responsible for their maintenance, repair or replacement having regard to their condition (where applicable) as at the Commencement Date.
- (b) Subject to the terms of this Lease, the Lessee may erect, install, alter, remove, refurbish and demolish Improvements.
- (c) The Lessee does not need to comply with this clause 18.1(a) to the extent any Improvements are:

- (i) Land Trust Improvements;
- (ii) the subject of an Existing right, title or other interest; or
- (iii) the subject of a Township Sublease or Township Licence pursuant to which the Township Sublessee or Township Licensee (as applicable) is responsible for the maintenance, repair or replacement of an Improvement.

18.2 Roads

- (a) The Parties acknowledge that the construction and use of roads in the Township is necessary for the use and enjoyment of the Lease.
- (b) The parties acknowledge that immediately prior to the Commencement Date of this Lease, the Tiwi Islands Regional Council provides the core service of management and maintenance of the road network within the Township and, in accordance with its obligations under clause 18.2(a), the Lessee must use its best endeavours to put in place appropriate arrangements in relation to the road network.

18.3 Services

- (a) Where any of the Services require regular servicing, maintenance and repair, the Lessee must:
 - (i) use its best endeavours to facilitate providers of Services to service, maintain and repair the Services; and
 - (ii) use its best endeavours to ensure that appropriate Service commitments are met.
- (b) To the extent any Services are the subject of an arrangement contemplated by clause 19.4 and the relevant Township Sublessee, Township Licensee or Existing Service Provider maintains and repairs those Services or is required to do so, the Lessee will not be in breach of its obligation under clause 18.3(a)(i).

Part 6 – Subleases and licences

19. Township Subleases

19.1 Grant of Township Sublease

Subject to the provisions in this clause 19, the Land Trust acknowledges and agrees that the Lessee may grant Township Subleases provided that the Lessee ensures that:

- (a) the term of any Township Sublease (including any options) does not exceed the balance of the Term then remaining less 1 day;
- (b) subject to clause 28.5, the Township Sublease expires or determines automatically upon expiration or earlier determination of this Lease;

- (c) prior to the grant of a Township Sublease, the Lessee must first Consult with the Consultative Forum;
- (d) it uses its best endeavours to see that each Sublessee observes and complies with its obligations under its Township Sublease; and
- (e) subject to clause 19.6 [Sacred Site], all Township Subleases are granted on a commercial basis applying sound business principles, taking into account the general purpose of this Lease as set out in paragraph J of the Background, and the specific purpose of the relevant Township Sublease.

19.2 Register of Township Subleases

- (a) The Lessee must keep:
 - (i) a register of Township Subleases including any rights or interests granted under a Township Sublease (the **Register**); and
 - (ii) a copy of each Township Sublease including any rights or interests granted under a Township Sublease.
- (b) If requested by the Land Council the Lessee must:
 - (i) provide a copy of the Register to the Land Council within 5 Business Days after such request;
 - (ii) provide a copy of a Township Sublease or right or interest granted thereunder (eg an underlease) to the requesting Party within 10 Business Days after such request.

19.3 Respect for Culture

- (a) The Lessee must make reasonable efforts, consistent with its obligations under clause 3 [Respect for Culture], to ensure that all Sublessees work respectfully with the traditional Aboriginal owners and other Aboriginal members of the community. The Lessee must make reasonable efforts to ensure that Sublessees have due regard to any reasonable guidelines developed by the Consultative Forum, from time to time, relating to familiarity with, and respect for, Tiwi Tradition as it applies to the Land.
- (b) The Lessee will not be in breach of this clause 19.3 if it includes an obligation consistent with clause 3 in a Township Sublease.

19.4 Services providers

- (a) The Lessee acknowledges the Existing rights, titles and other interests subsisting at the Commencement Date which are held by the Existing Services Providers in respect of Existing Services.
- (b) The Lessee must use its best endeavours to ensure that there are Commercial Subleases, Township Licences or other arrangements with providers of Services to enable the provision of Services in the Township.

19.5 Statutory compliance

- (a) Where applicable, in the granting of Township Subleases the Lessee must comply with:
 - (i) the *Land Title Act 2000* (NT) and any future legislation relating to leases in the Northern Territory;
 - (ii) the *Business Tenancies (Fair Dealings) Act 2003* (NT) and any future legislation relating to retail tenancies in the Northern Territory; and
 - (iii) the *Residential Tenancies Act 1999* (NT) and any future legislation relating to residential tenancies in the Northern Territory.

19.6 Sacred Site

- (a) The Lessee acknowledges that any grant of a Township Sublease for an area of land in the Township:
 - (i) on which a Sacred Site is located; or
 - (ii) within a reasonable distance from a Sacred Site,

must be in accordance with clause 17.2 of this Lease and the requirements of the Sacred Sites Act.

- (b) Any Township Sublease granted to the Custodian of a Sacred Site or to an authority charged with its preservation may be on terms more favourable to the Custodian of a Sacred Site or to an authority charged with its preservation than normal commercial terms.

19.7 No release of liability

The Lessee acknowledges that the granting of a Township Sublease pursuant to this clause 19 will not release the Lessee from any of its obligations or liabilities under this Lease except as otherwise provided under this Lease.

20. Township Licences

20.1 Grant of Township Licence

Subject to clause 12, and the provisions in this clause 20, the Land Trust acknowledges and agrees that the Lessee may grant Township Licences provided that the Lessee ensures that:

- (a) the term of any Township Licence (including options) does not exceed the balance of the Term then remaining less 1 day;
- (b) subject to clause 28.5, the Township Licence expires or determines automatically upon expiration or earlier determination of this Lease;
- (c) prior to the grant of a Township Licence, the Lessee must first Consult with the Consultative Forum;

- (d) it uses its best endeavours to ensure that each Licensee observes and complies with its obligations under its Township Licence; and
- (e) subject to clause 20.4 [Sacred Site], all Township Licences are granted on a commercial basis applying sound business principles, taking into account the general purpose of this Lease as set out in paragraph J of the Background, and the specific purpose of the relevant Township Licence.

20.2 Register of Township Licences

- (a) The Lessee must keep:
 - (i) a register of Township Licences including any sublicense granted under a Township Licence (the **Register**); and
 - (ii) a copy of each Township Licence including any sublicense granted under a Township Licence.
- (b) If requested by the Land Council, the Lessee must:
 - (i) provide a copy of the Register to the requesting Party within 5 Business Days after such request; and
 - (ii) provide a copy of a Township Licence including any sublicense granted thereunder to the Land Council within 10 Business Days after such request.

20.3 Respect for Culture

- (a) The Lessee must make reasonable efforts, consistent with its obligations under clause 3 (Respect for Culture), to ensure that all Licensees work respectfully with the traditional Aboriginal owners and other Aboriginal members of the Township. The Lessee must make reasonable efforts to ensure that Licensees have due regard to any reasonable guidelines developed by the Consultative Forum from time to time, relating to familiarity with, and respect for, Tiwi Tradition as it applies to the Land.
- (b) The Lessee will not be in breach of this clause 20.2(a) if it includes an obligation consistent with clause 3 in a Licensee's Township Licence.

20.4 Sacred Site

- (a) The Lessee acknowledges that any grant of a Township Licence for an area of land in the Township:
 - (i) on which a Sacred Site is located; or
 - (ii) within a reasonable distance from a Sacred Site,
 must be in accordance with clause 17.2 of this Lease and the requirements of the Sacred Sites Act.
- (b) Any Township Licence granted to the Custodian of a Sacred Site or to an authority charged with its preservation may be on terms more favourable to the Custodian of a Sacred Site or to an authority charged with its preservation than normal commercial terms.

20.5 No release of liability

The Lessee acknowledges that the granting of a Township Licence pursuant to this clause 20 will not release the Lessee from any of its obligations or liabilities under this Lease except as otherwise provided in this Lease.

Part 7 – Insurance and Reinstatement

21. Insurance

21.1 Obligation to insure Township

The Lessee must effect and maintain insurance against loss, destruction or damage to Improvements for their full reinstatement value.

21.2 Obligation to insure for public liability

The Lessee must effect and maintain insurance with a limit of not less than \$20 million or such greater amount required by the Land Trust for any one occurrence to cover:

- (a) personal injury or death; and
- (b) loss, destruction or damage to any property.

21.3 Obligation to insure for workers' compensation

The Lessee must effect and maintain workers' compensation insurance covering any liability, loss, claim or proceedings whatsoever, whether arising by virtue of any statute relating to workers compensation, accident compensation legislation, employer's liability, or at common law, by any person employed by the Lessee.

21.4 Periods of insurance

The insurances referred to in this clause 21 must be:

- (a) maintained until the expiration or earlier determination of this Lease; and
- (b) maintained for the whole of the Township for the Lessee's duration of occupation of the Township.

21.5 Insurers and policies

- (a) The Lessee must effect and maintain the insurances required under this clause 21 with an insurer or insurers who, at the time of commencement of each policy and at all times thereafter, are authorised for the purposes of the *Insurance Act 1973 (Cth)*, to carry on insurance business in Australia;
- (b) The Land Council and the Land Trust reserves the right to require the Lessee to effect and maintain additional insurance or to increase the amount of existing insurance from time to time during the Term where a

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reasonable requirement to do so can be demonstrated and such insurance is available in the commercial insurance market on commercially reasonable terms and conditions; and

- (c) All policies of insurance (other than the insurances required under clause 21.3) must note the interest of the Land Trust as owner of the Land.

21.6 Lessee to satisfy itself

The Lessee must take responsibility itself for deciding whether to insure any risks which have not been covered by the policies referred to in this clause 21 or to cover any exclusions, conditions or excesses in the policies which it may wish to insure against or cover.

21.7 No limitation

This clause 21 does not detract from any of the Lessee's obligations under this Lease.

21.8 Lessee must apply proceeds

The Lessee must apply all proceeds of the insurance referred to in clause 21.1 to the cost of repair and replacement of the Township or otherwise as agreed in writing by the Land Trust.

21.9 Sublessee/Licensee insurance

- (a) The Lessee does not need to insure or self-insure for loss, destruction or damage to any property in the Township where and to the extent any Improvements and/or Services are the subject of a Township Sublease or Township Licence which requires the Sublessee or Licensee (as applicable) to effect and maintain insurance for loss, destruction or damage to those Improvements and/or Services.
- (b) The Lessee must use best endeavours to obtain a certificate of currency from a Sublessee or Licensee (as applicable) not less than once every 12 months during the term of the Township Sublease or Township Licence, as the case may be, to evidence the currency of the insurances referred to in clause 21.9(a).

21.10 Provision not to apply while the Lessee is the EDTL

- (a) Notwithstanding any other provision in this Lease, while the EDTL is the Lessee it need not comply with this clause 21.
- (b) While the EDTL is the Lessee, subject to clause 21.10(c), the Lessee will self-insure with Comcover during the Term in respect of the following:
 - (i) the Improvements; and
 - (ii) public risk in relation to the Township.
- (c) Nothing in this clause 21 requires the Lessee to self-insure with Comcover in respect of any Improvements if the Improvements are the subject of a Township Sublease or Township Licence which requires the Housing Provider, Township Sublessee or Township Licensee, as the

case may be, to effect and maintain insurance in relation to the Improvements.

- (d) The Lessee must use best endeavours to obtain a certificate of currency from a Sublessee or Licensee (as applicable) not less than once every 12 months during the term of the Township Sublease or Township Licence, as the case may be.

22. Reinstatement

22.1 No obligation to reinstate

Subject to clause 21.8, none of the Lessee, the Land Council or the Land Trust has any obligation to reinstate the Improvements if at any time during the Term any part of the Township is wholly or partly damaged or destroyed or becomes unfit for, or incapable of, use or occupation.

22.2 No right to damages

The Lessee will not have any right, action or claim for loss, damage or compensation against the Land Council or the Land Trust as a result of damage to or destruction of any part of the Township except to the extent that the damage or destruction is caused or contributed to by a wilful or negligent act or omission of the Land Council or the Land Trust.

Part 8 – Consultative Forum, review of Lease, quiet enjoyment

23. Consultative Forum

23.1 Clause 23 only applies while the EDTL is Lessee

Notwithstanding any other provision of this Lease:

- (a) this clause 23 is only applicable while the EDTL is the Lessee; and
- (b) any references to the Consultative Forum in this Lease only apply while the EDTL is the Lessee.

23.2 Establishment of the Consultative Forum

- (a) Immediately after the execution of this Lease, the Lessee and the Land Council must establish a Consultative Forum comprising nominees of the Lessee and the Land Council, with a majority of members being those nominated by the Land Council.
- (b) The Land Council is not a member of the Consultative Forum but has observer status and is entitled to attend all meetings of the Consultative Forum.
- (c) The purpose of the Consultative Forum is to:

- (i) facilitate communications and to discuss land use and other issues arising in relation to the administration of this Lease so far as they relate to having regard to the interests of the Land Trust, the traditional Aboriginal owners, other Tiwi people and other legitimate Township interests;
 - (ii) undertake other functions as provided under this Lease; and
 - (iii) perform other functions as agreed by the Parties from time to time.
- (d) The members of the Consultative Forum who are nominees of the Land Council will Consult with traditional Aboriginal owners of and other residents of the Township in relation to the business of the Consultative Forum.
- (e) While the EDTL is the Lessee it will work with the members of the Consultative Forum, including providing governance training, with a view to building the management and administration skills necessary to facilitate a transfer of the Lease from the Lessee to a Township Entity as set out in clause 8.

23.3 Power to bind the Parties

- (a) Unless expressly provided for in this Lease, a Consultative Forum does not have the power to bind the Parties to this Lease.
- (b) A member of a Consultative Forum does not have the power to bind the Party who appointed him or her.

23.4 Regard to Consultative Forum

The Lessee must have due regard to any recommendation of the Consultative Forum unless the Lessee is expressly required under this Lease to adopt the position or recommendation of the Consultative Forum.

23.5 Conduct of a Consultative Forum

- (a) Meetings of the Consultative Forum are to be convened by the Lessee, and conducted in accordance with the Consultative Forum rules initially made by agreement of the Lessee and the Land Council and as subsequently amended from time to time by the Consultative Forum with the agreement of the Lessee, such agreement not to be unreasonably withheld.
- (b) The initial rules of the Consultative Forum made by agreement of the Lessee and the Land Council are to be adopted at the first meeting of the Consultative Forum.
- (c) The Consultative Forum shall meet no less than two (2) times each year.
- (d) In addition to the meetings prescribed by clause 23.5(c) the Lessee will convene a meeting annually that will be open to all members of the community, the purpose of which is to provide information to the community about the operations of the Lessee and the work of the Consultative Forum including issues that are relevant to the administration of the Lease and activities in the Township. At this

meeting the Lessee will make available an up to date copy of the Master Plan.

- (e) No less than 5 Business Days prior to any meeting of the Consultative Forum an agenda will be:
 - (i) formulated by agreement of the Lessee and the Land Council; and
 - (ii) circulated by the Township Entity to each Consultative Forum member.
- (f) The Lessee will:
 - (i) keep minutes or a written record of each meeting of the Consultative Forum including details of attendees, decisions, approvals, resolutions, positions, recommendations and determinations made; and
 - (ii) as soon as practicable after the relevant meeting of the Consultative Forum, provide copies of the minutes or record to the Land Council and each Consultative Forum member and seek confirmation as to the accuracy of those minutes.
- (g) The costs of the Consultative Forum and the annual community meeting referred to in clause 23.5(d) will be borne by the Lessee as Operating Expenses.

23.6 Consultative Forum can assist resolution of disputes

- (a) If requested, the Consultative Forum may assist the Parties to resolve any dispute by any reasonable means.
- (b) The Consultative Forum may, or may not, agree to assist the Parties in its absolute discretion and does not need to provide a reason if it declines to assist.
- (c) The Consultative Forum may decide, in its absolute discretion, how it may assist the Parties to resolve a dispute referred to the Consultative Forum pursuant to this clause 23.6.
- (d) A Party to a dispute may notify the Consultative Forum that its assistance in resolving a dispute is no longer required. Following receipt of such notice, the Consultative Forum must cease assisting the Parties under this clause 23.6 and has no further obligation in relation to the dispute.

24. Review of Lease

- (a) Where the lessee is the EDTL:
 - (i) the Parties agree that the members of the Consultative Forum will review the operation of this Lease, including any Master Plan, ("**Review**") on every 5th anniversary and thereafter every 10th anniversary of the Commencement Date;
 - (ii) as part of the Review, the Consultative Forum may make recommendations to the Parties relating to changes to the Lease; and

- (iii) The Parties agree to give due consideration to any recommendations made in accordance with clause 24(a)(ii).
- (b) Where the lessee is a Township Entity:
 - (i) the Parties agree that the Township Entity will review the operation of this Lease ("**Review**") on the 5th anniversary of the Commencement Date and thereafter every 10th anniversary of the Commencement Date;
 - (ii) as part of the Review, the Parties may make recommendations to the Township Entity relating to changes to the Lease.
 - (iii) The Parties agree to give due consideration to any recommendations made in accordance with clause 24(a)(ii).

25. Land Council and Land Trust obligations

25.1 Quiet enjoyment

- (a) If the Lessee makes the Lease Payments under this Lease and does not otherwise breach the terms of this Lease, the Lessee may, subject to any Existing right, title or other interest, peaceably hold and quietly enjoy the Township during the Term without disturbance or interruption from or by:
 - (i) the Land Trust or any other person or persons claiming under the Land Trust; or
 - (ii) the Land Council or any other person or persons claiming under the Land Council.
- (b) The Parties undertake that they will do all things reasonably necessary to enable the Lessee to enjoy and exercise its rights, title and interests under this Lease.
- (c) The Parties undertake that they will do all things reasonably necessary to enable Sublessees and Licensees to enjoy and exercise their rights, title and other interests under their Township Subleases and Township Licences.

25.2 Produce certificates

The Land Council and the Land Trust will promptly produce all necessary certificates as to title or other dealings upon demand by the Lessee to facilitate the registration of this Lease, any Township Sublease and any Township Licence granted by the Lessee or any transfer, variation, mortgage, sublicence, underlease, surrender or other dealing with or involving a Township Sublease or Township Licence.

Part 9 – Default, termination and dispute resolution

26. Default

26.1 Occurrence of Default Event

If a Default Event occurs, the Land Trust may give the Lessee a notice in writing:

- (a) specifying that a Default Event has occurred;
- (b) setting out reasonable details of the event or circumstance constituting the Default Event; and
- (c) in the case of a Default Event other than a Financial Default, specifying the Cure Period.

26.2 Financial Default

If the Lessee commits a Financial Default and fails to remedy the breach within 60 days after receiving the Default Notice, the Land Trust may terminate this Lease immediately by notice to the Lessee.

26.3 Remedies for other Default Events

- (a) If the Lessee commits a Default Event, other than a Financial Default, then within 21 days of receipt of the Default Notice, the Lessee must provide to the Land Trust a Cure Plan in respect of that Default Event. The Land Trust must not unreasonably refuse a request by the Lessee for an extension of time to prepare the Cure Plan.
- (b) Following receipt of a Default Notice, the Lessee will be permitted to cure the Default Event within the Cure Period and in accordance with the Cure Plan.
- (c) If the Lessee requires an extension to the Cure Period it may, not later than the expiration of the current Cure Period, provide to the Land Trust:
 - (i) a revised Cure Plan; and
 - (ii) evidence that:
 - (A) the Lessee has diligently pursued and is continuing to diligently pursue implementation of the Cure Plan; and
 - (B) the Default Event cannot be (or could not have been), with reasonable diligence, cured within the current Cure Period in accordance with the Cure Plan.
- (d) The Land Trust must not unreasonably refuse to grant an extension of the Cure Period.
- (e) If the Lessee commits a Default Event and the Default Event is not cured within the Cure Period, as extended, the Land Trust may terminate the Lease immediately by written notice to the Lessee.
- (f) The provisions of this clause 26.3 do not limit or reduce the rights of the Land Trust to claim damages for breach of this Lease.

26.4 Remedies for Termination Event

If a Termination Event occurs, the Land Trust will be entitled to:

- (a) terminate this Lease immediately by written notice to the Lessee (subject to clause 26.5); and
- (b) exercise all legal and equitable rights and remedies available to the Land Trust (whether under this Lease or otherwise).

26.5 Waiver

If this Lease or the Lessee's right to occupy the Township is terminated for any reason, the Lessee waives any rights it might otherwise have to pursue a claim of restitution of any kind including, without limitation, a claim of unjust enrichment.

26.6 Consequences of termination

Upon termination of this Lease or the Lessee's right to occupy the Township (whether through default or expiry or otherwise), the rights and obligations of the Parties will cease except for:

- (a) any obligations arising or rights accrued as a result of an existing breach of this Lease; and
- (b) any obligations which are expressed to continue in accordance with the terms of this Lease (see clause 1.5 [Survival]).

26.7 Opportunity to transfer or surrender before termination

- (a) Notwithstanding any other provision of this Lease, the Land Trust must not terminate this Lease without first issuing a notice of intention to terminate to the Lessee.
- (b) If the Land Trust issues a notice of intention to terminate under this clause 26.5:
 - (i) where the EDTL is the lessee, the Land Trust must allow the Lessee a reasonable period of time to either:
 - (A) transfer the Lease (at the Lessee's cost) to a Township Entity in accordance with clause 8.2 unless otherwise agreed; or
 - (B) surrender the Lease; and
 - (ii) where the lessee is a Township Entity, the Land Trust must allow the Lessee a reasonable period of time to:
 - (A) transfer the Lease (at the Township Entity's cost) to the EDTL in accordance with clause 26 unless otherwise agreed; or
 - (B) transfer this Lease (at the Township Entity's cost) to another entity approved by the Commonwealth in accordance with section 3AAA of the Land Rights Act

("Approved Entity") by way of agreement with the Land Trust and in accordance with clause 26 unless otherwise agreed; or

- (C) surrender the Lease; and
- (iii) the Land Trust and the Land Council must cooperate to facilitate such a transfer or surrender.
- (c) If this Lease is so transferred, the Land Trust may not terminate the Lease for the Default Event or Termination Event the subject of the notice of intention to terminate.
- (d) If this Lease is surrendered, the Land Trust may not terminate any Township Subleases, which will then be held from the Land Trust, except in accordance with their terms.

26.8 Terms of surrender

Notwithstanding any other provision of this Lease, including without limitation clauses 26.5 and 27, no surrender of this Lease is permitted unless such surrender is on terms reasonably acceptable to the Parties.

27. Transfer Provisions

27.1 Transfer of Lease from Township Entity to another Approved Entity or the EDTL

- (a) Where clause 26.7(b)(ii)(B) or (B) applies, the Lessee may transfer this Lease to another Approved Entity or the EDTL provided it obtains:
 - (i) the written consent of each of the Parties; and
 - (ii) any consents or approvals required under the Land Rights Act.
- (b) In carrying out its consents and approvals under the Land Rights Act, the Land Council's direction for transfer of this Lease to the EDTL must be in the form of a written determination setting out the reasons why the Land Council considers it is appropriate to transfer this Lease and for the EDTL to hold and administer this Lease.
- (c) In carrying out its consents and approvals under the Land Rights Act, the Land Council's direction for transfer of this Lease to an Approved Entity must be in the form of a written determination setting out the reasons why the Land Council considers it is appropriate to transfer this Lease and for the Approved Entity to hold and administer this Lease, and include:
 - (i) the rules or constitution of the Approved Entity, a list of its members and a copy of the most recent report(s), if any, required under the CATSI Act;
 - (ii) each of the officers of the Approved Entity and their qualifications and experience appropriate to hold and administer the Lease;

- (iii) the proposed decision-making processes and relevant policies of the Approved Entity, including the Approved Entity's conflict of interest management policy;
 - (iv) a statement by the Approved Entity that it will comply with any Master Plan;
 - (v) a statement by the Approved Entity which sets out how the Approved Entity proposes to resource and administer the management of the Lease; and
 - (vi) the role of the Land Council in providing support to the Approved Entity with respect to the administration of the Lease.
- (d) Any transfer under this clause shall be effected voluntarily by deed without consideration flowing, together with a land titles office transfer instrument in registrable form.
- (e) Upon transfer of the Lease, conditions will be included in the transfer deed whereby the Township Entity will be released from any liability or obligation arising under or in connection with the Lease after the effective date of assignment.
- (f) To the extent that parties are considering a transfer of this Lease to the EDTL, the parties acknowledge that, subject to the Minister's consent:
- (i) any transfer will be for a maximum period of five (5) years subject to the Land Council being satisfied that the Township Entity or another Approved Entity is ready, willing and able to enter into and comply with the obligations under this Lease; and
 - (ii) variations to this Lease will be negotiated so as to enable the EDTL to effectively hold and administer this Lease, which variations will require the agreement of the Commonwealth.

Note: Any transfer is subject to the Minister's consent under subsection 19A(8) of the Land Rights Act.

28. Obligations on expiration or termination

28.1 Return of Township

The Lessee must return the Township to the Land Trust at the expiration, surrender or earlier determination of this Lease or the Lessee's occupancy of the Township in a condition consistent with its obligations under this Lease.

28.2 Dealing with the Lessee's Improvements and property

- (a) The Lessee must, if so required by the Land Trust acting reasonably, at or prior to the expiration, surrender or earlier determination of this Lease or the Lessee's occupancy of the Township take, remove and carry away from the Township all of the Lessee's Improvements other than Improvements for the ongoing use of the Township as a township.
- (b) The Lessee must immediately make good any damage to the Township caused by the removal of the Lessee's Improvements and must remove all rubbish and leave the Township in a clean state and condition.

- (c) The Land Council or the Land Trust may, at the Lessee's cost, remove or dispose of any of the Lessee's Improvements not removed on or prior to the expiration, surrender or earlier determination of this Lease or the Lessee's occupancy of the Township as required by the Land Council or the Land Trust in accordance with clause 28.2(a).
- (d) The Lessee must not remove any Improvements or Services which are liable to become the property of the Land Trust pursuant to clause 28.3.
- (e) The Parties acknowledge that, if the Lessee is desirous of disposing of any property or equipment belonging to the Lessee used in connection with the Township but which the Lessee no longer requires on expiry, surrender or earlier termination of this Lease, the Land Trust may have a right of first refusal over such property and equipment.

28.3 Ownership of Improvements at the end of the Lease

- (a) At the expiry or sooner determination of this Lease, all Improvements and Services (including Lessee's Improvements and Lessee's Services) but excluding any of the Land Trust's Improvements and Lessee's Improvements required to be removed pursuant to clause 28.2(a) will, subject to any continuing right, title or other interest, be the property of the Land Trust in consideration of the sum of \$1, if demanded by the Lessee.
- (b) Subject to any agreements in writing between the Land Trust and the Lessee, the Land Trust will not be required to further compensate the Lessee for the transfer of the Improvements.
- (c) The Lessee undertakes to do all things necessary, including procuring the agreement and cooperation of any Sublessee or Licensee, to enable the Land Trust to enjoy and exercise its rights and interests under this clause 28.3.

28.4 Novation of agreements

- (a) Subject to clause 28.5, upon the transfer, expiration, surrender or earlier determination of this Lease or any overholding period, the Lessee must (at its cost), upon the request of the Land Trust, use its best endeavours to novate or assign without payment (in the event of such expiration, surrender or earlier determination) to the Land Trust or the Land Trust's nominee or (in the event of transfer of this Lease) to a Township Entity or another entity approved by the Commonwealth:
 - (i) any service or maintenance agreement relating solely to the Township, Improvements or Services (or any part of it) or the benefit of any such agreement; and
 - (ii) any other agreement relating solely to the Township (or any part of it) or the benefit of any such agreement (excluding employment and insurance contracts).
- (b) Nothing in this clause 28.4 requires the Land Trust to request the novation or assignment of any agreement.

28.5 Assignment or Transfer of Township Subleases and Novation of Township Licences

Prior to or upon the surrender or transfer of this Lease (including a transfer or surrender pursuant to clause 26.5), the Land Trust and the Lessee must, at the Lessee's cost, cooperate to novate all Township Licences to the transferee or the Land Trust. The Parties acknowledge that upon the transfer of this Lease, all Township Subleases will be held from the transferee and, upon surrender of this Lease, all Township Subleases will be held from the Land Trust.

29. Dispute resolution

29.1 Procedure to resolve disputes

- (a) If there is a dispute between the Parties relating to or arising out of this Lease, the Parties must use best endeavours acting in good faith to settle the dispute as soon as practicable.
- (b) The procedure that is to be followed to settle a dispute arising under this Lease is as follows:
 - (i) first, negotiation of the dispute under clause 29.3; and
 - (ii) secondly, mediation of the dispute under clause 29.4 (if agreed),
 unless the Parties agree that the dispute is best resolved by an independent expert in accordance with clause 29.5 or clause 29.5 otherwise applies.

29.2 No proceedings or arbitration

A Party may not commence court proceedings in relation to a dispute arising in connection with this Lease until it has exhausted the procedures in this clause 29, unless the Party seeks appropriate injunctive or other interlocutory relief to preserve property or rights or to avoid losses that are not compensable in damages.

29.3 Negotiation

- (a) If there is a dispute between the Parties relating to or arising out of this Lease (other than a dispute to which clause 29.5 applies), then within 10 Business Days (or such longer period agreed between the Parties) of a Party notifying the other Party of a dispute, each Party to the dispute will nominate in writing a senior representative authorised to settle the dispute on its behalf.
- (b) The Parties must ensure that during the 25 Business Day period after a notice is given under clause 29.3(a) (or such longer period agreed between the Parties), their representatives must use best endeavours acting in good faith to resolve the dispute by joint discussions.
- (c) To assist the Parties in negotiating a resolution to the dispute, the Parties may agree on:
 - (i) the selection and payment of any Third Party to be engaged by the Parties;

- (ii) a timetable to resolve the dispute;
 - (iii) any exchange of relevant information and documents; and
 - (iv) the place, date and time where meetings will be held.
- (d) The role of any Third Party will be to assist in negotiating a resolution to the dispute. A Third Party may not make a decision that is binding on a Party unless that Party's representative has so agreed in writing.
- (e) Any information or documents disclosed by a representative under this clause 29.3 must be kept confidential and may not be used except to attempt to settle the dispute.
- (f) Each Party must bear its own costs of resolving a dispute under clause 29.3 and the Parties must bear equally the costs of any Third Party engaged.

29.4 Mediation

If a dispute relating to or arising under this Lease is not resolved within 25 Business Days (or such longer period as agreed between the Parties) of notification of the dispute under clause 29.3, the Parties will, if mutually agreed, submit the matter to mediation on the following terms:

- (a) the mediator will be chosen by the Parties within 10 Business Days (or such longer period agreed between the Parties) of agreeing to use mediation to resolve the dispute under this clause 29.4 and appointed within a further 5 Business Days (or such longer period agreed between the Parties);
- (b) in the absence of agreement by the Parties as to the mediator, either Party may apply to the Chief Executive Officer of LEADR to appoint a mediator who must be appointed within 10 Business Days (or such longer period agreed between the Parties) of the application;
- (c) the Parties must endeavour to procure that a mediator appointed under paragraph 29.4(a) or 29.4(b):
 - (i) assists the Parties to reach a resolution of the dispute by agreement;
 - (ii) acts impartially and ensures that each Party has a clear understanding of the other Party's points of view to enable proposals to be formulated for settlement of the dispute;
 - (iii) does not make his or her personal or professional views known to the Parties or give any professional advice to a Party;
 - (iv) is entitled to terminate the mediation if, after consultation with the Parties, the mediator forms the view that the mediation process is exhausted; and
 - (v) does not impose a solution on the Parties and any suggestion made during the course of the mediation by the mediator will not be binding on a Party;

- (d) each Party may appoint a person, including a legally qualified person, to represent it or assist it in the mediation;
- (e) each Party will bear its own costs relating to the preparation for and attendance at the mediation;
- (f) the costs of the mediator will be borne equally between the Parties; and
- (g) the mediation process will cease if the dispute has not been settled within 20 Business Days of the mediator being appointed, or such longer time as may be agreed by the Parties.

29.5 Independent expert

- (a) Where the Parties agree that a dispute is best resolved by an independent expert, the Parties will submit to the following procedure to resolve the dispute:
 - (i) the Parties will choose and appoint an independent expert;
 - (ii) in the absence of agreement by the Parties as to the independent expert within 10 Business Days (or such longer period agreed between the Parties) of notice of a dispute, the independent expert will be appointed on the application of either Party by:
 - (A) in respect of a dispute under clauses 9, 10, and 17, the National President or other senior office bearer for the time being of the Australian Property Institute (Inc);
 - (B) in all other cases, unless otherwise agreed, the President or other senior office bearer for the time being of the Institute of Arbitrators and Mediators Australia;
 - (iii) the independent expert must make a determination or finding on the issues in dispute as soon as practicable and, in any event, within 15 Business Days, or such longer period as may be agreed between the Parties;
 - (iv) the independent expert will act as an expert and not as an arbitrator and may adopt such procedures as he or she sees fit, provided that he or she must not proceed with any inquiries in the nature of judicial inquiries or allow any oral hearing or adversarial process to take place;
 - (v) the independent expert's determination will be final and binding on the Parties, provided that if a Party believes there is a manifest error in the expert's determination, that Party may within 2 Business Days (or such longer period agreed between the Parties) of receipt of the determination, advise the expert and the other Party in writing that it considers there is a manifest error. If the expert agrees there is a manifest error, it must issue an amended determination within a further 5 Business Days (or such longer period agreed between the Parties). If the expert does not agree that the initial determination contained a manifest error, and the Party still considers there is a manifest error, that Party may refer the question of whether there is a manifest error to a different independent expert in accordance with this clause 29.5

and, if the second expert determines that there is no manifest error, the determination of the first expert is final and binding but, if the second expert determines that there is a manifest error, the second expert must make a determination de novo based on the materials submitted to the first expert (and such other materials the second expert calls for) and, in the absence of manifest error, the second independent expert's decision will be final and binding on the Parties;

- (vi) the parties may make written submissions to the expert, and the expert may discuss the submissions with the Parties;
- (vii) the provisions of the *Commercial Arbitration Act 1985* (NT) do not apply; and
- (viii) the costs of the independent expert will be borne by the Parties equally or as the independent expert may otherwise determine and each Party will bear its own costs relating to the independent expert's decision.

29.6 Continue to perform

Notwithstanding the existence of a dispute, each Party must continue to perform its obligations under this Lease.

Part 10 - General

30. General

30.1 Amendments

Subject to the Land Rights Act, the Parties may from time to time by agreement in writing, amend or vary the provisions of this Lease.

30.2 Nature of obligations

- (a) Any provision in this Lease which binds more than one person binds all of those persons jointly and each of them severally.
- (b) Each obligation imposed on a Party by this Lease in favour of another is a separate obligation.

30.3 Entire understanding

- (a) This Lease contains the entire understanding between the Parties concerning the subject matter of the Lease and supersedes all prior communications between the Parties.
- (b) Each Party acknowledges that, except as expressly stated in this Lease, that Party has not relied on any representation, warranty or undertaking of any kind made by or on behalf of another Party in relation to the subject matter of this Lease.

30.4 No adverse construction

This Lease is not to be construed to the disadvantage of a Party because that Party was responsible for its preparation.

30.5 Further assurances

A Party, at its own expense and within a reasonable time of being requested by another Party to do so, must do all things and execute all documents that are reasonably necessary to give full effect to this Lease.

30.6 No waiver

- (a) A failure, delay, relaxation or indulgence by a Party in exercising any power or right conferred on the Party by this Lease does not operate as a waiver of the power or right.
- (b) A single or partial exercise of the power or right does not preclude a further exercise of it or the exercise of any other power or right under this Lease.
- (c) A waiver of a breach does not operate as a waiver of any other breach.

30.7 Severability

If any provision of this Lease is void, voidable by any party, unenforceable or illegal, it shall be read down so as to be valid and enforceable or, if it cannot be so read down, the provision (or, where possible, the offending words), shall be severed from this Lease without affecting the validity, legality or enforceability of the remaining provisions (or parts of those provisions) of this Lease which will continue in full force and effect.

30.8 Successors and assigns

This Lease binds and benefits the Parties and their respective successors and permitted assigns under clause 30.9.

30.9 No assignment without consent of other Parties

Except as expressly provided for in this Lease, a Party cannot assign or otherwise transfer the benefit of this Lease without the prior written consent of each other Party. This clause 30.9 is subject to the Land Rights Act.

30.10 Consents and approvals

Where anything depends on the consent or approval of a Party then, unless this Lease provides otherwise, that consent or approval may be given conditionally or unconditionally or withheld, in the absolute discretion of that Party.

30.11 Costs

Each Party must pay its own legal costs of and incidental to the preparation and completion of this Lease.

30.12 Governing Law and jurisdiction

- (a) This Lease is governed by and must be construed in accordance with the Laws in force in the Northern Territory.
- (b) The Parties submit to the exclusive jurisdiction of the courts of that Territory and the Commonwealth of Australia in respect of all matters arising out of or relating to this Lease, its performance or subject matter.

30.13 Notices

Any notice or other communication to or by a Party under this Lease:

- (a) may be given:
 - (i) by personal service, pre-paid registered post or facsimile; and
 - (ii) except in the case of a Default Notice or a notice of termination of this Lease, by electronic mail;
- (b) must be in writing, legible and in English addressed (depending on the manner in which it is given) as set out in Item 20 or to any other address last notified by the Party to the sender by notice given in accordance with this clause;
- (c) in the case of a corporation, must be signed by an officer or authorised representative of the sender or in accordance with section 127 of the Corporations Act or section 99-5 of the CATSI Act, as applicable; and
- (d) is deemed to be given by the sender and received by the addressee:
 - (i) if delivered in person, when delivered to the addressee;
 - (ii) if posted, 2 Business Days (or 6 Business Days, if posted outside Australia) after the date of posting to the addressee whether delivered or not;
 - (iii) if sent by facsimile transmission, on the date and time shown on the transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety and in legible form to the facsimile number of the addressee notified for the purposes of this clause; or
 - (iv) if sent by electronic mail, on the date and time on which the notice is actually received by the recipient's electronic mail system,

but if the delivery or receipt is on a day which is not a Business Day or is after 4.00 pm (addressee's time), it is deemed to have been received at 9.00 am on the next Business Day.

30.14 Counterparts

If this Lease consists of a number of signed counterparts, each is an original and all of the counterparts together constitute the same document.

30.15 Conflicting provisions

If there is any conflict between the main body of this Lease and any schedules or Annexures comprising it, the provisions of the main body of this Lease prevail.

30.16 Non merger

A term or condition of, or act done in connection with, this Lease does not operate as a merger of any of the rights or remedies of the Parties under this Lease and those rights and remedies continue unchanged.

30.17 No right of set-off

Unless this Lease expressly provides otherwise, a Party has no right of set-off against a payment due to another Party. For the avoidance of doubt, this clause does not affect the right of the Lessee to recover Operating Expenses from the Aboriginals Benefit Account.

30.18 Relationship of Parties

Unless this Lease expressly provides otherwise, nothing in this Lease may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary.

Executed as a deed

The Common Seal of Tiwi Aboriginal Land Trust was hereunto affixed by a duly authorised member of the staff of the Tiwi Land Council pursuant to subsection 4(5) of the *Aboriginal Land Rights (Northern Territory) Act 1976* upon written authority of the **Tiwi Aboriginal Land Trust** dated the ~~26th~~ **26th** ~~JUNE~~ **JUNE**, day of ~~20XX~~ and signed by:

2017

STANLEY TIPILCHRA

NAME Signature of member

KIM PUTUNGAN 611

Name (please print)

Signature of member

Name (please print)

being respectively the Chairman and two (2) other members of the **Tiwi Aboriginal Land Trust**

DATE:

Executed by the **Executive Director of Township Leasing** for and on behalf of the Commonwealth of Australia as an 'approved entity' within the meaning of the *Aboriginal Land Rights (Northern Territory) Act 1976 (Cth)* in the presence of:

Signature of witness

Michael Collins
Commissioner for Oaths
Level 5, Jacana House

39-41 Woods St, Darwin NT 0800
Full name of witness (please print)
08 8928 6167

DATE: 26.6.2017



Signature of Chairman

Name (please print)

SIGNATURE of member

Signature of Executive Director of Community Leasing

Greg Roche
Executive Director Township Leasing
Level 5, Jacana House
39-41 Woods St, Darwin NT 0800

08 8928 6114
Name of Executive Director of Community Leasing (please print)

The Common Seal of Tiwi Land Council was)
 hereunto affixed upon the Tiwi Land Council)
 being satisfied of the requirements contained in)
 subsection 19A(2) of the *Aboriginal Land Rights*)
(Northern Territory) Act 1976 (Cth). The **Tiwi**)
Land Council directs the Tiwi Aboriginal Land)
 Trust to enter this deed. Given under the)
 Common Seal of the **Tiwi Land Council** by)
 authority of a resolution of the Tiwi Land Council)
 in the presence of:)



Dominic McCormack

Signature of witness

Gibson Illoortaminni

Signature of Chairman

Dominic McCormack

Name of witness (please print)

Legal Practitioner
(08) 87 416 385

GIBSON ILLOORTAMINNI

Name (please print)

John Anthony Wilson

Signature of Executive Member

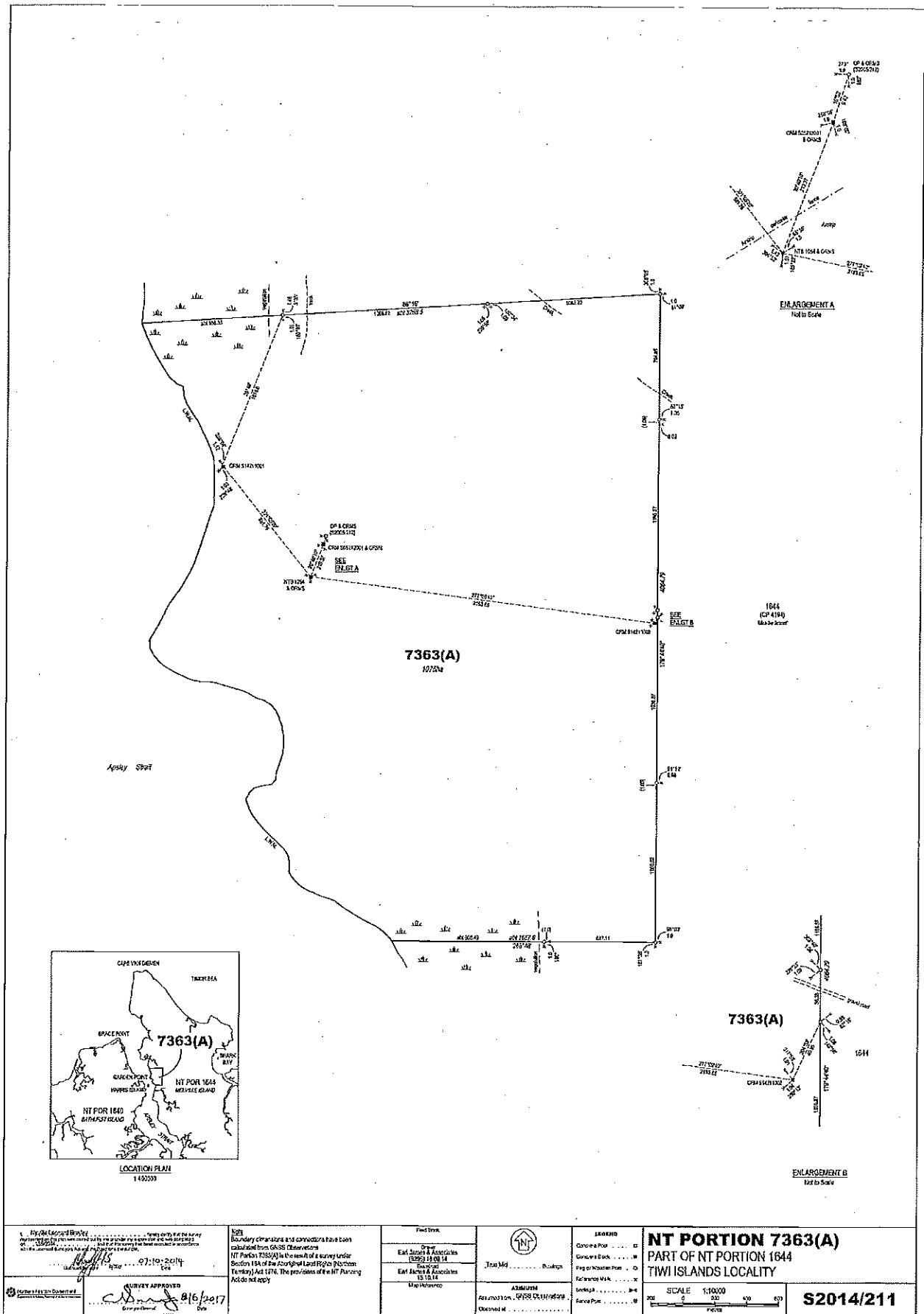
JOHN ANTHONY WILSON

Name (please print)

DATE: *26.6.2017*

Part 11 - Annexures

Annexure 1 - Plan of Pirlangimpi Township (Item 7)



Annexure 2 - Reservations in Land Rights Act (clause 2)

The Land Rights Act contains provision for the following reservations to apply to grants of land made under the Land Rights Act as at the Commencement Date:

- (a) access to estates;
- (b) Construction of roads;
- (c) minerals (including water);
- (d) miner's rights;
- (e) land occupied by the Crown at the time of the grant;
- (f) land occupied by a "mission" at the time of the grant; and
- (g) roads which existed as public rights of way at the time of the grant.

The following table contains further detail, including references to the relevant sections of the Land Rights Act.

Subject Matter of Reservation		Sections of Land Rights Act
Access to estates		<ul style="list-style-type: none"> ■ Section 70 - Entry etc. on Aboriginal land
Construction of roads		Section 68 - Road over Aboriginal land
Land occupied by a "mission" at the time of the grant		<ul style="list-style-type: none"> ■ Section 3 - Interpretation ■ Section 18 –Occupation or use of Aboriginal land by Mission
Land occupied by the Crown at the time of the grant;		<ul style="list-style-type: none"> ■ Section 3 - Interpretation ■ Section 14 - Occupation etc. by the Crown etc. of Aboriginal land vested in Land Trust
Minerals (includes water)		<ul style="list-style-type: none"> ■ Section 3 - Interpretation ■ Section 12(2) - Grants of land to Land Trusts ■ Section 12(2AAA) - Additional grant to Land Trust
Miner's rights		<ul style="list-style-type: none"> ■ Section 3 - Interpretation ■ Section 75 - Application of miner's right in relation to Aboriginal land

Subject Matter of Reservation		Sections of Land Rights Act
Roads		<ul style="list-style-type: none"> ■ Section 3 - Interpretation ■ Sections 12(3) and 12(3A) - Grants of land to Land Trusts ■ Section 12AA - Agreements with respect to roads on land described in Schedule 1 ■ Section 12AB - Declaratory orders with respect to roads on land described in Schedule 1 ■ Section 12AC - Effect of agreement or order

Annexure 3 - Guidelines for inclusions in the Master Plan (clause 16.2(c))

The Lessee, in developing or amending the Master Plan, should consider including, incorporating or making provision for, where appropriate:

- any pre-existing or updated boundary survey and cadastral map of the Township that describes the boundary of the Township and individual lots within the Township;
- a zoning map providing for areas within the Township for specific uses, including any documents under the Planning Act or other programs of the Territory related to planning and zoning within the Township, for example the Remote Minor Communities Planning Framework;
- future needs of the Township considered necessary by the Lessee or provided by the Territory or Third Parties (such as the Regional Council), including:
 - municipal infrastructure and services;
 - public and other housing;
 - parks, sporting infrastructure and facilities; and
 - facilities for community use;
- environmental protection processes and planning;
- cultural heritage protections or management plans;
- applicable Planning Law, Environmental Law, regulations and by-laws that concern the use and development of the Township; and
- the Lessee's approval processes for the development or use of land in the Township as established and applied by the Lessee.

Annexure 4 – Township Entity guidelines for inclusions in Master Plan (clause 16.2(g))

Additional contents of Master Plan

In relation to the Township, the Master Plan can:

- (a) include a map or survey of the Township that accurately describes the boundary of the Township, individual lots within the Township and existing rights, titles and interests within the Township;
- (b) identify zones to guide the use and development of the Township, including:
 - (i) residential zones;
 - (ii) a town centre zone;
 - (iii) light industry zones;
 - (iv) recreational, community and sporting zones;
 - (v) cultural zones (including sacred sites and sites of significance),
 - (vi) burial areas, cemeteries or morgues; and
 - (vii) future development zones.
- (c) provide information on the status of infrastructure, Existing Improvements and Existing Services in the Township in the following areas:
 - (i) municipal infrastructure, including roads, sewerage systems, kerbing, drainage, stormwater drainage, pathways and easements;
 - (ii) power and water services;
 - (iii) communication and telecommunication systems;
 - (iv) public housing;
 - (v) waste management services;
 - (vi) parks, sporting infrastructure and facilities;
 - (vii) burial areas, cemeteries or morgues;
 - (viii) facilities for community use (for example: public pool, library or safe houses).
- (d) have regard to the future needs of the Township (including future needs for infrastructure, Improvements and Services) in the following areas:
 - (i) municipal infrastructure, including roads, sewerage systems, kerbing, drainage, stormwater drainage, pathways and easements;
 - (ii) power and water services;
 - (iii) communication and telecommunication systems;
 - (iv) public housing;

- (v) waste management services;
 - (vi) parks, sporting infrastructure and facilities;
 - (vii) burial areas, cemeteries or morgues;
 - (viii) facilities for community use (for example: public pool, library or safe houses).
- (e) identify regulations that concern the use and development of the Township, including any restrictions on the use or development of the Township.
- (f) outline any processes established by the Lessee (whether binding upon the Lessee or otherwise) for applicants that wish to use land or carry on activities within the Township, including, where applicable:
- (i) the contents of an application;
 - (ii) any conditions that may be placed upon an application for a particular use or activity;
 - (iii) the processes for consideration of an application;
 - (iv) time frames and consultation periods concerning an application;
 - (v) any other relevant matters.
- (g) reference any legislation that may be applicable to activity within the Township, including the Land Rights Act, relevant sacred sites legislation and standards, Planning Laws, the Local Government Act (NT) or similar legislation, any environmental protection processes and Environmental Law that apply to the Township; and
- (h) establish a cultural heritage management plan that provides detailed information concerning Cultural Heritage and culturally significant uses of the Township area (including customary burial practices) and methods for the management and protection of Cultural Heritage.