

Deed of Variation of Lease

Township of Wurrumiyanga

Tiwi Aboriginal Land Trust

and

Executive Director of Township Leasing

and

Tiwi Land Council

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Deed of Variation of Lease

Date

14 MAR CH.

2014

Parties

1. **Tiwi Aboriginal Land Trust** established pursuant to section 4(1) of the Land Rights Act ("the **Land Trust**")
2. **Executive Director of Township Leasing** on behalf of the Commonwealth of Australia as 'approved entity' within the meaning of the Land Rights Act ("the **EDTL**")
3. **Tiwi Land Council** as established by notice dated 18 August 1978 under the Land Rights Act (or if the boundaries are varied so as to exclude the Township from its area, then the Land Council for the area of the Township established under the Land Rights Act) ("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 office of the EDTL was created pursuant to section 20B of the Land Rights Act.
- C. The Land Trust leases the Township to the EDTL pursuant to subsection 19A(1) of the Land Rights Act under the Lease.
- D. The Lease commenced on 30 August 2007.
- E. Clause 28 of the Lease provides that the Consultative Forum will review the operation of the Lease on:
 - (a) the 5th anniversary of the Commencement Date;
 - (b) every 10th anniversary of the Commencement Date; and
 - (c) as otherwise determined by the Consultative Forum, from time to time.
- F. The Consultative Forum has completed the 5th anniversary review of the Lease and has recommended certain variations to the Lease.
- G. The Parties have considered the recommendations made by the Consultative Forum and have agreed to vary the Lease in response to those recommendations in the manner outlined in this Deed.

Agreed terms

1. Definitions and interpretation

1.1 Definitions

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

Consultative Forum means the Consultative Forum established under clause 23.1 of the Lease;

Land means the land described in the Certificate of Title Volume 781 Folio 863;

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

Lease means the lease signed by the Land Trust, the Land Council and the EDTL, registration number 662214;

Template Licence means the licence template annexed to Annexure 2 of the Lease;

Template Sublease means the sublease template annexed to Annexure 1 of the Lease; and

Township means that part of the Land described as NT Portion 6798(A) on the Survey Plan S2007/183.

2. Variation of Lease

The Parties agree that the Lease is varied in accordance with clauses 3 to 40 (inclusive) of this Deed. The variations to the Lease take effect from the date of this Deed.

3. Global variations

3.1 LE changed to EDTL

In paragraph 2 of the section headed "Parties", the words "(the LE)" are deleted and replaced with the words "(the EDTL)".

The word "LE" or "LE's" (as the case may be) is deleted and replaced with the word "EDTL" or "EDTL's" (as the case may be) each time it appears in the Lease.

3.2 Nguuu changed to Wurrumiyanga

The word "Nguuu" is deleted and replaced with the word "Wurrumiyanga" each time it appears in the Lease (excepting Item 6 of the Schedule).

4. Clause 1 – Definitions and interpretation

4.1 Aboriginal Areas Protection Authority [see also related definition of "Authority Certificate"]

The definition of "Aboriginal Areas Protection Authority" in clause 1.1 is amended by deleting the words "*Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*" and replacing them with the words "Sacred Sites Act", such that the definition will now read as follows:

"Aboriginal Areas Protection Authority means the authority established under the Sacred Sites Act and known as the Aboriginal Areas Protection Authority;"

4.2 Authority Certificate [see also related clause 15.6]

The definition of "Authority Certificate" in clause 1.1 is amended by deleting the words "*Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*" and replacing them with the words "Sacred Sites Act", such that the definition will now read as follows:

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

4.3 Commonwealth Minister [see also Background Item F]

The following definition is inserted in clause 1.1:

"**Commonwealth Minister** means the Minister administering the Land Rights Act."

4.4 Consultative Forum Rules [see also related clause 23.6 & Annexure 3]

The definition of "Consultative Forum Rules" in clause 1.1 is deleted.

4.5 Fit and Proper Person [see also related clauses 10.6 & 11.6]

The following definition is inserted in clause 1.1:

"**Fit and Proper Person** means a person who has not been convicted of a Sexual or Crime against Children Offence at any time and in any jurisdiction;"

4.6 Register [see also related clause 10.5]

The definition of "Register" in clause 1.1 is deleted.

4.7 Sacred Sites Act [see also related clauses 7.6, 10.14, 11.9 and 15.6]

The following definition is inserted in clause 1.1:

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

4.8 Template Licence [see also related clause 11.1]

The definition of "Template Licence" is amended by inserting additional words at the end of the definition such that the definition will now read as follows:

"**Template Licence** means the licence template annexed to Annexure 2 (which contains both Licence Mandatory Terms and Licence Discretionary Terms) or such other amended or replaced form approved by the Consultative Forum in writing, from time to time (provided that in all cases the EDTL must give the Land Council written notice of any proposed changes to the licence template at least 10 Business Days, or such other notice period as the EDTL and the Land Council agree, prior to seeking the approval of the Consultative Forum);"

4.9 Template Sublease [see also related clause 10.1]

The definition of "Template Sublease" is amended by inserting additional words at the end of the definition such that the definition will now read as follows:

"Template Sublease means the sublease template annexed to Annexure 1 (which contains both Sublease Mandatory Terms and Sublease Discretionary Terms) or such other amended or replaced form approved by the Consultative Forum in writing, from time to time (provided that in all cases the EDTL must give the Land Council written notice of any proposed changes to the sublease template at least 10 Business Days, or such other notice period as the EDTL and the Land Council agree, prior to seeking the approval of the Consultative Forum);"

4.10 Third Party Occupier [see also related clause 12]

The following definition is inserted in clause 1.1:

"Third Party Occupier means any Sublessee, Licensee, Underlessee or Sublicensee;"

5. Clause 5.1 – Lease Payment

Clause 5.1 is amended by amending paragraph (b), inserting a new paragraph (c) and moving the existing paragraph (c) to paragraph (d), such that clause 5.1 will now read as follows:

"5.1 Lease Payment

- (a) The EDTL must pay the Land Council for the Land Trust the amounts specified in clause 5.1(b) (**Lease Payments**).
- (b) The Lease Payments are:
 - (i) a one time only payment of \$5 million (**Introductory Payment**);
 - (ii) the amount (if any) by which the sum of all accumulated Income generated by the EDTL under this Lease for the Initial Period exceeds \$4,400,000 (**Bonus Payment**); and
 - (iii) 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 EDTL under this Lease during such year less Operating Expenses of the Lease during such year (**Annual Payment**).
- (c) For the purpose of clause 5.1(b)(ii), **"Initial Period"** is the period commencing on the Commencement Date and ending on the first to occur of the following:
 - (i) the last day of the relevant year of this Lease (being a year commencing on an anniversary of the Commencement Date) during which the sum of all accumulated Income generated by the EDTL under this Lease since the Commencement Date first exceeds \$4,400,000; or
 - (ii) the day prior to the fifteenth anniversary of the Commencement Date.
- (d) The Introductory Payment is a prepayment for this Lease."

6. Clause 5.2 – How does the EDTL pay the Lease Payment

Clause 5.2 is amended by amending paragraph (b), such that clause 5.2 will now read as follows:

"5.2 How does the EDTL pay the Lease Payment?

- (a) The EDTL must pay the Introductory Payment on the Commencement Date free of all deductions and with no right of set-off.
- (b) The EDTL must pay the Bonus Payment:
 - (i) within 3 months after the date referred to in either clause 5.1(c)(i) or 5.1(c)(ii), whichever is applicable;
 - (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 EDTL must pay each Annual Payment:
 - (i) within 3 months after the relevant anniversary of this Lease;
 - (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."

7. Clause 6.1 – Existing rights, titles or other interests

Clause 6.1 is amended by inserting new paragraphs (e) and (f) such that clause 6.1 will now read as follows:

"6.1 Existing rights, titles or other interests

- (a) The Parties acknowledge that, in accordance with subsection 19A(10) of the Land Rights Act, any existing right, title or other interest is preserved as a right, title or interest in the Township under this Lease. Without limiting the operation of this clause, or seeking to limit the operation of subsection 19A(10) of the Land Rights Act, persons with existing rights, titles or other interests, and the nature of their right, title or other interest, are set out in Item 2 and Annexure 4. The Parties acknowledge that further rights, titles or other interests may exist and are to be dealt with in accordance with clause 6.1(b). Native title rights and interests, if any, are not listed in Item 2 and Annexure 4. Persons who were in occupation of land in the Township (other than having a right, title or other interest), without any lease or other interest, immediately before the Commencement Date are dealt with in clause 6.2.
- (b) If any Party becomes aware of any claim to an existing right, title or other interest which is not set out in Item 2 and Annexure 4, the Party must notify the EDTL. Where the EDTL agrees that a matter notified is an existing right, title or other interest, the Parties will treat it as an existing right, title or other interest for the purposes of this Lease.

- (c) The EDTL must consult with the Consultative Forum before making a decision pursuant to clause 6.1(b) in relation to any claim to an existing right, title or other interest not set out in Item 2 and Annexure 4.
- (d) Where the EDTL rejects a claim to an existing right, title or other interest pursuant to clause 6.1(b), the notifying Party must institute the dispute resolution process in clause 31, before seeking any court assisted remedy.
- (e) Subject to clause 6.1(f), if, otherwise than pursuant to a notification under clause 6.1(b) the EDTL becomes aware of something that may be an existing right, title or other interest, and the EDTL decides that it is an existing right, title or other interest, the Parties will treat it as an existing right, title or other interest for the purposes of this Lease.
- (f) The EDTL must consult with the Consultative Forum before making a decision pursuant to clause 6.1(e) in relation to something that may be an existing right, title or other interest.
- (g) The Parties acknowledge that, in accordance with subsection 19A(11) of the Land Rights Act, any existing right, title or other interest granted by the Land Trust takes effect after the Commencement Date as if it were granted by the EDTL. The Parties acknowledge that rent or any other money payable under or in connection with such an existing right, title or other interest to the Land Council is from the Commencement Date payable to the EDTL.
- (h) A person with an existing right, title or other interest may request the EDTL to formalise their right, title or other interest. If such a request is made, the EDTL must use its best endeavours to accommodate the grant of a Township Sublease on terms equivalent to the existing right, title or other interest. The EDTL must negotiate with the person in good faith in relation to the grant of such a Township Sublease."

8. Clause 7.6 – Access to Sacred Sites

Clause 7.6 is amended by amending paragraphs (a) and (b), such that clause 7.6 will now read as follows:

"7.6 Access to Sacred Sites

In accordance with and subject to the Sacred Sites Act:

- (a) Aboriginal people must have free access to Sacred Sites in accordance with Aboriginal Tradition; and
- (b) any person who has the express approval of the Custodian of a Sacred Site to enter that Sacred Site for a purpose permitted by Aboriginal Tradition, must be granted access to that Sacred Site by reasonable means and by the most direct practical route between a place of public access and the Sacred Site (or between Sacred Sites).

The EDTL undertakes to do all things necessary to enable those persons entitled to enjoy and exercise their rights and interests under this clause 7.6."

9. Clause 8.1 – Existing Improvements

Clause 8.1 is amended by amending paragraph (d) and deleting paragraphs (e) and (f), such that clause 8.1 will now read as follows:

“8.1 Existing Improvements

- (a) Existing Improvements subject to an existing right, title or other interest will remain subject to the terms of that existing right, title or other interest, for the period of the existing right, title or other interest.
- (b) Existing Improvements to which sections 14 and 18 of the Land Rights Act apply will remain subject to those provisions, for the period those provisions apply.
- (c) Existing Improvements subject to a Right of Occupation are included in that Right of Occupation, for the period of that Right of Occupation.
- (d) Subject to clauses 8.1(a) to 8.1(c), and any other relevant Law, all Existing Improvements are the property of the Land Trust and are the subject of this Lease.”

10. Clause 9 – Respect for Tiwi Culture

Clause 9(b) is amended such that clause 9 will now read as follows:

“9. Respect for Tiwi Culture

- (a) The EDTL acknowledges that:
 - (i) the traditional Aboriginal owners of the Land have a spiritual and custodial relationship with the Land and surrounding seas;
 - (ii) the traditional Aboriginal owners of the Land remain the custodians of the Cultural Heritage of the Land;
 - (iii) some knowledge belongs only to specific members of the Aboriginal community;
 - (iv) certain information is inaccessible to all except those deemed appropriate by the Aboriginal community;
 - (v) secret and sacred materials are items of special religious and spiritual significance to Tiwi People, and are usually associated with men's and women's private ceremonies.
- (b) In discharge of the EDTL's functions, the EDTL must be familiar with, and show respect for, Aboriginal Tradition as it applies to the Land. The EDTL must have due regard to any reasonable guidelines developed by the Consultative Forum, from time to time, relating to familiarity with, and respect for, Aboriginal Tradition as it applies to the Land.

11. Clause 10.1 – Grant of Township Sublease

Clause 10.1 is amended by amending paragraphs (c) and (d) and inserting a new paragraph (e), such that clause 10.1 now reads as follows:

"10.1 Grant of Township Sublease

Subject to the provisions in this clause 10, the Land Trust acknowledges that the EDTL may grant Township Subleases provided that the EDTL 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 27.4, the Township Sublease expires or determines automatically upon expiration or earlier determination of this Lease;
- (c) prior to the grant of a Township Sublease (other than a Commercial Sublease), the EDTL must first notify the Consultative Forum;
- (d) all Township Subleases contain terms in a form substantially similar to the Sublease Mandatory Terms, unless otherwise approved by the Consultative Forum in writing (provided that in all cases the EDTL must give the Land Council written notice of any proposed changes to the Sublease Mandatory Terms at least 10 Business Days, or such other notice period as the EDTL and the Land Council agree, prior to seeking the approval of the Consultative Forum);
- (e) any special conditions in a Township Sublease are not inconsistent with the Sublease Mandatory Terms and to that end such special condition will be void to the extent of any such inconsistency, unless otherwise approved by the Consultative Forum in writing (provided that in all cases the EDTL must give the Land Council written notice of any proposed changes to the Sublease Mandatory Terms at least 10 Business Days, or such other notice period as the EDTL and the Land Council agree, prior to seeking the approval of the Consultative Forum);
- (f) a Sublessee does not transfer, sublet, mortgage or surrender its Township Sublease where such action would result in a breach of this Lease or the terms of its Township Sublease;
- (g) otherwise, a Sublessee does not:
 - (i) part with or share possession of land or Improvements leased under its Township Sublease other than to or with a Relative; or
 - (ii) grant a licence to occupy or use, land or Improvements leased under its Township Sublease,

without the prior written consent of the Land Trust (which consent will not be unreasonably withheld) and the EDTL;
- (h) any licence to occupy or use, and any parting or sharing of possession of, any land or Improvements leased under a Township Sublease or an Underlease is subject to a clause substantially in the form of clause 7 and the requirements under that clause to obtain a Permit;
- (i) each Sublessee observes and complies with its obligations under its Township Sublease; and
- (j) subject to clauses 10.7 and 10.14, 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 E of

the background, and the specific purpose of the relevant Township Sublease.”

12. Clause 10.2 – Copy of Township Sublease and Underlease

Clause 10.2(a) is amended and clause 10.2(b) is deleted and replaced with new clauses 10.2(b), (c) and (d), such that clause 10.2 now reads as follows:

“10.2 Copy of Township Sublease and Underlease

- (a) Subject to clause 10.2(b), the EDTL must provide a copy of each Township Sublease and each Underlease to the Land Trust:
 - (i) for a Township Sublease, within 10 Business Days after execution; and
 - (ii) for an Underlease received by the EDTL (pursuant to clause 10.2 of the Sublease Mandatory Terms), within 10 Business Days of receipt,

or such other period as agreed by the Parties.

- (b) Notwithstanding clause 10.2(a), but subject to clause 10.2(c), where a Township Sublease or Underlease has been granted in a form that is substantially the same as the Template Sublease, the EDTL will not be obliged to provide a copy of the Township Sublease or Underlease to the Land Trust but must provide a copy of the notice of registration of the Township Sublease or Underlease to the Land Trust:
 - (i) for a Township Sublease, within 10 Business Days of registration;
 - (ii) for an Underlease, within 10 Business Days of receipt of the notice of registration,

or such other period as agreed by the Parties.

- (c) Notwithstanding clause 10.2(b), the EDTL must provide a copy of any Township Sublease or Underlease requested by the Land Trust to the Land Trust within 10 Business Days of such request.
- (d) The EDTL must provide a copy of each Premises Licence received by the EDTL (pursuant to clause 11.2 of the Sublease Mandatory Terms) to the Land Trust within 10 Business Days of receipt or such other period as agreed by the Parties.”

13. Clause 10.4 – Amendments and termination

Clause 10.4 is amended to read as follows:

“10.4 Amendments

The Land Trust may, by written direction to the EDTL, demand that the EDTL amend any Township Sublease not granted in accordance with this Lease. The EDTL must amend any Township Sublease not granted in accordance with this Lease if directed to do so by the Land Trust.”

14. **Clause 10.5 – Restrictions on the grant of Subleases to Non-Tiwis**

Clause 10.5 is amended by amending paragraphs (c), (d), (e) and (f) and inserting a new clause 10.5(g) such that clause 10.5 will now read as follows:

“10.5 Restrictions on the grant of Subleases to Non-Tiwis

- (a) The EDTL must not grant a Township Sublease, or vary a Township Sublease, which would directly result in the number of Non-Tiwi Permanent Residents of the Township exceeding 15% of the number of Permanent Residents in the Township at the time the Township Sublease is granted or varied (**Population Limitation**).
- (b) The Consultative Forum may vary the Population Limitation by notice to the EDTL provided that the Population Limitation is not less than 15%.
- (c) Subject to clause 10.5(d), the EDTL is only required to have regard to census data compiled and published by the Australian Bureau of Statistics (**Census Data**) for the purpose of determining whether the Population Limitation has been exceeded.
- (d) On intervals of no more than once every five years the Land Trust can request that the EDTL determines whether the Population Limitation has been exceeded by compiling a register of Permanent Residents (**Register**). The Register must contain the following particulars:
 - (i) address of residence;
 - (ii) the name of all Permanent Residents; and
 - (iii) a classification of each resident as either a Non-Tiwi Permanent Resident or a Tiwi Permanent Resident.
- (e) The EDTL may request the assistance of the Land Council to compile the Register. If requested, the Land Council must provide all reasonable assistance to the EDTL to compile the Register.
- (f) The EDTL is not in breach of this clause 10.5 where it grants or varies a Township Sublease in reliance on the most recent Census Data or Register.
- (g) The EDTL is not in breach of this Lease if the number of Non-Tiwi Permanent Residents of the Township exceeds the Population Limitation:
 - (i) following a notice given in accordance with this clause 10.5(b); or
 - (ii) due to ordinary increases in the number of Non-Tiwi Permanent Residents.”

15. **Clause 10.6 – Fit and proper**

Clause 10.6 is amended by amending paragraphs (a), (b), (c), (d) and (e), such that clause 10.6 will now read as follows:

“10.6 Fit and proper

- (a) Subject to clause 10.6(d), the EDTL must not grant a Township Sublease to any person unless satisfied that the applicant is a Fit and Proper Person.
- (b) For the purposes of clause 10.6(a), the EDTL must obtain, and may rely upon, a national police record check from the Relevant Authority to determine whether a person is a Fit and Proper Person.
- (c) References in this clause 10.6 to an applicant not being a Fit and Proper Person are, where the applicant is a body corporate, references to any director or other person concerned in the management of the body corporate not being a Fit and Proper Person.
- (d) Clauses 10.6(a); 10.6(b) and 10.6(c) do not apply:
 - (i) in respect of the grant of a Township Sublease to a Government Agency; or
 - (ii) if the applicant of a Township Sublease is a body corporate, to the extent that any director or person concerned in the management of the body corporate does not intend to work or reside in the Township.
- (e) The EDTL must ensure that each Township Sublease includes provisions that oblige the Sublessee to ascertain whether the Sublessee's employees, agents, contractors and officers who intend to visit the Township are Fit and Proper Persons by following substantially the same procedures set out in clauses 10.6(a), 10.6(b) and 10.6(c)."

16. Clause 10.8 – Notification of proposed Commercial Sublease

Clause 10.8 is amended by amending clause 10.8(a) and inserting new clauses 10.8(h) and 10.8(i), such that clause 10.8 will now read as follows:

"10.8 Notification of proposed Commercial Sublease

- (a) The EDTL must notify the public of any proposal to grant a Commercial Sublease for a term of more than five years.
- (b) Notification under clause 10.8(a) requires the EDTL to place such notice in the local newspaper, other media as appropriate, on the local noticeboard or as otherwise reasonably appropriate in the circumstances to bring the proposed Commercial Sublease to the attention of the Township community. Such notice must include the following particulars:
 - (i) a description of the land to which the proposed Commercial Sublease relates;
 - (ii) the term of the proposed Commercial Sublease;
 - (iii) the proposed consideration (if any);
 - (iv) the Permitted Use contained within the proposed Commercial Sublease;
 - (v) any special conditions; and

- (vi) where a copy of the proposed Commercial Sublease may be obtained.
- (c) Any person with a bona fide interest (**Interested Party**) in the proposed Commercial Sublease has 15 Business Days from the date of advertisement to notify the EDTL of an interest in the proposed Commercial Sublease.
- (d) Where required, an Interested Party may request up to 25 Business Days (or as otherwise agreed) in which to undertake due diligence (**Due Diligence Period**).
- (e) All Interested Parties may:
 - (i) where a request has been made under clause 10.8(d), by the end of the Due Diligence Period; or
 - (ii) otherwise within 20 Business Days of notification,
 apply for:
 - (iii) the proposed Commercial Sublease; or
 - (iv) a Commercial Sublease over land in the Township that incorporates the same Land as the proposed Commercial Sublease.
- (f) If there is more than one application for the grant of a Commercial Sublease pursuant to this clause 10.8, the EDTL must grant the Commercial Sublease to the most appropriate person having regard to the objectives set out in paragraph E of the background.
- (g) Nothing in this clause 10.8 will prevent the EDTL signing a Commercial Sublease conditional on compliance with this clause 10.8.
- (h) Notwithstanding anything in this clause 10.8, the EDTL is not required to provide public notification under clauses 10.8(a) to 10.8(g) where a Planning Scheme applies to the grant of the proposed Commercial Sublease.
- (i) Notwithstanding clause 10.8(a), this clause 10.8 does not apply to a Commercial Sublease:
 - (i) granted pursuant to clause 6 (Transition from existing arrangements) of this Lease; or
 - (ii) granted to a Government Agency, Housing Authority, Service provider or Community Benefit Organisation,
 provided that the EDTL must first notify the relevant Consultative Forum of any such proposal, including the particulars listed in clause 10.8(b).

17. Clause 10.9 – Permitted Use

Clause 10.9 is amended by changing the heading, deleting paragraph (a), inserting new paragraphs (a), (b) and (d), amending paragraph (c), amending paragraph (e) (formerly paragraph (d)) and inserting a new paragraph (f), such that clause 10.9 will now read as follows:

"10.9 Notification of proposed variations to Township Subleases

- (a) Subject to clause 10.9(b), the EDTL must notify the public of any proposal to vary the Permitted Use or term of a Township Sublease if such variation would, if it had been included in the Township Sublease when it was initially granted, have resulted in the Township Sublease being subject to clause 10.8 of this Lease.
- (b) Where clause 10.8(i) would otherwise apply to exempt a Township Sublease from being subject to clause 10.8 of this Lease, for the purposes of clause 10.9, clause 10.8(i) will be taken not to apply if, since the initial grant of the Township Sublease, the Township Sublease has been assigned or consent has been requested to assign the Township Sublease to a third party who is not a Government Agency, Housing Authority, Service provider or Community Benefit Organisation.
- (c) Notification under clause 10.9(a) requires the EDTL to place such notice in the local newspaper, other media as appropriate, on the local noticeboard or as otherwise reasonably appropriate in the circumstances to bring the proposed variation of the Permitted Use specified in any Township Sublease to the attention of the Township community. The notice must include details of how any person may object to the variation.
- (d) Members of the public must have sufficient opportunity to comment or object to any variation or authorisation made under clause 10.9(a).
- (e) If the EDTL receives any objection to the variation of a Permitted Use specified in any Township Sublease that would otherwise be permitted under any Law, the EDTL in deciding whether or not to approve the variation of the Permitted Use must have due regard to any guidelines prepared by the Consultative Forum, from time to time."
- (f) Notwithstanding anything in this clause 10.9, the EDTL is not required to provide public notification under clauses 10.9(a) to 10.9(e) where a Planning Scheme applies to the Township Sublease.

18. Clause 10.14 – Sacred Site

Clauses 10.14(a) and (b) are deleted and replaced with new clauses 10.14(a) and (b), such that clause 10.14 now reads as follows:

- "(a) The EDTL 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 15.6 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. Clause 11.1 – Grant of Township Licence

Clause 11.1 is amended by deleting paragraphs (c) and (d) and inserting new paragraphs (c), (d) and (e), such that clause 11.1 now reads as follows:

"11.1 Grant of Township License

Subject to clause 7 and the provisions in this clause 11, the Land Trust acknowledges that the EDTL may grant Township Licences provided that the EDTL 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 27.4, 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 EDTL must first notify the Consultative Forum;
- (d) all Township Licences contain terms in a form substantially similar to the Licence Mandatory Terms, unless otherwise approved by the Consultative Forum in writing (provided that in all cases the EDTL must give the Land Council written notice of any proposed changes to the Licence Mandatory Terms at least 10 Business Days, or such other notice period as the EDTL and the Land Council agree, prior to seeking the approval of the Consultative Forum);
- (e) any special conditions in a Township Licences are not inconsistent with the Licence Mandatory Terms and to that end such special condition will be void to the extent of any such inconsistency, unless otherwise approved by the Consultative Forum in writing (provided that in all cases the EDTL must give the Land Council written notice of any proposed changes to the Licence Mandatory Terms at least 10 Business Days, or such other notice period as the EDTL and the Land Council agree, prior to seeking the approval of the Consultative Forum);
- (f) Licensees only transfer, mortgage or surrender their Township Licence:
 - (i) with the consent of the EDTL which must not be unreasonably withheld; but
 - (ii) without the need for the EDTL or the Licensees to obtain the consent of the Land Trust as head lessor, the Land Council or the traditional Aboriginal owners;
- (g) otherwise, a Licensee does not:
 - (i) part with or share possession of land or Improvements licensed under a Township Licence other than to or with a Relative; or
 - (ii) grant a sublicense to occupy or use, land or Improvements licensed under a Township Licence,

without the prior written consent of the Land Trust (which consent will not be unreasonably withheld) and the EDTL;

- (h) any sublicence to occupy or use, and any parting or sharing of possession of, any land or Improvements licensed under a Township Licence is subject to a clause substantially in the form of clause 7 and the requirements under that clause to obtain a Permit;
- (i) each Licensee observes and complies with its obligations under its Township Licence; and
- (j) subject to clauses 11.7 and 11.8, 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 E of the background, and the specific purpose of the relevant Township Licence."

20. Clause 11.2 – Copy of Township Licence

Clause 11.2(a) is amended and clause 11.2(b) is deleted and replaced with new clauses 11.2(b), (c) and (d), such that clause 11.2 now reads as follows:

"11.2 Copy of Township Licence

- (a) Subject to clause 11.2(b), the EDTL must provide a copy of each Township Licence to the Land Trust within 10 Business Days after execution or such other period as agreed by the Parties.
- (b) Notwithstanding clause 11.2(a), but subject to clause 11.2(c), where:
 - (i) a Township Licence has been granted in a form that is substantially the same as the Template Licence; and
 - (ii) that Township Licence is registered on the title to the Land,
 the EDTL will not be obliged to provide a copy of the Township Licence to the Land Trust but must provide a copy of the notice of registration of the Township Licence to the Land Trust within 10 Business Days of registration or such other period as agreed by the Parties.
- (c) Notwithstanding clause 11.2(b), the EDTL must provide a copy of any Township Licence requested by the Land Trust to the Land Trust within 10 Business Days of such request.
- (d) The EDTL must provide a copy of each sublicence received by the EDTL (pursuant to clause 11.2 of the Licence Mandatory Terms) to the Land Trust within 10 Business Days of receipt or such other period as agreed by the Parties."

21. Clause 11.4 – Amendments and termination

Clause 11.4 is amended to read as follows:

"11.4 Amendments

The Land Trust may, by written direction to the EDTL, demand that the EDTL amend any Township Licence not granted in accordance with this Lease. The EDTL must amend any Township Licence not granted in accordance with this Lease if directed to do so by the Land Trust."

22. Clause 11.6 – Fit and proper

Clause 11.6 is amended by amending paragraphs (a), (b), (c), (d) and (e), such that clause 11.6 will now read as follows:

“11.6 Fit and proper

- (a) Subject to clause 11.6(d), the EDTL must not grant a Township Licence to any person unless satisfied that the applicant is a Fit and Proper Person.
- (b) For the purposes of clause 11.6(a), the EDTL must obtain, and may rely upon, a national police record check from the Relevant Authority to determine whether a person is a Fit and Proper Person.
- (c) References in this clause 11.6 to an applicant not being a Fit and Proper Person are, where the applicant is a body corporate, references to any director or other person concerned in the management of the body corporate not being a Fit and Proper Person.
- (d) Clauses 11.6(a), 11.6(b) and 11.6(c) do not apply:
 - (i) in respect of the grant of a Township Licence to a Government Agency; or
 - (ii) if the applicant of a Township Licence is a body corporate, to the extent that any director or person concerned in the management of the body corporate does not intend to work or reside in the Township.
- (e) The EDTL must ensure that each Township Licence includes provisions that oblige the Licensee to ascertain whether the Licensee's employees, agents, contractors and officers who intend to visit the Township are Fit and Proper Persons by following substantially the same procedures set out in clauses 11.6(a), 11.6(b) and 11.6(c).

23. Clause 11.8 – Permitted Use

Clause 11.8 is deleted such that clause 11.8 will now read as follows:

“11.8 Not used”

24. Clause 11.10 – Sacred Site

Clauses 11.10(a) is deleted and replaced with a new clause 11.10(a), such that clause 11.10 now reads as follows:

“11.10 Sacred Site

- (a) The EDTL 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 15.6 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."

25. Clause 12 – Third Party Occupier act or omission

Clause 12 is amended by amending paragraphs (a), (b) and (c), such that clause 12 will now read as follows:

"12. Third Party Occupier act or omission

The Parties acknowledge and agree that:

- (a) subject to clauses 12(b) and 12(c), any act or omission by a Third Party Occupier which would constitute a breach of this Lease if committed by the EDTL is, for the purposes of this Lease, deemed to be the act or omission by the EDTL;
- (b) the Land Trust must, before seeking to exercise any rights it may have under this Lease or otherwise in respect of a deemed act or omission by the EDTL pursuant to clause 12(a), give the EDTL:
 - (i) notice in writing identifying, if possible, the Third Party Occupier together with details of the relevant act or omission and the clause in this Lease that has purportedly been breached; and
 - (ii) 21 days for the EDTL to identify the Third Party Occupier and to then take whatever action the EDTL deems appropriate to cause the Third Party Occupier to remedy the relevant act or omission; and
- (c) if the act or omission of a Third Party Occupier is remedied in accordance with clause 12(b), then the provisions of clause 12(a) will not apply in respect of that act or omission."

26. Clause 15.6 – Sacred Sites

Clause 15.6 is amended by deleting paragraphs (a) and (b) and deleting the words "Northern Territory Aboriginal Sacred Sites Act 1989 (NT)" in paragraph (c) and replacing them with the words "Sacred Sites Act", such that clause 15.6 will now read as follows:

"15.6 Sacred Sites

- (a) All Work on and use of the land in the Township must be carried out in accordance with an Authority Certificate.
- (b) The EDTL can rely upon and will not otherwise be in breach of this clause 15.6 if it undertakes any Works permitted by, and in accordance with, an Authority Certificate.
- (c) If the Sacred Sites Act is repealed or amended to the extent that no Government Agency is responsible for regulating Work on, or any use of

the land that that may affect, damage or interfere with Sacred Sites, then the EDTL must:

- (i) consult with the Custodians of Sacred Sites on or in the vicinity of the land that may be affected by the proposed use or Work; and
- (ii) complete any Work and use the land with respect and consideration to any Sacred Sites that may be affected,

so as to prevent any harm or damage to, or interference with those Sacred Sites.

- (d) The Parties acknowledge that all Information relating to Sacred Sites is Confidential Information and may only be disclosed with the express permission of the Custodian for that Sacred Site."

27. Clause 15.10 – Roads

Clause 15.10 is amended to read as follows:

"15.10 Roads

The Parties acknowledge that the general Laws of the Northern Territory, or a local government body of the Northern Territory, in relation to the use of public roads should apply to all roads in the Township generally used by occupants of the Township, and will make no objection or claim to compensation if those Laws do apply."

28. Clause 17.1 – Northern Territory Planning Scheme and Law to apply

Clause 17.1 is amended by amending paragraph (a), such that clause 17.1 will now read as follows:

"17.1 Northern Territory Planning Scheme and Law to apply

- (a) Subject to clause 17.2:

- (i) the EDTL is not permitted to undertake any Development or Construction of any Building other than in accordance with the Planning Scheme and any applicable Laws; and
- (ii) to the extent it is necessary for the proposed Development or Construction, the Land Trust and the Land Council authorise the EDTL and the EDTL's agents and contractors to apply for any consent required under the Planning Scheme and any applicable Laws for the purpose of undertaking any Development or Construction in the Township. The Land Trust and the Land Council also undertake to provide the EDTL, at the EDTL's cost, with such further written authorisation as may be necessary for the purposes of this clause 17.1(a).

- (b) Where no Planning Scheme applies to the Township, the EDTL must have due regard to any planning guidelines or directions developed by the Consultative Forum, from time to time, for any Development in the Township."

29. Clause 19.2 – Asbestos

Clause 19.2 is amended by amending paragraph (b), such that clause 19.2 now reads as follows:

“19.2 Asbestos

- (a) Without limiting the generality of clause 15.4, the EDTL covenants that during the Term it will at its own cost comply with or procure compliance with all Asbestos Legislation (including all notices and orders served pursuant to any Asbestos Legislation) which relates to any repairs, improvements, demolition or other structural work undertaken by the EDTL.
- (b) The EDTL acknowledges that it will not be entitled to claim any damages, costs or compensation from the Land Trust or the Land Council as a result of asbestos being present on the Land or located in any Improvement. The provisions of the clause 19.2 do not limit the EDTL's rights against Third Parties.”

30. Clause 19.6 – Introduction of fauna and flora

Clause 19.6 is amended by inserting new paragraphs (b) and (c), such that clause 19.6 will now read as follows:

“19.6 Introduction of fauna and flora

- (a) The EDTL must comply with any quarantine policy adopted by the Land Council or Land Trust from time to time and must not, without the previous written consent of the Land Council, introduce to the Land:
 - (i) any seed, cutting, plant, root, bulb, tuber, rhizome, stolon or spore of any form of vegetation or flora, other than:
 - (A) native vegetation or flora;
 - (B) regular food merchandise; and
 - (C) other items approved by the Consultative Forum; or
 - (ii) any fauna other than:
 - (A) native fauna; or
 - (B) animal species approved by the Consultative Forum.
- (b) The Land Council and Land Trust must consult with the EDTL in respect of the preparation of any quarantine policy to be adopted for the purposes of clause 19.6(a).
- (c) The Land Council and Land Trust must notify the EDTL of any quarantine policy adopted for the purposes of clause 19.6(a).”

31. Clause 20.1 – Risk

Clause 20.1 is amended by amending the first sentence of the clause, such that clause 20.1 will now read as follows:

"20.1 Risk

In accordance with the release in clauses 20.3(a) and 20.3(b), the EDTL:

- (a) uses and occupies the Township;
- (b) uses the Land Trust Improvements; and
- (c) all Services,

at the EDTL's own risk."

32. Clause 21.1 – Obligation to insure Township

Clause 21.1 is amended by amending the first sentence of the clause, such that clause 21.1 will now read as follows:

"21.1 Obligation to insure Township

Subject to clauses 21.10 and 21.11, the EDTL must effect and maintain insurance to cover the Township:

- (a) against loss destruction or damage for the higher of:
 - (i) \$54,000,000 (such amount to be adjusted every 5 years after the Commencement Date in line with any changes to the Consumer Price Index for Northern Territory - (All Groups) published by the Australian Bureau of Statistics (CPI) over the relevant 5 year period or, if the CPI ceases to be published or is replaced, the index that most nearly reflects the method of calculating the CPI); and
 - (ii) such amount for which a reasonable person would prudently elect to insure the Township against such risks after having regard to all relevant circumstances including without limitation any Improvements within the Township from time to time,
- for any one occurrence; and
- (b) with cover which extends to include claim contingencies covering removal of debris or demolition costs and professional fees of not less than \$5 million for any one occurrence."

33. New clause 21.11 – Sublessee/Licensee insurance

A new clause 21.11 is inserted as follows:

"21.11 Sublessee/Licensee insurance

- (a) The EDTL 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 EDTL must 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 21.11(a)."

34. Clause 25.4 – Remedies for other Default Events

Clause 25.4(a) is amended such that clause 25.4 now reads as follows:

"25.4 Remedies for other Default Events

- (a) If the EDTL commits a Default Event, other than a Financial Default, then within 21 days of receipt of the Default Notice, the EDTL 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 EDTL for an extension of time to prepare the Cure Plan.
- (b) Following receipt of a Default Notice, the EDTL will be permitted to cure the Default Event within the Cure Period and, if applicable, in accordance with the Cure Plan.
- (c) If the EDTL 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 EDTL has diligently pursued and is continuing to diligently pursue a feasible and practicable programme of rectification; and
 - (B) the Default Event cannot be (or could not have been), with reasonable diligence, cured within the current Cure Period.
- (d) The Land Trust must not unreasonably refuse to grant an extension of the Cure Period.
- (e) If the EDTL commits a Default Event in relation to the Township and the Default Event is not cured within the Cure Period then the Land Trust may terminate the Lease immediately by written notice to the EDTL.
- (f) The provisions of this clause 25.4 does not limit or reduce the rights of the Land Trust to claim damages for breach of this Lease."

35. New Clause 25.8 – Opportunity to transfer or surrender before termination

A new clause 25.8 is inserted as follows:

"25.8 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 and allowing the EDTL, at the EDTL's cost, a reasonable period of time to transfer the Lease (at the EDTL's cost) to another Approved Entity or to surrender the Lease. The Land Trust and Land Council must cooperate to facilitate such a transfer or surrender.

- (b) If the 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.
- (c) If the 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.
- (d) The EDTL must pay to the Land Council on demand an amount equal to any reasonable costs incurred by the Land Trust and the Land Council to facilitate such a transfer or surrender."

36. New Clause 25.9 – Terms of Surrender

A new clause 25.9 is inserted as follows:

"25.9 Terms of surrender

Notwithstanding any other provision of this Lease, including without limitation clauses 25.8 and 27, no surrender of this Lease is permitted unless such surrender is on terms reasonably acceptable to the Parties."

37. Clause 27.3 – Novation of agreement

Clauses 27.3(a) is deleted and replaced with a new clauses 27.3(a) , such that clause 27.3 now reads as follows:

"27.3 Novation of agreements

- (a) Subject to clause 27.4, upon the transfer, expiration, surrender or earlier determination of this Lease or any overholding period the EDTL must (at its cost), upon the request of the Land Trust, use all reasonable 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 the Approved Entity:
 - (i) any service or maintenance agreement relating to the Township, Improvements or Services (or any part of it) or the benefit of any such agreement; and
 - (ii) any other agreement solely relating to the Township (or any part of it) or the benefit of any such agreement.
- (b) Nothing in this clause 27.3 requires the Land Trust to request the novation or assignment of any agreement."

38. Clause 27.4 – Novation of Township Subleases and Township Licences

Clause 27.4 is amended to read as follows:

"27.4 Novation of Township Subleases and Township Licences

Prior to or upon the surrender or transfer of this Lease to another Approved Entity (including a transfer or surrender pursuant to clause 25.8), the Land Trust and the EDTL must, at the EDTL's cost, cooperate to novate all Township

Licences to the transferee or the Land Trust, as the case may be. 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."

39. Clause 33.12 – Duty

Clauses 33.12(a) and (b) are deleted and a new clause 33.12 is inserted as follows:

"33.12 Duty

Any duty (including related interest or penalties) payable in respect of this Lease must be paid by the EDTL."

40. New Clause 34 – Reporting Income and Operating Expenses

A new clause 34 is inserted as follows:

"34 Reporting Income and Operating Expenses

The EDTL must, as soon as practical after each Lease Year, provide a report that sets out the Income the EDTL received and the Operating Expenses the EDTL incurred during the immediately preceding Lease Year."

41. Annexure 1 – Template Sublease

The Template Sublease is varied in accordance with clauses 42 to 53 (inclusive) of this Deed.

42. Global variations

42.1 LE changed to EDTL

In paragraph 1 of the section headed "Parties", the words "(the LE)" are deleted and replaced with the words "(the EDTL)".

The word "LE" or "LE's" (as the case may be) is deleted and replaced with the word "EDTL" or "EDTL's" (as the case may be) each time it appears in the Template Sublease.

43. Clause 1 – Definitions and interpretation

43.1 Aboriginal Areas Protection Authority [see also related definition of "Authority Certificate"]

The definition of "Aboriginal Areas Protection Authority" in clause 1.1 is amended by deleting the words "*Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*" and replacing them with the words "Sacred Sites Act", such that the definition will now read as follows:

"Aboriginal Areas Protection Authority means the authority established under the Sacred Sites Act and known as the Aboriginal Areas Protection Authority;"

43.2 Authority Certificate [see also related clause 14.4 of the Template Sublease]

The definition of "Authority Certificate" in clause 1.1 is amended by deleting the words "*Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*" and replacing them with the words "Sacred Sites Act", such that the definition will now read as follows:

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

43.3 Fit and Proper Person [see also related clause 10.6 of the Template Sublease]

The following definition is inserted in clause 1.1:

"**Fit and Proper Person** means a person who has not been convicted of a Sexual or Crime against Children Offence at any time and in any jurisdiction;"

43.4 Head Lease

The definition of "Head Lease" in clause 1.1 is amended by deleting the words "dated [*insert date*]" and replacing them with the words "registration number 662214", such that the definition will now read as follows:

"**Head Lease** means the Head Lease signed by the Land Trust, the Land Council and the EDTL, registration number 662214;"

43.5 LEADR

The definition of "LEADR" in clause 1.1 is deleted.

43.6 Sacred Sites Act [see also related clauses 6.4, 10.10 and 14.4 of the Template Sublease]

The following definition is inserted in clause 1.1:

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

43.7 Sublease Mandatory Terms [see also related clause 27.1 of the Template Sublease]

The definition of "Sublease Mandatory Terms" is amended by deleting the words "Land Trust's Improvements" and replacing them with the word "Improvements", such that the definition will now read as follows:

"**Sublease Mandatory Terms** means the terms contained within Part A of this Sublease and where applicable includes clause 27.1 relating to the maintenance, repair or replacement of the Improvements;"

43.8 Third Party Occupier [see also related clause 13 of the Template Sublease]

The following definition is inserted in clause 1.1:

"**Third Party Occupier** means any Underlessee, Licensee or sublicensee;"

44. Clause 6.4 of the Template Sublease – Access to Sacred Sites

Clause 6.4 is amended by amending paragraphs (a) and (b), such that clause 6.4 will now read as follows:

“6.4 Access to Sacred Sites

In accordance with and subject to the Sacred Sites Act:

- (a) Aboriginal people must have free access to Sacred Sites in accordance with Aboriginal Tradition; and
- (b) any person who has the express approval of the Custodian of a Sacred Site to enter that Sacred Site for a purpose permitted by Aboriginal Tradition, must be granted access to that Sacred Site by reasonable means and by the most direct practical route between a place of public access and the Sacred Site (or between Sacred Sites).

The Sublessee undertakes to do all things necessary to enable those persons entitled to enjoy and exercise their rights and interests under this clause 6.4.”

45. Clause 8 of the Template Sublease – Respect for Tiwi Culture

Clause 8(b) is amended such that clause 8 will now read as follows:

“8. Respect for Tiwi Culture

The Sublessee acknowledges that:

- (a) the traditional Aboriginal owners of the Land have a spiritual and custodial relationship with the Land and surrounding seas;
 - (i) the traditional Aboriginal owners of the Land remain the custodians of the Cultural Heritage of the Land;
 - (ii) some knowledge belongs only to specific members of the Aboriginal community;
 - (iii) certain information is inaccessible to all except those deemed appropriate by the Aboriginal community;
 - (iv) secret and sacred materials are items of special religious and spiritual significance to Tiwi People, and are usually associated with men’s and women’s private ceremonies.
- (b) In discharge of the Sublessee’s rights and obligations under this Sublease, the Sublessee must be familiar with, and show respect for, Aboriginal Tradition as it applies to the Land. The Sublessee must have due regard to any reasonable guidelines developed by the Consultative Forum, from time to time, relating to familiarity with, and respect for, Aboriginal Tradition as it applies to the Land.

46. Clause 10.4 of the Template Sublease – Amendments and termination

Clause 10.4 is amended to read as follows:

“10.4 Amendments

The EDTL may, by written direction to the Sublessee, demand that the Sublessee amend an Underlease not granted in accordance with this Sublease. The Sublessee must amend any Underlease not granted in accordance with this Sublease if directed to do so by the EDTL.”

47. Clause 10.6 of the Template Sublease – Fit and proper

Clause 10.6 is amended by amending paragraphs (a), (b), (c), (d) and (e), such that clause 10.6 will now read as follows:

“10.6 Fit and proper

- (a) Subject to clause 10.6(d), the Sublessee must not assign this Sublease or grant an Underlease to any person unless satisfied that the applicant is a Fit and Proper Person.
- (b) For the purpose of clause 10.6(a), the Sublessee must obtain, and may rely upon, a national police record check from the Relevant Authority to determine whether a person is a Fit and Proper Person.
- (c) References in this clause 10.6 to an applicant not being a Fit and Proper Person are, where the applicant is a body corporate, references to any director or other person concerned in the management of the body corporate not being a Fit and Proper Person.
- (d) Clauses 10.6(a) to (e) (inclusive) do not apply:
 - (i) In respect of the grant of an Underlease to a government agency; or
 - (ii) If the applicant for the Underlease is a body corporate, to the extent that any director or person concerned in the management of the body corporate does not intend to work or reside in the Township.
- (e) The Sublessee must ensure that each Underlease includes provisions that oblige the Underlessee to ascertain whether the Underlessee’s employees, agents, contractors and officers who intend to visit the Township are Fit and Proper Persons by following substantially the same procedures set out in clauses 10.6(a), 10.6(b) and 10.6(c).”

48. Clause 10.10 of the Template Sublease – Sacred Site

Clauses 10.10(a) and (b) are deleted and replaced with new clauses 10.10(a) and (b), such that clause 10.10 now reads as follows:

- “(a) The Sublessee acknowledges that an assignment of this Sublease or granting of an Underlease for any part of the Premises:
 - (i) on which a Sacred Site is located; or

- (ii) within a reasonable distance from a Sacred Site,

must be in accordance with clause 14.4 of this Sublease and the requirements of the Sacred Sites Act.

- (b) Any Underlease 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."

49. Clause 11.4 of the Template Sublease – Amendments and termination

Clause 11.4 is amended to read as follows:

"11.4 Amendments

The EDTL may, by written direction to the Sublessee, demand that the Sublessee amend any Premises Licence not granted in accordance with this Sublease. The Sublessee must amend any Premises Licence not granted in accordance with this Sublease if directed to do so by the EDTL."

50. Clause 13 of the Template Sublease – Third Party Occupier act or omission

Clause 13 is amended by amending paragraphs (a), (b) and (c), such that clause 13 will now read as follows:

"13. Third Party Occupier act or omission

The parties acknowledge and agree that:

- (a) subject to clauses 13(b) and 13(c), any act or omission by any Third Party Occupier on or in connection with the Premises or any Improvements or part of the Premises which would constitute a breach of this Sublease if committed by the Sublessee is, for the purposes of this Sublease, deemed to be a breach of the Sublease;
- (b) the EDTL must, before seeking to exercise any rights it may have under this Sublease or otherwise in respect of a deemed act or omission by the Sublessee pursuant to clause 13(a), give the Sublessee:
 - (i) notice in writing identifying, if possible, the Third Party Occupier together with details of the relevant act or omission and the clause in this Sublease that has purportedly been breached; and
 - (ii) 21 days for the Sublessee to identify the Third Party Occupier and to then take whatever action the Sublessee deems appropriate to cause the Third Party Occupier to remedy the relevant act or omission; and
- (c) if the act or omission of a Third Party Occupier is remedied in accordance with clause 13(b), then the provisions of clause 13(a) will not apply in respect of that act or omission."

51. Clause 14.4 of the Template Sublease – Sacred Sites

Clause 14.4 is amended by deleting paragraphs (a) and (b) and deleting the words "Northern Territory Aboriginal Sacred Sites Act 1989 (NT)" in paragraph (c) and replacing them with the words "Sacred Sites Act", such that clause 14.4 will now read as follows:

"14.4 Sacred Sites

- (a) All Work on and use of the land in the Premises must be carried out in accordance with an Authority Certificate.
- (b) The Sublessee can rely upon and will not otherwise be in breach of this clause 14.4 if it undertakes any Works permitted by, and in accordance with, an Authority Certificate.
- (c) If the Sacred Sites Act is repealed or amended to the extent that no Government Agency is responsible for regulating Work on, or any use of the land that that may affect, damage or interfere with Sacred Sites, then the Sublessee must:
 - (i) consult with the Custodians of Sacred Sites on or in the vicinity of the land that may be affected by the proposed use or Work; and
 - (ii) complete any Work and use the land with respect and consideration to any Sacred Sites that may be affected,
 so as to prevent any harm or damage to, or interference with those Sacred Sites.
- (d) The Parties acknowledge that all Information relating to Sacred Sites is Confidential Information and may only be disclosed with the express permission of the Custodian for that Sacred Site."

52. Clause 27.1 of the Template Sublease – Maintenance of Land Trust's Improvements

Clause 27.1 is amended by deleting the words "Land Trust's Improvements" in the heading and in paragraph (a) and (b) and replacing them with the word "Improvements", such that clause 27.1 will now read as follows:

"27.1 Maintenance of Improvements

- (a) Having regard to the condition of the Improvements on the Commencement Date, the Sublessee must maintain, repair or replace Improvements on the Premises.
- (b) The Sublessee must give the EDTL prompt notice in writing of any damage to or defect in the Improvements or anything which is likely to cause any damage, deterioration, danger, risk or hazard to the structural parts of the Improvements."

53. Clause 33.1 of the Template Sublease – Risk

Clause 33.1 is amended by amending the first sentence of the clause, such that clause 33.1 will now read as follows:

"33.1 Risk

In accordance with the release in clauses 33.3(a) and 33.3(b), the Sublessee:

- (a) uses and occupies the Premises;
- (b) uses the Improvements; and
- (c) all Services,

at the Sublessee's own risk."

54. Annexure 2 – Template Licence

The Template Licence is varied in accordance with clauses 55 to 65 (inclusive) of this Deed.

55. Global variations**55.1 LE changed to EDTL**

In paragraph 1 of the section headed "Parties", the words "the LE)" are deleted and replaced with the words "the EDTL)".

The word "LE" or "LE's" (as the case may be) is deleted and replaced with the word "EDTL" or "EDTL's" (as the case may be) each time it appears in the Template Licence.

56. Clause 1 of Template Licence – Definitions and interpretation**56.1 Aboriginal Areas Protection Authority [see also related definition of "Authority Certificate"]**

The definition of "Aboriginal Areas Protection Authority" in clause 1.1 is amended by deleting the words "*Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*" and replacing them with the words "Sacred Sites Act", such that the definition will now read as follows:

"Aboriginal Areas Protection Authority means the authority established under the Sacred Sites Act and known as the Aboriginal Areas Protection Authority;"

56.2 Authority Certificate [see also related clause 13.4 of Template Licence]

The definition of "Authority Certificate" in clause 1.1 is amended by deleting the words "*Northern Territory Aboriginal Sacred Sites Act 1989 (NT)*" and replacing them with the words "Sacred Sites Act", such that the definition will now read as follows:

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

56.3 Fit and Proper Person [see also related clause 10.6 of the Template Licence]

The following definition is inserted in clause 1.1:

"Fit and Proper Person means a person who has not been convicted of a Sexual or Crime against Children Offence at any time and in any jurisdiction;"

56.4 Head Lease

The definition of "Head Lease" in clause 1.1 is amended by deleting the words "dated [*insert date*]" and replacing them with the words "registration number 662214", such that the definition will now read as follows:

"Head Lease means the Head Lease signed by the Land Trust, the Land Council and the EDTL, registration number 662214;"

56.5 LEADR

The definition of "LEADR" in clause 1.1 is deleted.

56.6 Sacred Sites Act [see also related clauses 6.4, 10.10 and 13.4 of the Template Licence]

The following definition is inserted in clause 1.1:

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

56.7 Township Licence Mandatory Terms [see also related clause 27.1 of the Template Licence]

The definition of "Township Licence Mandatory Terms" is amended by deleting the words "Land Trust's Improvements" and replacing them with the word "Improvements", such that the definition will now read as follows:

"Township Licence Mandatory Terms means the terms contained within Part A of this Township Licence and where applicable includes clause 27.1 relating to the maintenance, repair or replacement of the Improvements;"

56.8 Third Party Occupier [see also related clause 13 of the Template Licence]

The following definition is inserted in clause 1.1:

"Third Party Occupier means any Sublicensee;"

57. Clause 6.4 of the Template Licence – Access to Sacred Sites

Clause 6.4 is amended by amending paragraphs (a) and (b), such that clause 6.4 will now read as follows:

"6.4 Access to Sacred Sites

In accordance with and subject to the Sacred Sites Act:

- (a) Aboriginal people must have free access to Sacred Sites in accordance with Aboriginal Tradition; and
- (b) any person who has the express approval of the Custodian of a Sacred Site to enter that Sacred Site for a purpose permitted by Aboriginal Tradition, must be granted access to that Sacred Site by reasonable means and by the most direct practical route between a place of public access and the Sacred Site (or between Sacred Sites).

The Licensee undertakes to do all things necessary to enable those persons entitled to enjoy and exercise their rights and interests under this clause 6.4."

58. Clause 8 of the Template Licence – Respect for Tiwi Culture

Clause 8(b) is amended such that clause 8 will now read as follows:

"8. Respect for Tiwi Culture

The Licensee acknowledges that:

- (a) the traditional Aboriginal owners of the Land have a spiritual and custodial relationship with the Land and surrounding seas;
 - (i) the traditional Aboriginal owners of the Land remain the custodians of the Cultural Heritage of the Land;
 - (ii) some knowledge belongs only to specific members of the Aboriginal community;
 - (iii) certain information is inaccessible to all except those deemed appropriate by the Aboriginal community;
 - (iv) secret and sacred materials are items of special religious and spiritual significance to Tiwi People, and are usually associated with men's and women's private ceremonies.
- (b) In discharge of the Licensee's rights and obligations under this Licensee, the Licensee must be familiar with, and show respect for, Aboriginal Tradition as it applies to the Land. The Licensee must have due regard to any reasonable guidelines developed by the Consultative Forum, from time to time, relating to familiarity with, and respect for, Aboriginal Tradition as it applies to the Land.

59. Clause 10.4 of the Template Licence – Amendments and termination

Clause 10.4 is amended to read as follows:

"10.4 Amendments

The EDTL may, by written direction to the Licensee, demand that the Licensee amend a Sublicence not granted in accordance with this Township Licence. The Licensee must amend any Sublicence not granted in accordance with this Township Licence if directed to do so by the EDTL."

60. Clause 10.6 of the Template Licence – Fit and proper

Clause 10.6 is amended by amending paragraphs (a), (b), (c), (d) and (e), such that clause 10.6 will now read as follows:

“10.6 Fit and proper

- (a) Subject to clause 10.6(d), the Licensee must not assign this Township Licence or grant a Sublicence to any person unless satisfied that the applicant is a Fit and Proper Person.
- (b) For the purpose of clause 10.6(a), the Licensee must obtain, and may rely upon, a national police record check from the Relevant Authority to determine whether a person is a Fit and Proper Person.
- (c) References in this clause 10.6 to an applicant not being a Fit and Proper Person are, where the applicant is a body corporate, references to any director or other person concerned in the management of the body corporate not being a Fit and Proper Person.
- (d) Clauses 10.6(a) to (e) (inclusive) do not apply:
 - (i) In respect of the grant of a Sublicence to a government agency; or
 - (ii) If the applicant for the Sublicence is a body corporate, to the extent that any director or person concerned in the management of the body corporate does not intend to work or reside in the Township.
- (e) The licensee must ensure that each Sublicence includes provisions that oblige the Sublicensee to ascertain whether the Sublicensee's employees, agents, contractors and officers who intend to visit the Township are Fit and Proper Persons by following substantially the same procedures set out in clauses 10.6(a), 10.6(b) and 10.6(c).”

61. Clause 10.10 of the Template Licence – Sacred Site

Clauses 10.10(a) and (b) are deleted and replaced with new clauses 10.10(a) and (b), such that clause 10.10 now reads as follows:

- “(a) The Licensee acknowledges that an assignment of this Township Licence or granting of a Sublicence for any part of the Premises:
 - (i) on which a Sacred Site is located; or
 - (ii) within a reasonable distance from a Sacred Site,
 must be in accordance with clause 13.4 of this Township Licence and the requirements of the Sacred Sites Act.
- (b) Any Sublicence 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.”

62. Clause 12 of the Template Licence – Third Party Occupier act or omission

Clause 12 is amended by amending paragraphs (a), (b) and (c), such that clause 12 will now read as follows:

“12. Third Party Occupier act or omission

The parties acknowledge and agree that:

- (a) subject to clauses 12(b) and 12(c), any act or omission by any Third Party Occupier on or in connection with the Premises or any Improvements or part of the Premises which would constitute a breach of this Township Licence if committed by the Licensee is, for the purposes of this Township Licence, deemed to be a breach of the Township Licence;
- (b) the EDTL must, before seeking to exercise any rights it may have under this Township Licence or otherwise in respect of a deemed act or omission by the Licensee pursuant to clause 12(a), give the Licensee:
 - (i) notice in writing identifying, if possible, the Third Party Occupier together with details of the relevant act or omission and the clause in this Township Licence that has purportedly been breached; and
 - (ii) 21 days for the Licensee to identify the Third Party Occupier and to then take whatever action the Licensee deems appropriate to cause the Third Party Occupier to remedy the relevant act or omission; and
- (c) if the act or omission of a Third Party Occupier is remedied in accordance with clause 12(b), then the provisions of clause 12(a) will not apply in respect of that act or omission.”

63. Clause 13.4 of the Template Licence – Sacred Sites

Clause 13.4 is amended by deleting paragraphs (a) and (b) and deleting the words “Northern Territory Aboriginal Sacred Sites Act 1989 (NT)” in paragraph (c) and replacing them with the words “Sacred Sites Act”, such that clause 13.4 will now read as follows:

“13.4 Sacred Sites

- (a) All Work on and use of the land in the Premises must be carried out in accordance with an Authority Certificate.
- (b) The Licensee can rely upon and will not otherwise be in breach of this clause 13.4 if it undertakes any Works permitted by, and in accordance with, an Authority Certificate.
- (c) If the Sacred Sites Act is repealed or amended to the extent that no Government Agency is responsible for regulating Work on, or any use of the land that that may affect, damage or interfere with Sacred Sites, then the Licensee must:
 - (i) consult with the Custodians of Sacred Sites on or in the vicinity of the land that may be affected by the proposed use or Work; and

- (ii) complete any Work and use the land with respect and consideration to any Sacred Sites that may be affected,

so as to prevent any harm or damage to, or interference with those Sacred Sites.

- (d) The Parties acknowledge that all Information relating to Sacred Sites is Confidential Information and may only be disclosed with the express permission of the Custodian for that Sacred Site."

64. Clause 27.1 of the Template Licence – Maintenance of Land Trust's Improvements

Clause 27.1 is amended by deleting the words "Land Trust's Improvements" in the heading and in paragraph (a) and (b) and replacing them with the word "Improvements", such that clause 27.1 will now read as follows:

"27.1 Maintenance of Improvements

- (a) Having regard to the condition of the Improvements on the Commencement Date, the Licensee must maintain, repair or replace Improvements on the Premises.
- (b) The Licensee must give the EDTL prompt notice in writing of any damage to or defect in the Improvements or anything which is likely to cause any damage, deterioration, danger, risk or hazard to the structural parts of the Improvements."

65. Clause 33.1 of the Template Licence – Risk

Clause 33.1 is amended by amending the first sentence of the clause, such that clause 33.1 will now read as follows:

"33.1 Risk

In accordance with the release in clauses 33.3(a) and 33.3(b), the Licensee:

- (a) uses and occupies the Premises;
- (b) uses the Improvements; and
- (c) all Services,

at the Licensee's own risk."

66. Annexure 3 – Consultative Forum Rules

In Annexure 3 the Consultative Forum Rules are deleted and replaced with the words "Not used".

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 section 4(5) of the *Aboriginal Land Rights (Northern Territory) Act 1976* upon written authority of the **Tiwi Aboriginal Land Trust** dated the _____ day of 2007 and signed by:)



.....
Signature of member

.....
Signature of Chairman

.....
Name (please print)

.....
Name (please print)

.....
Signature of member

.....
Name (please print)

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

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
08 8928 6167
Name of witness (please print)

.....
Signature of Executive Director of Township Leasing
Greg Roche
Executive Director Township Leasing
Level 5, Jacana House
39-41 Woods St, Darwin NT 0800
08 8928 6114
Name (please print)

The Common Seal of Tiwi Land Council was)
 hereunto affixed upon the Tiwi Land Council)
 being satisfied of the requirements contained in)
 sub-section 19A(2) of the *Aboriginal Land*)
Rights (Northern Territory) Act 1976. 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:)



Signature of witness

Michael Collins
 Commissioner for Oaths

Level 5, Jacana House
 39-41 Woods St, Darwin NT 0800
 08 8928 6167

Signature of Chairman

Gibson Farmer ILLORTA Minni

Name (please print)

Signature of Executive Member

Stanley Tipiloura

Name (please print)

1496/14
x2



NORTHERN TERRITORY OF AUSTRALIA
DEPARTMENT OF THE ATTORNEY-GENERAL AND JUSTICE
LAND TITLES OFFICE

REGISTRATION STATEMENT

Lodged on 25/03/2014 at 14:48 Registered on 25/03/2014 at 15:38

Title Reference(s):

CUFT Volume 781 Folio 863 (Paper Title: No)

N.T. Portion 1640 from plan(s) CP 004186

N.T. Portion 3042 from plan(s) CP 004186

N.T. Portion 1644 from plan(s) CP 004194

Tiwi Islands NT

Tiwi Islands NT

Tiwi Islands NT

Owner:

Tiwi Aboriginal Land Trust of Nguiu, Bathurst Island NT 5791

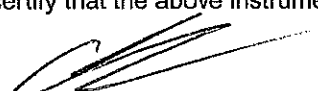
Dealing Type **Amendment of a Lease or Sublease**

with details:

Associated Dealing No	662214
Owner	Tiwi Aboriginal Land Trust
Tenant	Executive Director of Township Leasing
Details of variation	See Annexure Sheet attached for details of variation
Consents (Instrument Numbers)	Not applicable

This dealing has been assigned Dealing Number **818774** in the Register.

I certify that the above instrument has been registered.


Christopher Knowles
Delegate of the Registrar-General

This is not a Certificate as to Title issued pursuant to Section 44 of the Land Titles Act 2000 and cannot be used to deal with land in the Register.

Land Title Act
REGISTRAR-GENERAL'S DIRECTIONS



NORTHERN TERRITORY OF AUSTRALIA

L	A	No: 818774
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Commissioner of Territory Revenue use only

(NOTE 1)

NT STAMP DUTY 20/03/14
6040 13798104 NDP EXEMPT UNDER
NOT LIABLE TO DUTY

IMPORTANT NOTICE

Please Note Privacy Statement Overleaf

**AMENDMENT OF A LEASE
OR SUBLEASE**

The tenant being registered as the proprietor of the lease (or sublease) specified pursuant to an agreement with the registered proprietor of the land subject to the lease (or sublease) and consent of the registered proprietors of all affected registered dealings varies the said lease (or sublease) as set out below:

(NOTES 2
- 3)

LEASE OR SUBLEASE
BEING VARIED

Number: 662214

Extended until:

(NOTE 4)

Register	Volume	Folio	Location	Lot Description	Plan	Unit
CUFT	781	863	NT Portion	1640	CP 004186	N/A
			NT Portion	1644	CP 004194	
			NT Portion	3042	CP 004186	

(NOTE 5)

OTHER CONSIDERATION

Not applicable

GST Amount

Not applicable

(NOTE 6)

OWNER

Name only: Tiwi Aboriginal Land Trust
P.O. Box 38545 WINNELLIE NT 0821

(NOTE 7)

TENANT

Name only: Executive Director of Township Leasing
GPO Box 3671 DARWIN NT 0801

(NOTE 8)

DETAILS OF
VARIATION

See Annexure Sheet attached for details of variation

(NOTE 9)

CONSENTS

Not applicable

(NOTE 10)

SEE EXECUTION CLAUSE OF PAGE 39
OF THE ANNEXURE SHEET

SEE EXECUTION CLAUSE OF PAGE 39
OF THE ANNEXURE SHEET

(NOTE 11)

Registered on

27/3/14

At

15



Land Title Act
REGISTRAR-GENERAL'S DIRECTIONS



NORTHERN TERRITORY OF AUSTRALIA

IMPORTANT NOTICE

Please Note Privacy Statement Overleaf

ANNEXURE SHEET

(Notes 1,2)

Register	Volume	Folio	Location	Lot Description	Plan	Unit
CT	781	863	NT Portion	1640 CP004186		
			NT Portion	1644 CP004194		
			NT Portion	3042 CP004186		
<p>HEADING: (NOTE 3)</p> <p>Variation to Lease 662214 attached.</p>						

SCHEDULE OF NOTES

1. If there is insufficient space to accommodate the required information in a panel on the parent instrument insert the words "See Annexure" and enter all the information on the annexure sheet under the appropriate heading.
2. If the instrument is lodged in duplicate (or triplicate) an annexure sheet must be attached to each. The annexure attached to the original must be typed or completed in ink or biro, that attached to the duplicate (or triplicate) may be a copy of the original. Alterations to information entered on the form should be crossed out (not erased or obliterated by painting over) and initialled by the parties.
3. Multiple annexures may appear on the same annexure sheet but each must be correctly headed.

