

I hereby certify that the within is a true and correct copy of Lease No. 2244/100.

Keira McNamara

Mr Keiran McNamara
Director General - Department of Environment and Conservation

Form Approval B5886

WESTERN AUSTRALIA
CONSERVATION AND LAND MANAGEMENT ACT 1984
TRANSFER OF LAND ACT 1893 as amended

LEASE OF CROWN LAND (L)

DESCRIPTION OF LAND (NOTE 1)

	EXTENT	VOLUME	FOLIO
Part of Reserve 10716 – Karlgarin Nature Reserve	Part		

LIMITATIONS, INTERESTS, ENCUMBRANCES AND NOTIFICATIONS (NOTE 2)

Nil

LESSOR/LESSORS (NOTE 3)

The CONSERVATION AND LAND MANAGEMENT EXECUTIVE BODY of 17 Dick Perry Avenue, Kensington, Western Australia 6152

LESSEE/LESSEES (NOTE 4)

FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA
of care of 4th Floor, 480 Hay Street, Perth, Western Australia 6000

TERM OF LEASE (NOTE 5)

10 Years 0 Months 0 Days
Commencing from the 1st day of January in the year 2007

THE LESSOR HEREBY LEASES TO THE LESSEE for the Land above described subject to the encumbrances as shown hereon (Note 6)

For the above term for the clear yearly rental of (Note 7) SEE BODY OF LEASE
Payable (Note 8) SEE BODY OF LEASE

SUBJECT TO THE COVENANTS AND POWERS IMPLIED UNDER THE CONSERVATION AND LAND MANAGEMENT ACT 1984 AND THE TRANSFER OF LAND ACT 1893 AS AMENDED (UNLESS HEREBY NEGATED OR MODIFIED) AND ALSO TO THE COVENANTS AND CONDITIONS CONTAINED HEREIN.

**CONSERVATION AND LAND MANAGEMENT
EXECUTIVE BODY**
(Lessor)

and

**FIRE AND EMERGENCY SERVICES AUTHORITY
OF WESTERN AUSTRALIA**
(Lessee)

LEASE NO. 2244/100

TABLE OF CONTENTS

1.0	DEFINITION AND INTERPRETATION	3
2.0	EXCLUSION OF IMPLIED COVENANTS AND CONTRAVENTION OF STATUTE.....	6
3.0	GRANT TERM OF LEASE AND HOLDING OVER.....	6
4.0	RENT	7
5.0	USE OF PREMISES	10
6.0	ACCESS TO THE PREMISES	13
7.0	INSURANCE, INDEMNITIES AND RELEASE	13
8.0	INSTALLATION AND MAINTENANCE.....	14
9.0	ELECTRICITY SUPPLY	16
10.0	TERMINATION.....	16
11.0	NOTICES	18
12.0	ASSIGNMENT AND SUBLEASING	18
13.0	LESSOR'S COVENANTS.....	19
14.0	MISCELLANEOUS	20

LEASE dated this 24TH day of JANUARY 2011.

BETWEEN

Conservation and Land Management Executive Body having its office at 17 Dick Perry Avenue, Kensington in the State of Western Australia (hereinafter the 'Lessor' which expression where the context so permits includes the person for the time being entitled to the reversion immediately expectant upon the termination of the term hereby created) of the one part:

AND

Fire and Emergency Services Authority of Western Australia of care of 4th Floor, 480 Hay Street, Perth in the State of Western Australia (hereunder the 'Lessee' which expression includes its successors and permitted assigns) of the other part.

In consideration, among other things, of the mutual promises contained in the Lease, the Lessor and the Lessee agree as follows:

1.0 DEFINITION AND INTERPRETATION

1.1 Defined Terms

In the Lease:

'Adjoining Land' means that portion of the Land which is within a 100 metre radius of the centre of the Premises.

'Australian Communications and Media Authority' means the Commonwealth agency, for the time being, responsible for the licensing of parties to operate communication facilities from a specified location on a specified transmission frequency, and includes its successor or any future statutory authority having the same authority.

'Break Date' means the date stated in Item 3A of the Reference Schedule.

'Business Day' means any day in the State which is not a Saturday, Sunday or Public Holiday;

'Date of Commencement' means the date stated in **Item 2** of the Reference Schedule;

'Date of Expiration' means the date stated in **Item 3** of the Reference Schedule;

'Fixed Review Date' means each anniversary of the Commencement Date during the Term other than each anniversary which is a Market Review Date;

'Government Agency' means any government or any governmental, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity;

'GST' means a goods and services tax or similar value added tax levied or imposed in Australia pursuant to the GST Act or otherwise on a supply;

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

'Land' means Reserve No. 10716 Karlgarin Nature Reserve;

'Lease' means the lease or tenancy that exists between the Lessor and the Lessee in relation to the Premises of whatever nature and whether at law or in equity as evidenced in whole or in part by this document;

'Lessee' means the Lessee described on page one of the Lease and its successors and assigns or, if the Lessee is a natural person, its executors, administrators and assigns and in either case its employees, agents and contractors;

'Lessee's Covenants' means the covenants and agreements contained or implied in the lease to be observed and performed by the Lessee;

Lessee's Property means property installed, erected or brought onto the Premises by the Lessee.

'Lessor' means the Lessor described on page one of the Lease and its successors and assigns and its employees, agents and contractors;

Market Review Date means the 5th anniversary of the Commencement Date.

'Month' means calendar month;

'Premises' means the Premises described in **Item 1** of the Reference Schedule;

'Rates and Taxes' means any separately assessed rate, tax, levy or any other charge imposed at any time during the Term of the Lease by any State, local or Federal governmental body, authority, department or instrumentality or any other authority of any kind, in relation to the Premises;

'Reference Schedule' means the schedule so described which is included in this document;

'Related Body Corporate' where the Lessee is a holding company of another body corporate, a subsidiary of another body corporate or a subsidiary of a holding company of another body corporate means that other body corporate;

'Rent' means the amount stated in **Item 5** of the Reference Schedule;

'Rent Payment Date' means the Commencement Date and after that date the anniversary of the Commencement Date of every year during the Term;

'Rent Review Date' includes each Fixed Review Date and Market Review Date (as the case may be);

'State' means the State of Western Australia;

'Statute' means any statute, regulation, proclamation, ordinance or by-law of the Commonwealth of Australia or the State, and includes all statutes, regulations, proclamation, ordinances or by-laws varying consolidating or replacing them and all regulations, proclamations, ordinances and by-laws issued under that statute;

'Tax Invoice' includes any document or record treated by the Commissioner of Taxation as a tax invoice or as a document entitling a recipient to an input tax credit;

'Taxable Supply' has the same meaning as in the GST Act; and

'Term' means the term of the Lease set out in **Item 4** of the Reference Schedule.

1.2 Interpretation

In the Lease, unless the context otherwise requires:

- (a) headings and underlinings are for convenience only and do not affect the interpretation of the Lease;
- (b) words importing the singular include the plural and vice versa;
- (c) words importing a gender include any gender;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) where an association, body or authority, statutory or not, ceases to exist or is reconstituted, renamed, or replaced or its powers and functions are transferred to any other association, body or authority, a reference to that association, body or authority means the association, body or authority (as the case may be) established or constituted in its place or assuming its powers and functions;
- (f) a reference to any thing includes a part of that thing;
- (g) a reference to a part, clause, party, annexure, exhibit or schedule is a reference to a part and clause of and a party, annexure, exhibit and schedule to the Lease;
- (h) where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next succeeding day which is a Business Day;
- (i) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of the Lease or any part of it;

- (j) a covenant or agreement on the part of two or more persons binds them jointly and severally.
- (k) where pursuant to this Lease but subject to any express provision to the contrary:
 - (i) one party is required to pay to the other any fees, costs, charges or similar expenses, such fees, costs, charges or similar expenses are to be limited to reasonable fees, costs charges or similar expenses likely to be incurred in the particular circumstances;
 - (ii) one party is given a discretion, then such discretion is to be acted upon in good faith and as is reasonable in the circumstances;
 - (iii) the opinion of a party or someone engaged or contracted by that party is relevant in determining any fact or obligation of either the Lessor or the Lessee then the opinion is to be formed in good faith and reasonable in the circumstances. In the event of a dispute, then such opinion is to be prima facie evidence of that fact only;
 - (iv) one party's discretion, or opinion, or consent or specification is required, such discretion, or opinion, or consent or specification is to be given within a reasonable time after the other party's request.

2.0 EXCLUSION OF IMPLIED COVENANTS AND CONTRAVENTION OF STATUTE

2.1 *Inclusion of Implied Covenants*

Any covenants and powers implied in the Lease by any law apply to the extent they are consistent with the terms of the Lease and not excluded by law.

2.2 *Contravention of Statute - Severance*

Any provision of the Lease which is void, voidable, unenforceable or invalid because of any Statute must in any such case and to such extent be severed from the Lease, and the Lease must be read as though such provision did not form part of the Lease at that time. This clause has no effect if severance alters the basic nature of this Lease or is contrary to public policy.

3.0 GRANT TERM OF LEASE AND HOLDING OVER

3.1 *Grant of Lease*

The Lessor leases the Premises to the Lessee for the Term and subject to the terms and conditions of this Lease.

3.2 *Term of Lease*

The Term commences on the Date of Commencement as detailed in Item 2 of the Reference Schedule and expires on the Date of Expiration as detailed in Item 3 of the Reference Schedule subject to the provisions of the Lease.

3.3 *Termination on a Break Date*

If the Lessee gives the Lessor at least 6 months notice that it intends to end the Term on a Break Date stated in the notice, that Break Date becomes the Date of Expiration.

3.4 *Holding Over*

If the Lessee occupies the Premises after the Date of Expiration (other than pursuant to the grant of a further lease) the Lessee must do so as a twelve-monthly tenant for twelve monthly terms thereafter on the same terms and conditions as the Lease as far as they apply to a twelve-monthly tenancy.

4.0 RENT

4.1 *Amount of the Rent*

The annual rent payable under this Lease from the Commencement Date is the amount specified in Item 5 of the Schedule.

4.2 *Manner of Payment*

- (a) The Lessee must pay the rent by equal annual instalments in advance on each Rent Payment Date. Rent payable for part of a year is to be proportionately adjusted on a daily basis.
- (b) The Lessee may pay the Rent by Electronic Funds Transfer ('EFT') to the account nominated in Item 6 of the Reference Schedule. The Lessor may notify another account in Australia to which payment may be made by EFT to replace the account stated in Item 6. The notification must be at least 30 days prior to the date for payment of Rent. Payment by EFT by the Lessee's bank to the relevant nominated account by the due date is a full discharge for the payment.
- (c) The Lessee must provide the Lessor with formal notification when the payment has been made.

4.3 *Rent Review*

4.3.1 *Fixed Review Date*

With effect from (and including) each date specified in clause 1.1 as a "Fixed Review Date", the rent must be reviewed on the basis that the reviewed rent is to be the higher of :

(1) the rent applying immediately before the relevant Fixed Review Date;

OR

(2) the amount calculated by using the following formula:

$$A = \frac{B \times D}{C}$$

Where :

A = the amount of the reviewed rent which is payable from (and including) the relevant Fixed Review Date.

B = the last quarterly CPI Index Number published before the relevant Fixed Review Date.

C = the last quarterly CPI Index Number published before the previous Rent Review Date (or in the case of the first review, before the Commencement Date).

D = the amount of the rent applying immediately before the relevant Fixed Review Date;

OR

(3) the amount calculated by increasing the rental by 3%.

4.3.2 *Market*

With effect from (and including) each Market Review Date as specified in Clause 1.1 the Lessor can require that the rent be reviewed on the following basis.

The Lessor must use reasonable endeavours to give the Lessee notice of the proposed rent three (3) months prior to the relevant Market Review Date.

If the Lessee has not agreed in writing to the amount of the reviewed rent proposed by the Lessor within one (1) month of receiving such advice, the amount of the reviewed rent is to be the higher of:

(1) the rent applying immediately before the relevant Market Review Date

(2) the Market Rent for the Premises determined by a valuer licensed under the Land Valuers Licensing Act:

(a) agreed to by each of the parties; or

- (b) appointed by the President for the time being of the Australian Property Institute (WA Division) at the request of either party;
- (3) The parties must each pay half the fees charged by any valuer appointed under this Lease to determine the Market Rent for the Premises.
- (4) Market Rent means the rent that a tenant would be prepared to pay and an owner of the Premises would be prepared to accept taking into account:
 - (a) The approved use and utility conferred under the Lease and that the Lessee is a non commercial emergency services provider.
 - (b) The nature and the purpose for which the leased area is used.
 - (c) The provisions of this Lease.
 - (d) The period which will elapse between the current review date and the next Rent Review Date or, if there is not one, the termination of this Lease.
 - (e) The full length of the term and the benefit of any option to renew.
 - (f) Any improvement to the Premises.

But disregarding:

- (g) The consequences of any default by the Lessee of this Lease which may have adversely affected the condition or rental value of the Premises.
- (h) Any part of the term that has expired.
- (i) The value of the Lessee's Property and any goodwill created by the Lessee's business or activities on the Premises.

4.3.3 Delay

No delay by the Lessor in enforcing any review of the rent prevents the Lessor from requiring at any time that the rent must be reviewed with effect from the dates for review of the rent specified in this clause 4 provided that the Lessor must have completed the review of the rent prior to the next Rent Review Date.

4.4 Goods and Services Tax

4.4.1 Adjustment for GST

- (a) Unless expressly included, the consideration for any Taxable Supply made by the Lessor under or in connection with this Lease does not include GST.

- (b) Subject to clause 4.4.2, the Lessee must pay to the Lessor the amount of any GST that the Lessor pays or is liable to pay on a Taxable Supply made under this Lease in addition to, and at the same time and in the same manner as the Lessee pays for that Taxable Supply. Payment of GST is to be conditional upon receipt of a valid tax invoice from the Lessor.

4.4.2 Tax Invoices

The Lessor must issue a Tax Invoice to the Lessee in respect of any Taxable Supply under this Lease before the Lessee is required to pay the GST on the supply of the goods and services.

4.4.3 Reimbursements

If the Lessor is entitled under the Lease to be reimbursed or indemnified by the Lessee for a cost or expense incurred in connection with the Lease, the reimbursement or indemnity payment must not include any GST component of the cost or expense for which an input tax credit may be claimed by the Lessor.

5.0 USE OF PREMISES

5.1 Permitted Use

The Lessee being a non commercial emergency services provider will use the Premises for the purpose of maintaining and operating a communications network and all uses incidental thereto (non-residential). In doing so the Lessee will satisfy all reasonable technical requirements of the Lessor having regard to the Lessee's use of the Premises (**28 days written notice of which must be given to the Lessee from time to time**) and hold a current certificate or licence issued by the Australian Communications and Media Authority to operate at the Premises. In the event of any inconsistency between the Lessor's technical requirements and any licensing requirements the latter shall prevail to the extent of such inconsistency.

5.2 Lessee's Own Enquiries

The Lessee has relied on the Lessee's own enquiries about how the Premises may be used and not on any representation from the Lessor. The Lessee has made the Lessee's own enquiries about :

- (1) the suitability of the Premises for any use to which it is to be put; and
- (2) all planning and any other requirements prohibitions or restrictions applying to the Premises under any law or as a result of the requirements or orders of any Authority.

5.3 No Warranty by the Lessor

The Lessor does not give any warranty of any kind that the Premises is suitable for any purpose for which the Lessee intends to use it. Any warranty in relation to the

Premises which is implied by law is excluded to the extent that the law permits the warranty to be excluded.

5.4 *Adjoining Land*

5.4.1 *Installation, Maintenance etc.*

The Lessor grants to the Lessee the right to use the Adjoining Land in accordance with any reasonable stipulations by the Lessor during the installation, erection, construction, dismantling, repair, replacement, renewal, maintenance and operation of the Lessee's communications network and the communications service. After using the Adjoining Land on any specific occasion, the Lessee will restore the surface of the Adjoining Land as so used as near as practicably possible to its state prior to such use by the Lessee to the reasonable satisfaction of the Lessor. The provisions of clause 7.2 will apply to the exercise by the Lessee of its rights pursuant to this clause 5.4.1.

5.4.2 *Guy Anchors & Guy Wires*

Subject to the prior approval of the Lessor (such approval not to be unreasonably withheld or delayed), the Lessee may during the term of the Lease use so much of the Adjoining Land to place and maintain guy anchors in such positions on the Adjoining Land and in such numbers as are reasonably required by the Lessee for the purpose of supporting its antennae support structure erected on the Premises and to run guy wires from those guy anchors to its antenna support structure. The provisions of clauses 5.5, 5.6, 7.0 and 8.0 will apply to any exercise by the Lessee pursuant to this clause 5.4.2.

5.5 *Requirements of Government Agencies*

The Lessee must comply promptly with any Statute in respect of the Lessee's use of the Premises and any requirements, notices or orders of any Government Agency having jurisdiction or authority in respect of the Premises or the use of the Premises.

5.6 *Fire Prevention*

- (a) The Lessee will duly and faithfully observe perform and comply with the provisions of the *Bush Fires Act 1954* and amendments thereof and the regulations thereunder and any proclamations and orders made under the provisions thereof so far as the same apply to the Premises. Any breach of the said Act and/or Regulations shall be regarded as a breach of the conditions of this Lease.
- (b) The Lessee will not light or cause to be lit or permit any of its agents or contractors to light any fire on the Premises except to the extent necessary for the purpose referred to in **clause 5.6(a)** hereof and then only with the written approval of the Lessor or any other person duly authorised by him to give such approval.

- (c) If the Lessee or its agents or contractors causes a fire to be lit on or at the Premises other than with permission granted in accordance with the provisions of this Lease, the Lessee shall, immediately upon becoming aware of the fire, take all reasonable measures at the Lessee's own expense to extinguish such fire and the Lessee shall be liable to reimburse the Lessor any expenses incurred by the Lessor in taking measures to extinguish the fire in the event of the Lessee failing to do so.
- (d) The Lessee will clear firebreaks around the Premises as reasonably directed by the Lessor and to the reasonable satisfaction of the Lessor.

5.7 *Interference*

- (a) The Lessee covenants and agrees with the Lessor that it will take all necessary steps to ensure that the operation of its equipment on the Premises does not result in radio communications interference to any installation or use of radio or communications equipment by the Lessor or other users of the Adjoining Land in existence at the date of the Lease and that it will indemnify the Lessor against any loss or liability suffered or incurred by it as a direct result of the Lessee's equipment causing any such interference.
- (b) The Lessor covenants and agrees with the Lessee that it will take all necessary action to ensure that its installation or use of radio or communications equipment or the use of radio or communications equipment by any other lessee or licensee or user on the Land does not result in communications interference to the facility of the Lessee and to ensure that any structure or installation which it erects or installs or which any lessee, licensee or user erects or installs within or upon the Adjoining Land or the Land does not interfere with the Lessee's use or enjoyment of the Premises.
- (c) The Lessor covenants and agrees with the Lessee that after receiving due and proper notification it will take all reasonable measures to ensure that all radio and communications equipment on the Land and the Adjoining Land ('other equipment') will be turned off during servicing of the Lessee's equipment if the radio frequency level of the other equipment exceeds recommended occupational health and safety standards as published from time to time.

5.8 *Other*

The Lessee will not :-

- (a) do anything on or about the Premises (notwithstanding any other consent given by the Lessor under this Lease) which in the reasonable opinion of the Lessor is noxious, offensive or audibly or visually a nuisance;
- (b) behave in a riotous, disorderly, offensive or improper manner or to perform any illegal act at or on the Premises;

- (c) fix or place signs, notices or advertisements at the Premises unless it is consistent with the purpose of this Lease and acceptable to the Lessor; or
- (d) plant in or otherwise introduce to the Premises or the Land any plant not indigenous to the Land.

6.0 ACCESS TO THE PREMISES

6.1 Access

The Lessor consents to the Lessee and persons authorised by the Lessee with or without materials, plant and other apparatus and vehicles entering the Land for the purpose of using the Premises and exercising its rights under the Lease at all times of the day and night during the Term. The Lessor will use its best endeavours to ensure that access to the Premises will not be obstructed, interrupted or impeded by the Lessor or the Lessor's employees, agents or contractors at any time during the Term.

6.2 Notwithstanding **clause 6.1** the Lessee shall observe all written instructions received from the Lessor or his nominee regarding the prevention or spread of plant disease, in particular *Phytophthora* species. This shall include the washing down of vehicles and equipment and such other measures as may be required from time to time. Any cost involved in the carrying out of such measures shall be borne by the Lessee.

6.3 The Lessee shall permit the Lessor and its agents at all reasonable times (subject to giving the Lessee not less than 48 hours prior written notice) to enter upon the Premises to view the condition of any buildings or improvements at any time sanctioned to be erected thereon.

6.4 The Lessee shall permit the Lessor and its agents and contractors at all reasonable times upon giving the Lessee reasonable prior notice to enter upon and carry out such duties and exercise such powers upon the Premises as it may be necessary or expedient to carry out or exercise in the administration or for the purposes of the *Conservation and Land Management Act 1984* or any other enactment or any regulation made thereunder and the Lessee shall not be entitled to any compensation by reason of any inconvenience or disturbance or loss occasioned by such action on the part of the Lessor except to the extent that the disturbance, inconvenience or loss is caused or contributed to by any negligence or omission by the Lessor or the Lessor's employees, agents or contractors.

6.5 Nothing in Clauses 6.3 or 6.4 will entitle the Lessor to enter any equipment shelter of the Lessee on the Premises or to interfere or tamper in any way with any equipment of the Lessee on the Premises. Despite the previous sentence, in the case of a fire emergency on or near the Premises, the Lessor may, in relation to the Premises, act in accordance with sections 39, 44 and 45 of the *Bushfires Act 1954 (WA)*.

7.0 INSURANCE, INDEMNITIES AND RELEASE

7.1 *Obligation to Insure*

The Lessee shall during the Term maintain cover of the nature effected with the Western Australian Government Treasury Managed Fund (RiskCover).

7.2 *Indemnity*

Except to the extent that any damage, liability, loss, cost, charge or expense is caused or contributed to by the act negligence or default of the Lessor, its servants, contractors or agents the Lessee indemnifies the Lessor from and against any liability or loss arising from and any costs charges and expenses incurred in connection with:

- (a) any damage to the Premises or any loss or damage to anything in the Premises caused by the Lessee; and
- (b) any injury to any person at or near the Premises caused or contributed to by:
 - (i) any act, common negligence or default of the Lessee; or
 - (ii) some danger created by the Lessee provided that the existence of that danger was or ought to have been known to the Lessee.

7.3 *Lessee's Assumption of Responsibilities*

The Lessee agrees to take and be subject to the same responsibilities to which it would be subject in respect of persons and property if, during the Term, it was the owner or occupier of the freehold of the Premises.

7.4 *Theft or Damage of Equipment*

The Lessee will take adequate precaution to ensure that equipment installed on the Premises is protected against theft or damage.

7.5 *Lessor Not Liable*

The Lessor shall not be liable for any removal or damage which may occur to the Lessee's equipment installed on the Premises during the Term except to the extent that the same has been caused or contributed to by any negligence, act or omission by or on the part of the Lessor or its servants, agents, employees or contractors.

8.0 INSTALLATION AND MAINTENANCE

8.1 *Repair and Maintenance*

The Lessee must maintain the Premises in a reasonable and reasonably safe repair, order and condition during the Term fair wear and tear excepted.

8.2 *Construction and Alterations*

- 8.2.1 The Lessee may at the Lessee's option and expense during the Term after complying with the requirements of any Government Agency having jurisdiction in the matter to the extent required by law install, erect, construct, dismantle, repair, replace, renew and maintain upon the Premises any building or buildings as necessary now or in the future to shelter communications equipment (provided that any such building to be erected or constructed shall not be incompatible with other buildings on the Land) and a free standing monopole, guy tower or three-sided antenna structure or other antenna support structure of sufficient height now or in the future to meet the Lessee's communications requirements and all necessary connecting appurtenances.
- 8.2.2 The Lessor acknowledges and agrees that any communications tower erected by the Lessee on the Premises either before or during the Term will remain the property of the Lessee at all times.
- 8.2.3 The Lessee will not without obtaining the prior written consent of the Lessor on each occasion and then only in accordance with such conditions as the Lessor shall reasonably impose:-
- (i) bulldoze, clear or remove any trees, shrubs or other vegetation growing on the Premises; or
 - (ii) remove rocks, earth or soil from the Premises; or
 - (iii) alter the contour of the surface of the Premises; or
 - (iv) deposit any earth, fill or material on the Premises; or
 - (v) construct outlets for surface drainage on the Premises.

For the avoidance of any doubt, this clause shall not apply to the initial erection of the Lessee's prior approved communications facility on the Premises where these matters will have already been taken into account.

8.3 *Fences*

- (a) In the event that the Premises are not currently fenced or secured, the Lessee must as soon as reasonably practicable after the Commencement Date, but having regard to its reasonable requirements during the construction or erection of any communications facility as described in Clause 8.2 fence off the area of the Premises with good quality materials, to the Lessor's reasonable satisfaction, and in any case in accordance with any statutory requirement applicable to the fencing of a communications facility.
- (b) During the Term the Lessee must:
- (i) maintain the fences referred to in subclause (a) in good and safe repair and condition; and

- (ii) erect and maintain such warning signs, barricades and other devices necessary to render and keep the Premises safe and free from hazard or danger to any person using or occupying any land adjacent to the Premises.

8.4 *Cabling*

For the purpose of the operation of the Lessee's communications network the Lessee may, subject to any reasonable conditions set by the Lessor, install, maintain and use above or below ground cabling to and from the Premises and where necessary to construct support for that cabling. In exercising its rights under this clause the Lessee must:

- (a) not cause any lasting material damage to the Land or material interference with the Lessor, and
- (b) within a reasonable time period after the works are completed restore the surface of the Land as so used as nearly as practically possible to its state prior to use by the Lessee to the reasonable satisfaction of the Lessor.

9.0 **ELECTRICITY SUPPLY**

9.1 *Electricity Connection*

For the purposes of carrying out the Lessee's use of the Premises the Lessee may arrange at its cost a connection for the Premises to an electricity supply (including making provision for and allowing connection to emergency back-up power) and may install on the Land such earthing apparatus as is necessary for the safe continuous use of the Lessee's equipment on the Premises. The supply of electricity must be made through an arrangement that ensures the Lessee is directly accountable to the relevant authority for payment of electricity consumed by it on the Premises. If an electricity supply is available to the Land and the installation of cabling associated with the electricity connection has received prior approval of the Lessor the Lessor will not unreasonably restrict the Lessee's ability to connect to that electricity supply on the same terms as are contained in this Lease. The Lessor must use its best endeavours to ensure the electricity supply to the Land functions properly at all times (if applicable). The Lessor acknowledges and agrees that the Lessee may use alternative energy sources other than electricity to provide power to the Lessee's equipment on the Premises.

10.0 **TERMINATION**

10.1 *Events of Termination*

If:

- (a) the Premises are damaged or destroyed or if there is interruption to access to the Premises so as to render the Premises or any part of the Premises wholly

or substantially unfit for the occupation or use of the Lessee or inaccessible by any means of access;

- (b) the Lessee commits a material breach of any of the Lessee's Covenants and has not remedied that breach within a reasonable period after having received written notice to remedy the breach having regard to the nature of the breach;
- (c) any application for a required consent or a permit for the installation and use of the Premises as part of a communications network and communications service is finally rejected or is cancelled, lapses or is otherwise terminated and no further or replacement consent or permit can reasonably be obtained;
- (d) the Premises are rendered unfit for the Lessee's use by reason of the emergence of significant radio-communications interference;
- (e) the Lessee no longer requires to use the Premises for the permitted use,

then the Lease may be terminated immediately by written notice by the Lessee in the case of subclauses (a), (c), (d) and (e) and by the Lessor in the case of subclause (b). The Lessee is not liable to the Lessor for any loss caused by termination of this Lease and the Lessor has no claim against the Lessee for compensation, damages or any other payment resulting from the Lessee exercising the right of termination.

10.2 *Effect on Rights or Liabilities*

Termination of the Lease does not affect the rights or liabilities of the parties in relation to any cause of action accruing prior to termination.

10.3 *Lessee to Yield Up*

The Lessee must at the expiration or sooner termination of the Term yield up the Premises in good repair and clean condition, having regard to their condition at the Commencement Date.

10.4 *Removal of Lessee's Fixtures and Chattels*

The Lessor acknowledges and agrees that all masts, antennae, cables (of any type), wires, conduits, fencing and any other improvements constructed by the Lessee on the Premises of whatsoever nature brought onto the Land or the Premises by the Lessee shall remain the property of the Lessee notwithstanding that any part or parts may be or become fixed to the Premises or the Land (as the case may be).

The Lessee must at or prior to the Date of Expiration (unless there is in place after this Lease a further lease between the Lessor and the Lessee, and in any event subject to **clause 14.3**), or earlier termination of the Lease or such other date as the Lessor and the Lessee agree in writing, remove from the Premises and the Adjoining Land all above-ground fixtures, fittings, plant, machinery, cables and other equipment erected or brought by it onto the Premises and the Adjoining Land and rehabilitate the Premises and the Adjoining Land as near as reasonably practicable to their

condition as at the Date of Commencement, such activity to rehabilitate to be completed within 90 days of the Date of Expiration or earlier termination as the case may be but if the weather conditions at the Date of Expiration on earlier termination of the Term are not favourable for rehabilitation, within such other period as the parties agree.

10.5 *Termination of Holding Over*

Either the Lessor or the Lessee may terminate the twelve monthly tenancy under **clause 3.4** by giving the other twelve months prior written notice.

11.0 NOTICES

11.1 *Method of Service*

Any notice to be given under this Lease by one of the parties to the other must be in writing and is given for all purposes by delivery in person, by pre-paid post or by facsimile addressed to the receiving party at the address set out in Item 7 of the Reference Schedule in the case of the Lessor and in Item 8 of the Reference Schedule in the case of the Lessee.

11.2 *Time of Service*

Any notice given in accordance with this Lease will be deemed to have been duly served in the case of posting at the expiration of 2 business days after the date of posting and in the case of facsimile, on the first business day after the date of transmission (providing the sending party received a facsimile machine verification report indicating that the notice has been transmitted).

11.3 *Change of Address*

A party may at any time change its address, postal address or facsimile number by giving written notice to the other party.

12.0 ASSIGNMENT AND SUBLEASING

12.1 *Consent Required*

Unless the Lessor consents, such consent not to be unreasonably withheld or delayed, the Lessee may not assign this Lease or sublet the Premises.

12.2 *Assignment and Subletting to a Government Agency*

The Lessee may without the consent of the Lessor from time to time assign the Lease or sublet the whole or part of the Premises to a Government Agency. The Lessee will notify the Lessor the details of the Government Agency.

12.3 *Obligations on Assignment or Sublease other than to a Government Agency*

If the Lessee assigns this Lease or sublets the Premises to a party other than a Government Agency, the Lessee must:

- (1) deliver to the Lessor, before the date that the proposed assignment or sublease is to take effect, a completed agreement in the form of a deed prepared or approved by the Lessor's solicitors, by which the proposed assignee or subtenant agrees with the Lessor to be bound by this Lease as from the date the assignment or sublease take effect; and
- (2) pay to the Lessor on request the Lessor's expenses, including legal costs:
 - (a) incurred in making reasonable enquiries about the proposed assignee or subtenant; and
 - (b) in connection with the preparation, completion and stamping of the assignment or sublease documents and any other related documents, (including the stamp duty on those documents).

12.4 *Lessee Remains Liable*

The Lessee remains fully liable under this Lease even if the Lessee assigns this Lease or sublets the Premises or gives any right in relation to this Lease or the Premises to any other person, except that in respect to any assignment of this Lease, the Lessee is from the date of assignment released from all future obligations under the Lease except in respect of any prior breach or default.

12.5 *Exclusion of Statutory Provisions*

The provisions of Sections 80 and 82 of the Property Law Act do not apply to this Lease.

12.6 *Fees*

The Lessee must reimburse the Lessor on request for all reasonable fees paid by the Lessor to any agent or consultant engaged by the Lessor in connection with a proposed assignment or sub-letting by the Lessee.

13.0 LESSOR'S COVENANTS

13.1 *Quiet Enjoyment*

The Lessor covenants that the Lessee may peaceably hold and enjoy the Premises during the Term without any interruption by the Lessor or any person rightfully claiming through the Lessor.

13.2 *Restriction on Lessor's Use of the Adjoining Land*

The Lessor must not itself knowingly nor will it knowingly permit any third party to do anything on the Adjoining Land or the Land which is likely to cause radio frequency interference which obstructs, interrupts or impedes the use or operation of the Lessee's communications network and communications service and in the event of the Lessee advising the Lessor of any breach of this clause, the Lessor will, in good faith, use best endeavours to cause removal of such interference, to the extent that it is within its power to do so.

13.3 *Lessor's Covenant*

The Lessor covenants that the Lessor will not itself knowingly, nor will it knowingly permit any third party to, store on, dispose of on or transport to or over the Land, the Adjoining Land or the Premises any hazardous substance which is likely to cause interference with the Lessee's use of the Premises provided that if the Lessee advises the Lessor of any breach by the Lessor of its covenant the Lessor will, to the extent that it is within its power to do so, use its best endeavours at its expense to forthwith remedy such breach.

14.0 MISCELLANEOUS

14.1 *Lessee to Pay Costs and Disbursements*

The Lessee must pay all stamp duty (including penalties and fines other than penalties and fines due to the default of the Lessor) (if any) and the Lessor's reasonable legal and other costs charges and expenses which the Lessor may reasonably suffer or incur in consequence of and incidental to the preparation, completion, stamping and registration of the Lease not to exceed \$1200.00 (plus GST).

14.2 *Costs on Default*

The Lessee will pay all reasonable costs, charges and expenses (including solicitor's costs) incurred by the Lessor for the purpose of or incidental to the preparation and service of a notice or notices under section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach of any of the Lessee's Covenants notwithstanding that forfeiture for any such breach is waived by the Lessor or is avoided otherwise than by relief granted by the courts or from which the Lessee shall be relieved under the provisions of the *Property Law Act 1969* and all reasonable costs, charges and expenses (including fees for architects and clerks of works) incurred by the Lessor for supervising, inspecting and approving any works or repairs carried out to the Premises by or on behalf of or in consequence of the default of the Lessee under any of the Lessee's Covenants.

14.3 *Without Prejudice*

This Lease is without prejudice to the Lessee's rights under Schedule 3 of the *Communications Act 1997* (Cth).

14.4 *Governing Law*

This Lease is governed by the law in force in Western Australia.

Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Western Australia and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

Without preventing any other mode of service, any document in an action (including, without limitation, any writ of summons or other originating process or any third or other party notice) may be served on any party by being delivered to or left for that party at its address for service of notices under **clause 11.1**

14.5 *Rates and Taxes*

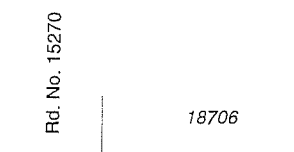
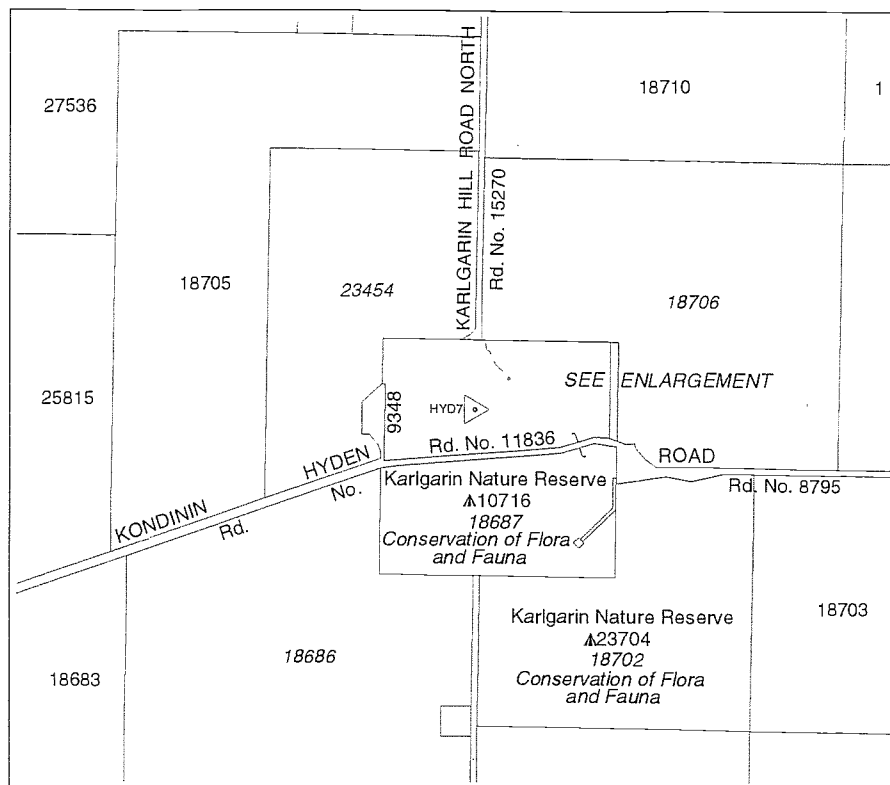
The Lessee must pay all Rates and Taxes separately assessed on the Premises by the due date for payment.

14.6 *Arbitration*

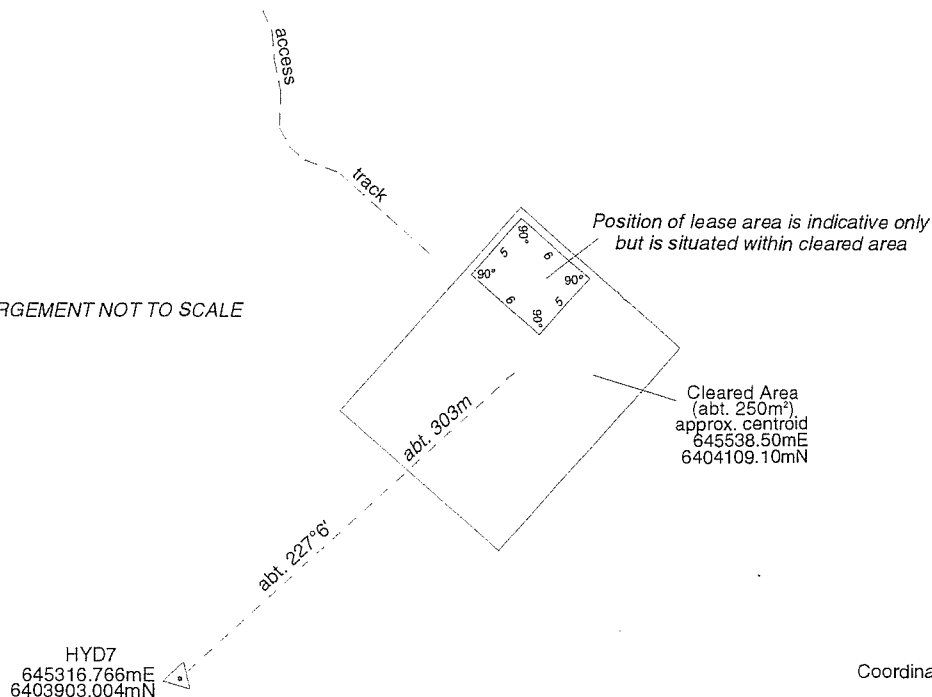
If at any time any dispute or difference arises between the parties in respect of any matters arising under or pursuant to the Lease or the meaning or construction of any of the provisions contained in it, such dispute or difference shall be referred to a single arbitrator to be appointed in accordance with the provisions of the *Commercial Arbitration Act 1985 (as amended)*. On any such arbitration, a party may, if it chooses, be represented by a duly qualified legal practitioner. The costs of the arbitration are to be borne equally by the parties regardless of the outcome but each party shall bear their own legal costs.

REFERENCE SCHEDULE

- Item 1 Premises**
The area delineated and outlined green on the attached plan comprising an area of 30m² and being a portion of Karlgarin Nature Reserve No. 10716.
- Item 2 Date of Commencement**
01 January 2007
- Item 3 Date of Expiration**
31 December 2016
- Item 3A Break Date**
31 December 2011
- Item 4 Term**
10 years
- Item 5 Rent**
\$349.61 (exclusive of GST) during the first year of the Term.
- Item 5A Fixed Review Dates**
- | | |
|----------------|----------------|
| 1 January 2008 | 1 January 2013 |
| 1 January 2009 | 1 January 2014 |
| 1 January 2010 | 1 January 2015 |
| 1 January 2011 | 1 January 2016 |
- Item 5B Market Review Date**
1 January 2012
- Item 6 Nominated Account**
Bank
- | | |
|--------------|--|
| | Commonwealth Bank |
| Branch | St Georges Tce, Perth WA |
| Account Name | Department of Environment and Conservation |
| BSB No. | 066-040 |
| Account No. | 11300006 |
- Item 7 Contact at Lessor**
- | | |
|-------------------|---|
| Name: | Leasing Officer, Property Unit
Department of Environment & Conservation |
| Address: | 17 Dick Perry Avenue, Kensington WA 6151
Locked Bag 104, Bentley Delivery Centre WA 6983 |
| Telephone number: | (08) 9423 2333 Facsimile number: (08) 9423 2253 |
- Item 8 Contact at Lessee**
- | | |
|-------------------|--|
| Name: | Manager Property Services |
| Address: | 4 th Floor, 480 Hay Street, Perth |
| Telephone number: | (08) 9323 9300 |
| Facsimile number: | (08) 9323 9323 |



ENLARGEMENT NOT TO SCALE



Coordinates quoted are GDA94
MGA Zone 50
SUBJECT TO SURVEY

LEASE No. 2244/100 - Reserve 10716 (Karlgarin Nature Reserve)

LESSEE FIRE AND EMERGENCY SERVICES AUTHORITY (FESA)

SHIRE KONDININ

DEC DISTRICT GREAT SOUTHERN

PLAN DRYDEN HILL (2633 - III)

AREA Abt 30m²

DRAWN JLF 8.3.07

CHECKED CLH 9.3.07

FILE No. 2006/004544-1

SCALE 1 : 50 000



Department of
Environment
and Conservation

ATTESTATION SHEET

Executed by the parties as a Deed on the 24TH day of JANUARY in the year 2011

LESSOR/LESSORS SIGN HERE (NOTE 9)

The Common Seal of the CONSERVATION
AND LAND MANAGEMENT EXECUTIVE
BODY was hereunto affixed by:)
)
)



Ky. McLean
CHIEF EXECUTIVE OFFICER

in the presence of:

CAMPBELL
Witness TOWNSEND

PUBLIC SERVANT
Occupation of Witness

168 ST GEORGES TCE PERTH WA
Address of Witness

LESSEE/LESSEES SIGN HERE (NOTE 9)

SIGNED FOR AND ON BEHALF OF THE
FIRE AND EMERGENCY SERVICES
AUTHORITY OF WESTERN AUSTRALIA
by JOSEPHINE CHARLOTTE
HARRISON-WARD Chief Executive Officer
of the Fire and Emergency Services Authority
of Western Australia, a person duly authorised
by the Authority under Section 38(5) of the
Fire and Emergency Services Authority of
Western Australia Act 1998 in the presence of:

JHW

Witness: Signature

N. Burgess

Name (please print)

NICOLE BURGESS

Address (please print)

9480 HAY ST, PERTH WA 6000

Occupation (please print)

MANAGER MINISTERIAL SERVICES

INSTRUCTIONS

1. If insufficient space in any section Additional Sheet Form B1 should be used with appropriate headings. The boxed sections should only contain the words "See Annexure".
2. Additional Sheets shall be numbered consecutively and bound to this document by staples along the left margin prior to execution by parties.
3. No alteration should be made by erasure. The words rejected should be scored through and those substituted typed or written above them, the alteration being initialled by the person signing this document and their witnesses.
4. Duplicates are not issued for Crown Land Titles.

NOTES

1. DESCRIPTION OF LAND

Lot and Diagram/Plan number or Location name and number to be stated.
Extent – Whole, part or balance of the land comprised in the Certificate of Title/Crown Land Title to be stated. The Certificate of Title/Crown Land Title Volume and Folio number to be stated.

2. LIMITATIONS, INTERESTS, ENCUMBRANCES and NOTIFICATIONS

The documents shown are to be identified by nature and number. The plan/diagram encumbrances shown are to be identified by nature and relevant plan/diagram. If none show "nil".

3. LESSOR

State full name and address of Lessor/Lessors and the address/addresses to which future notices can be sent.

4. LESSEE

State full name and address of Lessee/Lessees and the address/addresses to which future notices can be sent. If two or more, state tenancy eg Joint Tenants, Tenants in Common. If Tenants in Common specify shares.

5. TERM OF LEASE

Term to be stated in years, months and days. Commencement date to be stated. Options to renew to be shown.

6. RECITE ANY EASEMENTS TO BE CREATED

Here set forth Easements to be created as appurtenant to the lease commencing with the words "together with" and/or any Reservations hereby created encumbering the lease commencing with the words "reserving to".

7. RENTAL

State amount of yearly rental in words.

8. PAYMENT TERMS

State terms of payment

9. EXECUTION

A separate attestation is required for every person signing this documents. Each signature should be separately witnessed by an Adult Person. The name, address and occupation of witnesses must be stated.

Office Use Only

LODGED BY

ADDRESS

PHONE No.

FAX No.

REFERENCE No.

ISSUING BOX No.

PREPARED BY Department of Environment and Conservation

ADDRESS 17 Dick Perry Avenue, Kensington, Western Australia 6152

PHONE No. 9423 2333

FAX No. 9423 2466

INSTRUCT IF ANY DOCUMENTS ARE TO ISSUE TO OTHER THAN LODGING PARTY

TITLES, LEASES, DECLARATIONS ETC LODGED
HEREWITH

1.	_____	Received Items
2.	_____	Nos.
3.	_____	
4.	_____	Receiving Clerk
5.	_____	
6.	_____	

Registered pursuant to the provisions of the TRANSFER OF LAND ACT 1893 as amended on the day and time shown above and particulars entered in the Register.

EXAMINED