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**MEMORANDUM**



New South Wales  
Section 80A Real Property Act 1900

**AK980904F**

**PRIVACY NOTE:** Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

(B) **LODGED BY**

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Reference:		SH - AUS 096.647		

(B) **APPLICANT**

Alpha Distribution Ministerial Holding Corporation ABN 67 505 337 385
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(C) The applicant requests the Registrar General to record this memorandum, comprising 11 pages including this page, which contains provisions deemed to be incorporated in any instrument which refers to it.

- (D) i. For option to renew see clause NOT APPLICABLE
- ii. For option to purchase see clause NOT APPLICABLE

(E) Signature of applicant's representative:

Name of signatory: Helen Elizabeth Murray  
Capacity of signatory (if applicable): Applicant's solicitor  
Date: 6 December 2016

**FOR THE PROVISIONS CONTAINED IN THIS MEMORANDUM SEE ANNEXURE A**

**THIS IS ANNEXURE 'A' TO MEMORANDUM LODGED ON BEHALF OF  
ALPHA DISTRIBUTION MINISTERIAL HOLDING CORPORATION DATED  
6 DECEMBER 2016**

**1 (Definitions)**

In this Lease, unless the contrary intention appears:

- (a) **Customer** has the meaning it has in the Electricity Supply Act.
- (b) **Distribution System** means the Electricity Works used to convey and control the conveyance of electricity to the Property and other Customers, but does not include a Transmission System.
- (c) **Electricity (Consumer Safety) Act** means the *Electricity (Consumer Safety) Act 2004*.
- (d) **Electricity Supply Act** means the *Electricity Supply Act 1995*.
- (e) **Electricity Works** means any electricity power lines or associated equipment or electricity structures that form part of any of the Lessee's transmission or distribution systems and includes plant, electricity conductors, wires, cables, transformers, switchgear and other apparatus for conveying, controlling or storing electricity or data signals (including signals transmitted though optical fibre).
- (f) **Law** includes any statute, regulation, ordinance, by-law, order, consent or requirement, present or future, whether local, state, federal or otherwise, or industry code or Australian standard, and any Network Standard. It also includes any amendment, consolidation or replacement of them.
- (g) **Lessee** means the lessee described on the front page of this Lease (and where the context permits, its employees, agents and contractors), and its successors and assigns.
- (h) **Lessee's Costs of Relocation** means the Lessee's reasonable estimate of the costs (including any administrative, design, approval, consulting, legal, stamp duty, registration, consultant's or other costs) which have been or will be incurred by it in connection with:
  - (i) removing the Lessee's Electricity Works from the Premises or the Property; and
  - (ii) if required under this Lease, relocating, whether permanently or temporarily, the Lessee's Electricity Works or installing new Electricity Works at the Temporary Location or the New Location or both.

The Lessee may determine such costs in accordance with its standard practices. A certificate signed by a general manager, authorised representative of a general manager or internal auditor of the Lessee as to the Lessee's Costs of Relocation is prima facie evidence of such costs.

- (i) **Lessor** means the lessor described on the front page of this Lease and its successors and assigns (or, if the Lessor is a natural person, its executors, administrators and assigns) and in either case its employees, agents and contractors.

- (j) **Lessor's Supply Requirements** means the amount of electrical load to be supplied to the Property from the Electricity Works contained within the Premises as agreed from time to time between the Lessee and the Lessor.
- (k) **Liability** means claims, causes of action, damages and costs (including legal costs on an indemnity basis, whether or not the subject of a court order) and other liabilities, whether in contract, tort (including negligence), under statute or otherwise.
- (l) **Network Standard** means any policy or technical standard published by the Lessee from time to time.
- (m) **Plan** means the plan annexed to this Lease.
- (n) **Premises** means that part of the Property leased to the Lessee as shown on the Plan.
- (o) **Property** means the Land and/or building in which or upon which the Premises are situated.
- (p) **Terminating Date** means the date so described on the front page of this Lease.
- (q) **Transmission System** has the meaning it has in the Electricity Supply Act.

## 2 (Interpretation)

Unless the contrary intention appears:

- (a) the singular includes the plural and vice versa;
- (b) an agreement, representation or warranty on the part of two or more persons binds them individually and together (that is, jointly and severally).
- (c) a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) "including", when introducing an item or items, is illustrative only, not exhaustive;
- (e) a reference to the whole includes part; and
- (f) a reference to a person includes a body corporate and a partnership.

## 3 (Implied Covenants and Powers)

The obligations and powers implied by sections 84, 84A and 85 of the *Conveyancing Act 1919* are excluded.

## 4 (Statutory Powers and Functions)

Nothing in this Lease affects the Lessee's powers, rights and functions under the Electricity Supply Act and the Electricity (Consumer Safety) Act.

## 5 (Rent)

At the end of the term, the Lessee must pay the rent of \$1.00 per annum (if demanded in writing).

## 6 (Use of the Premises)

The Lessee may:

- (a) use the Premises as an electricity substation;
- (b) from time to time install, extend, alter, construct, dismantle, inspect, repair, replace, renew and maintain on and within the Premises such Electricity Works or other plant and equipment as the Lessee determines; and
- (c) use Electricity Works contained within the Premises to supply other Customers whether directly or indirectly from the Distribution System.

## 7 (Access)

The Lessee may, and the Lessor must ensure that the Lessee and persons authorised by it may, access the Premises 24 hours a day without restriction, with or without tools, materials, plant and other apparatus. The Lessor must supply the Lessee with keys or any other device which may be necessary to obtain access.

## 8 (Security of the Premises)

- (a) The Lessee will ensure that all exterior doors and any other point of access in or to the Premises, are securely fastened at all times when the Lessee's employees, agents or contractors are not in attendance on the Premises.
- (b) If the Lessor becomes aware that those exterior doors or points of access are not securely fastened, it must promptly notify the Lessee.

## 9 (Lessee's Electricity Works)

The Electricity Works installed in, affixed to or in the Premises, the Property or any easement created in connection with this Lease, remain the Lessee's property, even after the Lease ends, and may be removed by the Lessee.

## 10 (Services to the Premises)

- (a) In this clause, '**Upgrade**' means alteration, modification or upgrade to the Premises (excluding the Electricity Works) or to the services to the Premises, or to any easement or right of way referred to in the Plan, necessary:
  - (i) for the safe use of the Premises, easement or right of way; or
  - (ii) for the Premises, easement or right of way to comply with a Network Standard.
- (b) The Lessee may notify the Lessor of any Upgrade which the Lessee (acting reasonably in order to comply with relevant Laws) considers is necessary.
- (c) The Lessor must, at the Lessor's cost, promptly carry out the Upgrade in a proper and workmanlike manner in accordance with all Laws and the requirements of all relevant authorities.
- (d) if the Lessor does not carry out the Upgrade promptly after receiving the Lessee's notification, the Lessee may:
  - (i) cease to operate the Electricity Works in the Premises or to supply electricity to the Property until the Upgrade has been carried out, if it, acting reasonably, believes it is unsafe to continue operation; and/or

- (ii) elect to carry out the Upgrade. The Lessor must pay all costs incurred by the Lessee in connection with the Upgrade promptly on receipt of a tax invoice (as that term is defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) from the Lessee setting out such costs.

## 11 (Repair)

The Lessee must within a reasonable time repair any damage to the Premises or any other part of the Property caused by the Lessee's wilful or negligent act or omission, or its default under this Lease.

## 12 (Lessee Works)

The Lessee:

- (a) must not (except in the case of an emergency) alter, interfere with or make any connections to the Lessor's fixtures or services without the Lessor's consent (however, the Lessor must not unreasonably withhold its consent); and
- (b) must ensure that any works it carries out within the Premises are carried out in a proper and workmanlike manner and in accordance with all Laws and the requirements of all relevant authorities.

## 13 (Use of Common Areas)

The Lessee may, for the purposes of this Lease, use any areas of the Property provided by the Lessor for common use, but must obey all reasonable directions and rules notified by the Lessor relating to the use of those areas.

## 14 (Lessor to Maintain)

The Lessor must:

- (a) maintain in a serviceable condition any right of way or easement referred to in the Plan and any drainage system which may affect the Premises;
- (b) ensure that any safety equipment, ventilation, air ducting and doors provided for the Premises are not obstructed or impaired;
- (c) ensure that any part of the Property which encloses or forms part of the Premises (including any external doors, gates, ventilation panels and external finishes) is structurally stable, in good condition and complies with all Laws and the requirements of all relevant authorities;
- (d) take all necessary steps to keep dry the internal surfaces and spaces within the Premises;
- (e) not do anything or omit to do anything that might contravene a Network Standard or adversely affect the Lessee's use of the Electricity Works; and
- (f) immediately repair any damage to the Premises caused by the Lessor's act or omission, negligence, or default under this Lease.

## 15 (Lessor Works)

- (a) The Lessor must not without the Lessee's prior written consent:
  - (i) alter existing ground levels on or adjacent to the Premises or to any easement created in connection with the Lease; or

- (ii) carry out any works (including any storage, demolition, excavation, erection, installation, maintenance, alteration, removal or replacement) within, above, below, or which may detrimentally affect, the Premises, the ventilation provided for the Premises or any easement created in connection with this Lease.

- (b) If the Lessee consents to the Lessor carrying out the works referred to in clause 15(a), it may impose such reasonable conditions with respect to its consent as it determines.

## 16 (Quiet Employment)

The Lessor covenants with the Lessee that, subject to the Lessee performing its obligations under this Lease, the Lessee may peaceably possess and enjoy the Premises for the term of the Lease, without any interruption or disturbance from the Lessor.

## 17 (Damage and Destruction)

- (a) The Lessor must immediately notify the Lessee if the Premises are damaged, affected or destroyed so as to become substantially inaccessible or unfit for use in accordance with this Lease.
- (b) The Lessee may terminate this Lease by giving the Lessor not less than 30 days' notice after the damage, affectation or destruction occurs.
- (c) If the Lessee terminates this Lease under clause 17(b), neither party is liable to the other for damages, costs or expenses, unless arising out of a breach of this Lease occurring before the termination.

## 18 (Easements)

- (a) The Lessee has the full right, liberty and licence for itself and its employees, agents and contractors with or without tools, materials, plant and other apparatus, and vehicles to pass and repass at all times of the day or night during the term of this Lease over any land marked "Right of Way" on the Plan ("right of way") and, during such times as the Lessee considers necessary, to park vehicles upon the right of way.
- (b) The Lessee has the full right, liberty and licence for:
  - (i) itself and its employees, agents and contractors at all times of the day or night during the term of this Lease to construct, lay down, dismantle, replace, repair, renew and maintain underground and/or overhead electricity cables through, beneath or over any land marked "Easement for Electricity Purposes" or "Easement for Electricity Works" on the Plan ("easement"); and
  - (ii) free and uninterrupted passage of electricity and signals through the cables within the easement.

## 19 (Demolition)

If the Lessor wishes at any time to demolish improvements on or about the Property in a manner inconsistent with the Lessee's rights under this Lease:

- (a) the Lessor must give the Lessee at least 12 months' prior written notice that it intends to demolish the improvements;

- (b) the Lessee must surrender this Lease within a reasonable time after all of the following have occurred:
  - (i) the 12 months' notice period has expired; and
  - (ii) the Lessor and all the Lessor's tenants or other occupants of the Property (other than the Lessee) have vacated the Property; and
  - (iii) the Lessee has transferred its Electricity Works from the Premises to a new location and has connected it and/or other or additional Electricity Works to the Distribution System; and
- (c) the Lessor must pay the Lessee's reasonable legal costs and all stamp duty and registration fees in connection with the surrender of this Lease.

The parties acknowledge that any new supply to the Property will be the subject of a new customer connection contract and that the Lessor will be responsible for the costs of establishing that new supply.

## 20 (Relocation of Premises)

If the Lessor at any time wishes to construct, install, remove, redevelop or otherwise change improvements on or about the Property in a manner inconsistent with the Lessee's ongoing rights under this Lease, but wishes to maintain electricity supply to the Property while doing so:

- (a) the Lessor must give the Lessee at least 12 months' prior written notice, and consult with the Lessee, in relation to the relocation of the Premises;
- (b) the Lessor may, after such consultation, nominate for the Lessee's approval:
  - (i) a new location or locations for the Premises on the Property ('**New Location**'); and
  - (ii) if required by the Lessee, a temporary location for the Premises ('**Temporary Location**'),

which must both be of a size and standard stipulated by the Lessee and must comply with the Law;

- (c) if the Lessee approves of a Temporary Location and/or New Location, the Lessee will at its discretion, subject to clause 20(e), relocate the Electricity Works or install new Electricity Works including any required additional Electricity Works at the Temporary Location and/or New Location within a reasonable time;
- (d) after the completion of the construction, installation, removal, redevelopment or other change to improvements on or about the Property, the Lessee will, subject to clause 20(e), relocate the Electricity Works or install new Electricity Works including any required additional Electricity Works at the New Location within a reasonable time after receiving notice of completion;
- (e) before any relocation or installation under this 20, <sup>clause</sup> at the Lessor must pay to the Lessee the Lessee's Costs of Relocation as a debt due and payable to the Lessee; and
- (f) immediately upon each relocation or installation under this clause 20, at the Lessor's cost:

- (i) the Lessor must do all things necessary to grant to the Lessee a registered lease on the same terms as this Lease (with only those changes necessary to make it appropriate to the Temporary Location or the New Location, as the case may be); and
  - (ii) the Lessee will do all things necessary to surrender this Lease and accept a new lease in its place.
- (g) For the purposes of clause 20(c) and 20(d), "reasonable time" will be the time that in the Lessee's reasonable opinion it will require:
- (i) to transfer Electricity Works from the Premises to the Temporary Location and/or the New Location or to install new Electricity Works;
  - (ii) to install additional Electricity Works if required; and
  - (iii) to connect the Electricity Works to the Distribution System.

## 21 (Make Good)

On the expiration or the earlier termination of this Lease, the Lessee:

- (a) must vacate the Premises;
- (b) must decommission the Lessee's Electricity Works contained in the Premises or the Property; and
- (c) may remove all the Lessee's Electricity Works in or on the Premises or the Property, which were not installed by the Lessor.

## 22 (Restoration)

On vacating the Premises, the Lessee must:

- (a) remove all rubbish;
- (b) repair any damage it has caused in the course of removing its Electricity Works, except that:
  - (i) the Lessee need not re-instate any permanently finished surfaces damaged by the removal;
  - (ii) if the ground is dug up in the removal, the Lessee need only backfill and temporarily seal the opening;
  - (iii) the Lessee need to rectify or renew any landscaping; and
  - (iv) the Lessee need not restore or replace any thing erected in or on or obstructing any easement or right of way shown in the Plan, if that thing has been damaged or removed in the course of the removal.

## 23 (Indemnities)

The Lessor and the Lessee covenant as follows:

- (a) The Lessee indemnifies the Lessor against all losses, damages and costs incurred by the Lessor which arise directly out of the Lessee's negligence in exercising its rights under the Lease or as a direct result of the wilful misconduct of the Lessee, its employees or agents or contractors. Any liability of the Lessee under this indemnity is to be proportionately reduced to the extent that any losses, damages or costs are caused or contributed to by:

- (i) negligent or wilful acts or omission of the Lessor, its employees or agents or contractors, the Lessor's tenants or other occupants of the Property (other than the Lessee) under any arrangement and whether with or without the Lessor's consent; or
  - (ii) any breach by the Lessor of any provision of this Lease; or
  - (iii) any failure by the Lessor to comply with any Law.
- (b) The Lessor indemnifies the Lessee against all losses, damages and costs incurred by the Lessee which arise directly out of negligent or wilful acts or omission of the Lessor, its employees or agents or contractors or other occupants of the Property (other than the Lessee) under any arrangement and whether with or without the Lessor's consent. Any liability of the Lessor under this indemnity is to be proportionally reduced to the extent that any losses, damages or costs are cause or contributed to by:
- (i) negligent or wilful acts or omissions of the Lessee, its employees or agents or contractors; or
  - (ii) any breach by the Lessee of any provision of this Lease; or
  - (iii) any failure by the Lessee to comply with any Law.

## 24 (Assignment and Subletting)

- (a) Subject to the remainder of this clause 24, the Lessee must not assign, transfer or dispose of its interest under this Lease to any entity that is not a New South Wales authority, agency or State-owned corporation without the prior written consent of the Lessor, which consent cannot be unreasonably withheld.
- (b) However, clause 24(a) does not apply to any assignment by the Lessee in connection with a disaggregation of the Lessee into separate retail and distribution businesses or entities, which assignment is permitted without the Lessor's consent.
- (c) The Lessor consents to the Lessee subleasing the whole of the Premises to a person who is a lessee of the Lessee's electricity transmission and distribution network in New South Wales.
- (d) The Lessor agrees that a sublessee of the whole of the Premises referred to in clause 24(c) may sub-sublease the whole of the Premises to a person to who is a sublessee of the Lessee's electricity transmission and distribution network in New South Wales.
- (e) Despite any sublease as referred to in clause 24(c), or any sub-sublease as referred to in clause 24(d), the Lessee remains liable under the Lease and is not released from its obligations under this Lease.
- (f) Despite anything else contained in this Lease, the Lessor acknowledges and agrees that a sublessee of the Premises as referred to in clause 24(c), or any sub-sublessee of the Premises as referred to in clause 24(d), may exercise the rights and perform the obligations of the Lessee under this Lease as if that sublessee or sub-sublessee were the Lessee.
- (g) In furtherance of clause 24(f), a reference in this Lease to the Lessee's employees, agents, contractors and persons authorised by the Lessee will be

deemed to include the employees, agents and contractors of, and persons authorised by, the sublessee or sub-sublessee referred to in clause 24(f).

- (h) The Lessor may assign its interest in this Lease upon prior written notice to the Lessee.

## 25 (Holding over)

If the Lessee continues to occupy the Premises beyond the expiry of this Lease:

- (a) the Lessee occupies the Premises as a tenant from year to year at a rental equal to the rent set out in clause 5; and
- (b) the tenancy will continue on the conditions of this Lease so far as they are applicable to a tenancy from year to year.

## 26 (Costs)

- (a) Subject to clause 19 and 20 of this Lease, each party must pay their own costs, charges and expenses (including legal costs) in relation to preparing, negotiating and executing this Lease.
- (b) The Lessor must pay any costs in connection with:
- (i) obtaining all consents in relation to this Lease; and
  - (ii) the Lessee considering any proposed relocation of the Premises, including any temporary relocation (and regardless of whether relocation occurs).
- (c) Subject to clause 19 and 20, the Lessee must pay all stamp duty and registration fees in connection with this Lease.
- (d) A party who defaults ('**Defaulting Party**') must pay the other party's reasonable costs and disbursements in connection with the other party exercising rights to take action because of the Defaulting Party's default.

## 27 (Rates and Taxes)

The Lessor must pay any rates and taxes that may be levied in connection with the Premises or in connection with that part of the Property of which that Premises form part.

## 28 (GST)

- (a) Words and expressions used in this clause which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause.
- (b) Any consideration to be paid or provided for a supply made under or in connection with the Lease unless expressly described in this Lease as 'GST Inclusive', does not include any amount on account of GST.
- (c) Despite any other provision in the Lease, if a party ('**Supplier**') makes a supply under or in connection with this Lease on which GST is imposed (not being a supply the consideration for which is specifically described in the Lease as '**GST inclusive**'):
  - (i) the consideration payable or to be provided for that supply under this Lease but for the application of this clause ('**GST exclusive consideration**') is increased by, and the recipient of the supply

- (**'Recipient'**) must also pay to the Supplier, an amount equal to the GST exclusive consideration multiplied by the prevailing rate of GST; and
- (ii) the amount by which the GST exclusive consideration is increased must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided subject to the production of a tax invoice.
- (d) If a payment to a party under this Lease is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

## 29 Grant of new lease

The Lessor agrees to grant a new lease under this clause 29 on the Terminating Date to commence on the next day only if:

- (a) the Lessee gives the Lessor a notice stating that it wants a new lease of the Premises for a term of 25 years; and
- (b) the Lessor receives that notice within the period from and including the day that is twelve months before the Terminating Date to but excluding the Terminating Date; and
- (c) when the Lessee gives that notice, and on the Terminating Date, the Lessee is not in breach of this Lease.

The new lease is to be identical with the Lease except that:

- (d) the term is to be 25 years; and
- (e) the commencement date is to be the day after the Terminating Date; and
- (f) the terminating date is to be the day which is 25 years after the commencement date; and
- (g) the new lease must reflect any variations to this Lease, whether registered or not, which become effective during the term of this Lease.

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