

EXECUTIVE COUNCIL PUBLIC

Title: Renewal of Crown Lease 236 – Earth Station, Sapper Hill

Paper Number: 9/17

Date: 25th January 2017

Responsible Director: Attorney General

Report Author: Crown Counsel

Portfolio Holder: MLA Roger Edwards

Reason for paper: This paper is submitted to Executive Council:
For policy decision (including budgetary policy)

Publication: Yes

Previous papers: Land Committee Paper 5th May 2016

List of Documents: Existing lease. (Schedule 1)
Draft renewal lease by Reference.

1. Recommendations

1.1 Honourable Members are recommended to APPROVE the extension/regrant of Crown Lease 236 to Sure on the terms set out in the schedule for a term of 5 years.

1.2 Honourable Members are asked to NOTE the progress on the renewal of Crown Leases 234 and 235 of Stewart House and the Sure offices for a term of 5 years.

2. Additional Budgetary Implications

	2016/17	Annual Recurring
Operating Budget/Revenue	£(5,275.58)	£(5,275.58)

2.1 The proposed rent is calculated in accordance with the rent review mechanism in the existing lease.

3. Executive Summary

- 3.1 This paper has come to Executive Council because it relates to the disposal of Crown Land. It is beyond the scope of the delegation to Lands Committee because the land is of strategic importance and has a value in excess of £10,000.
- 3.2 The proposal is to grant a five year renewal of the Earth Station to Sure South Atlantic Limited without requesting a parent company guarantee from BatelCo.
- 3.3 The renewal is to take the form of renewal lease by reference to the existing terms which will not alter other than as to rent.
- 3.4 The date of termination will be brought into line with the termination date of the renewed leases to Sure South Atlantic Limited of their leases of Stewart House and the Sure offices.
- 3.5 The existing lease (and its proposed renewal) allows earlier termination if the Telecommunications Licence of 3rd November 1989 expires or is terminated.

Renewal leases of Stewart House and SURE offices.

- 3.6 In February 2014 the Lands Committee agreed to a renewal of Crown Lease 234 (Stewart House) and delegated oversight of this work to the Director of Central Services.
- 3.6 In May 2015 Lands Committee agreed to a renewal of Crown Lease 235 (Sure Offices to the West of Stewart House) on the same terms.
- 3.7 In May 2015 a lease renewal by reference to the existing leases was prepared and sent to Sure with a request for a Parent Company Guarantee replacing that of Cable of Wireless plc. In August 2015 this request was withdrawn on the instructions of the Chief Executive.
- 3.8 In February 2016 the hard copy of the lease renewal by reference to the existing leases was sent to Sure. Amendments were requested and a revised engrossment was sent out in May 2016. These versions have been mislaid and subsequently recirculated to Sure in December 2016. They remain subject to contract until executed by the Government.
- 3.9 The proposal is to align the lease periods of all properties (Sure office, Stuart House and the Earth Station) so that the lease period terminates on 31st March 2020.

4. Background and Links to Islands Plan and Directorate Business Plan/s

Islands Plan 2014-2018

Vision *“We will unlock the potential for tourism, business growth and investment by improving the Islands’ connectivity internationally and ensure that the Islands’ utilities are reliable, cost effective and affordable”*

During the life of this Assembly we will...

“Continue to regulate the Islands’ telecommunications services to deliver further improvements in service quality, coverage and cost.”

“Establish a clear and consistent framework for the disposal of Crown Land in support of the Falkland Islands’ priorities in terms of growth and investment. FIG will make Crown Land available for private and commercial use, so far as it is consistent with the overall need to secure the optimum sustainable use of the Islands’ natural resources.”

Background

4.1 On 30th September 1998 the predecessors to Sure South Atlantic Limited, Cable and Wireless Plc were granted a 20 year lease of the Earth Station expiring on 1st February 2016. This lease was assigned to Cable and Wireless South Atlantic Limited on 3rd May 2007 without a fine, premium or the requirement for the provision of security –typically a bond or a parent company.

4.2 Consent of the Crown was required to grant the assignment and this was granted. No parent company guarantee was obtained. The Lessee (Cable and Wireless plc) remained contractually liable for contractual compliance with the lease in the event of a tenant failure in accordance with the legal principle of ‘privity of contract’ that if two parties have agreed to do a certain thing, their obligations bind them whether their contract has anything to do with land or not. Accordingly action could have been taken against Cable and Wireless plc for a breach of the tenant covenants by Sure South Atlantic Limited.

4.3 On the instructions of the (previous) Chief Executive a requirement for a parent company guarantee was dropped from our requirements during the negotiation stage of the lease renewal of the Sure offices and of Stewart House (Crown Leases 234 and 235). On account of delays within the Sure offices and within Law and Regulation, none of the pending Leases have been formally renewed yet. Contract papers are currently with Sure. The Tenant is ‘holding over’ under the existing lease arrangements.

4.4 The existing licence with Sure South Atlantic Limited requires 5 years notice of termination. It is accordingly considered to be acceptable that leases for a period not exceeding 5 years may be granted to the telecommunications monopoly provider until such time as this licence is terminated. The Director of Central Services has approved this lease period.

5. Options and Reasons for Recommending Relevant Option

5.1 Do nothing. The Tenant will continue to hold-over at the property. The Tenant has applied for a lease renewal so this option is not recommended.

5.2 Withhold renewal of the Lease and require the property to be yielded up to FIG from February 2017. Not recommended as Sure continue to hold a telecommunications licence.

5.3 Renew the lease for a period of 5 years **Recommended Option**. This is the recommended option for the preservation of the existing landlord and tenant relationship. This Option preserves the ability to take the property back at the end of the term if the Telecommunications Licence is terminated.

5.4 Renew the lease on the terms outlined above subject to a parent company guarantee. This option has been discounted as the (previous) Chief Executive was satisfied that no parent company guarantee is necessary given the covenant strength of Sure South Atlantic Limited.

6. Resource Implications

6.1 Financial Implications

Rents to continue in accordance with the mechanism contained in the existing lease for rental increases in accordance with the RPI Stanley.

6.2 Human Resource Implications

None

6.3 Other Resource Implications

This matter interacts with the wide policy agenda of the Telecommunication Bill and the Licence renewal with Sure.

7. Legal Implications

7.1 At the end of this lease, howsoever determined it is important, that the infrastructure on the site should pass back to the Government.

7.2 The Buildings on the site form part of the Premises and no alterations to the Buildings are permitted without Landlord consent.

7.3 The Lease must exclude to the maximum extent possible any liability for compensation for tenant works.

8. Environmental & Sustainability Implications

8.1 None

9. Significant Risks

9.1 None

10. Consultation

10.1 None

11. Communication

11.1 No restriction.

Schedule 1.

Copy of Crown Lease 236 and Assignment

Schedule 2

Draft Renewal lease by reference.

Schedule of suggested deletions to enable publication of paper 9/17

No suggested deletions.

Standard Chartered Bank in the Falkland Islands or such other Bank as the Landlord may from time to time nominate in writing

2. Definitions

For all purposes of this Lease the terms defined in this clause 2 have the meaning specified

2.1 'this Lease' unless it is expressly stated to the contrary, includes any documents supplemental to or collateral with this document or entered into in accordance with this document except the Previous Leases.

2.2 'Premises' has the meaning given to it in the Particulars and the expression 'Premises' includes:

2.2.1 all additions and improvements to the Premises

2.2.2 all fixtures which shall from time to time be in or upon the Premises except any such fixture installed by the Tenant that can be removed from the Premises without damaging or defacing the same

2.2.3 all Pipes in on under or over the Premises

2.2.4 the entire thickness of all walls and fences forming the boundaries of the Premises

and references to the Premises in the absence of any provision to the contrary include references to any part of the Premises

2.3 'The Previous Lease' means the within-written lease dated 30th September 1998 and made between the Crown and Cable and Wireless PLC (identified with Crown Lease Number 236) which lease is attached as Schedule 2.

3. Recitals

3.1 Vesting of the Premises and the reversion

The Premises are now vested in the Tenant and the reversion immediately expectant on the expiry of the term granted by the Previous Leases and title paramount is vested in the Crown

3.2 Request for Renewal

The Tenant has requested the Crown to grant a further lease of the Premises to him on the terms appearing below.

4. Demise

The Crown demises to the Tenant the Premises EXCEPTING AND RESERVING to the Crown the matters excepted and reserved by the Previous Leases TO HOLD the Premises to the Tenant together with the rights granted by the Previous Leases for a term of years

commencing on and including 2nd February 2016 and terminating on 31 March 2020 SUBJECT TO all rights easements privileges restrictions covenants and stipulations of whatever nature affecting the Premises YIELDING AND PAYING to the Landlord on the same days and like manner as under the Previous Leases the Rent payable without any deduction by annual payments in advance commencing on the Commencement Date

5. Terms of this Lease

This Lease is made upon the same terms and subject to the same covenants provisos and conditions as are contained in the Previous Leases except as to the rent and term of years granted and except as modified in Schedule 1 below so that this Lease is to be construed and take effect as if those terms, covenants, provisos and conditions were except as above repeated in full with such modifications only as are necessary to make them applicable to this demise and the parties to this Lease except that the covenants given by the Landlord and the Tenant are to be construed as if they have been given at the date of the Previous Leases

6. Covenants

6.1 The Tenant's Covenants

The Tenant covenants with the Landlord to observe and perform all the covenants and conditions on his part contained in the Previous Leases as modified above.

6.2 The Landlord's Covenants

The Landlord covenants with the Tenant to observe and perform all of the covenants and conditions on his part contained in the Previous Leases as modified above.

EXECUTED as a Deed by the parties and delivered when dated

The Public Seal of the Falkland Islands	}
was hereunto affixed in the presence of	}
COLIN ROBERTS CVO	}
Governor of the Falkland Islands	}

The Common seal of the said }
Sure South Atlantic Limited }
was hereunto affixed in pursuance of a }
resolution of the Board of Directors dated }
} }
In the presence of: }

.....
Director

.....
Director/Secretary

First Schedule

Modifications to the Previous Lease

1. The Review Dates shall be 1st April 2020 and every fifth anniversary thereof
2. For the purposes of Schedule 2 to the Lease 'the Initial Rent' shall mean £[tbc]pa and the initial Review Period shall mean the 1st April 2015 -31st March 2020
3. [new plan tbc]

Second Schedule

The Previous Leases

To be attached

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Acting Registrar General

CROWN LEASE NUMBER 236

DATE 30th September 1998 ~~1997~~

1. Particulars

- 1.1.1 The Landlord **RICHARD PETER RALPH** Companion of the Most Distinguished Order of St Michael and St George and Commander of the Royal Victorian Order Governor of the Falkland Islands acting on behalf of Her Majesty in right of Her Government in the Falkland Islands
- 1.1.2 The Tenant **CABLE AND WIRELESS PLC** whose registered office is situate at 124 Theobalds Road London WC1X 8RX
- 1.2 The Premises All That land and premises situate at Earth Station Site, Darwin Road, Stanley Falkland Islands shown for the purposes of identification only edged with red on the plan attached hereto
- 1.3 Contractual Term 20 years from and including 2 February 1996 and expiring on 1 February 2016 ("the expiry date") save that if the Tenant's Licence dated 3 November 1989 shall expire or be terminated or shall otherwise cease to be of effect before the expiry date then the Contractual Term herein granted shall terminate on the date the said Licence expires, terminates or otherwise ceases to be of effect
- 1.4 Initial Rent £3,114.00 per annum
- 1.5 Review Dates The dates indicated in the second Schedule and "Review Date" means any one of the Review Dates
- 1.6 Interest Rate 3% per annum above the base lending rate of Standard Chartered Bank or such other Bank of international repute as the Landlord may from time to time nominate in writing
- 1.7 Permitted User Office accommodation and such other reasonable user as is incidental thereto having regard to the Tenant's agreement to provide the external and internal telecommunications system of the Falkland Islands as is more particularly referred to in an agreement dated 2 September 1988 and made between the Landlord and the Tenant or such other use as the Landlord shall from time to time approve in writing such approval not to be unreasonably withheld or delayed

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2. Definitions

- 2.1 "Building" means the building or buildings erected or to be erected on the Premises
- 2.2 "Insured Risks" means fire lightning explosion aircraft (including articles dropped from aircraft) riot civil commotion malicious persons earthquake storm tempest flood bursting and overflowing of water pipes tanks and other apparatus and impact by road vehicles and such other risks as the Landlord from time to time may reasonably think fit to require the Tenant to insure against
- 2.3 "Interest" means interest during the period from the date on which the payment is due to the date of payment both before and after any judgment at the Interest Rate then prevailing or should the base rate referred to in clause 1.6 cease to exist such other rate of interest as is most closely comparable with the Interest Rate to be agreed between the parties or in default of agreement to be determined by a Surveyor appointed by the Landlord acting as an expert and not as an arbitrator
- 2.4 "Pipes" means all pipes sewers drains mains ducts conduits gutters watercourses wires cables channels flues and all other conducting media and includes any fixings louvers cowls and any other ancillary apparatus which are in on or under or which serve the Premises
- 2.5 "the Plan" means the plan annexed to this lease
- 2.6 "the Planning Ordinance" means the Planning Ordinance 1991 and all Ordinances regulations and orders included by virtue of clause 3.9
- 2.7 "Rent" means the Initial Rent and rent ascertained in accordance with the second Schedule

3. Interpretation

- 3.1 The expressions "the Landlord" and "the Tenant" wherever the context so admits include the person for the time being entitled to the reversion immediately expectant on the determination of the Term and the Tenant's successors in title respectively
- 3.2 Where the Landlord or the Tenant for the time being are two or more persons obligations expressed or implied to be made by or with such party are deemed to be made by or with such persons jointly and severally
- 3.3. Words importing one gender include all other genders and words importing the singular include the plural and vice versa
- 3.4 The expression "the Term" includes the Contractual Term and any period of holding over or extension or continuance of the Contractual Term whether by Ordinance or common law

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- 3.5 References to "the last year of the Term" include the last year of the Term if the Term shall determine otherwise than by effluxion of time and references to "the expiration of the Term" include such other determination of the Term
- 3.6 References to any right of the Landlord to have access to the Premises shall be construed as extending to all persons authorised by the Landlord in that behalf (including agents professional advisers contractors workmen and others under the control of the Landlord)
- 3.7 Any covenant by the Tenant not to do an act or thing shall be deemed to include an obligation to use reasonable endeavours not to permit or suffer such act or thing to be done by another person
- 3.8 References to "consent of the Landlord" or words to similar effect mean a consent in writing signed by or on behalf of the Landlord and to "approved" and "authorised" or words to similar effect mean (as the case may be) approved or authorised in writing by or on behalf of the Landlord
- 3.9 Any references to a specific Ordinance include any statutory extension or modification amendment or re-enactment of such Ordinance and any Regulations or Orders made under such Ordinance and any general reference to "Ordinance" or "Ordinances" includes any Regulations or Orders made under such Ordinance(s)
- 3.10 References in this lease to any clause sub-clause or schedule without further designation shall be construed as a reference to the clause sub-clause or schedule to this lease so numbered
- 3.11 The clause paragraph and schedule headings do not form part of this lease and shall not be taken into account in its construction or interpretation
- 3.12 The terms "the parties" or "party" mean the Landlord and/or the Tenant
- 3.13 "Development" has the meaning given to it by the Planning Ordinance 1991

4. Demise

The Landlord demises to the Tenant the Premises **EXCEPTING AND RESERVING** to the Landlord the rights specified in the first schedule **TO HOLD** the Premises to the Tenant for the Contractual Term **SUBJECT TO** all rights easements privileges restrictions covenants and stipulations herein contained or referred to **YIELDING AND PAYING** to the Landlord the Rent payable without any deduction by annual payments in advance on the first January in every year and proportionately for any period of less than a year the first such payment to be paid on the date hereof being rent for the period commencing 2 February 1996 and ending on 31 December 1997

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5. The Tenant's Covenants

The Tenant further covenants with the Landlord:

5.1 Rent

- 5.1.1 to pay the rent on the days and in the manner set out in this lease and not to exercise or seek to exercise any right or claim to withhold rent or any right or claim to legal or equitable set off
- 5.1.2 if so required in writing by the Landlord to make such payments by banker's order or credit transfer to any bank account that the Landlord may from time to time nominate

5.2 Outgoings

To pay and to indemnify the Landlord against:

- 5.2.1 all rates taxes assessments duties charges impositions and outgoings which are now or during the Term shall be charged assessed or imposed upon the Premises or upon the owner or occupier of them and
- 5.2.2 any taxes which now or in the future are chargeable in respect of any payment made by the Tenant under any of the terms of or in connection with this lease or in respect of any payment made by the Landlord where the Tenant agrees in this lease to reimburse the Landlord for such payment **PROVIDED THAT** the Tenant shall not in any event be liable for the payment for tax payable by the Landlord by virtue of its receipt of the rent payable hereunder and as such being income in the hands of the Landlord

5.3 Electricity gas and other services consumed

To pay to the suppliers and to indemnify the Landlord against all charges for electricity gas and all or any other services consumed or used at or in relation to the Premises (including meter rents)

5.4 Repair cleaning and decoration etc.

- 5.4.1 To repair the Premises and keep them in repair excepting damage caused by an Insured Risk other than where the insurance money is irrecoverable in consequence of any act or default of the Tenant or anyone at the Premises expressly or by implication with the Tenants authority
- 5.4.2 To clean the Premises and keep them in a clean condition
- 5.4.3 To keep any part of the Premises which may not be built upon ("the Open Land") adequately surfaced in good condition
- 5.4.4 Not to deposit or permit to be deposited any waste rubbish or refuse on the Open Land

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- 5.4.5 Not to keep or store on the Open Land any vehicle caravan or movable dwelling
- 5.4.6 Not to cause any land roads or pavements abutting the Premises to be untidy or in a dirty condition and in particular (but without prejudice to the generality of the above) not to deposit on them refuse or other materials
- 5.5 Waste and Alterations
- 5.5.1 Not at any time to make any structural alterations to the Building without:
- 5.5.1.1 obtaining and complying with all necessary consents of any competent authority and paying all charges of any such authority in respect of such consents
- 5.5.1.2 the consent in writing of the Landlord such consent not to be unreasonably withheld or delayed
- 5.5.2 Not to make connection with the Pipes that serve the Premises otherwise than in accordance with plans and specifications approved by the Landlord such approval not to be unreasonably withheld or delayed subject to consent to make such connection having previously been obtained from the competent statutory authority or undertaker
- 5.6 Aerials signs and advertisements
- 5.6.1 Not to erect any pole mast or wire (whether in connection with telegraphic telephonic radio or television communication or otherwise) upon the Premises except with the prior written consent of the Landlord such consent not to be unreasonably withheld or delayed having regard to the obligations of the Tenant in the agreement dated 2 September 1988 referred to in clause 1.7 above
- 5.6.2 Not to affix to or exhibit on the outside of the Building or to or through any window of the Building nor display anywhere on the Premises any placard sign notice fascia board or advertisement except any sign permitted by virtue of any consent given by the Landlord pursuant to a covenant contained in this lease
- 5.7 Statutory obligations
- 5.7.1 At the Tenant's own expense to execute all works and provide and maintain all arrangements upon or in respect of the Premises or the use to which the Premises are being put that are required in order to comply with the requirements of any Ordinance (already or in the future to be passed) or any government department, other public or competent authority or court of competent jurisdiction regardless of whether such requirements are imposed on the lessor the lessee or the occupier

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- 5.7.2 Not to do in or near the Premises any act or thing by reason of which the Landlord may under any statute incur have imposed upon it or become liable to pay any penalty damages compensation costs charges or expenses
- 5.7.3 Without prejudice to the generality of the above to comply in all respects with the provisions of any statutes and any other obligations imposed by law or by any bylaws applicable to the Premises or in regard to carrying on the trade or business for the time being carried on on the Premises
- 5.8 Access of Landlord and notice to repair
- 5.8.1 To permit the Landlord by prior appointment after reasonable notice:
- 5.8.1.1 to enter upon the Premises for the purpose of ascertaining that the covenants and conditions of this lease have been observed and performed
- 5.8.1.2 to view the state of repair and condition of the Premises and
- 5.8.1.3 to give to the Tenant (or leave upon the Premises) a notice specifying any repairs cleaning maintenance or painting that the Tenant has failed to execute in breach of the terms of this lease and to request the Tenant immediately to execute the same
- 5.8.2 If within one month of the service of such a notice the Tenant shall not have commenced and be proceeding diligently with the execution of the work referred to in the notice or shall fail to complete the work within 2 months the Tenant shall permit the Landlord to enter the Premises to execute such work as may be necessary to comply with the notice and pay to the Landlord the cost of so doing and all expenses incurred by the Landlord (including legal costs) within 14 days of a written demand
- 5.9 Alienation
- 5.9.1 Not to assign or charge part only of the Premises and not to underlet the whole or any part of the Premises
- 5.9.2 Not to assign or charge the whole of the Premises without the prior written consent of the Landlord such consent not to be unreasonably withheld or delayed
- 5.9.3 Prior to any assignment of the whole of the Premises to procure that the assignee enters into direct covenants with the Landlord to perform and observe all the Tenant's covenants and all other provisions during the residue of the Contractual Term
- 5.10 Nuisance
- Not to do nor allow to remain upon the Premises anything which may be or become or cause a nuisance annoyance disturbance inconvenience injury or damage to the Landlord or its tenants or the owners or occupiers of adjacent or neighbouring premises

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5.11 The Planning Ordinance

5.11.1 Not to commit any breach of planning control (such term to be construed as it is used in the Planning Ordinance) and to comply with the provisions and requirements of the Planning Ordinance that affect the Premises whether as to the Permitted User or otherwise and to indemnify and keep the Landlord indemnified against all liability whatsoever including costs and expenses in respect of any contravention

5.11.2 Notwithstanding any consent which may be granted by the Landlord under this lease not at any time to carry out or make any alteration or addition to the Premises or any change of use until:

5.11.2.1 all necessary notices under the Planning Ordinance have been served and copies produced to the Landlord

5.11.2.2 all necessary permissions under the Planning Ordinance have been obtained and produced to the Landlord and

5.11.2.3 the Landlord has acknowledged that every necessary planning permission is acceptable to it the Landlord being entitled to refuse to acknowledge its acceptance of a planning permission on the grounds that any condition contained in it or anything omitted from it or the period referred to in it would be (or be likely to be) prejudicial to the Landlord's interest in the Premises whether during or following the expiration of the Term

5.12 Indemnities

To be responsible for and to keep the Landlord fully indemnified against all damage damages losses costs expenses actions demands proceedings claims and liabilities made against or suffered or incurred by the Landlord arising out of

5.12.1 any act omission or negligence of the Tenant or any persons at the Premises expressly or impliedly with the Tenant's authority or

5.12.2 any breach or non observance by the Tenant of the covenants conditions or other provisions of this lease or any of the matters to which this demise is subject

5.13 Yield Up

At the expiration of the Term

5.13.1 to yield up the Premises in repair and in accordance with the terms of this lease

5.13.2 to give up all keys of the Premises to the Landlord and

5.13.3 to remove all signs erected by the Tenant in upon or near the Premises and immediately to make good any damage caused by such removal

5.14 Interest on Arrears

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5.14.1 If the Tenant shall fail to pay the rents or any other sum due under this lease within 14 days of the date due whether formally demanded or not the Tenant shall pay to the Landlord Interest on the rents or other sum from the date when they were due to the date on which they are paid and such Interest shall be deemed to be rents due to the Landlord

5.14.2 Nothing in the preceding clause shall entitle the Tenant to withhold or delay any payment of the rents or any other sum due under this lease after the date upon which they fall due or in any way prejudice affect or derogate from the rights of the Landlord in relation to such non payment including (but without prejudice to the generality of the above) under the proviso for re-entry contained in this lease

5.15 Statutory notices etc.

To give full particulars to the Landlord of any notice direction order or proposal for the Premises made given or issued to the Tenant by any local or public or other competent authority within 7 days of receipt and if so required by the Landlord to produce it to the Landlord and without delay to take all necessary steps to comply with the notice direction or order and at the request of the Landlord but at the cost of the Tenant to make or join with the Landlord in making such objection or representation against or in respect of any notice direction order or proposal as the Landlord shall deem expedient

6. The Landlord's covenants

The Landlord covenants with the Tenant to permit the Tenant peaceably and quietly to hold and enjoy the Premises without any interruption or disturbance from or by the Landlord or any person claiming under or in trust for the Landlord

7 Insurance

7.1 Tenant to Insure

The Tenant covenants with the Landlord to insure the Premises

7.2 Details of the Insurance

Insurance shall be effected:

7.2.1 in such insurance office or with such underwriters and through such agency as the Landlord may from time to time approve

7.2.2 for such sum being the full cost of rebuilding and reinstatement of the Premises

7.2.3 against damage or destruction by the Insured Risks to the extent that such insurance may ordinarily be arranged for properties such as the Premises

with an insurer of repute and subject to such excesses exclusions or

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limitations as the insurer may require

7.3 Suspension of Rent

7.3.1 If at any time:

7.3.1.1 the Premises or any part of them are damaged or destroyed by any of the Insured Risks so that the Premises or any part of them are unfit for occupation or use and

7.3.1.2 payment of the insurance money is not refused in whole or in part by reason of any act or default of the Tenant or anyone at the Premises expressly or by implication with the Tenant's authority

the provisions of clause 7.3.2 shall have effect

7.3.2 When the circumstances contemplated in clause 7.3.1 arise the Rent or a fair proportion of the Rent according to the nature and the extent of the damage sustained shall cease to be payable until the Premises or the affected part shall have been rebuilt or reinstated so that the Premises or the affected part are made fit for occupation or use

7.4 Reinstatement

7.4.1 If at any time:

7.4.1.1 the Premises or any part of them are damaged or destroyed by any of the Insured Risks and

7.4.1.2 the payment of the insurance money is not refused in whole or in part by reason of any act or default of the Tenant or anyone at the Premises expressly or by implication with the Tenant's authority

the Tenant shall rebuild and reinstate the Premises to the reasonable satisfaction of the Landlord in accordance with all Planning Permissions or other permits and consents that may be required

7.5 Tenant's insurance covenants

7.5.1 The Tenant covenants with the Landlord at all times:

7.5.1.1 to comply with all the requirements and recommendations of the insurers

7.5.1.2 not to do or omit anything that could cause any policy of insurance on or in relation to the Premises to become void or voidable wholly or in part nor (unless the Tenant shall have previously notified the Landlord and have agreed to pay the increased premium) anything by which additional insurance premiums may become payable

7.5.1.3 to keep the Premises supplied with such fire fighting equipment

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as the insurers and the fire authority and the Landlord may require and to maintain such equipment to their satisfaction and in efficient working order and at least once in every 6 months to cause fire fighting equipment to be inspected by a competent person

7.5.2 The Tenant further covenants with the Landlord that if at any time the Tenant shall be entitled to the benefit of any insurance on the Premises (which is not effected or maintained in pursuance of any obligation contained in this lease) to apply all money received by virtue of such insurance in making good the loss or damage in respect of which such money shall have been received

7.6 Tenant's insurance covenants

The Tenant covenants with the Landlord in relation to the policy of insurance effected by the Tenant pursuant to its obligations contained in this lease

7.6.1 to produce to the Landlord on demand a copy of the policy and the last premium renewal receipt or reasonable evidence of the terms of the policy and the fact that the last premium has been paid

7.6.2 to procure that the interest of the Landlord is noted or indorsed on the policy

8. Provisos

8.1 Re-entry

If at any time:

8.1.1 the rent under this lease is outstanding for 14 days after becoming due whether formally demanded or not or

8.1.2 there is a breach by the Tenant of any covenant or other term of this lease or any document supplemental to this lease

the Landlord may re-enter the Premises (or any part of them in the name of the whole) at any time (and even if any previous right of re-entry has been waived) and then the Term shall absolutely cease but without prejudice to any rights or remedies which may have accrued to the Landlord against the Tenant in respect of any breach of covenant or other term of this lease (including the breach in respect of which the re-entry is made)

8.2 Entire understanding

This lease embodies the entire understanding of the parties relating to the Premises and to all the matters dealt with by any of the provisions of this lease

8.3 Representations



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The Tenant acknowledges that this lease has not been entered into in reliance wholly or partly on any statement or representation made by or on behalf of the Landlord except any such statement or representation that is expressly set out in this lease

8.4 Tenant's property

If after the Tenant has vacated the Premises on the expiry of the Term any property of the Tenant remains in or on the Premises and the Tenant fails to remove it within 7 days after being requested in writing by the Landlord to do so or if after using its best endeavours the Landlord is unable to make such a request to the Tenant within 14 days from the first attempt so made by the Landlord the Landlord may sell such property and retain such proceeds of sale absolutely

8.5 Compensation on vacating

Any statutory right of the Tenant to claim compensation from the Landlord on vacating the Premises shall be excluded to the extent that the law allows

8.6 Service of Notices

8.6.1 Any notice or document required to be served in accordance with the provisions of this lease shall be sufficiently served on a party if sent by post to the intended recipients last known address and service shall be deemed to be made on the third Working Day after posting and "Working Day" means any day from Monday to Friday (inclusive) other than Christmas Day Good Friday and any statutory bank or public holiday

8.6.2 Any notice or document shall also be sufficiently served if sent by telex telephonic facsimile transmission or any other means of electronic transmission to the party to be served and that service shall be deemed to be made on the day of transmission if transmitted before 4pm on a Working Day but otherwise on the next following Working Day (as defined above)

IN WITNESS whereof the Governor has hereunto set his hand and caused the Public Seal of the Falkland Islands to be hereunto affixed and the Tenant has caused its Common Seal to be hereunto affixed the day and year first before written

FIRST SCHEDULE

Rights Reserved

1. The right to resume up to one twentieth part of the Premises without any compensation whatsoever for the purpose of making roads canals bridges paths or other public purposes as defined in Section 7 of Schedule 1 to the Falkland Islands Constitution Order 1985 aforesaid provided that no such resumption shall be made of any lands on which buildings are erected or of any lands in use for the more convenient occupation of such buildings
2. All mines and minerals of whatsoever nature lying in under or upon the Premises

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together with full right and liberty at all times with or without agents and workmen to enter upon all or any part of the Premises and to search for work win get make merchantable and carry away the said mines and minerals **PROVIDED THAT** in exercising its right pursuant to this paragraph the Landlord shall ensure that the premises enjoy continuing support and that no damage is caused to any building apparatus or other erection on the Premises

3. To use for reasonable purposes in common with all others entitled so to do such cables wires sewers and drains as there may be on or under the Premises together with where necessary the right to enter upon the Premises with or without workmen at all reasonable times for the purpose of maintaining and effecting repairs to the same
4. Any right of light or air over any land retained by the Landlord which is adjacent to or neighbouring on the Premises

SECOND SCHEDULE

Review Dates

The Review Dates are:

1 February 2001
1 February 2006
1 February 2011

Rent and Rent Review

1. Definitions

- 1.1 The terms defined in this paragraph shall for all purposes of this schedule have the meanings specified
- 1.2 "Retail Price Index" means the index of retail prices maintained and calculated by the Landlord's Financial Secretary
- 1.3 'Review Period' means the period between any Review Date and the day prior to the next Review Date (inclusive) or between the last Review Date and the expiry of the Term (inclusive)

2. Ascertaining the Rent

- 2.1 Subject to Paragraph 2.2 the Rent shall be:

2.1.1 until 1 February 2001 the Initial Rent

2.1.2 during each successive Review Period such Rent as may be ascertained in accordance with the following calculation: the Initial Rent multiplied by x/y where:

x = the Retail Price Index at the commencement of the relevant Review

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Period and

y = the amount of the Retail Price Index as at the date of this lease

2.2 In the event that the level of Rent available to lessors in respect of land in the area in which the Premises are located, in the opinion of the Landlord, is substantially greater than that which might be provided for by Paragraph 2.1 above, the Landlord may, at any time after the first Review Date, request a review of the Rent then payable by way of a written notice to the Tenant containing details of the amount of increase in the Rent which it proposes. If the parties are unable to agree the amount of any proposed increase within 60 days of the issue of the written notice referred to above, the matter shall be determined by an arbitrator to be nominated, in the absence of agreement between the parties, by or on behalf of the President for the time being of the Royal Institution of Chartered Surveyors on the application of the Landlord so that in the case of such arbitration the revised Rent to be awarded or be determined by the arbitrator shall be such that he shall decide the Rent at which the land comprised within the Premises might reasonably be expected to be let at the relevant time

2.2.1 On the following assumptions at that date:

2.2.1.1 That the land comprised within the Premises:

- is available to let on the open market with vacant possession by a willing landlord to a willing tenant for the residue then expired of the term of this lease

- is available for immediate occupation

- is available for use for office accommodation and such other reasonable user as is incidental thereto or other similar purpose

2.2.1.2 That the covenants herein contained on the part of the Tenant have been fully performed and observed

2.2.1.3 That the land comprising the Premises has available from its boundaries all usual services such as electricity, water and foul water drainage

2.2.2 Disregarding the rental value of any Building comprised within the Premises.

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Acting Registrar General



Signed by the said RICHARD
PETER RALPH as witness the
Public Seal:

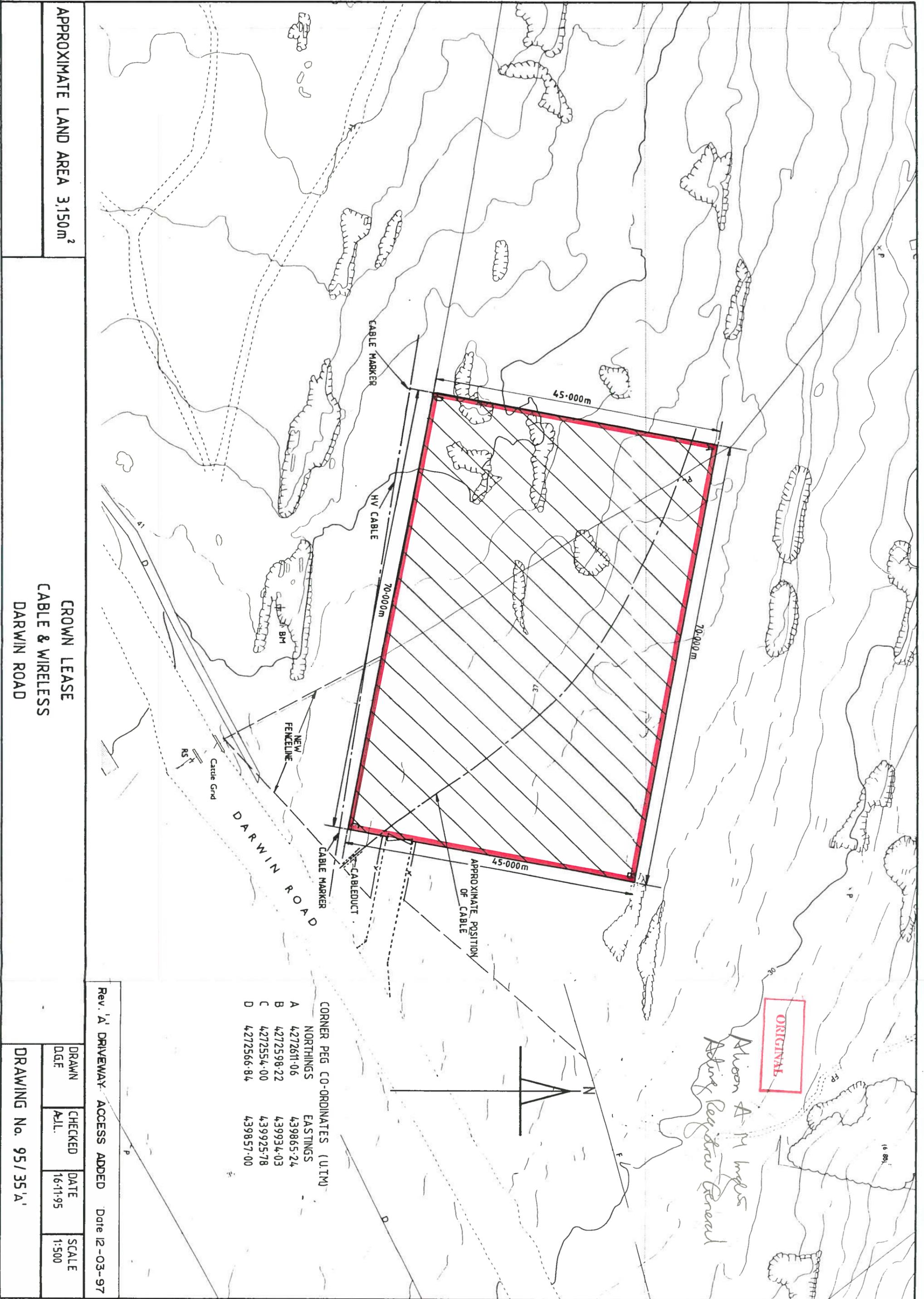


The Common Seal of CABLE AND WIRELESS
PLC was hereunto affixed in the presence
of:


Director

Secretary





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*Mission A 14 Impuls
Asting Register General*

CORNER PEG CO-ORDINATES (UTM)

NORTHINGS	EASTINGS
A 4272611.06	439865.24
B 4272598.22	439934.03
C 4272554.00	439925.78
D 4272566.84	439857.00

Rev. 'A' DRIVEWAY ACCESS ADDED Date 12-03-97

APPROXIMATE LAND AREA 3,150m²

CROWN LEASE
CABLE & WIRELESS
DARWIN ROAD

DRAWN	CHECKED	DATE	SCALE
DGF	AJL	16-11-95	1:500

DRAWING No. 95/35'A'

Registered NO. 13650 on the 8th day of May 2007

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ASSIGNMENT OF CROWN LEASE 236

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THIS ASSIGNMENT is made and executed as a deed on 3rd May 2007
BETWEEN:-

(1) **CABLE AND WIRELESS PLC** a company registered in England and Wales with company number 00238525 and having its Registered Office at 7th Floor, The Point, Paddington Basin, 37 North Wharf Road, London, W2 1LA (and formerly having its Registered Office at 124 Theobalds Road, London WC1X 8RX) (the "Assignor")

AND

(2) **CABLE & WIRELESS SOUTH ATLANTIC LIMITED** a company registered in the Falkland Islands with company number 13482 and having its Registered Office at Ross Road, Stanley, Falkland Islands, FIQQ 1ZZ (the "Assignee")

WITH THE CONSENT OF

(3) **ALAN EDDEN HUCKLE** Governor of the Falkland Islands pursuant to section 67 of Schedule 1 to the Falkland Islands Constitution Order 1985 on behalf of and in the name of Her Majesty **ELIZABETH II** by the Grace of God of the United Kingdom of Great Britain and Northern Ireland and of Her other Realms and Territories Queen Head of the Commonwealth Defender of the Faith (the "Landlord")

IT IS AGREED:-

In this Assignment:-

"Lease" means Crown Lease 236 granted by the Landlord to the Assignor on 30 September 1998 in respect of All That land and premises situate at Earth Station, Darwin Road, Stanley, Falkland Islands shown for the purposes of identification only edged with red on the plan attached to the said Lease

WHEREAS:-

(1) As part of the reorganisation of the Cable and Wireless group of companies, the business previously carried on by the Assignor through its branch located in the Falkland Islands was transferred to the Assignee on 1 December 2006.

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- (2) The Assignor and the Assignee have agreed, as part of the reorganisation referred to above, that the Lease should be assigned by the Assignor to the Assignee for the residue of the term thereby granted.
- (3) The Landlord consents to the assignment of the Lease on the terms hereinafter contained.

NOW THIS DEED WITNESSES AS FOLLOWS:-

- (1) The Assignor as beneficial owner assigns to the Assignee the premises comprised in and demised by the Lease for all the residue now unexpired of the term of years granted by the Lease subject henceforth to the payment of the rent reserved by the Lease and the performance and observance of the covenants and the conditions contained in the Lease and on the part of the Tenant thereunder to be observed and performed.
- (2) The Assignee will at all times keep the Assignor fully and effectually indemnified against all proceedings costs claims expenses and liabilities in respect of the rent reserved by the Lease and the covenants and conditions therein contained.
- (3) The Assignee hereby covenants with the Assignor and with the Landlord that payment of the rent reserved by the Lease and the performance and observance of the covenants and the conditions contained in the Lease and on the part of the Tenant thereunder to be observed and performed shall continue in full force as between itself and the Landlord and it is hereby declared that henceforth the Lease shall be construed and take effect as though the same had been made between the Landlord and the Assignee.

IN WITNESS whereof these presents are executed as a deed on the day and year first above written

The Common Seal of Cable and Wireless PLC
was hereunto affixed in the presence of:

[Signature] Director
 GEORGE BATTERSST Full Name
[Signature] Director/Secretary
 NICK COOPER Full Name

Alan Parke

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The Common Seal of)
Cable & Wireless South Atlantic Limited)
was hereunto affixed in the presence of:)

J. W. McLeod Director

*WENSLEY
JANETA MCLEOD* Full Name

[Signature] Director/Secretary

Director Full Name

For and on behalf of
McGrigors Nominee Company (Falklands) Ltd



Signed by the said Alan Edden Huckle)
Governor of the Falkland Islands)
as witness the Public Seal)

Alan Edden Huckle

