

CONFIDENTIALITY UNDERTAKING

IN FAVOUR OF

[INFORMATION PROVIDER]

I, _____, of _____ (“[]”) undertake to
[information provider] (“**[Information Provider]**”) that:

1 Subject to the terms of this Undertaking, I will keep confidential at all times the information listed in Attachment 1 to this Undertaking (“**the confidential information**”).

2 I acknowledge that:

- (a) this Undertaking is given by me to **[Information Provider]** in consideration for the **confidential information** being made available to me for the Approved Purposes (as defined in paragraph 3(a) below);
- (b) all intellectual property in (or in any part of) the **confidential information** is and will remain owned by **[Information Provider]**; and
- (c) by reason of this Undertaking, no licence or right is granted to me, or any other employee, agent, representative, officer or member of **[]**, or any person engaged by **[]** for the Approved Purposes in relation to the **confidential information**, except as expressly provided in this Undertaking.

3 I will:

- (a) only use the **confidential information** for:
 - (i) the purposes of making submissions to the Australian Competition and Consumer Commission (ACCC) during the course of the ACCC’s public inquiries under Part 25 of the Telecommunications Act 1997 into
 - (A) the declaration of fixed line services,
 - (B) making Final Access Determinations (FADs) for the fixed line services,

(together the “Fixed Services Review”); and/or

(ii) any other purpose approved by [Information Provider] in writing;

(“the Approved Purposes”)

(b) to the extent that any submission or other document is submitted to the ACCC or given to any person by me or [] as permitted by this Undertaking and which contains any **confidential information**:

(i) clearly mark that document as a confidential submission or confidential document containing **confidential information** and that is subject to this Undertaking; and

(ii) clearly identify the **confidential information** within the submission or document;

(c) comply with any reasonable request or direction from [Information Provider] regarding the **confidential information**.

4 Subject to paragraph 5 below, I will not disclose any of the **confidential information** to any other person without the prior written consent of [Information Provider].

5 I acknowledge that I may disclose the **confidential information** to which I have access to:

(a) any person for the Approved Purposes provided that:

(i) the person to whom disclosure is proposed to be made (“the person”) has been identified to [Information Provider] in writing and [Information Provider] has approved the person as a person who may receive the **confidential information**;

(ii) the person has signed a confidentiality undertaking in the form of this Undertaking or another form acceptable to [Information Provider] for the Approved Purposes; and

(iii) the signed confidentiality undertaking of the person has been served on [Information Provider].

(b) any secretarial, administrative and support staff who perform purely administrative tasks and who assist me or any person referred to in paragraph 5(a) for the Approved Purposes;

- (c) other persons, if required to do so by law, but then only:
 - (i) if I notify [Information Provider] of that request within 7 days of receiving the request;
 - (ii) to the person(s) to whom I am obliged to provide the **confidential information**;
 - (iii) to the extent necessary to comply with the legal requirement; and
 - (iv) if I notify the recipient of the **confidential information** that the information is confidential and is the subject of this Undertaking to [Information Provider].

6 I will establish and maintain security measures to safeguard the **confidential information** from unauthorised access, use, copying, reproduction or disclosure and will protect the **confidential information** using the same degree of care as a prudent person would use to protect their own confidential information.

7 Except as required by law, within 14 days after whichever of the following first occurs:

- (a) the conclusion of the Fixed Services Review ; or
- (b) my ceasing to be employed by, retained by, an officer, a member or a representative of []; or
- (c) my ceasing to work for or represent [] in respect of the Approved Purposes,

I will destroy or deliver to [Information Provider] the **confidential information** and any documents or things (or parts of documents or things), constituting, recording or containing any of the **confidential information** in my possession, custody, power or control, other than electronic records stored in IT systems that cannot be destroyed or deleted.

8 Nothing in this Undertaking shall impose an obligation upon me in respect of information:

- (a) that is in the public domain; or
- (b) that has been obtained by me otherwise than from:
 - (i) [Information Provider];
 - (ii) another person who has signed a confidentiality undertaking; or

(iii) another person who has an obligation of confidence in relation to the **confidential information** (or any part of it);

provided that the information is not in the public domain and/or has not been obtained by me by reason of, or in circumstances involving, any breach of this Undertaking, any other confidentiality undertaking in favour of [Information Provider] for the Approved Purposes, or by any other unlawful means.

- 9 I acknowledge that damages are not a sufficient remedy for any breach of this Undertaking and that [Information Provider] is entitled to specific performance or injunctive relief (as appropriate) as a remedy for any breach or threatened breach of this Undertaking, in addition to any other remedies available to [Information Provider] at law or in equity.
- 10 The obligations of confidentiality imposed by this Undertaking survive the destruction or delivery to [Information Provider] of the **confidential information** pursuant to paragraph 7 above.
- 11 I acknowledge that this Undertaking is governed by the law in force in [insert jurisdiction] and I agree to submit to the non-exclusive jurisdiction of the court of that place.

Signed: _____

Dated: _____

ATTACHMENT 1

- (a) All information marked as Commercial in Confidence (“**c-i-c**”) in the confidential version of a written submission made by [Information Provider] to the ACCC in relation to the Fixed Services Review ’.
- (b) Any document or information (whether or not within a document) provided to me which [Information Provider] nominates as **confidential information** for the purposes of this, or any equivalent, confidentiality undertaking.