

# Ground Lease of “Walkers Block” at Lot 3 Spring Street, Kojonup

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Shire of Kojonup

The George Church Community Medical Centre Inc.



**McLEODS**

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# Details

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## Parties

### Shire of Kojonup

of 93 Albany Highway, Kojonup, Western Australia  
(Lessor)

### The George Church Community Medical Centre Inc.

of care of PO Box 127 Kojonup, Western Australia  
(Lessee)

## Background

- A The Lessor is the registered proprietor of the Land
- B The Lessee has requested that the Lessor grant it a lease of the Land, and the Lessor has agreed subject to the parties entering into this lease agreement.

## Agreed terms

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### 1. Definitions and Interpretation

#### 1.1 Definitions

Unless otherwise required by the context or subject matter the following words have these meanings in this Agreement:

**Alterations** means any of the acts referred to in **clauses 10.1(a)(i), 10.1(a)(ii), 10.1(a)(iii)** and Error! Reference source not found.;

**Amounts Payable** means the Rent (if any) and any other money payable by the Lessee under this Lease;

**Authority** means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body even if corporate or privatised;

**Building Permit** means a building permit issued under the *Building Act 2011* by a relevant permit Authority for the construction of the Development or any aspect of the Development;

**Business Day** means a day other than a Saturday, Sunday or public holiday in Perth, Western Australia;

**CEO** means the Chief Executive Officer for the time being of the Lessor or any person appointed by the Chief Executive Officer to perform any of her or his functions under this Lease;

**Commencement Date** means the date of commencement of the Term specified in **Item 4** of the Schedule;

**Development** is defined in **Item 10.1** of the Schedule;

**Development Approvals** means any approval, authorisation, permit, licence, consent, clearance, exemption or the like which is required to be issued by or obtained from an Authority in connection with the Development;

**Encumbrance** means a mortgage, charge, lien, pledge, easement, restrictive covenant, writ, warrant or caveat and the claim stated in the caveat or anything described as an encumbrance on the Certificate of Title for the Land;

**Further Terms** means the further terms (if any) specified in **Item 3** of the Schedule;

**GST** has the meaning that it bears in the GST Act;

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any legislation substituted for, replacing or amending that Act;

**GST Adjustment Rate** means the amount of any increase in the rate of tax imposed by the GST Law;

**GST Law** has the meaning that it bears in section 195-1 of the GST Act;

**GST Rate** means 10%, or such other figure equal to the rate of tax imposed by the GST Law;

**Improvements** mean all constructions, buildings and fixtures, erected on the Land by the Lessee during the Term and includes all the improvements forming the Development;

**Land** means that the land described at Error! Reference source not found. of the Schedule;

**Lease** means this deed as supplemented, amended or varied from time to time;

**Lessee's Agents** includes:

- (a) the sublessees, employees, agents, contractors, invitees and licensees of the Lessee; and
- (b) any person on the Land by the authority of a person specified in paragraph (a);

**Lessee's Covenants** means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by the Lessee;

**Lessor's Covenants** means the covenants, agreements and obligations set out or implied in this Lease, or imposed by law to be performed and observed by the Lessor;

**Notice** means each notice, demand, consent or authority given or made to any person under this Lease;

**Party** means the Lessor or the Lessee according to the context;

**Permitted Purpose** means the purpose set out in **Item 6** of the Schedule;

**Rent** means the rent specified in **Item 5** of the Schedule as varied from time to time under this Lease;

**Rent Review Date** means a date specified in **Item 9** of the Schedule;

**Schedule** means the Schedule to this Lease;

**Services** means all services or systems of any nature from time to time provided or available for use to the Land including, but not limited to:

- (a) any electronic medium, energy source, lighting, gas, fuel, power, water, sewerage, drainage, fire services, sprinkler systems or devices and air-conditioning; and
- (b) fittings, fixtures, appliances, plant and equipment utilised for any of the services specified in paragraph (a);

**Tax Invoice** has the meaning which it bears in section 195-1 of the GST Act;

**Taxable Supply** has the meaning which it bears in section 195-1 of the GST Act.

**Term** means the term of years specified in **Item 2** of the Schedule commencing on the Commencement Date;

**Termination** means the date of:

- (a) expiry of the Term or any Further Term by effluxion of time;
- (b) sooner determination of the Term or any Further Term; or
- (c) determination of any period of holding over; and

**Written Law** includes all acts and statutes (State or Federal) for the time being enacted and all regulations, schemes, ordinances, local laws, by-laws, requisitions, orders or statutory instruments made under any Act from time to time by any statutory, public or other competent authority.

## 1.2 Interpretation

In this Lease, unless expressed to the contrary:

- (a) words importing:
  - (i) the singular includes the plural and vice versa; and
  - (ii) a gender or genders include each other gender;
- (b) if a word or phrase is assigned a particular meaning, other grammatical forms of that word or phrase have a corresponding meaning;
- (c) a reference to:
  - (i) a natural person includes a body corporate or local government;
  - (ii) a body corporate or local government includes a natural person;
  - (iii) a professional body includes a successor to or substitute for that body;
  - (iv) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
  - (v) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;



- (vi) a right includes a benefit, remedy, discretion, authority or power;
- (vii) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
- (viii) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
  - (A) both express and implied provisions; and
  - (B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;
- (ix) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
- (x) anything (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
- (xi) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Lease;
- (d) the covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
  - (i) covenants not to permit that act or thing to be done or omitted to be done by the Lessee Agent's; and
  - (ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;
- (e) the meaning of general words or phrases is not limited by specific examples introduced by 'including', 'for example' or similar expressions; and
- (f) if a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

### **1.3 Headings**

Except in the Schedule, headings do not affect the interpretation of this Lease.

## **2. Conditions Precedent**

- (1) If the Lessor does not receive funding from the Community Health and Hospital Program or similar program on terms satisfactory to the Lessor then this Lease is subject to and conditional on the Lessee providing documentary evidence to the Lessor's satisfaction in all respects that the Lessee has the financial resources and capability of constructing a medical centre on the Land.

## **3. Grant of Lease**

The Lessor leases to the Lessee the Land for the Term subject to:

- (a) all Encumbrances;

- (b) the payment of the Amounts Payable; and
- (c) the performance and observance of the Lessee's Covenants.

## 4. Quiet Enjoyment

Except as provided in the Lease, and subject to the performance and observance of the Lessee's Covenants, the Lessee may quietly hold and enjoy the Land during the Term without any interruption or disturbance from the Lessor or persons lawfully claiming through or under the Lessor.

## 5. Rent and Other Payments

### 5.1 Rent

The Lessee covenants with the Lessor to pay to the Lessor the Rent in the manner set out at **Item 5** of the Schedule on and from the Commencement Date clear of any deductions.

### 5.2 Outgoings

- (1) The Lessee covenants with the Lessor to pay to the Lessor or to such person as the Lessor may from time to time direct punctually all the following outgoings or charges, assessed or incurred in respect of the Land:
  - (a) local government rates, services and other charges, including but not limited to rubbish collection charges and the emergency services levy;
  - (b) water, drainage and sewerage rates, charges for disposal of stormwater, meter rent and excess water charges;
  - (c) telephone, water consumption, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring or telephone connection and where practicable the Lessee shall ensure that any accounts for all charges and outgoings in respect of telephone, electricity, gas and other power and light charges are taken out and issued in the name of the Lessee;
  - (d) land tax and metropolitan regional improvement tax on a single ownership basis; and
  - (e) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Lessee's use and occupation of the Land.
- (2) If the Land is not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **clause 5.2(1)** being the proportion that the Land bears to the total area of the land included in the charge or assessment.

### 5.3 Costs

- (1) The Lessee covenants with the Lessor to pay to the Lessor on demand, which demand will not be made until after the Commencement Date:
  - (a) all duty, fines and penalties payable under the *Duties Act 2008* (if any) and other statutory duties or taxes payable on or in connection with this Lease;
  - (b) all registration fees in connection with this Lease; and
  - (c) all legal costs of and incidental to the instructions for the preparation, execution and duty endorsement of this Lease and all copies.

- (2) The Lessee covenants with the Lessor to pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:
- (a) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
  - (b) any breach of covenant by the Lessee or the Lessee's Agents
  - (c) the preparation and service of a notice under section 81 of the *Property Law Act 1969* requiring the Lessee to remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;
  - (d) any work done at the Lessee's request; and
  - (e) any action or proceedings arising out of or incidental to any matters referred to in this **clause 5.3** or any matter arising out of this Lease.

#### **5.4 Payment of Money**

Amounts Payable to the Lessor under this Lease must be paid to the Lessor at the address of the Lessor referred to in this Lease or as otherwise directed by the Lessor by Notice from time to time.

#### **5.5 Accrual of Amounts Payable**

Amounts Payable accrue on a daily basis.

### **6. Insurance**

#### **6.1 Lessee's Responsibility to Insure**

- (1) The Lessor and Lessee agree that as the Lessee occupies the Land pursuant to this Lease as if it were the owner of the Land and in that regard:
- (a) the Lessee is required to take out and maintain all insurances that in the Lessor's reasonable opinion a prudent landowner would take out and maintain in respect of the Land; and
  - (b) the Lessor is not required to take out or maintain any insurance in respect of the Land or the Improvements.
- (2) Notwithstanding **clause 6.1(1)**, the Lessee must at a minimum effect and keep current during the Term and any holding over period policies of insurance:
- (a) adequate public liability insurance for a sum not less than the sum set out at **Item 7** of the Schedule in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
  - (b) to cover the full replacement costs of the Improvements and Lessee's fixtures on the Land to their full insurable value against all usual risks against which in the reasonable opinion of the Lessor from time to time a lessee should ordinarily insure;

#### **6.2 Policies**

The insurance policies that the Lessee takes out pursuant to this **clause 6**;

- (a) be with a reputable insurer;

- (b) note the Lessor's interest on the policy; and
- (c) cover events occurring while the policy is current regardless of when claims are made.

### **6.3 Evidence of Insurance and Renewal**

The Lessee must on demand produce to the Lessor proper evidence of the policies and their renewal.

### **6.4 Variation and Voiding Lessee's Insurance Policies**

- (1) The Lessee may not materially vary or surrender, nor cancel any of the policies of insurance maintained in respect of the Land or Improvements without the Lessor's consent, which consent may be withheld in the Lessor's absolute discretion.

### **6.5 Notification**

The Lessee must notify the Lessor immediately if something happens which could give rise to a claim under or could prejudice any insurance policy or an insurance policy is cancelled.

### **6.6 Claims and Application of Insurance Monies**

The Lessee must as soon as reasonably practicable expend all money recovered in respect of any insurance under **clause 6.1** in the satisfaction of the payment of damages or the reinstatement or replacement of the items for which that money is received to the extent that that money is sufficient for that purpose.

### **6.7 Report**

The Lessee must report to the Lessor promptly in writing, and in addition verbally in an emergency:

- (a) any damage to the Land of which it is aware; and
- (b) any circumstances of which it is aware and which are likely to be a danger or cause any damage or danger to the Land or to any person in or on the Land.

### **6.8 Settlement of Claim**

The Lessee agrees not to make, agree, settle or compromise any claims which may have an impact on the Lessor's insurance policies unless the prior written consent of the Lessor is provided.

### **6.9 Lessee's Equipment and Possessions**

The Lessee acknowledges it is responsible to obtain all relevant insurances to cover any damage and/or theft to its property. The Lessor does not take any responsibility for the loss or damage of the Lessee's property.

## **7. Indemnity**

### **7.1 Lessee Responsibilities**

- (1) The Lessee is subject to the same responsibilities relating to persons and property to which the Lessee would be subject if during the Term the Lessee were the owner and occupier of the freehold of the Land.
- (2) The Lessee is responsible and liable for all acts or omissions of the Lessee's Agents on the Land and for any breach by them of any covenants or terms in this Lease required to be performed or

complied with by the Lessee.

## **7.2 Indemnity**

The Lessee indemnifies, and shall keep indemnified, the Lessor from and against all actions, claims, costs, proceedings, suits and demands whatsoever which may at any time be incurred or suffered by the Lessor, or brought, maintained or made against the Lessor, in respect of:

- (a) any loss whatsoever (including loss of use);
- (b) injury or damage of, or to, any kind of property or thing; and
- (c) the death of, or injury suffered by, any person,

caused by, contributed to, or arising out of, or in connection with, whether directly or indirectly:

- (i) the use or occupation of the Land by the Lessee or the Lessee's Agents;
- (ii) any work carried out by or on behalf of the Lessee on the Land;
- (iii) the Lessee's activities, operations or business on, or other use of any kind of, the Land;
- (iv) any default by the Lessee in the due and punctual performance, observance and compliance with any of the Lessee's covenants or obligations under this Lease; or
- (v) a negligent or unlawful act or omission of the Lessee.

## **7.3 Obligations Continuing**

The obligations of the Lessee under this clause:

- (a) are unaffected by the obligation of the Lessee to take out insurance, and the obligations of the Lessee to indemnify are paramount, however if insurance money is received by the Lessor for any of the obligations set out in this clause then the Lessee's obligations under **clause 7.2** will be reduced by the extent of such payment; and
- (b) continue after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## **7.4 No Indemnity for Lessor's Negligence**

The parties agree that nothing in this clause shall require the Lessee to indemnify the Lessor, its officers, servants, or agents against any loss, damage, expense, action or claim arising out of a negligent or wrongful act or omission of the Lessor, or its servants, agents, contractors or invitees.

## **7.5 Release**

(1) The Lessee:

- (a) agrees to occupy and use the Land at the risk of the Lessee; and
- (b) releases to the full extent permitted by law, the Lessor from:
  - (i) any liability which may arise in respect of any accident or damage to property, the death of any person, injury to any person, or illness suffered by any person,

occurring on the Land or arising from the Lessee's use or occupation of the Land by; and

- (ii) loss of or damage to the Land or personal property of the Lessee,

except to the extent that such loss or damage is caused or contributed to (to the extent of that contribution ) by a negligent or wrongful act or omission of the Lessor or an Authorised Person.

- (2) The release by the Lessee continues after the expiration or earlier determination of this Lease in respect of any act, deed, matter or thing occurring or arising as a result of an event which occurs before the expiration or earlier determination of this Lease.

## 8. Limit of Lessor's Liability

### 8.1 No Liability for Loss on Land

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Land however occurring, except to the extent that such loss or damage is caused or contributed to (to the extent of that contribution) by a negligent or wrongful act or omission of the Lessor or an Authorised Person.

### 8.2 Limit on Liability for Breach of Lessor's Covenants

- (1) The Lessor is only liable for breaches of the Lessor's Covenants set out in this Lease which occur while the Lessor is registered as proprietor of the Land.
- (2) The Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

## 9. Maintenance, Repair and Cleaning

### 9.1 Generally

- (1) The Lessee agrees during the Term and for so long as the Lessee remains in possession or occupation of the Land to:
  - (a) keep the Land and the Improvements in good substantial and functional repair, order and condition;
  - (b) expeditiously repair and make good any damage to the Land or the Improvements to the reasonable satisfaction of the Lessor; and
  - (c) maintain drains, pipes and other conduits originating in or connected to the Land in a clean and free flowing condition.
- (2) The Lessee must comply with all reasonable conditions that may be imposed by the Lessor from time to time in relation to the Lessee's maintenance of the Land and the Improvements.
- (3) The Lessee must take such reasonable action as is necessary to prevent, if it has occurred as a result of the Lessee's use of the Land; and rectify or otherwise ameliorate, the effects of erosion, drift or movement of sand, soil, dust or water on or from the Land.
- (4) The Lessee must at all times keep the Land clean, tidy, unobstructed and free from dirt and rubbish and must not leave rubbish bins or containers outside the Land other than on official rubbish collection days.

- (5) The Lessee must keep the Land free of any vermin or any other recognised pests and the cost of extermination will be borne by the Lessee.

## **9.2 Acknowledgement of State of Repair of the Land**

- (1) The Lessee accepts the Land in its present condition relying upon its own enquiries and investigations.
- (2) The Lessor does not expressly or impliedly warrant that the Land is now or will remain suitable or adequate for all or any of the purposes of the Lessee or for the business which the Lessee is authorised to conduct thereon and to the extent permitted by law, all warranties (if any) as to suitability and adequacy of the Land implied by law are hereby expressly negated.

## **9.3 No Obligation to Lessor to Repair or Maintain**

- (1) The Lessee is wholly and solely responsible for the maintenance and repair of all buildings and improvements constructed on the Land, regardless of the cause of the need to repair or maintain, and regardless of the type of repair or maintenance required. The Lessor has no obligation whatsoever to repair or maintain any buildings or improvements constructed on the Land.
- (2) Any development proposed on the Land during the Term shall be the responsibility of and carried out by (and at the cost of) the Lessee, subject to the Lessee having obtained all necessary statutory approvals.

## **9.4 Lessee owns Improvements**

For the avoidance of doubt, the parties acknowledge and agree that the Improvements constructed on the Land (whether constructed prior to the Commencement Date or during the Term), are the property of the Lessee during the Term, such that the Lessee owns and is completely responsible for the Improvements.

# **10. Alterations**

## **10.1 Restriction**

The Lessee must not without prior written consent:

- (a) from the Lessor;
- (b) from any other person from whom consent is required under this Lease;
- (c) required under statute in force from time to time, including but not limited to the planning approval of the Lessee under a town planning scheme of the Lessee;
  - (i) install any new signage;
  - (ii) make or allow to be made any alteration, addition or improvements to or demolish any part of the Improvements; or
  - (iii) remove alter or add to any fixtures, fittings or facilities in or on the Improvements.

## **10.2 Consent**

- (1) If the Lessor and any other person whose consent is required under this Lease or at law consents to any matter referred to in **clause 10.1** the Lessor may:
- (a) consent subject to conditions; and

- (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent;
  - (ii) require that work be carried out in accordance with the Building Code of Australia; and
  - (iii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
- (b) if the Lessor consents to any matter referred to in **clause 10.1**:
- (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
  - (ii) the Lessee must apply for and obtain all such consent, approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions and must strictly comply with such consents or approvals.

### 10.3 Cost of Works

All works undertaken under this **clause 10** will be carried out at the Lessee's expense.

### 10.4 Conditions

If any of the consents given by the Lessor or other persons whose consent is required under this Lease or at law require other works to be done by the Lessee as a condition of giving consent, then the Lessee must at the option of the Lessor either:

- (a) carry out those other works at the Lessee's expense; or
  - (b) permit the Lessor to carry out those other works at the Lessee's expense,
- in accordance with the Lessor's requirements.

## 11. Use

### 11.1 Restrictions on Use

- (1) The Lessee must not and must not suffer or permit a person to:
- (a)
    - (i) use the Land or any part of it for any purpose other than the Permitted Purpose; or
    - (ii) use the Land for any purpose which is not permitted under any town planning scheme or any law relating to health;
  - (b) do or carry out on the Land any harmful, offensive or illegal act, matter or thing;
  - (c) do or carry out on the Land anything which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties;
  - (d) store any dangerous compound or substance on or in the Land, otherwise than in accordance with the following provisions:
    - (i) any such storage must comply with all relevant statutory provisions;
    - (ii) all applications for the approval or renewal of any licence necessary for such storage must be first referred to the Lessor;



- (iii) the Lessor may within its absolute discretion refuse to allow the storage of any particular dangerous compound or substance on the Land; and
- (iv) upon the request of the Lessor, the Lessee will provide a list of all dangerous compounds or substances stored on the Land;
- (e) having regard to the Permitted Purpose, do any act or thing which might result in excessive stress or harm to any part of the Land;
- (f) display from or affix any signs, notices or advertisements on the Land without the prior written consent of the Lessor;
- (g) smoke inside any building or other enclosed area on the Land;
- (h) use or allow the Land to be used for the consumption of alcohol without first obtaining the written consent of the Lessor;
- (i) sell or supply liquor from the Land or allow liquor to be sold or supplied from the Land; or
- (j) use the Land as the residence or sleeping place of any person or for auction sales.

## **11.2 Environmental Protection**

- (1) The Lessee must do all things necessary to prevent pollution or contamination of the Land by garbage, refuse, water matter, oil and other pollutants.
- (2) If the Lessee pollutes the Land, the Lessee must promptly:
  - (a) undertake all audits, tests, surveys and other investigations necessary to determine the nature and extent of the pollution;
  - (b) notify the Lessor of the nature and extent of the pollution and the steps the Lessee proposes to take to control and remove the pollution;
  - (c) do everything necessary to control and remove the pollution from the Land;
  - (d) notify the relevant Authorities of the nature and extent of the pollution and the steps the Lessee proposes to take to control and remove the pollution; and
  - (e) pay the Lessor's reasonable costs, charges and expenses in connection with:
    - (i) monitoring the Lessee's actions; and
    - (ii) satisfying the Lessor that the Lessee has complied with the Lessee's obligations, under this **clause 11.2**.

## **11.3 Lessee must obey the Law**

The Lessee must:

- (a) obey any Written Law that requires the Lessee to do, or to refrain from doing anything concerning the Land, the Lessee's use of the Land, or this Lease;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licenses and permits required under any statute for the Permitted Purpose to be undertaken on the Land; and

- (c) comply promptly with all orders, notices, requisitions or directions of any Authority relating to the Land or the Lessee's use of the Land.

#### **11.4 Report to Lessor**

The Lessee must as soon as reasonably practicable provide to the Lessor all notices, orders and summonses received by the Lessee and which affect the Land and are relevant to the Lessor.

#### **11.5 No Warranty**

The Lessor gives no warranty:

- (a) as to the use to which the Land may be put; or
- (b) that the Lessor will issue any consents, approvals, authorities, permits or licences required by the Lessee under any statute for its use of the Land.

#### **11.6 Land Subject to Restriction**

The Lessee accepts the Land for the Term subject to any existing prohibition or restriction on the use of the Land.

#### **11.7 Indemnity for Costs**

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, incurred by the Lessor by reason of any claim in relation to any matters set out in this clause.

### **12. Lessor's Right of Entry**

#### **12.1 Entry on Reasonable Notice**

The Lessee must permit entry by the Lessor onto the Land without notice in the case of an emergency, and otherwise upon reasonable notice:

- (a)
  - (i) at all reasonable times;
  - (ii) with or without workmen and others; and
  - (iii) with or without plant, equipment, machinery and materials;
- (b) for each of the following purposes:
  - (i) to inspect the state of repair of the Land and to ensure compliance with the terms of this Lease;
  - (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
  - (iii) to comply with the Lessor's Covenants or to comply with any notice or order of any authority in respect of the Land for which the Lessor is liable; and
  - (iv) to do all matters or things to rectify any breach by the Lessee of any term of this Lease but the Lessor is under no obligation to rectify any breach and any

rectification under this **clause 12.1(b)(iv)** is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

## 12.2 Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to in **clause 12.1(b)(iv)** together with any interest payable on such sums will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

# 13. Statutory Obligations and Notices

## 13.1 Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes and local laws from time to time in force relating to the Land and relevant laws relating to occupational health and safety and the health and safety of all persons entering upon the Land;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Land specified at **clause 11**; and
- (c) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Land or to the business the Lessee carries on at the Land.

## 13.2 Safety and Testing Obligations

- (1) The Lessee acknowledges and agrees that it is fully responsible at its cost for ensuring that the Land, and any fixtures or fittings located on the Land, are regularly tested, maintained and inspected to ensure that the Land and such fixtures and fittings comply with all statutory requirements and are safe for use.
- (2) To comply with its obligation pursuant to **clause 13.2(1)** above, the Lessee acknowledges that it will be required to, amongst other things:
  - (a) comply with the requirements of the *Occupational Safety and Health Act 1984*, including without limitation the requirement for all portable plug-in electrical equipment and residual current devices to be safe and appropriately inspected, tested and maintained by a competent person;
  - (b) comply with all relevant requirements of the Department of Fire and Emergency Services (DFES) including without limitation the requirement to ensure that all fire protection and fire fighting equipment located, or installed at or on the Land, is tested regularly for compliance with Australian Standards and DFES's requirements; and
  - (c) ensure that the emergency/exit lighting systems on the Land (if applicable) are adequately maintained in accordance with the requirements of the Building Code of Australia and relevant Australian Standards.

## 13.3 Indemnity if Lessee Fails to Comply

The Lessee indemnifies the Lessor against:

- (a) failing to perform, discharge or execute any of the items referred to in **clauses 13.1 and 13.2**; and
- (b) any claims, demands, costs or other payments of or incidental to any of the items referred to in **clauses 13.1 and 13.2**.

## 14. Report to Lessor

The Lessee must immediately report to the Lessor:

- (a) any act of vandalism or any incident which occurs on or near the Land which involves or is likely to involve a breach of the peace or become the subject of a report or complaint to the police and of which the Lessee is aware or should be aware;
- (b) any occurrence or circumstances in or near the Land of which it becomes aware, which might reasonably be expected to cause, in or on the Land, pollution of the environment; and
- (c) all notices, orders and summonses received by the Lessee and which affect the Land and immediately deliver them to the Lessor.

## 15. Default

### 15.1 Events of Default

A default occurs if:

- (a) any Amounts Payable remain unpaid for seven (7) days after becoming due whether or not a demand or Notice has been given to the Lessee;
- (b) the Lessee is in breach of any of the Lessee's Covenants for 28 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (c) the Lessee is wound up whether voluntarily or otherwise or the Lessor suspects that the Lessee is likely to be wound up whether voluntarily or otherwise;
- (d) the Lessee passes a special resolution under the *Associations Incorporation Act 2015* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Lease;
- (e) a controller, as defined by the *Corporations Act 2001* (Cth) is appointed in respect of the Lessee's interest in the Land under this Lease;
- (f) the registration of the Lessee is cancelled or dissolved under the *Corporations Act 2001* (Cth) or equivalent legislation or the Lessor suspects that the registration of the Lessee is likely to be cancelled or dissolved ;
- (g) a mortgagee takes possession of the property of the Lessee under this Lease;
- (h) any execution or similar process is made against the Land on the Lessee's property;
- (i) the Land is vacated, or otherwise not used, in the Lessor's reasonable opinion, for the permitted purpose for a six month period; or
- (j) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Land or in receipt of a rent and profits.

## 15.2 Forfeiture

On the occurrence of any of the events of default specified in **clause 15.1** the Lessor may:

- (a) without notice or demand at any time enter the Land and on re-entry the Term will immediately determine;
- (b) by notice to the Lessee determine this Lease and from the date of giving such notice this Lease will be absolutely determined; and
- (c) by notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month when this Lease will be determined as from the giving of the notice and until the tenancy is determined the Lessee will hold the Land from the Lessor as a tenant from month to month under **clause 18**,

but without affecting the right of action or other remedy which the Lessor has in respect of any other breach by the Lessee of the Lessee's Covenants or releasing the Lessee from liability in respect of the Lessee's Covenants.

## 15.3 Lessor may Remedy Breach

If the Lessee:

- (a) fails or neglects to pay the Amounts Payable by the Lessee under this Lease; or
- (b) does or fails to do anything which constitutes a breach of the Lessee's Covenants,

then, after the Lessor has given to the Lessee notice of the breach and the Lessee has failed to rectify the breach within a reasonable time, the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's cost and expenses of remedying each breach or default.

## 15.4 Acceptance of Amount Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the terms of the Lease or at law and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

## 15.5 Essential Terms

Each of the Lessee's Covenants in **clauses 5** (Rent and Other Payments), **6** (Insurance), **7** (Indemnity), **9** (Maintenance, Repair and Cleaning), **11** (Use) and **20** (Assignment, Subletting and Charging) are essential terms of this Lease but this **clause 15.5** does not mean or imply that there are no other essential terms in this Lease.

## 15.6 Breach of Essential Terms

If the Lessee breaches an essential term of this Lease then, in addition to any other remedy or entitlement of the Lessor:

- (a) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential term;
- (b) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential term; and

- (c) the Lessee covenants with the Lessor that if the Term is determined:
  - (i) for breach of an essential term or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
  - (ii) following the failure by the Lessee to comply with any notice given to the Lessee to remedy any default,

the Lessee must pay to the Lessor on demand the total of the Amounts Payable under this Lease which would have been payable by the Lessee for the unexpired balance of the Term as if the Term had expired by effluxion of time together with the losses incurred or reasonably expected to be incurred by the Lessor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Land;

- (d) the Lessee agrees that the covenant set out in this **clause 15.6(c)** will survive termination or any deemed surrender at law of the estate granted by this Lease;
- (e) the Lessee may deduct from the amounts referred to in **clause 15.6(c)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Land between the date of Termination and the date on which the Term would have expired by effluxion of time; and
- (f) the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Land at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

## 16. Repudiation by Lessee

### 16.1 Compensation

In the event that the Lessee's conduct (whether by acts or omissions) constitutes a repudiation of this Lease (or of the Lessee's obligations under this Lease) or constitutes a breach of any Lease covenants, it is agreed that:

- (a) the Lessee shall compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach; and
- (b) the Lessor shall be entitled to recover damages against the Lessor in respect of the repudiation or breach of covenant for the damage suffered by the Lessor during the entire Term of this Lease.

### 16.2 Entitlement to Recover Damages

The Lessor's entitlement to recover damages shall not be affected or limited in the event that:

- (a) the Lessee abandons or vacates the Land;
- (b) the Lessor elects to re-enter or to terminate the Lease;
- (c) the Lessor accepts the Lessee's repudiation; or
- (d) the Parties' conduct constitutes a surrender by operation of law.

### 16.3 Legal Proceedings

The Lessor shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire Lease Term, including the periods before and after the Lessee has vacated the

Land, and before and after the abandonment, termination, repudiation, acceptance of repudiation or surrender by operation of law referred to in **clause 16.2**, whether the proceedings are instituted either before or after such conduct.

#### **16.4 Lessor to Mitigate Losses**

Notwithstanding any other provision of this Lease, the Lessor must take reasonable steps to mitigate its losses and endeavour to re-let the Land at a reasonable rent and on reasonable terms but the Lessor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Lease.

### **17. Option to Renew**

If the Lessee at least three months, but not earlier than six months, prior to the date for commencement of the Further Term gives the Lessor a Notice to grant the Further Term and:

- (a) all consents and approvals required by the terms of this Lease or at law have been obtained; and
- (b) there is no subsisting default by the Lessee at the date of service of the Notice in:
  - (i) the payment of Amounts Payable; or
  - (ii) the performance or observance of the Lessee's Covenants,

the Lessor will grant to the Lessee a lease for the Further Term at the Rent and on the same terms and conditions other than this clause in respect of any Further Terms previously taken or the subject of the present exercise and on such other terms and conditions as the Lessor may consider appropriate.

### **18. Holding Over**

- (1) If the Lessee remains in possession of the Land after the expiry of the Term with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Lease provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Land as a monthly tenant.
- (2) The Lessee shall not be entitled to hold over for a more than twelve (12) months after the expiry of the Term.
- (3) Either the Lessee or Lessor may give notice to the other, at any time, to terminate the monthly tenancy and termination will take effect one month after the date of service of that notice.

### **19. Obligations on Termination**

#### **19.1 Peacefully Surrender and Remove all Improvements, Structures and Property**

Unless otherwise required by the Lessor in writing pursuant to **clause 19.3**, in the event this Lease is terminated or otherwise determined the Lessee must at its cost and to the Lessor's satisfaction the Lessee:

- (a) demolish the Improvements; and
- (b) remove any other chattels, fittings, improvements, buildings and fixtures constructed or located on the Land,

and deliver the Land as a clean site to the Lessor.

## **19.2 Failure to Remove or Restore**

If the Lessee fails to comply with **clause 19.1** within 60 days following termination or determination of the Lease, the Lessor may at its option:

- (c) demolish the Improvements;
- (d) remove and dispose of all chattels, fittings, improvements, buildings and fixtures constructed or located on the Land; and
- (e) restore the Land and surrounding area to a condition consistent with the condition of the Land prior to the construction of the Improvements or any other chattels, fittings, improvements, buildings and fixtures constructed or located on the Land,

and recover the cost of doing so from the Lessee as a liquidated debt payable on demand.

## **19.3 Parties may agree for Improvements to Remain**

Notwithstanding any other provision of the Lease, the Lessor may require for any or all Improvements constructed or erected on the Land as fixtures (including without limitation any Services infrastructure) to remain on the Land following Termination and upon such requirement:

- (a) ownership of those improvements shall vest in the Lessor following Termination free of cost and without payment of compensation by the Lessor to the Lessee; and
- (b) those improvements will be provided to the Lessor on an “as is” basis.

## **19.4 Obligations to Survive Termination**

The Lessee’s obligation under this clause will survive termination.

# **20. Assignment, Sub-letting and Charging**

## **20.1 No Assignment, Subletting or Hire**

- (a) Subject to clause 19.1(b) the rights in this Lease are personal to the Lessee, and Lessee may not transfer, assign, sublet, assign, hire to a third party or otherwise part with possession or any way dispose of any of its rights or obligations under this Lease without the written consent of the Lessor, which consent may be withheld for any reason whatsoever in the Lessor’s absolute discretion.
- (b) Whilst the Lessee duly and punctually performs the terms of this Lease and is not in default of the terms of this Lease the Lessee may sublet individual rooms constructed as part of the Improvements without the Lessor’s consent provided such subletting expires at least one day before the expiry of the Term of this Lease .

## **20.2 Property Law Act 1969**

Sections 80 and 82 of the Property Law Act 1969 are excluded.

## **20.3 No Mortgage or Charge**

The Lessee must not mortgage nor charge the Land.



## 21. Provision of Information

### 21.1 Provision of Information

The Lessee agrees to provide to the Lessor:

- (a) on demand a copy of the Lessee's audited annual statement of accounts for each year;
- (b) notice, forthwith, if the registration of the Lessee is cancelled or dissolved or it is suspected that the registration of the Lessee is likely to be cancelled or dissolved or the Lessee is wound up or it is suspected that the Lessee is likely to be wound up;
- (c) advice of any changes in its office holders during the Term; and
- (d) promptly, any other information on the Lessee reasonably required by the Lessor.

### 21.2 Prior notice of Proposal to Change Rules

The Lessee agrees that it will not change its rules of association under the *Associations Incorporations Act 2015* without notifying the Lessor of its intention to make such a change prior to consideration of the required special resolution.

## 22. Disputes

### 22.1 Determination by Expert

- (1) Unless otherwise provided in this Lease, if a dispute arises between the Lessor and the Lessee under a provision of this Lease either party may give a notice of dispute to the other (**Dispute Notice**).
- (2) A representative of the Lessor and representative of the Lessee must endeavour to resolve the dispute as soon as practicable, but if the dispute is not resolved within five (5) Business Days after service of the relevant Dispute Notice, either party may by written notice to the other party (**Referral Notice**) refer the dispute for written determination by a person (**Expert**) appointed under **clause 22.2**.
- (3) The expert acts as an expert and not as an arbitrator.
- (4) The expert's determination is conclusive and binds both parties except in the case of a manifest error and matters of law.
- (5) The expert must practise in Western Australia.
- (6) The expert must have at least 5 years current and continuous standing in the expert's profession at the date of appointment.
- (7) The Lessor and the Lessee may each be represented by a legal practitioner at any time during the determination of the dispute.

### 22.2 Appointment of Expert

- (1) If the parties cannot agree on an expert within ten (10) Business Days service of the relevant Referral Notice, either party may apply for the expert to be appointed as follows:
  - (a) for a matter of law, a practising barrister or solicitor appointed by the President of the Law Society of Western Australia;

- (b) for a financial or accountancy matter, a practising chartered accountant appointed by the President of the Western Australian Regional Council of the Institute of Chartered Accountants in Australia; or
  - (c) for any other matter, a qualified person appointed by the senior officer of an appropriate association, institute, society or board.
- (2) If appropriate and if the parties agree, the dispute may be referred to a panel of experts representing more than one of the appropriate skills.

### **22.3 Expert's Fees**

Each party must pay one half of the expert's fees and expenses, irrespective of the result of the determination.

### **22.4 Parties to Comply with Lease During Dispute**

To the extent that the parties are able to do so, pending determination of the expert's decision they must continue to perform their obligations contained in this Lease.

### **22.5 Interlocutory Relief**

Nothing in this clause prejudices the right of a party to institute proceedings to seek injunctive or urgent declaratory relief.

### **22.6 Payment of Amounts Payable to Date of Determination**

The Lessee must pay the Amounts Payable without deduction to the date of the determination of the Expert or the date of an agreement between the parties whichever is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the determination of the Expert or by agreement between the parties, the Lessor will refund to the Lessee the monies paid.

## **23. Caveat**

### **23.1 No Absolute Caveat**

The Lessee nor any person on behalf of the Lessee must not, without the prior written consent of the Lessor, lodge any absolute caveat at Landgate against the Certificate of Title to the Land.

### **23.2 CEO and Lessor as Attorney**

In consideration of the Lessor having granted this Lease to the Lessee, the Lessee irrevocably appoints the Lessor and the CEO of the Lessor jointly and severally:

- (a) for the Term of this Lease;
- (b) for any holding over under this Lease; and
- (c) for a period of 6 months after Termination,

to be the agent and attorney of the Lessee in its name and on its behalf to sign and lodge at Landgate:

- (i) a withdrawal of any absolute caveat lodged by or on behalf of the Lessee;
- (ii) a withdrawal of any caveat lodged by or on behalf of the Lessee and not withdrawn on Termination; and

(iii) a surrender of the estate granted by this Lease,

and the costs of withdrawing any caveat or surrendering this Lease (including the Lessor's solicitor's costs and registration fees) will be borne by the Lessee.

### **23.3 Ratification**

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under **clause 23**.

### **23.4 Indemnity**

The Lessee indemnifies the Lessor against:

- (a) any loss arising directly from any act done under **clause 23**; and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under **clause 23**.

## **24. No Fetter**

Notwithstanding any other provision of this Lease, the Parties acknowledge that the Lessor is a local government established by the *Local Government Act 1995*, and in that capacity, the Lessor may be obliged to determine applications for consents, approvals, authorities, licences and permits having regard to any written law governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Lessor shall not be taken to be in default under this Lease by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Lease fetter the Lessor in performing its statutory obligations or exercising any discretion.

## **25. Goods and Services Tax**

### **25.1 Lessee must Pay GST**

- (1) If GST is payable on the Basic Consideration or any part thereof or if the Lessor is liable to pay GST in connection with the lease of the Land or any goods, services or other Taxable Supply supplied under this Lease then, unless the Lessor is liable for the payment of a given Taxable Supply, as from the date of any such introduction or application:
- (2) the Lessor may increase the Basic Consideration or the relevant part thereof by an amount which is equal to the GST Rate; and
- (3) the Lessee shall pay the increased Basic Consideration on the due date for payment by the Lessee of the Basic Consideration.

### **25.2 Increase in GST**

If, at any time, the GST Rate is increased, the Lessor may, in addition to the GST Rate, increase the Basic Consideration by the GST Adjustment Rate and such amount shall be payable in accordance with **clause 25.1(3)**.

### **25.3 GST invoice**

Where the Basic Consideration is to be increased to account for GST pursuant to **clause 25.2** the Lessor shall in the month in which the Basic Consideration is to be paid, issue a Tax Invoice which enables the Lessee to submit a claim for a credit or refund of GST.

## 26. Acts by Agents

All acts and things which the Lessor is required to do under this Lease may be done by the Lessor, the CEO, an officer or the agent, solicitor, contractor or employee of the Lessor.

## 27. Statutory Powers

The powers conferred on the Lessor by or under any statutes for the time being in force are, except to the extent that they are inconsistent with the terms and provisions expressed in this Lease, in addition to the powers conferred on the Lessor in this Lease.

## 28. Notice

### 28.1 Form of Delivery

A Notice to a Party must be in writing and may be given or made:

- (a) by delivery to the Party personally; or
- (b) by addressing it to the Party and leaving it at or posting it by registered post to the address of the Party appearing in this Lease or any other address nominated by a Party by Notice to the other.

### 28.2 Service of Notice

A Notice to a Party is deemed to be given or made:

- (a) if by personal delivery, when delivered;
- (b) if by leaving the Notice at an address specified in **clause 28.1(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (c) if by post to an address specified in **clause 28.1(b)**, on the third business day following the date of posting of the Notice.

### 28.3 Signing of Notice

A Notice to a Party may be signed:

- (a) if given by an individual, by the person giving the Notice;
- (b) if given by a corporation, by a director, secretary or manager of that corporation;
- (c) if given by a local government, by the CEO;
- (d) if given by an association incorporated under the *Associations Incorporation Act 1987*, by any person authorised to do so by the board or committee of management of the association; or
- (e) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

## 29. Consents

- (1) If for any reason whatsoever this Lease requires the consent of the Western Australian Planning Commission or other consent under the *Planning and Development Act 2005*, then this Lease is

made expressly subject to and conditional on the granting of that consent in accordance with the provisions of the *Planning and Development Act 2005*.

- (2) If any form of consent is required under this Lease from the Lessor to the Lessee other than the consent described in paragraph (1) above, the consent will not be unreasonably withheld, delayed or conditioned.

### 30. Severance

If any part of this Lease is or becomes void or unenforceable, that part is or will be severed from this Lease to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

### 31. Moratorium

The provisions of a statute which would but for this clause extend or postpone the date of payment of money, reduce the rate of interest or abrogate, nullify, postpone or otherwise affect the terms of this Lease do not, to the fullest extent permitted by law, apply to limit the terms of this Lease.

### 32. Further Assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Lease.

### 33. Variation and Waiver

A provision of this Lease or a right created under it, may not be waived or varied except in writing, signed by the party or parties to be bound.

### 34. Governing Law

This Lease is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

### 35. Additional Terms, Covenants and Conditions

Each of the terms, covenants and conditions (if any) specified in **Item 10** of the Schedule are part of this Lease and are binding on the Lessor and the Lessee as if incorporated into the body of this Lease.

# Schedule

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**Item 1 Land**

The whole of Lot 3 being part of the land in certificate of title volume 1112 folio 734 and shown in Annexure A for identification purposes.

**Item 2 Term**

49 years.

**Item 3 Further Term**

Not applicable.

**Item 4 Commencement Date**

1 June 2019

**Item 5 Rent**

\$1.00 (one dollar) per annum exclusive of GST payable annually in advance with the first payment due on the Commencement Date.

**Item 6 Permitted Purpose**

Construction and operation of a medical centre.

**Item 7 Public Liability Insurance**

Twenty million dollars (\$20,000,000.00).

**Item 8 Deleted**

Not applicable.

**Item 9 Rent Review Dates**

Not applicable

**Item 10 Additional terms and conditions**

**10.1 Completion of Development**

(1) The Parties acknowledge and agree that:

- (a) the Lessee intends to undertake a development on the Land including construction of a medical centre (**Development**);

- (b) the Land will be provided to the Lessee on an “as is” basis; and
  - (c) the Lessee is fully responsible, at its cost, for all works necessary to complete the Development, including (without limitation):
    - (i) the provision of essential services to the Land, including power upgrades and connection to water, sewer and natural gas; and
    - (ii) the design and development costs of the Development.
- (2) For the avoidance of doubt, the Lessor is not required to connect, provide or procure the connection of any Service to the Land at any time.
- (3) The Lessee must construct and complete the Development in accordance with:
  - (a) any reasonable directions or approvals given or granted by the Lessor (in its capacity as landlord);
  - (b) any Development Approval and Building Permit; and
  - (c) all laws and requirements of all Authorities.
- (4) At the completion of the Development, the Lessee must provide a copy of all certificates from relevant Authorities evidencing that the works comply with all laws and the requirements of Authorities and remove any refuse in connection with the Lessee's works from the Land.
- (5) The Parties agree that the Lessee accepts all risks associated with the Development, including without limitation:
  - (a) all risks associated with the cost of financing, designing, constructing and maintaining, without any right of reimbursement or refund from the Lessor; and
  - (b) the risk that any Authority may exercise their statutory functions and powers in such a way as to disrupt, interfere with or otherwise affect the Development and any associated works, including by imposing conditions on approvals.
- (6) Any improvements constructed on the Land by the Lessee, including without limitation the Development, shall remain the property of the Lessee during the Term, such that the Lessee owns and is completely responsible for such improvements.

## 10.2 Shared Use of Car Park

- (1) The Lessor agrees that the car park constructed on Lot 2 Spring Street, Kojonup (**Car Park**) may be used by the Lessee and the Lessee's Invitees while the Lessee is in occupation of the Land.
- (2) The Lessor agrees that it will whilst it owns the Car Park maintain the Car Park in accordance with its General Maintenance and Assets Schedule.
- (3) The Lessee agrees that it shall be liable for any costs of maintaining the Car Park which maintenance is over and above the maintenance set out in the Lessor's General Maintenance and Assets Schedule including but not limited to Car Park lighting, car bay marking. If the Lessee requests improvements to the Car Park then those improvements will be undertaken at the cost of the Lessee.



# Signing page

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**EXECUTED** on the

day of

2019

**THE COMMON SEAL** of the **SHIRE OF KOJONUP** is affixed in the presence of -

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Print full name

\_\_\_\_\_  
Shire President

\_\_\_\_\_  
Print full name

**THE COMMON SEAL** of The George Church Community Medical Centre Inc.

is affixed in the presence of -

\_\_\_\_\_  
[insert details of officeholder]

\_\_\_\_\_  
Print full name

\_\_\_\_\_  
[insert details of officeholder]

\_\_\_\_\_  
Print full name

# ANNEXURE A – Lot 3 Spring Street, Kojonup- 'Walkers Block'

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