

Brookfield

28 February 2019

To Ms Ingrid Player
General Counsel & Company Secretary
Healthscope Limited
Level 1, 312 St Kilda Road
Melbourne Vic 3004
AUSTRALIA

Copy Market Announcements Office
Australian Securities Exchange
Exchange Centre
20 Bridge Street
Sydney NSW 2000
AUSTRALIA

Dear Ms Player

Revised Form 603 (Notice of initial substantial holder) - Healthscope Limited (ASX:HSO)

We refer to the Form 603 (Notice of initial substantial holder) that was given to Healthscope Limited ("**HSO**") by VIG Bidco Pty Ltd ("**Bidco**") on 4 February 2019 ("**Original Form**").

We enclose a Form 603 (Notice of initial substantial holder) ("**Revised Form**"). The Revised Form is not provided as a result of a change in the voting power of Bidco but rather, to the extent it applies to Bidco, it replaces the Original Form. Relevantly, the Revised Form attaches documents referenced in the Process Deed that was attached to the Original Form and provides revised disclosure regarding the relevant interest that may be held by Bidco.

Yours sincerely



Sophia Rihani
Director

Form 603

Corporations Act 2001
Section 671B

Notice of initial substantial holder

To Company Name/Scheme Healthscope Limited (HSO)

ACN/ARSN ACN 144 840 639

1. Details of substantial holder (1)

Name VIG Bidco Pty Ltd (**Bidco**) on its own behalf and on behalf of its ultimate controller, Brookfield Asset Management Inc. (**BAM**) and each of BAM's other controlled entities listed in Annexure A (being each other entity interposed on a control basis between BAM and Bidco) (known as a **BAM Group Entity**)

ACN/ARSN (if applicable) Bidco - ACN 631 014 938

The holder became a substantial holder on 1 / 2 / 2019

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Fully paid ordinary shares (Shares)	152,124,927	152,124,927	8.74%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Bidco	The holder, Bidco, is not the owner of the Shares. However, Bidco has entered into a Process, Voting Commitment and Exclusivity Deed (Process Deed) with NorthWest Healthcare Properties Real Estate Investment Trust (NWH). Under the Process Deed NWH has undertaken, amongst other things, to procure that certain Shares are voted in favour of the members' scheme of arrangement under Chapter 5.1 of the <i>Corporations Act 2001</i> (Cth) (Corporations Act) that was announced by HSO on 1 February 2019, tender into the Takeover that was announced by HSO on 1 February 2019 and vote against any "Competing Proposal". Having regard to the arrangements of the NWH Group Companies discussed below, as a result of the Process Deed Bidco may be taken to have a relevant interest in Shares under section 608(8) of the Corporations Act. Even if Bidco was not taken to have a relevant interest in the Shares, NWH may be an associate of Bidco as set out in paragraph 6 of this notice. A copy of the Process Deed is annexed to this notice as Annexure B. Bidco's relevant interest is in the same Shares in which NWH Australia AssetCo Pty Ltd (ACN 617 449 948) as trustee of NWH Australia Asset Trust (NWH AssetCo) has disclosed it has a relevant interest, as discussed below.	152,124,927 Shares
BAM and each BAM Group Entity	BAM and each BAM Group Entity have a relevant interest in Shares under section 608(3)(b) of the Corporations Act as they control Bidco.	152,124,927 Shares
NWH AssetCo	The holder, NWH AssetCo, is not the owner of the Shares. However, under section 608(8) of the Corporations Act, it may be taken to have a relevant interest in any Shares in which Deutsche Bank AG, Sydney Branch (DB) has a relevant interest under the arrangements described in its Form 603 (Notice of initial substantial holder) dated 8 May 2018 and its Forms 604 (Notice of change of interests of substantial holder) dated 20 November 2018 and 3 December 2018, as well as the announcement NWH released to ASX on 1 February 2019 (DB Arrangements), including a share forward contract. The maximum number of Shares in which NWH AssetCo may acquire a relevant interest under the DB Arrangements is 233,528,600 Shares.	152,124,927 Shares

	NWH AssetCo has stated that it has not verified whether DB has a relevant interest in all or any Shares which are the subject of the DB Arrangements. On 5 December 2018, DB publicly announced that it had a relevant interest in 152,124,927 Shares (8.74% of total Shares). Accordingly, as at 5 December 2018, under section 608(8) of the Corporations Act, NWH AssetCo had a relevant interest in up to 152,124,927 Shares. DB has not filed any substantial holding notices since 5 December 2018.	
NWH and NWH Australia Holdco Pty Ltd (ACN 617 449 699) as trustee of NWH Australia Hold Trust (NWH HoldCo)	NWH and NWH HoldCo each have a relevant interests under section 608(3)(b) of the Corporations Act as they control NWH AssetCo.	152,124,927 Shares
Each other entity listed in Annexure C to this notice (each entity listed in Annexure C is a NWH Group Company)	Each other NWH Group Company has a relevant interest under section 608(3)(a) of the Corporations Act.	152,124,927 Shares

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:¹

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
Bidco, BAM, each BAM Group Entity, NWH and each NWH Group Company	Bainpro Nominees Pty Ltd	DB	16,063,980 Shares
	Unknown	DB	127,328,974 Shares
	Statestreet Bank Luxembourg	Deutsche Asset Management (UK) Limited	125,617 Shares
		Deutsche Asset Management S.A.	
	Unknown	Deutsche Bank AG London	8,459,124 Shares
		DWS International GmbH	98,126 Shares
		Deutsche Investment Management Americas Inc.	20,973 Shares
		DBX Advisors LLC	28,133 Shares

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-Cash	
Bidco, BAM and each BAM Group Entity	1 February 2019	As at the date of this Form 603 no consideration has been provided. In the event that the Shares are acquired under the scheme of arrangement (Scheme) or takeover offer (Takeover) announced by HSO on 1 February 2019, the consideration provided will be equal to the consideration provided under the Scheme or Takeover (as applicable). As referenced in paragraph 6, HSO, Bidco, NWH and others have entered into a number of contracts relating to the sale of 21 properties to NWH and leasing them back to members of the HSO group, which transaction was entered into on arm's-length terms for fair value. The transaction is conditional on the Scheme becoming effective or control of HSO passing to Bidco under the Takeover.		152,124,927 Shares
NWH AssetCo	8 May 2018 (the DB Arrangements were last	The forward price is A\$2.360062 per Share	Nil	152,124,927 Shares

¹ In completing this paragraph 3, Bidco has relied on the information disclosed in the Form 604 (Notice of change of interests of substantial holder) given by Deutsche Bank AG on 5 December 2018. Neither Bidco, BAM, any BAM Group Entity, NWH nor any NWH Group Company has verified the information disclosed in that Form 604.

	amended on 30 November 2018)			
NWH and each other NWH Group Company	8 May 2018 (the DB Arrangements were last amended on 30 November 2018)	Nil	Nil	152,124,927 Shares

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
Bidco, BAM, each BAM Group Entity, NWH and NWH AssetCo	The Process Deed annexed to this notice as Annexure B and each of the documents annexed to this notice as Annexure C, being the: • Commitment Deed dated 1 February 2019 between HSO, NWH AssetCo and NWH; • Commitment Letter (Debt) (Propco Bridge Loan) dated 31 January 2019 between NWH and Bidco; • Portfolio Loan Term Sheet (undated); • Confidentiality Deed dated 22 November 2018 between NWH AssetCo and Brookfield Capital (Australia) Pty Limited (ACN 167 749 653); and • Side Deed dated 1 February 2019 between Bidco and NWH, may mean that Bidco, BAM, each BAM Group Entity, NWH and NWH AssetCo are taken to have an agreement, or to be acting in concert, with each other in relation to the conduct of HSO's affairs under section 12(2)(b) and section 12(2)(c) of the Corporations Act.

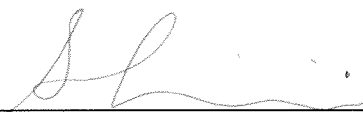
7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
Bidco, ViG Senior Holdco Pty Ltd, ViG Midco Pty Ltd and ViG Topco Limited	Level 22, 135 King Street, Sydney NSW 2000, Australia
Each other BAM Group Entity	c/o Maples Corporate Services Limited, PO Box 309, Ugland House, Grand Cayman KY1-1104, Cayman Islands
BAM	Brookfield Place, 181 Bay Street, Suite 300, Toronto Ontario M5J 2T3, Canada
NWH and each NWH Group Company	c/o Vital Healthcare Property Trust, 55 Collins Street, Melbourne Vic 3000, Australia

Signature

print name



capacity

Director

sign here

Sophia Zara Rihani

date 28/2/2019

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
- (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
- (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
- (4) The voting shares of a company constitute one class unless divided into separate classes.
- (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
- (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
- (7) Include details of:

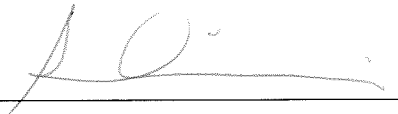
- (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
- (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).

See the definition of “relevant agreement” in section 9 of the Corporations Act 2001.

- (8) If the substantial holder is unable to determine the identity of the person (eg if the relevant interest arises because of an option) write “unknown”.
- (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

Annexure A

This is Annexure A of 1 page referred to in the Form 603 (Notice of initial substantial holder) signed by me and dated 28 February 2019.

Signed by: 

Print name: Sophia Zara Rihani

Date: 28 / 2 / 2019

- 1 VIG Senior Holdco Pty Ltd (ACN 631 014 956)
- 2 VIG Midco Pty Ltd (ACN 631 014 947)
- 3 VIG Topco Limited (ACN 631 014 965)
- 4 Brookfield Capital Partners Ltd in its capacity as general partner of Brookfield Capital Partners V (CDN II) GP in its capacity as general partner of BCP VIG Holdings L.P.
- 5 Brookfield Capital Partners V GP LLC as general partner and manager of Brookfield Capital Partners Fund V L.P.
- 6 Brookfield Private Equity Holdings LLC
- 7 Brookfield US Inc.
- 8 Brookfield US Holdings Inc.
- 9 Brookfield Holdings Canada Inc.

Annexure B

This is Annexure B of 59 pages referred to in the Form 603 (Notice of initial substantial holder) signed by me and dated 28 February 2019.

Signed by: 

Print name: Sophia Zara Rihani

Date: 28 / 2 / 2019

Process, Voting Commitment and Exclusivity Deed

Dated 1 February 2019

VIG Bidco Pty Limited (ACN 631 014 938) ("**Brookfield**")

NorthWest Healthcare Properties Real Estate Investment Trust ("**NWH**")

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Process, Voting Commitment and Exclusivity Deed

Contents

Details	1
General terms	3
1 Interpretation	3
1.1 Definitions	3
1.2 References to certain general terms	14
1.3 Headings	15
1.4 Construction	15
2 Consideration and reliance	15
3 Mutual co-operation and undertakings	16
3.1 Good faith and co-operation	16
3.2 Brookfield implementation undertakings	16
3.3 Brookfield undertakings with regard to the Implementation Deed	16
3.4 Brookfield Disclosure Documentation undertaking	17
4 NWH undertakings regarding Relevant HSO Shares	17
5 Compliance with NWH Property Transaction Documents	17
5.1 NWH undertakings	17
5.2 Notification of Right to Terminate or Suspend	18
5.3 FIRB obligations	18
5.4 No partnership	19
6 Indemnity	19
6.1 Indemnity	19
6.2 Ability to remedy	19
6.3 Extent of indemnity	20
6.4 Rights of Indemnified Parties are protected	20
6.5 No merger	20
6.6 NWH's rights are suspended	20
6.7 Payments	21
6.8 Cap on liability for failure to obtain FIRB Approval where there is a Successful Third Party Sale	21
7 Exclusivity	21
8 Liquidated Damages Payment	22
8.1 Background	22
8.2 Liquidated Damage Payment – payment by NWH to Brookfield	23
8.3 FIRB Liquidated Damages Payment – payment by NWH to Brookfield	23

8.4	Nature of payment	24
8.5	Liquidated Damages Payment - non-exclusive remedy	25
8.6	FIRB Liquidated Damages Payment – exclusive remedy where there is not a Successful Third Party Sale	25
8.7	Successful Third Party Sale	25
8.8	No set-off	26
9	Letter(s) of Credit	26
9.1	Provision of Letter(s) of Credit	26
9.2	No proceedings	27
10	NWH funding arrangements	27
10.1	Funding obligations	27
10.2	Delayed Settlement Properties	29
10.3	Application of Equity Funding Amount – Scheme	31
10.4	Application of Equity Funding Amount – Takeover	31
10.5	Authorisation	32
10.6	Failure to pay	33
10.7	NWH Funding Milestones	33
10.8	Funding Liquidated Damages Payment - non-exclusive remedy	35
10.9	Brookfield undertaking	35
11	Portfolio Loan (Takeover scenario) and PropCo Bridge Loan (Scheme scenario)	35
11.1	Portfolio Loan	35
11.2	Full form documents – Portfolio Loan	35
11.3	Full form documents – ANZ Facilities	36
11.4	Failure to execute documents	36
11.5	Maturity of Portfolio Loan and PropCo Bridge Loan	37
12	Step Up Events	37
12.1	Step Up Event	37
12.2	Effect of Step Up Notice	38
12.3	Documentation - Commitment Deed Step Up Event	39
12.4	Receipt of deposit from Other Property Investor	39
13	Term and termination	40
13.1	Term	40
13.2	Brookfield ability to terminate	40
13.3	Termination where Implementation Deed is terminated	40
13.4	Release from obligations	40
14	Warranties	40
14.1	NWH warranties	40
14.2	Brookfield warranties	41
14.3	When made	42
14.4	Reliance	42
14.5	NWH limitation	42

15	Encumbrances	42
16	No dealings	42
17	GST	43
17.1	Definitions and interpretation	43
17.2	Payment of GST	43
17.3	Adjustment events	43
17.4	Reimbursements	43
17.5	Survival	44
18	Notices and other communications	44
18.1	Form	44
18.2	Delivery	44
18.3	When effective	44
18.4	When taken to be received	44
18.5	Receipt outside business hours	45
19	Confidentiality and announcements	45
19.1	Obligations of confidentiality	45
19.2	Announcements	45
20	General	46
20.1	Variation and waiver	46
20.2	Discretion in exercising rights	46
20.3	Partial exercising of rights	46
20.4	Conflict of interest	46
20.5	Remedies cumulative	46
20.6	Indemnities and reimbursement obligations	46
20.7	Inconsistent law	46
20.8	Counterparts	47
20.9	Entire agreement	47
20.10	Severability	47
20.11	Governing law and jurisdiction	47
20.12	NWH appointment of process agent	47
20.13	HSO Confidentiality Deeds	47
20.14	Exclusion of Consequential Loss	47
20.15	Stamp duty	48
20.16	Approvals and consents	48
20.17	Further assurances	48
	Signing page	49
Annexure A	Portfolio Loan Term Sheet	51
Annexure B	Properties	52

Process, Voting Commitment and Exclusivity Deed

Details

Parties	Brookfield and NWH	
Brookfield	Name	VIG Bidco Pty Limited
	ABN/ACN/ARBN	631 014 938
	Address	Level 22, 135 King Street, Sydney NSW 2000
	Email	Sophia.Rihani@brookfield.com
	Attention	Sophia Rihani
NWH	Name	NorthWest Healthcare Properties Real Estate Investment Trust
	Address	180 Dundas Street West, Suite 1100, Toronto, Ontario, Canada M5G 1Z8
	Email	pdl@nwhreit.com with a copy to john.brewster@ashurst.com
	Attention	Chief Executive Officer
Governing law	Victoria	
Recitals	A	It is proposed that HSO and Brookfield enter into an Implementation Deed, pursuant to which (amongst other matters):
	a.	it is proposed that Brookfield or an Affiliate will acquire up to 100% of the HSO Shares via the Scheme or Takeover; and
	b.	it is recorded that HSO will enter into the Commitment Deed with NWH in respect of the NWH Property Transaction.
	B	Pursuant to this deed, each party has undertaken in favour of the other to, amongst other things, act in good faith towards the other party including:
	a.	being just and faithful in all activities and dealings with the other party; and
	b.	attending diligently in completing its obligations under this deed.
	C	Pursuant to this deed, NWH has undertaken in favour of

Brookfield:

- a. to take all necessary steps to vote, or procure the vote of, the Relevant HSO Shares in favour of the Scheme in return for cash consideration available under the Scheme;
- b. to tender the Relevant HSO Shares into the Takeover;
- c. that it will comply with its obligations in the NWH Property Transaction Documents if and when they are entered into;
- d. to work exclusively with Brookfield with regard to the matters set out in the NWH Property Transaction Documents if and when they are entered into;
- e. in certain circumstances, to pay the Liquidated Damages Payment to Brookfield;
- f. to provide the PropCo Bridge Loan and (if required) the Portfolio Loan;
- g. to elect (at its discretion) to agree with Brookfield and HSO to acquire a 100% interest in the Other Properties in the event that the Other Property Investor Sale Contracts are terminated on the same terms as the Sale Contracts; and
- h. to provide certain undertakings regarding its funding position,

each subject to and on the terms and conditions in this deed.

- D** Pursuant to this deed, Brookfield has undertaken in favour of NWH that it will not enter into an Implementation Deed unless HSO has entered into binding documentation to procure the NWH Property Transaction in accordance with clause 3, or must only enter into the Implementation Deed if it is conditional on the NWH Property Transaction in accordance with clause 3, each subject to and on the terms and conditions in this deed.

Process, Voting Commitment and Exclusivity Deed

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears.

Affiliate means in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person;
- (c) who is Controlled, directly or indirectly, by a person or persons who Control the Primary Person; or
- (d) directly or indirectly under the common Control of the Primary Person and another person or persons,

and in the case of NWH, includes Vital, Vital's Affiliates and Associates and the Property Trust.

Alternative Control Transaction means a proposal by a member of the Brookfield Group to acquire up to 100% of the HSO Shares other than by way of the Scheme or the Takeover, and which may include a control transaction by way of scheme of arrangement or takeover bid on different terms to those of the Scheme or Takeover, provided that alternative transaction is recommended by HSO's board of directors.

ANZ means Australia and New Zealand Banking Group Limited.

ANZ Facilities means the facilities referred to in the ANZ Facility Term Sheet.

ANZ Facility Term Sheet means the term sheet annexed to the commitment letter from ANZ to NWH AssetCo dated 18 January 2019 dated as amended on 31 January 2019.

ATO means the Australian Taxation Office.

Associate has the meaning given to it in section 12 of the Corporations Act and, in the case of NWH, includes Vital.

Authorised Officer means:

- (a) in the case of NWH, a director or secretary of NWH, or any person who purports to be a "chief executive officer" or "executive vice president" of that party or any other person nominated by that party to act as an Authorised Officer for the purposes of this deed; and
- (b) in the case of Brookfield, a director, secretary or any other person appointed by that party to act as an Authorised Officer for that party for the purpose of this deed.

Brookfield Group means Brookfield and its Affiliates.

Brookfield Scheme Known Delayed Settlement Properties Notice means a notice given by Brookfield under clause 10.2(a).

Brookfield Takeover Known Delayed Settlement Properties Notice means a notice given by Brookfield under clause 10.2(b).

Business Day means a day on which banks are open for general banking business in each of Melbourne, Australia and Sydney, Australia (not being a Saturday, Sunday or public holiday in any of those places).

Commitment Deed means the commitment deed proposed to be entered into between NWH and HSO regarding the proposed sale and leaseback of the Sale Properties to the Property Trust on substantially the same terms as the draft agreed between the parties and which will include as annexures:

- (a) the Sale Contracts;
- (b) the Sale Contracts Umbrella Deed; and
- (c) the Lease.

Competing Proposal means an offer, proposal, agreement, arrangement or transaction, whether existing before, on or after the date of this deed, which, if entered into or completed, could mean that a person other than Brookfield or its Affiliates (either alone or with any associate thereof) would:

- (a) directly or indirectly acquire voting power in, or have a right to acquire a legal, beneficial or economic interest in, or control of, 20% or more of the securities in any member of the HSO Group;
- (b) acquire Control of any member of the HSO Group;
- (c) directly or indirectly acquire or become the holder of, or otherwise acquire or have a right to acquire a legal, beneficial or economic interest in, or control of, all or substantially all or a material part of the business or assets of any member of the HSO Group;
- (d) otherwise directly or indirectly acquire, be stapled with or merge with HSO; or
- (e) require Brookfield to abandon, or otherwise fail to proceed with, the Scheme and the Takeover,

whether by way of a takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, buy back, sale, lease or purchase of shares, other securities or assets, assignment of assets or liabilities, joint venture, dual listed company (or other synthetic merger), deed of company arrangements, any debt for equity arrangement or other transaction or arrangement, except that neither:

- (f) the NWH Property Transaction; nor
- (g) any proposal for a sale arranged or proposed by Brookfield of some or all of the real property assets of the HSO Group,

is a Competing Proposal.

Confidentiality Deed means the confidentiality deed between NWH AssetCo and Brookfield Capital (Australia) Pty Limited dated 22 November 2018 in connection with the NWH Property Transaction.

Consequential Loss means any liability which does not flow directly and naturally from the relevant breach or circumstances, or any liability which could not reasonably be supposed to have been in the contemplation of the parties as a probable result of the relevant breach or the circumstances at the time the parties entered into this deed, but, in the case of Brookfield's loss, 'Consequential Loss' does not include any of the losses specified in clause 8.4 (excluding the loss specified in clause 8.4(d), clause 8.4(h) and clause 8.4(i)).

Control means with respect to any person (other than an individual) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise, and for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this deed, a fund advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person, and, will also include any fund, account, client, limited partnership or other collective investment vehicle or other person which is managed or advised by such person or an Affiliate of such person.

Corporations Act means the *Corporations Act 2001 (Cth)*.

Costs means costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

DB means Deutsche Bank AG, Sydney Branch.

Declined Delayed Settlement Properties means, as the context requires, the Scheme Declined Delayed Settlement Properties and the Takeover Declined Delayed Settlement Properties (if applicable).

Delay Event has the meaning given in clause 4.1 of the Sale Contract.

Delayed Settlement Property Contract means a Sale Contract (or Step Up Contract) that relates to a Settlement Date Delayed Settlement Property.

Derivative Security Amount means the amount agreed by the parties to be the 'Derivative Security Amount' on or about the date of this deed.

Effective has the meaning given in the Implementation Deed.

Equity Funding Letter of Credit means an irrevocable letter of credit for an amount in Australian dollars equal to the Equity Funding Amount which is:

- (a) issued by a lender approved by Brookfield;
- (b) presentable in an Australian branch of the issuer;
- (c) is in a form acceptable to Brookfield; and
- (d) has a maturity date of no earlier than the End Date.

Equity Funding Amount means the amount agreed by the parties to be the 'Equity Funding Amount' on or about the date of this deed.

End Date means 1 November 2019 or such later date as may be adopted for the 'end date' in the Implementation Deed.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in

sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Exclusivity Period means the period from the date of this deed to the earlier of:

- (a) the date that is 7 Business Days after the date of this deed if HSO has not:
 - (i) executed and announced the Implementation Deed with Brookfield; and
 - (ii) executed and delivered to NWH the Commitment Deed;
- (b) the date on which the NWH Property Transaction Documents are terminated other than as a result of a breach of a NWH Property Transaction Document by NWH, or its Affiliates and Associates;
- (c) the date on which this deed is terminated due to a material breach by Brookfield, provided NWH has served written notice on Brookfield specifying the breach and has provided Brookfield with not less than 5 Business Days to remedy that breach;
- (d) the date on which Brookfield ceases to pursue or the HSO directors cease to recommend, the Scheme, Takeover and an Alternative Control Transaction (if applicable) (which must be promptly notified to NWH);
- (e) the date on which settlement of all Sale Contracts and any Step up Contracts has occurred;
- (f) the date:
 - (i) of successful completion of the Scheme, Takeover or an Alternative Control Transaction; or
 - (ii) on which the Implementation Deed is terminated in accordance with its terms;
- (g) the End Date,

unless otherwise agreed in writing between Brookfield and NWH.

Existing NWH Debt Facility means each facility available to NWH and its Affiliates in relation to the NWH Property Transaction, the details of which have been separately disclosed to Brookfield before the date of this deed.

Extended Loan Repayment Date has the meaning given in clause 11.5(c).

First Court Date has the meaning given to that term in the Implementation Deed.

First Takeover Funding Date means the date when Brookfield (or any Affiliate of Brookfield) is first required to pay HSO shareholders under the Takeover which will be notified in writing by Brookfield to NWH no later than 5 Business Days before that date.

FIRB means the Foreign Investment Review Board.

FIRB Act means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

FIRB Application means all necessary notices and forms, duly completed and signed by or on behalf of NWH, to ensure that the Notifiable Action complies with the FIRB Act and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

FIRB Approval means the occurrence of one of the following events:

- (a) the day that is 10 days after the end of the decision period specified in section 77 of FIRB Act passes without an order prohibiting the Notifiable Action having been made under section 67 or section 68 of the FIRB Act;
- (b) if an interim order is made under section 68 of the FIRB Act, the end of the period specified in the order passes without an order prohibiting the Notifiable Action under section 67 of FIRB Act having been made; or
- (c) a no objection notification is given by the Treasurer (or the Treasurer's delegate) under Division 3, Subdivision B of the FIRB Act in respect of the Notifiable Action.

FIRB Approval Sunset Date means the date that is 21 days before the later of:

- (a) the Scheme Meeting Date; and
- (b) 30 June 2019.

FIRB Liquidated Damages Payment means the amount agreed by the parties to be the 'FIRB Liquidated Damages Payment' on or about the date of this deed.

Forward means the Share Forward Transaction with a trade date of 8 May 2018 between NWH AssetCo and DB in the form released onto ASX on 8 May 2018, as amended by the Notices of Change of Interests, under which:

- (a) NWH AssetCo has an enforceable right to acquire up to 231,387,330 HSO Shares; and
- (b) if DB exercises its "Election Right" (as that term is defined in the Forward), NWH AssetCo will acquire an further 2,141,270 HSO Shares,
- (a) and the Share Option Transaction – Collar (Cash Settlement) with a trade date of 8 May 2018 between NWH AssetCo and DB in the form released onto ASX on 8 May 2018.

Funding Liquidated Damages Payment means the amount agreed by the parties to be the 'Funding Liquidated Damages Payment' on or about the date of this deed).

Funding Milestone Amount means the amount agreed by the parties to be the 'Funding Milestone Amount' on or about the date of this deed.

Funding Milestone Obligations means the obligations on NWH set out clause 10.7(a) and 10.7(b) (if applicable).

Funding Shortfall has the meaning given in clause 8.1(a)(i).

HSO means Healthscope Limited (ACN 144 840 639).

HSO Financiers means the financiers providing facilities to Brookfield and/or a member of the HSO Group for the purpose of, amongst other matters, refinancing HSO Group's existing debt facilities (and including any refinancing of such facilities).

HSO Group means HSO and each of its Subsidiaries.

HSO Operations means Healthscope Operations Pty Ltd ACN 006 405 152.

HSO Shares means all of the ordinary shares in HSO being 1,741,161,795 ordinary shares as at the date of this deed.

Implementation Deed means the implementation deed proposed to be entered into between HSO and Brookfield regarding implementation of the Scheme and the Takeover as annexed to an announcement by HSO on or around the date of this deed.

Implementation Deed MAC Condition means the condition in clause 3.1(i) ('No Material Adverse Change') of the Implementation Deed which relates to a material adverse change of the HSO Group.

Indemnified Party means each of:

- (a) Brookfield;
- (b) each member of the Brookfield Group; and
- (c) the Affiliates and Associates of each of the persons described in paragraphs (a) and (b).

Initial Loan Repayment Date means 90 days from the date that funds are drawn under:

- (a) in respect of the Portfolio Loan, the Portfolio Loan Documentation; and
- (b) in respect of the PropCo Bridge Loan, the PropCo Bridge Loan Documentation.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this deed);
- (d) an application or order has been made (and in the case of an application, it is not stayed, withdrawn or dismissed within 14 days), a resolution passed or any other action taken, in each case in connection with that person, in respect of any of the things described in paragraphs (a), (b) or (c);
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this deed reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or

- (h) something having a substantially similar effect to any of the things described in paragraphs (a) to (g) happens in connection with that person under the law of any jurisdiction.

Known Delayed Settlement Property means a Sale Property which Brookfield considers or believes, acting reasonably, will not settle on the Scheduled Settlement Date as a result of a Delay Event and **Known Delayed Settlement Properties** means all such Sale Properties.

Lease means the lease agreement between HSO (as tenant), the Property Trust (as landlord) and HSO Operations (as guarantor) (with the relevant hospital licensee of the Sale Properties as the permitted subtenant) in respect of the Sale Properties and the Other Properties if the parties enter into a Step Up Contract.

Letter of Credit means an irrevocable letter of credit for an amount in Australian dollars equal to the Letter of Credit Amount which is:

- (a) issued by a lender approved by Brookfield;
- (b) presentable in an Australian branch of the issuer;
- (c) is in a form acceptable to Brookfield; and
- (d) has a maturity date of no earlier than the End Date.

Letter of Credit Amount means the amount agreed by the parties to be the 'Letter of Credit Amount' on or about the date of this deed.

Liquidated Damages Payment means the amounts agreed by the parties to be the 'Liquidated Damages Payment' on or about the date of this deed.

Loan Extension Notice has the meaning given in clause 11.5(c).

Notice of Right means a notice in writing given by NWH under clause 5.2 of this deed of NWH and an Affiliate's intention to exercise a Right to Terminate or Suspend.

Notices of Change of Interests means each of:

- (a) the Notice of Change of Interests of Substantial Holder issued by NWH dated 20 November 2018 and its annexures and cover announcement in the form released onto ASX on 20 November 2018; and
- (b) the Notice of Change of Interests of Substantial Holder issued by NWH dated 3 December 2018 and its annexures and cover announcement in the form released onto ASX on 4 December 2018.

Notifiable Action means the acquisition by Property Trust of each Property under and in accordance with the relevant Sale Contract (and if applicable, Step Up Contracts).

NWH AssetCo means NWH Australia AssetCo Pty Ltd as trustee of NWH Australia Asset Trust.

NWH Debt Commitment Letter means the commitment letter in relation to the PropCo Bridge Loan dated on or about the date of this deed between NWH, NWH AssetCo and Brookfield.

NWH Delayed Settlement Properties Notice means, as the context requires, a NWH Scheme Delayed Settlement Properties Notice or a NWH Takeover Delayed Settlement Properties Notice (as applicable).

NWH Funding Milestone Date means the later of:

- (a) First Court Date; and
- (b) 10 April 2019.

NWH Property Transaction means:

- (a) the sale and leaseback transaction contemplated by the Commitment Deed, under which the Properties are proposed to be sold by HSO to the Property Trust under the Sale Contracts; and
- (b) if applicable, the sale and leaseback transaction contemplated by any Step Up Documents, under which the Other Properties would be sold to the Property Trust under the Step Up Contracts.

NWH Property Transaction Documents means each of:

- (a) the Commitment Deed;
- (b) (on and from the date when it comes into effect) each document entered under or in accordance with the Commitment Deed, including:
 - (i) the Sale Contracts;
 - (ii) the Sale Contracts Umbrella Deed;
 - (iii) the Leases; and
 - (iv) the Portfolio Leases Umbrella Deed;
- (c) the NWH Debt Commitment Letter and the PropCo Bridge Loan Documentation;
- (d) (if required) the Portfolio Loan Documentation; and
- (e) (if applicable) the Step Up Documents.

NWH Scheme Delayed Settlement Properties Notice means a notice given by NWH under clause 10.2(c).

NWH Takeover Delayed Settlement Properties Notice means a notice given by NWH under clause 10.2(d).

Other Property means each real property asset described in section 2 of Annexure B.

Other Property Investor means an investor approved by Brookfield (or an Affiliate of that investor or a special purpose vehicle owned by that investor) which is proposed to hold the Other Properties and lease them back to HSO or Affiliates of HSO.

Other Property Investor Commitment Deed means a commitment deed entered into between HSO and the Other Property Investor regarding the proposed sale and leaseback of the Other Properties.

Other Property Investor Sale Contracts means the contract(s) for sale of the Other Properties by the HSO Group to the Other Property Investor or its Affiliates.

Other Property Sale Transaction means the transaction (on generally the same terms as the Commitment Deed) under which the Other Properties are proposed to be sold by HSO to a third party buyer.

Portfolio Leases Umbrella Deed means the umbrella agreement regarding the Leases proposed to be entered into between the relevant tenants and landlords of the Sale Properties.

Portfolio Loan means the secured loan from NWH or an Affiliate of NWH to HSO (or any other member of the HSO Group as directed by Brookfield) in an amount equal to the consideration attributable to the Settlement Date Delayed Settlement Properties on the terms set out in the Portfolio Loan Term Sheet.

Portfolio Loan Documentation has the meaning given in clause 11.2.

Portfolio Loan Term Sheet means the term sheet attached as Annexure A to this deed.

Prescribed Occurrence means:

- (a) HSO Operations resolving that it be wound up;
- (b) a liquidator or provisional liquidator of HSO Operations being appointed;
- (c) a court making an order for the winding up of HSO Operations;
- (d) an administrator of HSO being appointed under the Corporations Act;
- (e) HSO Operations executing a deed of company arrangement; or
- (f) a receiver, or a receiver and manager, being appointed in relation to HSO Operations.

Process Agent means Ashurst of Level 26, 181 William Street, Melbourne VIC 3000 (Attention: John Brewster).

PropCo Bridge Loan means the loan from NWH or an Affiliate of NWH to Brookfield (or any other member of the Brookfield Group as directed by Brookfield) on the terms set out in the NWH Debt Commitment Letter.

PropCo Bridge Loan Documentation has the meaning given to that term in clause 11.4(a).

Properties means the Sale Properties and the Other Properties.

Property Trust means the special purpose vehicle established by NWH and its Affiliates for the purpose of the NWH Property Transaction.

Related Body Corporate has the meaning given in the Corporations Act.

Relevant Funding Date means, as the context requires:

- (g) where the Scheme becomes Effective, the day before the Scheme Implementation Date; or
- (h) where the Takeover is declared or becomes unconditional, then 2 Business Days before the First Takeover Funding Date.

Relevant HSO Shares means, if DB:

- (a) does not exercise its "Election Right" (as that term is defined in the Forward), 231,387,330 HSO Shares which represent 13.3% of the HSO Shares; or
- (b) does exercise its "Election Right" (as that term is defined in the Forward), 233,528,600 HSO Shares which represent 13.41% of HSO Shares,

plus any other HSO Shares in which NWH or an Affiliate of NWH acquires a Relevant Interest prior to the Scheme Meeting Date.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Right to Terminate or Suspend means any right arising under or in connection with a NWH Property Transaction Document or otherwise:

- (a) to terminate, rescind or otherwise bring to an end a NWH Property Transaction Document;
- (b) for NWH or an Affiliate to stop or suspend performance of its obligations under a NWH Property Transaction Document; or
- (c) to release NWH or an Affiliate from any or all of their respective obligations under a NWH Property Transaction Document.

Sale Contracts means the contract(s) for sale of the Sale Properties by members of the HSO Group to the Property Trust.

Sale Contract Step Up Event means a Step Up Event which occurs after Sale Contracts have been entered into (or taken to be entered into) in accordance with the Commitment Deed.

Sale Contracts Umbrella Deed means the umbrella agreement regarding the Sale Contracts to be entered into between the relevant seller of the Sale Property and the Property Trust.

Sale Property means each real property asset described in section 1 of Annexure B.

Scheduled Settlement Date means the date that is:

- (a) in the context of the Scheme, one day after the Scheme Implementation Date (which must be a Business Day); or
- (b) in the context of the Takeover, 2 Business Days before the First Takeover Funding Date.

Scheme has the meaning given in the Implementation Deed.

Scheme Implementation Date has the meaning given to 'Implementation Date' in the Implementation Deed.

Scheme Declined Delayed Settlement Properties has the meaning given in clause 10.2(c)(ii).

Scheme Meeting has the meaning given in the Implementation Deed.

Scheme Meeting Date means the date of the Scheme Meeting.

Second Court Date has the meaning given in the Implementation Deed.

Settlement Date Delayed Settlement Property means a Sale Property or Other Property (if a Step Up Contract is signed) which is the subject of a Sale Contract or Step Up Contract which does not settle on the Scheduled Settlement Date.

Step Up Commitment Deed means any commitment deed entered into in accordance with clause 12.

Step Up Contract means any sale contract in respect of an Other Property entered into in accordance with clause 12 or in accordance with a Step Up Commitment Deed.

Step Up Documents means any Step Up Commitment Deed, Step Up Contract, Step Up Umbrella Deed or other document entered into in accordance with clause 12 (or in accordance with a document entered into in accordance with clause 12).

Step Up Equity Funding Letter of Credit means an irrevocable letter of credit for an amount in Australian dollars equal to the Step Up Equity Funding Amount which is:

- (a) issued by a lender approved by Brookfield;
- (b) presentable in an Australian branch of the issuer;
- (c) is in a form acceptable to Brookfield; and
- (d) has a maturity date of no earlier than the End Date.

Step Up Equity Funding Amount means the amount agreed by the parties to be the 'Step Up Equity Funding Amount' on or about the date of this deed.

Step Up Event means each of the following (in each case except where the Implementation Deed has been terminated):

- (a) Brookfield notifies NWH that HSO will not enter into the Other Property Sale Transaction;
- (b) the Other Property Investor Commitment Deed is terminated; or
- (c) any Other Property Sale Contract is terminated.

Step Up Umbrella Deed means any 'Umbrella Deed – Sale Contracts' entered into in accordance with clause 12.

Subsidiary has the meaning set out in the Corporations Act and, in addition:

- (a) a trust may be a Subsidiary of an entity where that entity holds more than 50% of the units or other beneficial interests in the trust or has the ability to control the appointment or removal of the trustee;
- (b) a corporation may be a Subsidiary of a trust if it would have been a Subsidiary if the trust were a corporation;
- (c) a trust may be a Subsidiary of another trust if it would have been a Subsidiary if both trusts were corporations; and
- (d) a limited partnership may be a Subsidiary of an entity if the entity or any of its Subsidiaries are the general partner of that limited partnership and the entity directly or indirectly holds more than 50% of the partner interests in the limited partnership.

There will be a **Successful Third Party Sale** if a third party which is not part of the Brookfield Group acquires the interest in:

- (a) one or more of the Sale Properties which were the subject of the Sale Contracts prior to the Relevant Funding Date; and
- (b) if applicable, one or more of the Other Properties which were the subject of the Step Up Contracts prior to the Relevant Funding Date.

For the avoidance of doubt, any sale of the Properties after the Relevant Funding Date will not constitute a Successful Third Party Sale.

Takeover means an off-market takeover offer for HSO Shares made by Brookfield or an Affiliate in accordance with the Implementation Deed, conditional (amongst other matters) on a minimum 50.1% shareholder acceptance level and the Scheme being unsuccessful which is recommended by the directors of HSO and closes on or before the Takeover Extension Longstop Date.

Takeover Extension Longstop Date means the date which is 3 months after the Scheme Meeting Date.

Takeover Declined Delayed Settlement Properties has the meaning given in clause 10.2(d)(iv).

The **Threshold Test** is satisfied if the aggregate sale price (as specified in the relevant Sale Contract) of Known Delayed Settlement Properties specified in a Brookfield Scheme Known Delayed Settlement Properties Notice or a Brookfield Takeover Known Delayed Settlement Properties Notice exceeds \$250,000,000.

Treasurer means the Treasurer of the Commonwealth of Australia.

Vital means Vital Healthcare Property Trust.

1.2 References to certain general terms

Unless the contrary intention appears, in this deed:

- (a) a reference to a document (including this deed) includes any variation or replacement of it;
- (b) a reference to a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this deed;
- (c) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (d) the word “law” includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (e) the singular includes the plural and vice versa;
- (f) the word “person” includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;

- (g) a reference to a body or authority includes a reference, if that body or authority ceases to exist, to the body or authority which has substantially the same functions and objects as the first body or authority;
- (h) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) a reference to a group of persons or things is a reference to any two or
- (j) more of them jointly and to each of them individually;
- (k) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (l) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (o) if an act under this deed to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day;
- (p) a reference to time is a reference to the time in Victoria;
- (q) a reference to any thing (including any amount) is a reference to the whole and each part of it;
- (r) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this deed.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this deed.

1.4 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this deed or any part of it.

2 Consideration and reliance

- (a) Each party acknowledges entering into this deed and incurring obligations and giving rights under this deed for valuable consideration received from each other party.
- (b) NWH acknowledges that Brookfield is (including in entering into the Implementation Deed) acting in reliance on NWH incurring obligations and giving rights under this deed.

3 Mutual co-operation and undertakings

3.1 Good faith and co-operation

Each party agrees to co-operate and to act in good faith towards the other party in respect of the NWH Property Transaction, including:

- (a) being just and faithful in all activities and dealings with the other party; and
- (b) attending diligently in complying with its obligations under this deed.

3.2 Brookfield implementation undertakings

- (a) Subject to compliance by NWH with its obligations set out in this deed, Brookfield must:
 - (i) not enter into an Implementation Deed unless HSO has entered into the Commitment Deed; or
 - (ii) only enter into an Implementation Deed if that Implementation Deed is conditional on (or otherwise requires) HSO's entry into the Commitment Deed (and such condition is for Brookfield's benefit and must not be waived without NWH's prior written consent).
- (b) Brookfield undertakes to NWH that it will take all reasonable steps within its control to procure that HSO enters into the Commitment Deed and complies with its obligations under that Commitment Deed.

3.3 Brookfield undertakings with regard to the Implementation Deed

Brookfield undertakes to NWH that:

- (a) it will not, without NWH's prior written consent:
 - (i) waive the Implementation Deed MAC Condition;
 - (ii) waive its rights under the Implementation Deed in respect of any Prescribed Occurrences;
 - (iii) amend the definition of 'Material Adverse Change' under the Implementation Deed;
 - (iv) waive its rights under clause 8.4(a)(1) of the Implementation Deed;
 - (v) waive the Takeover condition in respect of 'minimum acceptance', requiring that, at the end of the offer period, Brookfield has a Relevant Interest in at least 50.1% of the HSO Shares (on a fully diluted basis); or
 - (vi) waive or amend the condition in the Implementation Deed regarding the FIRB Approval,

where that waiver or amendment would be materially prejudicial to NWH (unless NWH has provided its prior written consent, such consent not to be unreasonably withheld); and

- (b) if directed in writing to do so by NWH, Brookfield will:

- (i) exercise any right it has to terminate the Implementation Deed; or
- (ii) reserve its right to terminate the Implementation Deed to permit Brookfield and HSO to agree an extension to the timetable for the Scheme and/or Takeover,

if HSO or its Affiliates breach their obligations under the Sale Contracts or any Step Up Contract prior to the Scheme Meeting Date which could reasonably be expected to result in there being Settlement Date Delayed Settlement Properties which, in aggregate, have a sale price of greater than \$250,000,000.

3.4 Brookfield Disclosure Documentation undertaking

Brookfield undertakes to NWH that it will provide such reasonable assistance as is requested by NWH in respect of the preparation of draft 'Disclosure Documents' for the purpose of clause 6.2(a) of the Commitment Deed and Step Up Commitment Deed (if applicable), including by (if requested) preparing drafts of the 'Disclosure Documents'.

4 NWH undertakings regarding Relevant HSO Shares

- (a) Subject to clause 4(b), NWH undertakes in favour of Brookfield that during the Exclusivity Period, it will procure that all of the Relevant HSO Shares are:
 - (i) voted at the Scheme Meeting and are voted in favour of the Scheme in return for cash consideration;
 - (ii) voted at any general meeting of HSO to be held prior to the End Date in favour of a resolution regarding a capital reduction of HSO in connection with the Takeover;
 - (iii) tendered into the Takeover by no later than 1 Business Day prior to the Scheme Meeting Date; and
 - (iv) voted against any Competing Proposal.
- (b) Clause 4(a) will cease to apply on the date that is 2 Business Days prior to the Scheme Meeting, if, on that date, there are any Scheme Declined Delayed Settlement Properties.

5 Compliance with NWH Property Transaction Documents

5.1 NWH undertakings

NWH must, and must procure that its Affiliates and Associates must:

- (a) at all times strictly comply with their obligations under the relevant NWH Property Transaction Document (including without limitation any obligations under a guarantee or indemnity given in respect of NWH, or any of its Affiliate's obligations);
- (b) promptly provide to Brookfield any material notice or other material communication it receives under or in connection with a NWH Property Transaction Document;

- (c) not amend, vary or waive any right of NWH or any Affiliate or Associate of NWH under a NWH Property Transaction Document without the prior written consent of Brookfield (not to be unreasonably withheld);
- (d) (without limiting clause 5.2) prior to the Scheme Meeting Date, not terminate any NWH Property Transaction Document without first notifying Brookfield in writing;
- (e) (without limiting clause 5.2) on and after the Scheme Meeting Date, not terminate any NWH Property Transaction Document without the prior written consent of Brookfield which may be withheld by Brookfield in its sole discretion, except where the relevant HSO counterparty to the NWH Property Transaction Document is in material breach of its obligations and has not remedied that breach, having had a reasonable time to remedy that breach (if capable of remedy); and
- (f) on the date of entry into the Commitment Deed (or the next Business Day if the date of entry is not a Business Day), lodge a revised substantial shareholder notice with HSO and ASX Limited notifying that its Relevant Interest in HSO Shares as at that date is below 10%.

5.2 Notification of Right to Terminate or Suspend

NWH agrees to ensure that, if NWH or an Affiliate or Associate of NWH intends to exercise any Right to Terminate or Suspend, then, in addition to any requirements in respect of the form or time of notice required to be observed pursuant to a NWH Property Transaction Document, NWH must ensure that a Notice of Right is given to Brookfield at least 5 Business Days before the Right to Terminate or Suspend is exercised, except where the Right to Terminate or Suspend will expire within less than 5 Business Days, in which case NWH must give the maximum amount of notice reasonably practicable).

5.3 FIRB obligations

- (a) NWH represents and warrants to Brookfield that, prior to the date of this deed, NWH has lodged the FIRB Application with the FIRB, and paid all fees payable in connection with the FIRB Application, in accordance with the FIRB Act.
- (b) NWH:
 - (i) must, if requested by Brookfield, provide Brookfield with copies of all material notices and communications sent to, or received from, a Government Agency in relation to the FIRB Application (provided that such copies may redact any information that is commercially sensitive to NWH or its indirect owners, and must be treated by Brookfield as Confidential Information for the purposes of clause 19);
 - (ii) must not withdraw the FIRB Application, other than in response to a request from FIRB for additional time to consider the FIRB Application;
 - (iii) must promptly comply with all reasonable requests for further information and take all other necessary and reasonable steps in respect of the FIRB Application;
 - (iv) must promptly inform Brookfield of any matters relating to the FIRB Application that are likely to result in NWH not obtaining FIRB Approval for the Notifiable Action by the FIRB Approval Sunset Date; and

- (v) must accept all conditions imposed by the FIRB or the ATO that are reasonable having regard to the NWH Property Transaction and which are required in order to secure the FIRB Approval.

5.4 No partnership

Nothing contained or implied in this deed is intended to create a partnership of any kind between the parties or, except as otherwise provided in this deed, establish any party as an agent or attorney of any other party. Except as otherwise provided in this deed, a party has no authority to bind any other party, or to act for, or to incur any obligation or assume any responsibility on behalf of, any other party.

6 Indemnity

6.1 Indemnity

Subject to clause 6.8 and clause 8.6, NWH agrees, within 2 Business Days of demand, to indemnify each Indemnified Party against, and to reimburse and compensate each of them for, any liability, damage or loss arising from, and any Costs incurred in connection with:

- (a) NWH being in breach of any of its obligations under this deed;
- (b) a representation, warranty or statement made, or taken to be made, by or on behalf of NWH, or any of its Associates or Affiliates under this deed or any NWH Property Transaction Document being incorrect or misleading (including by omission) when made or taken to be made; and
- (c) failure by NWH or its Affiliates to obtain the FIRB Approval by the FIRB Approval Sunset Date where there is a Successful Third Party Sale.

NWH agrees to pay an amount equal to the liability, damage or loss arising from, or any Costs of the kind referred to in this indemnity incurred by the Indemnified Parties, including any liability or loss suffered by the Brookfield Group under the Implementation Deed.

To the extent an Indemnified Party is not party to this deed, Brookfield holds the benefit of this clause 6.1 on trust for that Indemnified Party.

6.2 Ability to remedy

- (a) Brookfield may not make claim under the indemnity set out in clause 6.1 as a result of clause 6.1(a) unless Brookfield has first given written notice to NWH (as applicable) which:
 - (i) specifies the breach complained of; and
 - (ii) requires that the breach (if capable of remedy) be remedied within the period specified in the notice, not being less than 2 Business Days and not more than 5 Business Days, or such lesser period if the Scheduled Settlement Date would fall within those 5 Business Days. If Brookfield gives a notice under this clause 6.2, that does not affect Brookfield's right to give a further notice under this clause 6.2.
- (b) The parties acknowledge and agree that any failure by NWH or any of its Associates and Affiliates to complete under the Sale Contracts or any Step Up Contract (if applicable) on the Scheduled Settlement Date will

not be capable of remedy and that this clause 6.2 does not apply in that situation.

6.3 Extent of indemnity

The indemnity in clause 6.1 is a continuing obligation despite any intervening payment, settlement or other thing (including termination of this deed or completion) and extends to all of NWH's obligations in connection with this deed. Subject to clause 6.2, NWH waives any right it has of first requiring an Indemnified Party to make demand, commence proceedings or enforce any other right against NWH or its Associates or Affiliates or any other person before claiming from NWH under the indemnity.

6.4 Rights of Indemnified Parties are protected

Rights given to the Indemnified Parties under this deed, and NWH's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission varying or replacing in any way and for any reason any agreement or arrangement under which any obligations are expressed to be owing;
- (b) a person dealing in any way with this deed;
- (c) the Insolvency of any person including NWH or its Affiliates or Associates;
- (d) changes in the membership, name or business of any person;
- (e) acquiescence or delay by an Indemnified Party or any other person;
- (f) a liquidator disclaiming this deed; or
- (g) any variation or replacement of the NWH Property Transaction Documents.

6.5 No merger

The rights of an Indemnified Party under this deed do not merge with or adversely affect, and are not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Indemnified Party is entitled; or
- (b) a judgment which an Indemnified Party obtains against NWH, its Associates or Affiliates of either or any other person in connection with this deed.

An Indemnified Party may still exercise its rights under this deed as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

6.6 NWH's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this deed, NWH may not, without Brookfield's written consent, reduce its liability under this deed by claiming that it, its Associates or Affiliates or any other person has a right of set-off or counterclaim against Brookfield.

6.7 Payments

NWH agrees to make payments under the indemnity under clause 6.1 to the Indemnified Party (or to a person nominated by the Indemnified Party in a written notice to NWH):

- (a) in full without set-off or counterclaim, and without any deduction; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

6.8 Cap on liability for failure to obtain FIRB Approval where there is a Successful Third Party Sale

Subject to compliance with their obligations in clause 5.3, NWH and its Associates and Affiliates liability for any claim under the indemnity set out in 6.1 as a result of clause 6.1(c) is capped at the amount equal to the Letter of Credit Amount.

7 Exclusivity

- (a) During the Exclusivity Period, NWH must not, and must procure that its Affiliates and Associates (alone or acting in concert with any other person) do not directly or indirectly, except with the prior written consent of Brookfield:
 - (i) enter into any arrangement, agreement or understanding in relation to any actual, proposed or potential Competing Proposal;
 - (ii) propose, encourage, initiate, solicit or invite any enquiries, negotiations or discussions with a view to obtaining any expression of interest, offer or proposal from any person in relation to any Competing Proposal;
 - (iii) participate in negotiations or discussions with any person regarding any Competing Proposal or which may reasonably be expected to lead to an Competing Proposal;
 - (iv) make available to any person, or permit any other person to receive, information for the purposes of enabling or which may reasonably be expected to enable a person to make a Competing Proposal; or
 - (v) communicate any willingness or intention to do any of the things referred to in clauses 7(a)(i) to 7(a)(v).
- (b) Notwithstanding anything to the contrary in this clause 7, NWH or any of its Affiliates or Associates will not be prohibited or restricted in any way from entering into the Commitment Deed or Step Up Commitment Deed (if applicable), provided that HSO and Brookfield have entered into an Implementation Deed prior to, or simultaneously with, entry into the Commitment Deed.

8 Liquidated Damages Payment

8.1 Background

- (a) NWH and Brookfield acknowledge that if the NWH Property Transaction is not implemented or a NWH Property Transaction Document or this deed is terminated in each case as a result of NWH's or its Associate's or Affiliate's breach of, or failure to satisfy any condition in, a NWH Property Transaction Document or this deed, then:
- (i) Brookfield may be liable to fund the funding shortfall in order to pay the consideration for the Scheme, the Takeover or any Alternative Control Transaction (**Funding Shortfall**) in which case, in the event that such funding is obtained, Brookfield will incur additional costs to fund the Funding Shortfall which is expected to be on less favourable terms than that typically available given the expected timetable within which the funding would need to be secured;
 - (ii) if HSO terminates the Implementation Deed, Brookfield may be required to pay to HSO a break fee of up to \$135 million as a result; or
 - (iii) the Sale Properties and the Other Properties (if the parties enter into a Step up Contract) may be sold to a third party on less favourable terms with Brookfield liable for any resulting Funding Shortfall,

and Brookfield will incur significant damages, loss and costs in any of these case and potentially for other reasons, including those damages, loss and costs set out in clause 8.3.

- (b) In these circumstances, Brookfield expects that it will incur significant damages, loss and costs, and has requested that provision be made for the payment of the Liquidated Damages Payment, the FIRB Liquidated Damages Payment and the Funding Liquidated Damages Payment in certain circumstances in order to protect its legitimate commercial interests, without which Brookfield would not have entered into this deed or otherwise agreed to enter into an Implementation Deed (which contemplates HSO entering into the Commitment Deed with NWH).
- (c) NWH confirms that the NWH board has acknowledged that:
- (i) it has received legal advice in relation to this deed and the operation of this clause 8 and clause 10.7(d);
 - (ii) it believes Brookfield facilitating entry into the Commitment Deed and any Step Up Commitment Deed (if applicable) will provide significant benefits to NWH and NWH's stakeholders, such that it is reasonable and appropriate for NWH to agree to the Liquidated Damages Payment, the FIRB Liquidated Damages Payment and the Funding Liquidated Damages Payment (each payable in certain circumstances) in order to secure the NWH Property Transaction; and
 - (iii) Brookfield has legitimate commercial interests which is it seeking to protect by provision of the Liquidated Damages Payment, the FIRB Liquidated Damages Payment and the Funding Liquidated Damages Payment.

- (d) The parties agree that the Liquidated Damages Payment, the FIRB Liquidated Damages Payment and the Funding Liquidated Damages Payment represents a genuine and reasonable estimate of some of the damages, loss and costs that would be suffered by Brookfield in the relevant certain circumstances if this deed was entered into and the NWH Property Transaction is not implemented or the Commitment Deed and any Step Up Commitment Deed (if applicable) is terminated.
- (e) NWH agrees that it will not assert in any proceedings that the Liquidated Damages Payment, the FIRB Liquidated Damages Payment or the Funding Liquidated Damages Payment is a penalty or that the obligation to pay the Liquidated Damages Payment, the FIRB Liquidated Damages Payment or the Funding Liquidated Damages Payment is void, invalid or unenforceable.

8.2 Liquidated Damage Payment – payment by NWH to Brookfield

- (a) Subject to clause 8.7, if:
 - (i) NWH obtains FIRB Approval by the FIRB Approval Sunset Date; and
 - (ii) the Commitment Deed or the Sale Contracts are terminated as a result of breach or default by NWH or its Affiliates under a NWH Property Transaction Document or this deed,

then NWH will be immediately liable to pay Brookfield the Liquidated Damages Payment in accordance with clause 8.2(b).

- (b) NWH must pay Brookfield the amount claimed under clause 8.2(a) within 10 Business Days of receipt by NWH of a demand for payment by Brookfield in immediately available funds to an account nominated by Brookfield for that purpose. If NWH fails to do so, Brookfield may draw down on the Letter(s) of Credit in satisfaction of that payment obligation.
- (c) Brookfield may not make a demand for payment of the Liquidated Damages Payment as a result of the operation of clause 8.2(a) unless Brookfield has first given written notice to NWH (as applicable) which:
 - (i) specifies the breach complained of; and
 - (ii) requires that the breach (if capable of remedy) be remedied within the period specified in the notice, not being less than 2 Business Days and not more than 5 Business Days after the date of the notice or such lesser period if the Scheduled Settlement Date would fall within those 5 Business Days. If Brookfield gives a notice under this clause 8.2(c), that does not affect Brookfield's right to give a further notice under this clause 8.2(c).

The parties acknowledge and agree that any failure by NWH or any of its Associates and Affiliates to complete under the Sale Contracts or any Step Up Contract (if applicable) on the Scheduled Settlement Date will not be capable of remedy and that this clause 8.2(c) does not apply in that situation.

8.3 FIRB Liquidated Damages Payment – payment by NWH to Brookfield

- (a) If

- (i) NWH and its Affiliates do not obtain the FIRB Approval by the FIRB Approval Sunset Date and, as a result the failure to obtain the FIRB Approval, the Implementation Deed is terminated; or
- (ii) NWH and its Affiliates do not obtain the FIRB Approval by the FIRB Approval Sunset Date and there is no Successful Third Party Sale by the Relevant Funding Date,

provided that the Scheme and/or Takeover will not fail as a result of the failure of any other condition precedent or subsequent,

then NWH will be immediately liable to pay Brookfield the FIRB Liquidated Damages Payment in accordance with clause 8.3(b).

- (b) NWH must pay Brookfield the FIRB Liquidated Damages Payment within 10 Business Days of receipt by NWH of a demand for payment by Brookfield in immediately available funds to an account nominated by Brookfield for that purpose. If NWH fails to do so, Brookfield may draw down on the Letter(s) of Credit in satisfaction of that payment obligation.
- (c) If NWH pays the FIRB Liquidated Damages Payment but, as a result of the passage of time, it would not have been liable for that payment as a result of clause 8.3(a), then Brookfield must repay the FIRB Liquidated Damages Payment within 2 Business Days of receipt by Brookfield of a demand for payment from NWH in immediately available funds to an account nominated by NWH for that purpose.

8.4 Nature of payment

The Liquidated Damages Payment, the FIRB Liquidated Damages Payment and the Funding Liquidated Damages Payment reflect a genuine and reasonable estimate of the damages which Brookfield will suffer if the events specified in clauses 8.2(a) or 8.3(a) (as applicable) occur and is intended to be an amount to compensate Brookfield for part of the following damages, loss and costs incurred by Brookfield:

- (a) advisory costs (including costs of advisors) regarding entry into this deed and an Implementation Deed which includes HSO entering into the Commitment Deed with NWH and in relation to any of the documents required under clause 8.4(b) and clause 8.4(g);
- (b) in the event that funding for the Funding Shortfall is obtained, additional costs to fund the Funding Shortfall (which includes the cost of capital of using equity provided by Brookfield (or an Affiliate of Brookfield) or another equity source), and which is expected to be on less favourable terms than typically available given the expected timetable within which the funding would need to be secured;
- (c) in the event that funding for the Funding Shortfall cannot be obtained and HSO terminates the Implementation Deed, Brookfield's liability to pay to HSO a break fee of up to \$135 million;
- (d) costs of management and directors' time;
- (e) financier fees;
- (f) out-of-pocket expenses;
- (g) if applicable, the difference between the consideration payable for the Sale Properties under the Sale Contracts and the Other Properties under the Step Up Contracts (if applicable) and the consideration which may be

paid by a third party acquirer (which is expected to be less than the amount payable under the Sale Contracts and any Step Up Contracts);

- (h) loss of opportunity to acquire the HSO Shares; and
- (i) the distraction of Brookfield's management from conducting Brookfield's business as usual caused by dealing with the Funding Shortfall.

8.5 Liquidated Damages Payment - non-exclusive remedy

- (a) Subject to clauses 6.8, 8.5(b), 8.6, 8.7 and 10.8, Brookfield's right to the Liquidated Damages Payment is in addition to any other rights which Brookfield may have against NWH or any of their Affiliates under this deed or any other agreement as a result of a breach of a NWH Property Transaction Document, failure to implement the NWH Property Transaction or a breach of this deed by NWH or any of their Affiliates, including:
 - (i) any claim for liability, damage or loss arising from, and any Costs incurred in connection with, that breach under the indemnity set out in clause 6.1; and
 - (ii) any right to damages at law,but, for the avoidance of doubt,
 - (iii) NWH will not be liable for the Liquidated Damages Payment if it is liable to pay the FIRB Liquidated Damages Payment or the Funding Liquidated Damages Payment; and
 - (iv) if the Liquidated Damages Payment is payable by NWH under this deed, NWH is not liable to Brookfield or its Affiliates for any liability, damage or loss arising from, and any Costs incurred to the extent that same liability, damage, loss or Cost has been compensated for by the Liquidated Damages Payment.
- (b) Any claim by Brookfield for liability, damage or loss arising from, and any Costs incurred in connection with, a breach of this deed will be reduced by an amount equal to the amount which HSO has recovered from NWH or its Affiliates for the same circumstances, actions or omissions under the Commitment Deed or Sale Contracts.

8.6 FIRB Liquidated Damages Payment – exclusive remedy where there is not a Successful Third Party Sale

Subject to compliance with their obligations in clause 5.3, the maximum aggregate amount which NWH and its Affiliates will be required to pay as a result of the failure to obtain the FIRB Approval where there is not a Successful Third Party Sale will be the FIRB Liquidated Damages Payment.

8.7 Successful Third Party Sale

- (a) If the Sale Contracts are terminated as a result of breach or default by NWH or its Associates or Affiliates under a NWH Property Transaction Document or this deed before the Relevant Funding Date, Brookfield undertakes to use all reasonable endeavours to secure a Successful Third Party Sale as soon as practicable. However, the parties acknowledge that Brookfield's ability to secure a Successful Third Party Sale will be substantially reduced where the Sale Contract are terminated after the date which is 21 days before the Relevant Funding Date.

- (b) In the case of a Successful Third Party Sale which completes prior to the Relevant Funding Date and which reduces the amount of the Liquidated Damages Payment in accordance with that definition, Brookfield will still be entitled to claim any additional liability, damage, loss and Costs under the indemnity in clause 6.1 to recover Brookfield's actual liability, damage, loss and Costs incurred as a result of termination of the Sale Contracts.
- (c) If NWH pays the Liquidated Damages Payment but, as a result of the passage of time, its liability would have been reduced as a result of a Successful Third Party Sale, then Brookfield must repay the amount of the Liquidated Damages Payment which was overpaid within 2 Business Days of receipt by Brookfield of a demand for payment from NWH in immediately available funds to an account nominated by NWH for that purpose.

8.8 No set-off

NWH agrees to make the payments under clauses 8.2 and 8.3 to Brookfield in full without set-off or counterclaim, and without any deduction, of whatever nature.

9 Letter(s) of Credit

9.1 Provision of Letter(s) of Credit

- (a) As soon as practicable, and in event no later than the date that is 2 Business Days after the later of:
 - (i) the date that both parties have signed this deed; and
 - (ii) receipt by NWH of a written direction from HSO not to deliver a letter of credit to HSO,

NWH must deliver a Letter of Credit to Brookfield.
- (b) If the parties enter into a Step Up Commitment Deed or Step Up Contracts, NWH must deliver a further Letter of Credit on the same terms to Brookfield on the date of entry into the Step Up Commitment Deed or Step Up Contracts (as applicable).
- (c) If NWH does not provide the Letter of Credit by the date specified in clause 9.1(a) and, if applicable, clause 9.1(b), Brookfield may terminate this deed and procure that HSO exercises any applicable right to terminate the Commitment Deed.
- (d) Brookfield is only entitled to draw on the Letter(s) of Credit delivered to it without prior notice to NWH:
 - (i) in the event NWH fails to satisfy its obligation to pay the Liquidated Damages Payment under clause 8.2, the FIRB Liquidated Damages Payment under clause 8.3 or the Funding Liquidated Damages Payment under clause 10.7;
 - (ii) NWH or its Affiliates fail to satisfy any payment obligations under the Sale Contracts or Step Up Contract (if applicable); and/or
 - (iii) to satisfy any liability, damage, loss or Costs payable by NWH under this deed, including under the indemnity in clause 6.1.

- (e) If:
- (i) Brookfield does not sign an Implementation Deed in accordance with clause 3 within 7 Business Days of the date of this deed;
 - (ii) HSO does not enter into the Commitment Deed within 7 Business Days of the date of this deed;
 - (iii) the Implementation Deed is terminated other than as a result of a breach or default by NWH or an Affiliate under this deed or a NWH Property Transaction Document;
 - (iv) all Sale Contracts and Step-Up Contracts have settled (except any Delayed Settlement Property Contracts);
 - (v) NWH or its Affiliates do not obtain FIRB Approval, but for any other reason, the Scheme is otherwise not implemented and the Takeover is not declared or does not become unconditional by the End Date;
 - (vi) this deed is terminated other than as a result of a breach or default by NWH or an Affiliate under this deed or a NWH Property Transaction Document; or
 - (vii) Brookfield has not become entitled to draw on the Letter(s) of Credit by the date that the directors of HSO cease to recommend the Takeover to HSO shareholders or the offer period for the Takeover is extended past the Takeover Extension Longstop Date,

then Brookfield will return the Letter(s) of Credit to NWH and repay to NWH in full the amount(s) drawn on the Letter(s) of Credit within 5 Business Days of that occurrence.

9.2 No proceedings

NWH covenants with Brookfield that it will not, except in the case of fraud or illegality or breach by Brookfield of clause 9.1, institute any proceedings, or exercise any right or take any steps to restrain or injunct:

- (a) the financial institution that issued the Letter(s) of Credit from paying Brookfield under the Letter(s) of Credit;
- (b) Brookfield from exercising its rights or receiving payment under the Letter(s) of Credit; or
- (c) Brookfield using the money received under the Letter(s) of Credit.

10 NWH funding arrangements

10.1 Funding obligations

- (a) No later than 2 Business Days prior to the date of the Scheme Meeting, NWH must:
 - (i) either:
 - (A) pay the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) in immediately available

funds to an escrow account with a bank located in Canada agreed between Brookfield and NWH for that purpose (**Canadian Escrow Account**). NWH must procure that the escrow agent who operates the Canadian Escrow Account enters into a binding document which acknowledges that, subject to clause 10.1(b):

- (aa) those funds must be solely applied towards satisfaction of NWH and its Associates and Affiliates obligations under the Sale Contracts, any Step Up Contracts, the Portfolio Loan Documentation or the PropCo Bridge Loan Documentation (if required) in accordance with clauses 10.3 and 10.4; and
 - (ab) it will not otherwise apply or pay funds from the Canadian Escrow Account without receipt of a joint written direction from an Authorised Officer of Brookfield and NWH; or
- (B) deliver to Brookfield the Equity Funding Letter of Credit and the Step Up Equity Letter of Credit (if applicable); and
- (ii) demonstrate to Brookfield's satisfaction that:
 - (A) all of the conditions precedent under the ANZ Facilities have been satisfied, other than any conditions precedent which will be satisfied by an event or occurrence which will not occur until after that date (for example, the Scheme being approved at the Scheme Meeting or the Takeover being declared or becoming unconditional); and
 - (B) subject to clause 10.2(f), the full amount under the ANZ Facilities (subject to any adjustment to account for the proportion of the sale price of Declined Delayed Settlement Properties which was to be funded by the ANZ Facilities) is available to be drawn down on or prior to the Relevant Funding Date.
- (b) If NWH pays the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) into the Canadian Escrow Account and the Scheme does not become Effective and the Takeover is not declared or becomes unconditional by the End Date (or the directors of HSO cease to recommend the Takeover to HSO shareholders or the offer period for the Takeover is extended past the Takeover Extension Longstop Date), then NWH will be immediately entitled to the return of, and the parties will take all necessary steps (including directing the Escrow Agent) to return the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) to NWH (together with any interest earned on it while held in the Canadian Escrow Account) within 5 Business Days of the End Date, the date the directors of HSO cease to recommend the Takeover or the Takeover Extension Longstop Date (as applicable).
- (c) If NWH elects to provide the Equity Funding Letter of Credit and the Step Up Equity Letter of Credit (if applicable) under clause 10.1(a)(i)(B) in lieu of paying the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) into the Canadian Escrow Account, then

Brookfield will reimburse NWH for any reasonable costs incurred in connection with procuring the Equity Funding Letter of Credit and the Step Up Equity Letter of Credit (if applicable).

- (d) If NWH provides Brookfield with a letter of credit or equivalent guarantee or commitment from DB in favour of Brookfield in respect of all or part of the Derivative Security Amount (**Derivative Security**) prior to the date which is 2 Business Days before the date of the Scheme Meeting, then:
 - (i) Brookfield agrees to pay to DB all fees associated with, that letter of credit or equivalent guarantee or commitment, provided those fees have been agreed with Brookfield in advance of issue of the Derivative Security; and
 - (ii) the Equity Funding Amount or the Equity Funding Letter of Credit (as applicable) will be reduced by the value of the Derivative Security, provided the Derivative Security is:
 - (A) in a form acceptable to Brookfield (which may include the commitment from DB being conditional on the Scheme being approved or the Takeover becoming unconditional by the End Date; in the Scheme context, payment by Brookfield or its Affiliates of the Scheme consideration to HSO shareholders within the 12 Business Days of the Second Court Date or, the Takeover context, payment of the Takeover consideration to HSO shareholders by the First Takeover Funding Date (as applicable); and there being no event of default by Brookfield under the Implementation Deed); and
 - (B) has a maturity date of no earlier than the End Date.
- (e) Brookfield may by notice in writing to NWH waive the requirement for NWH to provide a letter of credit or equivalent guarantee or commitment from DB as contemplated by clause 10.1(d), in which case the Equity Funding Amount shall be reduced by the Derivative Security Amount.
- (f) if provided, Brookfield will be entitled to draw on the Derivative Security without prior notice to NWH to satisfy any outstanding liability of NWH or its Affiliates under the Sale Contracts, any Step Up Contracts, the Portfolio Loan Documentation or the PropCo Bridge Loan Documentation (if required).
- (g) If there is any amount left in the Canadian Escrow Account after application of relevant Equity Funding Amount or Step Up Equity Funding Amount in accordance with clause 10.3 or 10.4 (as applicable) below, the parties will take all necessary steps to return such amounts to NWH within 5 Business Days of the Relevant Funding Date.

10.2 Delayed Settlement Properties

- (a) No later than 4 Business Days prior to the Scheme Meeting Date, Brookfield will provide NWH with written notice specifying all Known Delayed Settlement Properties (**Brookfield Scheme Known Delayed Settlement Properties Notice**).
- (b) If the Scheme does not become Effective but the Takeover is declared or becomes unconditional, then no later than 14 Business Days prior to the Relevant Funding Date for the Takeover, Brookfield will provide NWH with a further written notice specifying all Known Delayed Settlement

Properties as at that date, which will include any Known Delayed Settlement Properties specified in a Brookfield Scheme Known Delayed Settlement Properties Notice that were not declined under clause 10.2(c)(ii) and remain Known Delayed Settlement Properties (**Brookfield Takeover Known Delayed Settlement Properties Notice**).

- (c) If the aggregate sale price of the Known Delayed Settlement Properties identified in a Scheme Known Delayed Settlement Properties Notice satisfies the Threshold Test, then by no later than 2 Business Days before the Scheme Meeting Date, NWH must notify Brookfield and HSO in writing (**NWH Scheme Delayed Settlement Properties Notice**) whether it will acquire:
- (i) all of the Known Delayed Settlement Properties identified in the Brookfield Scheme Known Delayed Settlement Properties Notice; or
 - (ii) none of the Known Delayed Settlement Properties identified in the Brookfield Scheme Known Delayed Settlement Properties Notice, in which case the Known Delayed Settlement Properties identified in the Brookfield Scheme Known Delayed Settlement Properties Notice will be known as the **Scheme Declined Delayed Settlement Properties**.

If NWH does not serve a NWH Scheme Delayed Settlement Properties Notice by the time period specified in this clause 10.2(c), then it will be deemed to have given the notice under clause 10.2(c)(ii).

- (d) If:
- (i) the Scheme does not become Effective but the Takeover is declared or becomes unconditional; and
 - (ii) the aggregate sale price of the Known Delayed Settlement Properties identified in a Brookfield Takeover Known Delayed Settlement Properties Notice satisfies the Threshold Test,

then by no later than 12 Business Days prior to the Relevant Funding Date for the Takeover, NWH must notify Brookfield and HSO in writing (**NWH Takeover Delayed Settlement Properties Notice**) whether it will acquire:

- (iii) all of the Known Delayed Settlement Properties specified in the Brookfield Takeover Known Delayed Settlement Properties Notice; or
- (iv) none of the Known Delayed Settlement Properties specified in the Brookfield Takeover Known Delayed Settlement Properties Notice, in which case, the Known Delayed Settlement Properties identified in the Brookfield Takeover Known Delayed Settlement Properties Notice will be known as the **Takeover Declined Delayed Settlement Properties**.

If NWH does not serve a NWH Takeover Delayed Settlement Properties Notice by the time period specified in this clause 10.2(d), then it will be deemed to have given the notice under clause 10.2(d)(iv).

- (e) If there are Declined Delayed Settlement Properties, then:

- (i) in the Scheme context, the 'Facility Limit' in the PropCo Bridge Loan Documentation will be reduced by the consideration attributable to the Declined Delayed Settlement Properties;
- (ii) in the Takeover context, the 'Facility Limit' in the Portfolio Loan Documentation will be reduced by the consideration attributable to the Declined Delayed Settlement Properties; and
- (iii) the parties acknowledge that, with effect from the date of the relevant NWH Delayed Settlement Properties Notice:
 - (A) the relevant Declined Delayed Settlement Properties will cease to be 'Sale Properties' for the purposes of the Commitment Deed; and
 - (B) if Sale Contracts for the relevant Declined Delayed Settlement Properties have been entered into by that date, they will automatically terminate on that date in accordance with the Sale Contracts Umbrella Deed.
- (f) The parties acknowledge that, if there are any Settlement Date Delayed Settlement Properties, depending on the sale price of those Settlement Date Delayed Settlement Properties, the limit of the ANZ Facilities available to be drawn on the Scheduled Settlement Date may be reduced in accordance with the terms of the ANZ Facilities. In that case, NWH will ensure it has arranged alternative committed funding for the amount of the shortfall as a result of the reduction in the limit of the ANZ Facilities.

10.3 Application of Equity Funding Amount – Scheme

Where the Scheme becomes Effective and the PropCo Bridge Loan Documentation has been entered into, then:

- (a) NWH must procure that the full amount of the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) is paid from the Canadian Escrow Account in sufficient time such that it is received by (or in accordance with the direction of), the borrower under the PropCo Bridge Loan Documentation in cleared funds by no later than the Relevant Fund Date for the Scheme, less the proposed equity funded proportion of the consideration attributable to the Declined Delayed Settlement Properties (if clause 10.2 applies);
- (b) payment of the relevant Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) to the borrower under the PropCo Bridge Loan Documentation in accordance with clause 10.3(a) will satisfy and discharge the lender's obligation under the PropCo Bridge Loan Documentation to advance an amount equal to that amount of the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable), less the proposed equity funded proportion of the consideration attributable to the Declined Delayed Settlement Properties (if clause 10.2 applies); and
- (c) any interest accrued on the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) while held in the Canadian Escrow Account will be returned to NWH.

10.4 Application of Equity Funding Amount – Takeover

Where the Takeover is declared or becomes unconditional and the Portfolio Loan Documentation has been entered into, the parties agree that:

- (a) NWH must procure that an amount equal to the purchase price payable on completion under the Sale Contracts or Step Up Contracts (if applicable) for each Sale Property (or Other Property if the parties enter into a Step Up Contract) which is not a Settlement Date Delayed Settlement Property is paid from the Canadian Escrow Account (less the amount to be funded from the proceeds drawn under the ANZ Facilities in respect of such Sale Properties) in sufficient time such that it is received by the seller or as the seller directs under that Sale Contract or Step Up Contract in cleared funds by no later than the Scheduled Settlement Date in satisfaction of the buyer's obligation to pay the purchase price, the remainder of which will be funded from the proceeds drawn under the ANZ Facilities; and
- (b) where there are Settlement Date Delayed Settlement Properties then, subject to clause 11:
 - (i) NWH must procure that the amount equal to the consideration attributable to the Settlement Date Delayed Settlement Properties, less the proposed equity funded proportion of the consideration attributable to Declined Delayed Settlement Properties (if clause 10.2 applies) and less the amount (if any) to be funded from the proceeds drawn under the ANZ Facilities in respect of such Settlement Date Delayed Settlement Properties, is paid from the Canadian Escrow Account in sufficient time such that it is received by (or in accordance with the direction of), the borrower under the Portfolio Loan Documents in cleared funds by no later than the Scheduled Settlement Date;
 - (ii) payment of the consideration attributable to the Settlement Date Delayed Settlement Properties to the borrower under the Portfolio Loan Documentation in accordance with clause 10.4(b)(i) will satisfy and discharge the lender's obligation under the Portfolio Loan Documentation to advance that amount; and
 - (iii) upon completion of the transfer of a Settlement Date Delayed Settlement Property to the buyer under the Sale Contract or Step Up Contract (if applicable), the proportion of the Portfolio Loan which is attributable to that Settlement Date Delayed Settlement Property will be set off and deemed to have been repaid; and
- (c) any interest accrued on the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) while held in the Canadian Escrow Account will be returned to NWH.

10.5 Authorisation

- (a) The parties must do all things necessary to ensure the application and payment of the Equity Funding Amount and any Step Up Equity Funding Amount in accordance with (including at the times specified in) this clause 10.
- (b) Without limiting clause 10.5(a), each party must (on request by the other party) give any required direction (in the required form) to the agent of the Canadian Escrow Account and any other party required to give effect to a transfer of funds required by this clause 10 within 1 Business Day of request by a party.
- (c) Time is of the essence in respect of the obligations of the parties under this clause 10.5.

10.6 Failure to pay

Where NWH does not comply with clauses 10.1, 10.3 and 10.4, NWH acknowledges that:

- (a) Brookfield may terminate this deed;
- (b) Brookfield may (in its sole discretion) request that HSO exercises any applicable right to terminate the Commitment Deed, any Step up Commitment Deed (if applicable) and/or or any Sale Contract and Step Up Contract (if applicable) which has not been completed at the time; and
- (c) Brookfield may procure that:
 - (i) any Sale Properties the subject of the terminated Commitment Deed and/ Sale Contract are sold by the relevant HSO Group member to any other party; and
 - (ii) if applicable, the Other Properties the subject of the terminated Step Up Commitment Deed and/ Step Up Contract are sold by the relevant HSO Group member to any other party.

10.7 NWH Funding Milestones

- (a) By the NWH Funding Milestone Date, NWH must demonstrate to Brookfield's reasonable satisfaction that:
 - (i) it has raised or secured capital or other funding sources in accordance with the remainder of this clause 10.7 of at least the Funding Milestone Amount to part fund the NWH Property Transaction;
 - (ii) to the extent that the Funding Milestone Amount includes external debt facilities:
 - (A) that the funds nominated for use by NWH or an Affiliate under those facilities can only be drawn for the purposes of NWH and its Affiliates meeting its obligations under the NWH Property Transaction Documents; and
 - (B) the conditions to drawing on that facility are no more favourable to the relevant banks than contained in the ANZ Facility Term Sheet;
 - (iii) to the extent that the Funding Milestone Amount includes equity:
 - (A) that it or its Affiliates has completed the capital raising and received the proceeds of it, and that it or its Affiliates made public representations in the capital raising documentation (and contractual representations in any relevant underwriting agreement for that capital raising) that the funds raised will be applied towards satisfaction of NWH and its Affiliates obligations under the NWH Property Transaction Documents; or
 - (B) that it or its Affiliates has entered into an underwriting agreement with one or more investment banks for a fully underwritten capital raising, the conditions precedent and termination events of which are no more favourable

to the underwriter than those set out in the ANZ Facility Term Sheet; and

- (iv) to the extent that the Funding Milestone Amount includes proceeds payable to NWH or its Affiliates pursuant to contracts for the sale of assets:
 - (A) that any conditions precedent to completion or settlement of those sale contracts have been satisfied or waived by the parties thereto by the NWH Funding Milestone Date; and
 - (B) the proceeds of sale are payable to NWH or an Affiliate prior to the date on which NWH is required to pay the Equity Funding Amount and the Step Up Equity Funding Amount (if applicable) into the Canadian Escrow Account under clause 10.1(a)(i).
- (b) If the Funding Milestone Amount is comprised in whole or part of debt or equity from an Affiliate of NWH (**Affiliate Funding Proportion**), NWH must procure that, by the NWH Funding Milestone Date, the relevant Affiliate enters into a binding contractual arrangement directly with Brookfield, pursuant to which it agrees to make the Affiliate Funding Proportion available for Brookfield to draw on such that it can be applied towards satisfaction of NWH's and its Affiliate's obligations under the NWH Property Transaction Documents.
- (c) If NWH does not satisfy any of the Funding Milestone Obligations, then Brookfield may (at its sole election) determine to:
 - (i) extend the time period in clause 10.7(a) and/or 10.7(b), or waive compliance with those clauses; or
 - (ii) terminate this deed and procure that HSO exercises any applicable right to terminate the Commitment Deed and any Sale Contracts.
- (d) If Brookfield terminates this deed under clause 10.7(c)(ii):
 - (i) then NWH will be immediately liable to pay Brookfield the Funding Liquidated Damages Payment in accordance with clause 10.7(e) and
 - (ii) for additional clarity, NWH's obligations in clause 4 and clause 7 will survive termination.
- (e) NWH must pay Brookfield the Funding Liquidated Damages Payment within 10 Business Days of receipt by NWH of a demand for payment by Brookfield in immediately available funds to an account nominated by Brookfield for that purpose. If NWH fails to do so, Brookfield may draw down on the Letter(s) of Credit in satisfaction of that payment obligation.
- (f) For the avoidance of doubt, if Brookfield:
 - (i) exercises its right to extend the time period for satisfaction of the Funding Milestone Obligations under clause 10.7(c)(i); and
 - (ii) subsequently exercises its right to terminate this deed under clause 10.6,

then the provisions of clause 8.2 will apply to that termination, and NWH will not be liable for the Funding Liquidated Damages Payment under clause 10.7(d).

10.8 Funding Liquidated Damages Payment - non-exclusive remedy

- (a) Subject to clause 10.8(b), Brookfield's right to the Funding Liquidated Damages Payment is in addition to any other rights which Brookfield may have against NWH or any of their Affiliates under this deed or any other agreement as a result of a breach of the Funding Milestones, including:
 - (i) any claim for liability, damage or loss arising from, and any Costs incurred in connection with, that breach under the indemnity set out in clause 6.1; and
 - (ii) any right to damages at law,but, for the avoidance of doubt, if the Funding Liquidated Damages Payment is payable by NWH under this deed, NWH is not liable to Brookfield or its Affiliates for any liability, damage or loss arising from, and any Costs incurred to the extent that same liability, damage, loss or Cost has been compensated for by the Funding Liquidated Damages Payment.
- (b) Any claim by Brookfield for liability, damage or loss arising from, and any Costs incurred in connection with a failure to satisfy the Funding Milestones will be reduced by an amount equal to the amount which HSO has recovered from NWH or its Affiliates for the same circumstances, actions or omissions under the Commitment Deed or Sale Contracts.

10.9 Brookfield undertaking

Until the date on which settlement of all Sale Contracts and any Step Up Contracts (if applicable), Brookfield undertakes to use all reasonable endeavours to, and to procure HSO to use all reasonable endeavours to, rectify (including, if necessary, to obtain applicable consents) any Delay Events as soon as practicable.

11 Portfolio Loan (Takeover scenario) and PropCo Bridge Loan (Scheme scenario)

11.1 Portfolio Loan

NWH undertakes to Brookfield that it will provide the Portfolio Loan on the terms and conditions set out in the Portfolio Loan Term Sheet.

11.2 Full form documents – Portfolio Loan

NWH undertakes to Brookfield that it will use its best endeavours and will negotiate in good faith to agree, execute and deliver a facility agreement and related finance documents (including security documents) (**Portfolio Loan Documentation**) in connection with the Portfolio Loan on the terms set out in the Portfolio Loan Term Sheet and as otherwise agreed between the parties (acting reasonably) as soon as practicable following the date of this deed and, in any event, with a view to reaching an agreed form no later than 60 days after the date of the Commitment Deed.

11.3 Full form documents – ANZ Facilities

NWH undertakes to Brookfield that it will:

- (a) use its best endeavours and will negotiate in good faith to agree and execute a facility agreement and related finance documents (including security documents) (**ANZ Facilities Documentation**) in connection with the ANZ Facilities on the terms set out in the ANZ Facility Term Sheet and as otherwise agreed between NWH and the lender (acting reasonably) as soon as practicable following the date of this deed and, in any event, with a view to reaching an agreed form no later than 60 days after the date of the Commitment Deed;
- (b) provide copies of the agreed ANZ Facilities Documentation once agreed and, in any event, by no later than 60 days after the date of the Commitment Deed; and
- (c) provide evidence to Brookfield that the ANZ Facilities Documentation have been duly executed by the parties thereto by no later than the Scheme Meeting Date.

11.4 Failure to execute documents

- (a) Where NWH breaches clause 11.3 or subject to clause 11.4(b), where a facility agreement and related financing documents (including security documents) for the PropCo Bridge Loan (**Propco Bridge Loan Documentation**) based on the NWH Debt Commitment Letter and Portfolio Loan Documentation based on the Portfolio Loan Term Sheet are not agreed within 60 days after the date of the Commitment Deed or are not executed by NWH or its relevant Associate and delivered prior to the Scheme Meeting Date (in respect of which time is of the essence), NWH acknowledges that:
 - (i) Brookfield may (in its sole discretion) request that HSO exercises any applicable right to terminate (as applicable) the Commitment Deed, the Step Up Commitment Deed (if applicable), any Sale Contract and any Step Up Contract (if applicable) which has not been completed at the time; and
 - (ii) Brookfield may procure that:
 - (A) any Sale Properties the subject of the terminated Commitment Deed or Sale Contract are sold by the relevant HSO Group member to any other party; and
 - (B) if applicable, any Other Properties the subject of the terminated Step Up Commitment Deed or Step Up Contract are sold by the relevant HSO Group member to any other party.
- (b) Brookfield shall have no rights under clause 11.4(a) above if Brookfield do not act reasonably and in good faith in agreeing the form of, or executing the PropCo Bridge Loan Documentation and Portfolio Loan Documentation, and the parties agree that Brookfield shall be deemed to be acting unreasonably if it fails to agree to finance documentation that is on substantially the same terms as the term sheet attached to the NWH Debt Commitment Letter or Portfolio Loan Term Sheet (as applicable) and otherwise on customary terms.

11.5 Maturity of Portfolio Loan and PropCo Bridge Loan

- (a) Brookfield undertakes that it will, and will procure that HSO will, use all reasonable endeavours to transfer any Settlement Date Delayed Settlement Property (excluding any Declined Delayed Settlement Properties if clause 10.2 applies) as soon as reasonably practicable after the Scheduled Settlement Date.
- (b) If the amount outstanding under the Portfolio Loan Documentation or the PropCo Bridge Loan Documentation after the Scheduled Settlement Date exceeds A\$250,000,000, the lender may require prepayment in full in accordance with the terms of such loan documentation.
- (c) If any amount remains drawn under the Portfolio Loan Documentation or the PropCo Bridge Loan Documentation 11 Business Days prior to the Initial Loan Repayment Date, or is expected to remain drawn on the Initial Loan Repayment Date, then the lender under the Portfolio Loan Documentation or PropCo Bridge Loan (as applicable) may notify Brookfield in writing (**Loan Extension Notice**) that it will extend the maturity date applicable to the Portfolio Loan or PropCo Bridge Loan (as applicable) under the Portfolio Loan Documentation or PropCo Bridge Loan Documentation (as applicable) to the date that is 180 days after the Scheduled Settlement Date (**Extended Loan Repayment Date**).
- (d) If:
 - (i) the lender requires mandatory prepayment under the Portfolio Loan Documentation or the PropCo Bridge Loan Documentation as contemplated in clause 11.5(b) or a Loan Extension Notice is not given under clause 11.5(c) (as applicable); or
 - (ii) a Loan Extension Notice is given and any amount remains drawn under the Portfolio Loan Documentation or the PropCo Bridge Loan Documentation (as applicable) on the Extended Loan Repayment Dates,

NWH acknowledges that:

- (iii) Brookfield will procure that HSO exercise any applicable right to terminate the Sale Contracts which relate to the outstanding Settlement Date Delayed Settlement Properties; and
- (iv) Brookfield may procure that the outstanding Settlement Date Delayed Settlement Properties are sold by the relevant HSO Group member to any other party,

provided however that neither NWH or any of its Affiliates shall have any liability to Brookfield or HSO in connection with the termination of such Sale Contracts.

12 Step Up Events

12.1 Step Up Event

- (a) NWH acknowledges that it is proposed that the Sale Properties are to be acquired by the Property Trust pursuant to the Sale Contracts, and the Other Properties are to be acquired by the Other Property Investor pursuant to the Other Property Investor Sale Contracts.

- (b) Brookfield agrees (as soon as reasonably practicable after becoming aware of the circumstances) to notify NWH of any circumstances which Brookfield considers (acting reasonably) is likely to result in the occurrence of a Step Up Event, including by providing reasonable details.
- (c) Where a Step-Up Event occurs, Brookfield agrees to promptly notify NWH in writing (each such notice being a **Step Up Notice**). A Step Up Notice must:
 - (i) specify whether the Step Up Event is a:
 - (A) Commitment Deed Step Up Event; or
 - (B) Sale Contract Step Up Event; and
 - (ii) (for a Sale Contract Step Up Event) specify the details of the Other Properties.
- (d) Upon receipt by NWH of a Step-Up Notice:
 - (i) Brookfield must procure that HSO exercises any applicable right to terminate the Other Property Investor Commitment Deed and the relevant Other Property Investor Sale Contract(s); and
 - (ii) on exercise of that termination right Brookfield must offer NWH the right to procure that the Property Trust acquires the Other Properties such that the Property Trust acquires all of the Properties, and if NWH accepts that offer within 5 Business Days, NWH will use its best endeavours to procure that Property Trust acquires those Other Properties, in which case the provisions of clauses 12.2 and 12.3 will apply.

12.2 Effect of Step Up Notice

If Property Trust agrees to acquire the Other Properties, then NWH must:

- (a) provide an additional Letter of Credit on the date of entry into the Step Up Commitment Deed or Step Up Contract (as applicable);
- (b) where Property Trust agrees to acquire the Other Properties prior to the Scheme Meeting, by no later than 2 Business Days before the Scheme Meeting Date:
 - (i) pay the Step Up Equity Funding Amount into the Canadian Escrow Account or provide the Step Up Letter of Credit; and
 - (ii) provide evidence to Brookfield's satisfaction that the limit of the ANZ Facilities has been increased to cover the additional consideration payable for the Other Properties not otherwise covered by the Step Up Equity Funding Amount; and
- (c) where Property Trust agrees to acquire the Other Properties after the Scheme Meeting, within 5 Business Days (or such shorter period if there is less than 5 Business Days before the Scheduled Settlement Date):
 - (i) pay the Step Up Equity Funding Amount into the Canadian Escrow Account or provide the Step Up Letter of Credit; and
 - (ii) provide evidence to Brookfield's satisfaction that the limit of the ANZ Facilities has been increased to cover the additional

consideration payable for the Other Properties not otherwise covered by the Step Up Equity Funding Amount.

12.3 Documentation - Commitment Deed Step Up Event

- (a) If the Property Trust agrees to acquire the Other Properties:
 - (i) in the event of the Commitment Deed Step Up Event, the parties will enter into a Step Up Commitment Deed which will contain all of the key commercial terms set out in the Commitment Deed;
 - (ii) in the event of a Sale Contract Step Up Event, the parties will enter into the Step Up Contracts which will contain all of the key commercial terms set out in the Sale Contracts; and
 - (iii) to the extent required, the PropCo Bridge Loan Documentation or Portfolio Loan Documentation (as required) will be amended as required to reflect any Step Up Notice (including to reflect an increase to the 'Facility Limit' by an amount equal to the consideration payable for the additional properties to be acquired pursuant to the Step Up Commitment Deed or Step up Contract (as applicable)), as well as any other consequential mechanical changes.
- (b) The parties agree that the purchase price and rent for any Other Properties which are the subject of a Step Up Commitment Deed or any Step Up Contracts will be determined consistently with the methodology used to calculate the purchase price and rental for the Sale Properties.
- (c) The parties agree and acknowledge that nothing in this clause 12 varies or waives any rights or obligations of the parties under the NWH Property Transaction Documents.

12.4 Receipt of deposit from Other Property Investor

Where:

- (a) a Step Up Event occurs which is the termination of an Other Property Investor Sale Contract or the Other Property Investor Commitment Deed as a result of the breach by the Other Property Investor; and
- (b) that termination does not relate to a failure to obtain any approval of FIRB required in respect of the Other Property Sale Transaction; and
- (c) Brookfield is entitled to (and does) recover amounts in respect of the termination from the Other Property Investor under a deposit provided by the Other Property Investor (**Other Property Investor Deposit**),

then (subject to completion of all Sale Contracts and Step Up Contracts having been effected in accordance with their terms) Brookfield agrees to account to NWH for the amount recovered by Brookfield from the Other Property Investor Deposit.

Nothing in this clause 12.4 requires Brookfield to take any steps to recover any amounts from the Other Property Investor Deposit, or prevents Brookfield from returning and waiving its rights to recover from the Other Property Investor Deposit.

13 Term and termination

13.1 Term

This deed commences on the date of this document and terminates on the date it is terminated under clauses 9.1(c), 10.6(a), 10.7(c)(ii), 13.2(b), or 13.3.

13.2 Brookfield ability to terminate

- (a) Brookfield may, in its sole and absolute discretion, serve written notice on NWH that it has determined to release NWH either conditionally or unconditionally from such obligations or undertakings given by NWH under this deed, in which case NWH will be automatically and irrevocably so released from the identified obligations but will continue to maintain its rights under, and be subject to its remaining obligations in, this deed.
- (b) Brookfield has the right to terminate this deed by notice in writing to NWH if NWH fails to comply with its obligation in clause 5.1(f).

13.3 Termination where Implementation Deed is terminated

If the Implementation Deed is terminated, Brookfield has the right to terminate this deed by notice in writing to NWH.

13.4 Release from obligations

On the date of full or partial termination under clause 13.3, this deed or certain provisions of it will become void and have no effect and each party is released from all of its obligations under this deed without any liability on the part of any party, other than in relation to rights and obligations that accrued prior to termination and other than in relation to any provision of this deed which is expressed to survive such termination (and which will remain in effect after termination).

14 Warranties

14.1 NWH warranties

NWH represents and warrants that:

- (a) **(status)** it and NWH AssetCo have been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;
- (b) **(power)** it has power to enter into this deed, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this deed do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets; or

- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this deed, to comply with its obligations and exercise its rights under it, and to allow them to be enforced; and
- (e) **(validity of obligations)** its obligations under this deed are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(solvency)** it and NWH AssetCo is not Insolvent;
- (g) **(litigation)** there is no current, pending or (to its knowledge, having made due enquiry), threatened proceeding, investigation or claim affecting it or NWH AssetCo or any of their assets before a court, authority, commission or arbitrator in which a decision against it or NWH AssetCo is likely;
- (h) **(existing debt facilities)** the information regarding NWH's and its Affiliate's debt facilities set out in the email from Mike Brady, Executive Vice President, General Counsel & Secretary, NWH to Sophia Rihani (Vice President, Investments Private Equity, Brookfield Asset Management) received at 12:53pm on 29 January 2019 is true and accurate;
- (i) **(not a trustee)** unless stated in the Details, it does not enter into this deed or hold any asset as trustee.

14.2 Brookfield warranties

Brookfield represents and warrants that:

- (a) **(status)** it has been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;
- (b) **(power)** it has power to enter into this deed, to comply with its obligations under it and exercise its rights under it;
- (c) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this deed do not and will not conflict with:
 - (i) its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
 - (ii) any law binding on or applicable to it or its assets; or
- (d) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this deed, to comply with its obligations and exercise its rights under it, and to allow them to be enforced; and
- (e) **(validity of obligations)** its obligations under this deed are valid and binding and are enforceable against it in accordance with its terms;
- (f) **(solvency)** it is not Insolvent;
- (g) **(litigation)** there is no current, pending or (to its knowledge, having made due enquiry), threatened proceeding, investigation or claim affecting it or any of its assets before a court, authority, commission or arbitrator in which a decision against it is likely;

- (h) **(not a trustee)** unless stated in the Details, it does not enter into this deed or hold any asset as trustee; and
- (i) **(agreements)** the Sale Contracts and the sale contracts for the Other Properties entered into with one Other Property Investor are the only agreements which Brookfield or its Affiliates will procure or have procured HSO of its Affiliates to enter into under which the counterparty will be the purchaser of the hospital property assets owned by HSO that will be sold by, and leased back to, HSO.

14.3 When made

The representations and warranties made clause 14.1 to 14.2 are taken to be made on the date of this deed and repeated on the date all of the Sale Contracts have been executed by all of the parties to each such contract.

14.4 Reliance

Each party acknowledges that the other party has entered into this document in reliance on the representations and warranties in this clause 14.

14.5 NWH limitation

The obligations of NWH under this deed are not personally binding upon any:

- (a) trustee, officer, employee or agent of NWH or any successor;
- (b) any registered or beneficial holder of NWH units (a **Unitholder**); or
- (c) any annuitant under a plan of which a Unitholder acts as a trustee or carrier; and resort shall not be had to, nor shall recourse or satisfaction be sought from any of the foregoing or the private property of any of the foregoing.

15 Encumbrances

NWH acknowledges that:

- (a) Brookfield or members of the HSO Group may grant to the HSO Financiers (or a security trustee acting on their behalf) an Encumbrance over its rights under, and interest in, this deed;
- (b) Brookfield or members of the HSO Group may grant to the HSO Financiers (or a security trustee acting on their behalf) an Encumbrance over their rights under, and interest in, the NWH Property Transaction Documents and the Properties, provided that such security is also granted for the benefit of the lender under the PropCo Bridge Loan and Portfolio Loan (as applicable) in accordance with the PropCo Bridge Loan Documentation and the Portfolio Loan Documentation (as applicable); and
- (c) the grant of any such Encumbrance referred to in clause 15(a) and (b) will not constitute a breach of this deed.

16 No dealings

Subject to clause 15:

- (a) Brookfield may not assign or otherwise deal with its rights under this deed or allow any interest in them to arise or to be varied in each case, without the written consent of NWH; and
- (b) NWH may not assign or otherwise deal with its respective rights under this deed or allow any interest in them to arise or to be varied in each case, without the written consent of Brookfield.

17 GST

17.1 Definitions and interpretation

For the purposes of this clause 17:

- (a) “**GST Act**” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (b) words and phrases which have a defined meaning in the GST Act have the same meaning when used in this clause 17, unless the contrary intention appears;
- (c) unless otherwise expressly stated in this deed, all consideration to be provided under this deed is exclusive of GST; and
- (d) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

17.2 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this deed, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply (**GST Amount**).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

17.3 Adjustment events

If an adjustment event arises for a supply made under or in connection with this deed, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

17.4 Reimbursements

Any payment, reimbursement, indemnity or similar payment that is required to be made under this deed which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other

party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 17.2 will apply to the reduced payment.

17.5 Survival

This clause will not merge upon completion and will continue to apply after expiration or termination of this deed.

18 Notices and other communications

18.1 Form

Unless expressly stated otherwise in this document, all notices, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and (except in the case of email) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

18.2 Delivery

Communications must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by regular ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or
- (c) sent by email to the address referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed address, then communications must be to that address, email address or number.

18.3 When effective

Communications take effect from the time they are received or taken to be received under clause 18.4 (whichever happens first) unless a later time is specified.

18.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, six Business Days after posting (or ten days after posting if sent from one country to another);
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

18.5 Receipt outside business hours

Despite clauses 18.3 and 18.4, if communications are received or taken to be received under clause 18.4 after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

19 Confidentiality and announcements

19.1 Obligations of confidentiality

Subject to clause 19.2:

- (a) each party acknowledges and agrees with the other party that the obligations of confidentiality under the Confidentiality Deed will apply as if they were obligations under this deed, except that either party may be deemed to be the 'discloser' if it discloses confidential information to the other party (deemed to be the 'recipient') in connection with the Purpose;
- (b) each party must treat the existence and terms of this deed and any negotiations in relation to the Purpose as "Confidential Information" for the purposes of this clause 19.1; and
- (c) In respect of the following information and documents delivered by Brookfield to NWH prior to the date of this document:
 - (i) Brookfield's capital structure and HSO Group's financial structure and funding arrangements post acquisition by Brookfield;
 - (ii) the EY report commissioned by the Brookfield Group showing actual results for HSO's operational performance for the last two completed financial years; and
 - (iii) HSO forecast results for the 12 months ending 30 June 2019 (in each case, in aggregate and by hospital),

Brookfield agrees:

- (iv) if such information or documents have since been updated, to provide the updated versions of such documents and information to NWH (who shall be permitted to provide the updated information and documents to ANZ); and
- (v) ANZ is permitted to disclose such information and documents (including as updated) to potential lenders during the syndication process in respect of the ANZ Facilities and the NWH Property Transaction.

19.2 Announcements

A party may not make press or other announcements or releases relating to this document or the transactions the subject of this document without the approval of the other parties (such approval not to be unreasonably withheld) as to the form and manner of the announcement or release unless, and to the extent that, the announcement or release is required to be made by the party by law or by a stock exchange, in which case the party giving the announcement or release must first

notify (including with reasonable details of the proposed announcement or release) the other parties a reasonable time (having regard to the time within which the announcement must be made), and must take into account (and reflect in the announcement or release to the extent it considers appropriate acting reasonably) any reasonable comments received from the other parties, before the announcement or release is made.

20 General

20.1 Variation and waiver

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

20.2 Discretion in exercising rights

Unless this deed expressly states otherwise, a party may exercise a right, power or remedy or give or refuse its consent, approval or a waiver in connection with this deed in its absolute discretion (including by imposing conditions).

20.3 Partial exercising of rights

Unless this deed expressly states otherwise, if a party does not exercise a right, power or remedy in connection with this deed fully or at a given time, they may still exercise it later.

20.4 Conflict of interest

A party may exercise their rights, powers and remedies in connection with this deed even if this involves a conflict of duty or they have a personal interest in their exercise.

20.5 Remedies cumulative

The rights, powers and remedies of a party in connection with this deed are in addition to other rights, powers and remedies given by law independently of this deed.

20.6 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this deed:

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this deed, any settlement or any other thing;
- (b) is independent of any other obligations under this deed; and
- (c) continues after this deed, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this deed.

20.7 Inconsistent law

To the extent the law permits, this deed prevails to the extent it is inconsistent with any law.

20.8 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to it. If so, the signed copies are treated as making up a single document.

20.9 Entire agreement

This deed constitutes the entire agreement of the parties about its subject matter and supersedes all previous agreements, understandings and negotiations on that subject matter.

20.10 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this deed or is contrary to public policy.

20.11 Governing law and jurisdiction

The law in force in the place specified in the Details governs this deed. The parties submit to the non-exclusive jurisdiction of the courts of that place.

20.12 NWH appointment of process agent

Without preventing any method of service allowed under any relevant law, NWH:

- (a) irrevocably appoints the Process Agent as its process agent to receive any document in an action in connection with this deed; and
- (b) agrees that failure by a process agent to notify NWH of any document in an action in connection with this deed does not invalidate the action concerned.

If for any reason the Process Agent ceases to be able to act as process agent, NWH agrees to appoint another person acceptable to Brookfield (acting reasonably) as its process agent in the place referred to in this clause and ensure that the replacement process agent accepts its appointment and confirms its appointment to Brookfield.

NWH represents and warrants that Process Agent has, before the date of this deed, accepted its appointment as the process agent.

NWH agrees that service of documents on its process agent is sufficient service on it.

20.13 HSO Confidentiality Deeds

- (a) NWH will not be required to perform any obligation under this deed to the extent it would cause a breach by NWH or its Affiliates of the Confidentiality Deed.
- (b) Brookfield will not be required to perform any obligation under this deed to the extent it would cause a breach by Brookfield or its Affiliates of the Confidentiality Deed entered into between HSO and Brookfield Capital (Australia) Pty Ltd, as amended on or about the date of this deed.

20.14 Exclusion of Consequential Loss

The parties excludes all liability to each other for any Consequential Loss.

20.15 Stamp duty

NWH:

- (a) must pay all stamp duty (including fines and penalties) payable on, or in connection with, this document, each Commitment Deed (and Step Up Commitment Deed), each Sale Contract (and Step Up Contract) and any other document or instrument entered into under or pursuant to this deed, and in respect of any transaction evidenced by this deed (except, for the avoidance of doubt, as otherwise expressly provided for in this document, the Commitment Deed (or Step Up Commitment Deed), the Sale Contracts (or Step Up Contracts), the Leases (or any lease granted in accordance with a Step Up Contract), or any document NWH or the Property Trust is required to enter into pursuant to the terms of those documents); and
- (b) indemnifies on demand Brookfield against any liability for stamp duty (including fines and penalties) referred to in clause 20.15(a).

20.16 Approvals and consents

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the approval or consent.

20.17 Further assurances

Each party agrees to (on request by any other party from time to time) do everything reasonably necessary to give effect to this deed and the transactions contemplated by it.

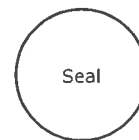
EXECUTED as a deed

Process, Voting Commitment and Exclusivity Deed

Signing page

DATED: 1 February 2019

SIGNED, SEALED AND DELIVERED by
NORTHWEST HEALTHCARE
PROPERTIES REAL ESTATE
INVESTMENT TRUST in the presence of:





Signature of witness

JOHN BREWSTER

Name of witness



Signature of authorised signatory

MIKE BRADY

Name of authorised signatory

Process, Voting Commitment and Exclusivity Deed

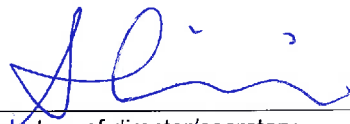
EXECUTED by VIG BIDCO PTY LIMITED:



Signature of director

Name

LEONARD CHERSKY



Signature of director/secretary

Name

SOPHIA RIHANI

Annexure A Portfolio Loan Term Sheet

Annexure B Properties

1. Sale Properties

#	Hospital	Address	Title details
1	Norwest Private Hospital	9 Norbrik Drive and 11 Norbrik Drive, Bella Vista, New South Wales, Australia.	New South Wales folio identifiers 35/SP82294, 5/270592, 57/SP90088, 58/SP90088, 64 to 67 (inclusive)/SP90088 and 200/1222375.
2	The Hills Private Hospital	493, 495, 497-499 and 501 Windsor Road, Baulkham Hills, New South Wales, Australia.	New South Wales folio identifiers 20/1075051, 21/1075051, 11/1003058, 2/SP60520, 6/SP60520, 8 to 12 (inclusive)/SP60520, 13 to 17 (inclusive)/SP60520 and 18 to 19 (inclusive)/SP70247.
3	Hunter Valley Rehabilitation Centre	20 Mawson Street, Shortland, New South Wales, Australia.	New South Wales folio identifiers 1/1147809 and 8 to 10 (inclusive)/17058.
4	Darwin Private Hospital	19 Florey Avenue, Tiwi, Northern Territory, Australia.	Certificate of title volume 822 folio 958.
5	Brisbane Private Hospital	255 Wickham Terrace, Spring Hill, Queensland, Australia.	Title reference 18364150 (Lot 49 on RP231249).
6	Griffith Rehabilitation Hospital	16 Crombie Street and 13 Dunrobin Road, Hove, South Australia, Australia.	Certificates of title volume 5196 folio 379, volume 5196 folio 384, volume 5165 folio 481, volume 5196 folio 380, volume 5196 folio 381, volume 5196 folio 382, volume 5196 folio 383, volume 5196 folio 385, volume 5196 folio 386, volume 5196 folio 387.
7	The Melbourne Clinic	130 Church Street, Richmond, Victoria, Australia.	Certificates of title volume 09999 folios 248 and 249, volume 09994 folios 141 to 146 (inclusive), volume 09994 folio 150, volume 09994 folios 203 to 219 (inclusive) and volume 09994 folios 229 to 231 (inclusive).
8	John Fawcner Private Hospital	275 Moreland Road and 21 Jessie Street, Coburg,	Certificates of title volume 11847 folios 619-629 (inclusive).

#	Hospital	Address	Title details
		Victoria, Australia.	
9	The Sydney Clinic	22-26 Murray Street, Bronte, New South Wales, Australia.	New South Wales folio identifiers 1/1110649, 1/567684, 1/74847, 271/520414 and 441/997865.
10	Lady Davidson Private Hospital	434 Bobbin Head Road, North Turrumurra, New South Wales, Australia.	New South Wales folio identifier 211/1012228.
11	Newcastle Private Hospital	14 Lookout Road and 20 Lookout Road, New Lambton Heights, New South Wales, Australia.	New South Wales folio identifiers 2/1080386, 5/SP60845, 7/SP60845, 10/SP60845 and 402/1197237.

2. Other Properties

#	Hospital	Address	Title details
1	Nepean Private Hospital	1-9 Barber Avenue and 1A Barber Avenue, Kingswood, New South Wales, Australia.	New South Wales folio identifiers 1/1093052, 2/SP67725, 4/SP67725, 7/SP67725, 8/SP67725, 11/SP67725, 13/SP67725, 15/SP67725, 90/1009692 and 100/701623.
2	Campbelltown Private Hospital	42 Parkside Crescent, Campbelltown, New South Wales, Australia.	New South Wales folio identifiers 16/SP78688, 42/SP78688, 45/SP78688, 64/SP78688, 65/SP78688, 67/SP90690 and 68/SP90690.
3	Sydney Southwest Private Hospital	24 Bigge Street, 26 Bigge Street and 28 Bigge Street, Liverpool, New South Wales, Australia (being the property also known as 40 Bigge Street, Liverpool, New South Wales)	New South Wales folio identifier 21/1197765.
4	Sunnybank Private Hospital	245 McCullough Street and 253 McCullough Street, Sunnybank, Queensland.	Title references 50206245 (Lot 42 on RP912097), 50206318 (Lot 3 in Building Unit Plan 106706) and 50206320 (Lot 5 in Building Unit Plan 106706).
5	Pine Rivers Private Hospital	34 Dixon Street, Strathpine, Queensland, Australia.	Title reference 50039153 (Lot 2 on RP86226).
6	The Geelong Clinic	94-102 Townsend Road, St Albans Park, Victoria, Australia.	Certificate of title volume 10016 folio 015.

#	Hospital	Address	Title details
7	Knox Private Hospital	262 Mountain Highway and 2-8 Ainsdale Avenue, Wantirna, Victoria, Australia.	Certificates of title volume 10380 folio 054, volume 10757 folio 817, volume 9001 folio 947 to 950 (inclusive), volume 11529 folio 852, volume 09769 folios 033 and 037, and volume 11527 folio 210.
8	Northpark Private Hospital	Corner Plenty Road and Greenhills Road, Bundoora, Victoria, Australia.	Certificate of title volume 11875 folio 146 and volume 11503 folio 385.
9	The Victorian Rehabilitation Clinic	499 Springvale Road, Glen Waverley, Victoria, Australia.	Certificate of title volume 10753 folio 757.
10	Mount Hospital	140-150 Mounts Bay Road and 162 Mounts Bay Road, Perth, Western Australia, Australia.	Certificates of title volume 2146 folios 609, 613, 614 and 616 to 621 (inclusive).
11	Ringwood Private Hospital	36 Mt Dandenong Road, Ringwood East, Victoria, Australia.	Certificate of title volume 10960 folio 683.

Annexure C

This is Annexure C of 484 pages referred to in the Form 603 (Notice of initial substantial holder) signed by me and dated 28 February 2019.

Signed by: _____

Print name: Sophia Zara Rihani

Date: 28 / 2 / 2019

Project Vigour

Commitment Deed

Dated 1 February 2019

Healthscope Limited ACN 144 840 639 (**Healthscope**)

NWH Australia AssetCo Pty Ltd ACN 617 449 948 as trustee of the NWH Australia Asset Trust (**PropCo**)

NorthWest Healthcare Properties Real Estate Investment Trust (**PropCo Guarantor**)

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Commitment Deed

Contents

Details	1
General terms	2
1 Interpretation	2
1.1 Definitions	2
1.2 References to certain general terms	8
1.3 Headings	9
1.4 Construction	9
2 Consideration	9
3 Term and termination	9
3.1 Term	9
3.2 Termination for PropCo Default	9
3.3 Release from obligations	10
4 PropCo FIRB Application	10
4.1 Status of FIRB Application	10
4.2 PropCo's FIRB Application obligations	10
4.3 Acceptable conditions	10
5 Decline Notice	11
5.1 Definitions	11
5.2 Copy of notice	11
5.3 Consequences of Decline Notice	11
6 Agreements to procure	12
6.1 Leases	12
6.2 Sale Contracts and Umbrella Deed	12
6.3 PropCo Loan Documentation	13
6.4 Consent to Change of Control Event	13
6.5 Consent to sublease	13
7 Preparation of Leases, Disclosure Documents, Sale Contracts and Umbrella Deed	13
7.1 Preparation of Lease	13
7.2 Preparation of Disclosure Documents	15
7.3 Preparation of Sale Contracts	16
7.4 Preparation of Umbrella Deed	16
7.5 What Healthscope must do	16
7.6 Signing	17
7.7 Binding agreement	17
7.8 Right to rectify	17
7.9 Power of attorney	18
7.10 Powers	18

8	Completion of details in Sale Contracts and Umbrella Deed	19
9	Preparation for settlement	20
9.1	Process	20
9.2	Documents and other items to be provided	21
9.3	Delay Event	21
10	Encumbrances	21
10.1	Acknowledgment – Healthscope	21
10.2	Acknowledgment – PropCo	21
11	Guarantee and indemnity	22
11.1	Consideration	22
11.2	Guarantee	22
11.3	Indemnity	22
11.4	Extent of guarantee and indemnity	23
11.5	Acknowledgment	23
11.6	Rights of Healthscope are protected	23
11.7	No merger	24
11.8	Guarantor’s rights are suspended	24
11.9	Reinstatement of rights	25
11.10	Extent of Guarantor’s obligations	25
11.11	Dealing with interests	25
11.12	Costs	25
11.13	Obligation to pay interest	25
11.14	Rate of interest	26
11.15	Compounding	26
11.16	Payments	26
11.17	Essential term	26
11.18	Guarantor to sign contract	26
11.19	Document not binding on certain persons	26
12	Representations, warranties and undertakings	27
12.1	Capacity representations and warranties	27
12.2	Trustee representations and warranties	27
12.3	PropCo Guarantor representations and warranties	28
12.4	PropCo Guarantor undertaking	29
12.5	Consistency of terms	29
12.6	When made	29
12.7	Reliance	29
12.8	Indemnity	29
13	Confidentiality and announcements	30
13.1	Obligations of confidentiality	30
13.2	Announcements and press releases	30
13.3	Other confidentiality obligations	30
13.4	Disclosure to BidCo	30
14	No dealings	31
14.1	No assignment	31
14.2	No nomination	31

15	GST	31
15.1	Definitions and interpretation	31
15.2	Payment of GST	31
15.3	Adjustment events	32
15.4	Reimbursements	32
15.5	Survival	32
16	Trustee limitation of liability	32
16.1	Trustee	32
16.2	Limitation of Trustee's liability	32
16.3	Override	33
17	Notices and other communications	33
17.1	Form	33
17.2	Delivery	33
17.3	When effective	33
17.4	When taken to be received	33
17.5	Receipt outside business hours	34
18	General	34
18.1	Costs	34
18.2	Stamp duty	34
18.3	Approvals and consents	34
18.4	Variation and waiver	34
18.5	Remedies cumulative	34
18.6	Prompt performance	35
18.7	Further assurances	35
18.8	Indemnities and reimbursement obligations	35
18.9	No merger	35
18.10	Serving documents	35
18.11	Counterparts	35
18.12	Provisions prohibited by law	35
18.13	Severability	36
18.14	Governing law	36
18.15	Appointment of process agent	36
	Schedule 1 - Sale Assets	37
	Schedule 2 - Lease Details	40
	Schedule 3 - Sale Contract and Lease Specifics	42
	Signing page	64
	Annexure "A" – Form of Sale Contract	66
	Annexure "B" – Form of Lease	67
	Annexure "C" – Form of Officer's Certificate	68
	Annexure "D" – Form of Umbrella Deed	70
	Annexure "E" – Plans	71

Commitment Deed

Details

Parties	Healthscope, PropCo and PropCo Guarantor	
Recitals	A	Healthscope has agreed to procure the sale of, and PropCo has agreed to procure the Relevant PropCo Buyer to buy, each Sale Asset on the terms of this document.
	B	PropCo Guarantor has agreed to guarantee the performance of PropCo's obligations under this document and the obligations of the Relevant PropCo Buyer under each Sale Contract.
Healthscope	Name	Healthscope Limited
	ACN	144 840 639
	Address	Level 1, 312 St Kilda Road, Melbourne VIC 3004, Australia
	Email	ingrid.player@healthscope.com.au
	Attention	Ingrid Player
PropCo	Name	NWH Australia AssetCo Pty Ltd as trustee of the NWH Australia Asset Trust
	ACN	617 449 948
	Address	Level 45, Rialto Tower, 525 Collins Street, Melbourne VIC 3000, Australia
	Email	cmitchell@nwHPM.com.au with a copy to john.brewster@ashurst.com
	Attention	Chief Executive Officer, Australia and New Zealand
PropCo Guarantor	Name	NorthWest Healthcare Properties Real Estate Investment Trust
	Address	180 Dundas Street West, Suite 1100, Toronto, Ontario, Canada M5G 1Z8
	Email	pdl@nwHREIT.com with a copy to john.brewster@ashurst.com
	Attention	Chief Executive Officer
Governing law	Victoria	

Commitment Deed

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears.

Affiliate means, in respect of a party, a trust, fund, partnership or company which is:

- (a) Controlled by the relevant party; or
- (b) Controlled by an entity which Controls the relevant party; or
- (c) Controlled by an entity which is a Related Body Corporate of an entity that Controls the relevant party; or
- (d) a Related Body Corporate of the relevant party.

Australian Securities Exchange means Australian Securities Exchange Limited (ACN 008 624 691).

Authorised Officer means:

- (a) in the case of PropCo and PropCo Guarantor, a director or secretary of PropCo or PropCo Guarantor (as applicable), or any person who purports to be a “chief executive officer” or “executive vice president” of that party or any other person nominated by that party to act as an Authorised Officer for the purposes of this document;
- (b) in the case of Healthscope, a director, secretary or any other person appointed by a party to act as an Authorised Officer for that party for the purpose of this document.

BidCo means:

- (a) in the context of a Scheme, VIG Bidco Pty Limited ACN 631 014 938; and
- (b) in the context of a Takeover Bid Transaction, BCP VIG Holdings LP.

Bidder's Statement has the meaning it has in the Implementation Deed.

Bidder's Statement Despatch Date means the date on which the Bidder's Statement is mailed to each Healthscope Shareholder as contemplated by the Implementation Deed.

Brookfield Group means BidCo and its Affiliates.

Business Day means a day on which banks are open for general banking business in Sydney, New South Wales and Melbourne, Victoria (not being a Saturday, Sunday or public holiday in either of those places).

Change of Control Event has the meaning it has in each Lease.

Confidential Information has the meaning it has in the Confidentiality Deed.

Confidentiality Deed means the confidentiality deed dated 7 January 2019 between Healthscope Limited and PropCo.

Contract Date means the date that is 1 Business Day before the date of the Scheme Meeting.

Control means, with respect to any person (other than an individual), the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise, and for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this document, a fund advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person.

Corporations Act means the Corporations Act 2001 (Cth).

Costs includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

Delay Event has the meaning given in each Sale Contract.

Details means the section of this document headed 'Details'.

Effective has the meaning it has in the Implementation Deed.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Exception Notice has the meaning given in each Sale Contract.

FIRB means the Foreign Investment Review Board.

FIRB Act means the Foreign Acquisitions and Takeovers Act 1975 (Cth).

FIRB Application means the application lodged with FIRB on 7 January 2019 to ensure that the Notifiable Action complies with the FIRB Act and the Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

FIRB Approval means the occurrence of one of the following events:

- (a) in respect of the FIRB Application, the day that is 10 days after the end of the decision period specified in section 77 of FIRB Act passes without an order prohibiting the Notifiable Action having been made under section 67 or section 68 of the FIRB Act;
- (b) if an interim order is made under section 68 of the FIRB Act in respect of the FIRB Application, the end of the period specified in the order passes without an order prohibiting the Notifiable Action under section 67 of FIRB Act having been made; or
- (c) a no objection notification is given by the Treasurer (or the Treasurer's delegate) under Division 2, Subdivision B of the FIRB Act in respect of the Notifiable Action.

FIRB Approval Sunset Date means the date that is 21 days before the later of:

- (a) the Scheme Meeting Date; and
- (b) 30 June 2019.

Form of Lease means the form of lease substantially in the form of Annexure B ("Form of Lease"), as completed in accordance with clause 6.1.

Funding Milestone Obligations has the meaning given in the Process Deed.

Government Agency has the meaning it has in the Implementation Deed.

Healthscope Attorney means each attorney appointed by Healthscope in favour of PropCo under clause 7.9(b).

Healthscope Financier means the financiers providing facilities to BidCo and/or Healthscope (or its subsidiaries) for the purpose of refinancing existing debt facilities (and including any refinancing of such facilities).

Healthscope Group means has the meaning it has in the Implementation Deed.

Healthscope Shareholder has the meaning it has in the Implementation Deed.

Healthscope Shares has the meaning it has in the Implementation Deed.

Implementation Deed means the implementation deed to be entered into between VIG Bidco Pty Limited ACN 631 014 938 and Healthscope on or about the date of this document.

Insolvency Event means, in relation to a person:

- (a) the person resolving that it be wound up or a court making an order for the winding up or dissolution of the person;
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the person or in relation to the whole, or a substantial part, of its assets;
- (c) the person being subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved or the person executing a deed of company arrangement;
- (d) the person ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this document;
- (e) the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation);
- (f) the person being deregistered as a company or otherwise dissolved;
- (g) an application or order having been made (other than where the application or order (as the case may be) is set aside within 14 days), resolution passed, or any other action having been taken, in each case in connection with that entity, in respect of any of the things described in paragraphs (a) to (f) above;
- (h) the person is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;

- (i) the person is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject); or
- (j) something having a substantially similar effect to any of the things described in paragraphs (a) to (i) above happens in connection with that person under the law of any foreign jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other party.

Lease means, in respect of a Sale Asset, the lease (in the form annexed to the Sale Contract) in respect of that Sale Asset to be granted by the Relevant Healthscope Seller to Healthscope before the Bidder's Statement Despatch Date.

Letter of Credit has the meaning given in the Process Deed.

Notifiable Action means the acquisition by the Relevant PropCo Buyer of each Sale Asset under and in accordance with the relevant Sale Contract.

NWH Debt Commitment Letter means the commitment letter in relation to the PropCo Bridge Loan dated on or about the date of this deed between PropCo, PropCo Guarantor and VIG Bidco Pty Limited ACN 631 014 938.

Offer has the meaning it has in the Implementation Deed.

Officer's Certificate means a certificate in the form of Annexure C certifying that the Relevant PropCo Buyers have sufficient committed equity and debt funding to complete the acquisition of the Sale Assets in accordance with each Sale Contract.

OpCo Guarantor means Healthscope Operations Pty Ltd ACN 006 405 152.

Plan of Subdivision means any plan purporting to divide an existing parcel of land into two or more new parcels of land.

Portfolio Leases Umbrella Deed means the 'Portfolio Leases Umbrella Deed' to be entered into under and in accordance with the Umbrella Deed.

Portfolio Loan Documentation means the secured loan from PropCo Guarantor or an Affiliate of PropCo Guarantor to Healthscope (or any other member of the Healthscope Group as directed by BidCo) on the terms set out in the Portfolio Loan Term Sheet.

Portfolio Loan Term Sheet means the term sheet for the secured loan from PropCo or an Affiliate of PropCo to BidCo (or any other member of the Brookfield Group as directed by BidCo).

PPSA means the Personal Property Securities Act 2009 (Cth).

Process Agent means Ashurst of Level 26, 181 William Street, Melbourne VIC 3000 (Attention: John Brewster).

Process Deed means the 'Process, Voting Commitment and Exclusivity Deed' entered into between BidCo and PropCo Guarantor prior to the date of this document.

PropCo Attorney means each attorney appointed by PropCo in favour of Healthscope under clause 7.9(a).

PropCo Bridge Loan means the loan to be made available by PropCo or an Affiliate of PropCo to BidCo (or any other member of the Brookfield Group as directed by BidCo) on the terms set out in the PropCo Debt Commitment Letter.

PropCo Bridge Loan Documentation means a facility agreement and related finance documents (including security documents) in connection with the PropCo Bridge Loan on the terms set out in the NWH Debt Commitment Letter and as otherwise agreed between the parties.

PropCo Bridge Loan Term Sheet means the term sheet annexed to the PropCo Debt Commitment Letter dated on or about the date of this document between PropCo or an Affiliate of PropCo and BidCo in respect to the terms of the PropCo Bridge Loan.

PropCo Debt Commitment Letter means the debt commitment letter to be entered into between PropCo (or an Affiliate of PropCo) and BidCo (or any other member of the Brookfield Group as directed by BidCo) in connection with the PropCo Bridge Loan.

PropCo Default means each of the following events:

- (a) PropCo does not comply with any of its obligations under clause 4, clause 5 or clause 7;
- (b) any of the representations and warranties made by PropCo or PropCo Guarantor under clause 12.1, clause 12.2 or clause 12.3 is incorrect or misleading in any material respect when made and, if capable of remedy, is not remedied within 2 Business Days of being made;
- (c) an Insolvency Event occurs in relation to PropCo or PropCo Guarantor;
- (d) PropCo fails to obtain a FIRB Approval in response to the FIRB Application by the FIRB Approval Sunset Date;
- (e) PropCo fails to deliver on the date of this document and, at any other time, promptly (and in any event within 2 Business Days) after a request by Healthscope (acting reasonably), an Officer's Certificate duly executed by the 'chief executive officer', 'president' or the 'executive vice president' of PropCo Guarantor;
- (f) PropCo fails to pay the amounts owing at settlement under a Sale Contract (with time being of the essence in such respect);
- (g) BidCo:
 - (i) exercises any right to terminate the Process Deed under clauses 9.1(c), 10.6, 10.7(c) or 13.2(b) of the Process Deed; or
 - (ii) is entitled to request that Healthscope exercise any right to terminate this document or a Sale Contract under clauses 9.1(c), 10.6, 10.7(c), 11.4(a)(i) or 11.5(d)(iii) of the Process Deed.

PropCo Financier means Australia and New Zealand Banking Group Limited ACN 005 357 522.

Property Investor has the meaning it has in the Confidentiality Deed.

Purpose has the meaning it has in the Confidentiality Deed.

Related Body Corporate has the meaning given in the Corporations Act.

Relevant Commencing Rent means, in respect of a Sale Asset, the commencing rent corresponding to that Sale Asset in Schedule 2 ("Lease Details").

Relevant Healthscope Seller means, in respect of a Sale Asset, the registered proprietor of that Sale Asset named in Schedule 1 ("Sale Assets Details").

Relevant Land Details means, in respect of a Sale Asset, the land and address details corresponding to that Sale Asset in Schedule 1 ("Sale Assets Details").

Relevant Plans means, in respect of a Sale Asset, the plans of subdivision stated as being applicable to that Sale Asset in Annexure E ("Plans").

Relevant Premises Details means, in respect of a Sale Asset, the premises details corresponding to that Sale Asset in Schedule 2 ("Lease Details").

Relevant Price means, in respect of a Sale Asset, the price corresponding to that Sale Asset in Schedule 1 ("Sale Assets Details").

Relevant PropCo Buyer means, in respect of a Sale Asset, the Affiliate of PropCo nominated by PropCo in accordance with this document to enter into a Sale Contract as a buyer for that Sale Asset.

Relevant Subtenant means, in respect of a Sale Asset, the entity named as subtenant corresponding to that Sale Asset named in Schedule 1 ("Sale Assets Details").

Relevant Tenant means Healthscope.

Relevant Term means, in respect of a Sale Asset, the term of the Lease corresponding to that Sale Asset in Schedule 2 ("Lease Details").

Representative of a party includes:

- (a) a Related Body Corporate of the party; and
- (b) an employee, agent, officer, director, auditor, adviser of that party.

Sale Asset means each real property asset described in Schedule 1 ("Sale Assets Details").

Sale Contract means a conditional sale contract substantially in the form of annexure "A", as completed in accordance with clause 8.

Scheme has the meaning it has in the Implementation Deed.

Scheme Meeting has the meaning it has in the Implementation Deed.

Scheme Meeting Date has the meaning it has in the Process Deed.

Takeover Bid Conditions has the meaning it has in the Implementation Deed.

Takeover Bid Transaction has the meaning it has in the Implementation Deed.

Termination Date means the earlier of:

- (a) the date of termination of the Implementation Deed in accordance with the terms of the Implementation Deed;
- (b) the date of termination of this document under clause 3.2; and

(c) 1 November 2019,

provided that, in the case of the dates in paragraphs (a) and (c), before those dates, the Scheme has not become Effective and the Offer has not been (or been declared) free of all of the Takeover Bid Conditions.

Titles Office means the office responsible for the registration of dealings and the administration of titles in the State or Territory in which the Relevant Premises is situated.

Treasurer means the Treasurer of the Commonwealth of Australia.

Umbrella Deed means a deed to be entered into between, all Relevant Healthscope Sellers, all Relevant PropCo Buyers and the PropCo Guarantor, in relation to the Sale Assets substantially in the form in Annexure D ("Form of Umbrella Deed"), as completed in accordance with clause 8.

1.2 References to certain general terms

Unless the contrary intention appears, in this document:

- (a) labels used for definitions are for convenience only and do not affect interpretation;
- (b) a reference to a document (including this document) includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document;
- (d) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) the word "law" includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (f) the singular includes the plural and vice versa;
- (g) the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;
- (h) a reference to a body or authority includes a reference, if that body or authority ceases to exist, to the body or authority which has substantially the same functions and objects as the first body or authority;
- (i) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (j) a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;

- (l) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) a reference to accounting standards is a reference to the accounting standards as defined in the Corporations Act, and a reference to an accounting term is a reference to that term as it is used in those accounting standards, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (o) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (p) if an act under this document to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day;
- (q) a reference to time is a reference to the time in New South Wales; and
- (r) a reference to any thing (including any amount) is a reference to the whole and each part of it.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

1.4 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this document or any part of it.

2 Consideration

Each party acknowledges entering into this document and incurring obligations and giving rights under this document for valuable consideration received from each other party.

3 Term and termination

3.1 Term

This document commences on the date of this document and terminates on the Termination Date.

3.2 Termination for PropCo Default

- (a) If a PropCo Default as set out in paragraph (a) of that definition occurs, Healthscope may not terminate this document without having first given PropCo notice in writing requiring PropCo to remedy the breach or circumstances within a reasonable period of time (being not less than 2 Business Days in any case) to be stated in the notice. If PropCo fails to remedy the breach or circumstances within that reasonable period, Healthscope has the right to terminate this document by giving notice in writing to PropCo at any time before the breach or circumstance is

remedied. No right to terminate shall arise where the PropCo Default was caused by an incident or delay which is short-term and which will not materially adversely impact Healthscope.

- (b) In respect of the circumstances described in paragraphs (b) to (g) of the definition of PropCo Default, Healthscope has the right to terminate this document by giving notice in writing to PropCo and clause 3.2(a) does not apply.

3.3 Release from obligations

On the Termination Date, this document will become void and have no effect and each party is released from all of its obligations under this document without any liability on the part of any party, other than in relation to rights and obligations that accrued prior to termination (including with respect to any PropCo Default) and other than in relation to any provision of this document which is expressed to survive such termination (and which will remain in effect after termination).

4 PropCo FIRB Application

4.1 Status of FIRB Application

PropCo represents and warrants to Healthscope that, prior to the date of this document, it has lodged the FIRB Application with the FIRB, and paid all fees payable in connection with the FIRB Application, in accordance with the FIRB Act.

4.2 PropCo's FIRB Application obligations

PropCo:

- (a) must not withdraw the FIRB Application without the prior written consent of Healthscope unless requested by FIRB;
- (b) must promptly comply with all reasonable requests from FIRB for further information and take all other necessary and reasonable steps in respect of the FIRB Application;
- (c) must promptly inform Healthscope of any matters relating to the FIRB Application that could result in PropCo not obtaining FIRB Approval for the Notifiable Action by the FIRB Approval Sunset Date;
- (d) must, if requested by Healthscope, provide Healthscope with copies of all material notices and communications sent to, or received from, a Government Agency in relation to the FIRB Application (provided that such copies may redact any information that is commercially sensitive to PropCo or its indirect owners, and must be treated by Healthscope as Confidential Information for the purposes of clause 13).

4.3 Acceptable conditions

PropCo acknowledges and agrees that it must accept any conditions imposed (or that are sought to be imposed) by FIRB that are reasonable having regard to the transactions contemplated by this document and which are required in order to secure the FIRB Approval.

5 Decline Notice

5.1 Definitions

For the purposes of this clause 5:

- (a) **Decline Notice** means a NWH Delayed Settlement Properties Notice given (or deemed to be given) under clause 10.2(c)(ii) or clause 10.2(d)(iv) of the Process Deed;
- (b) **Declined Delayed Settlement Property** means a Sale Asset which is a 'Scheme Declined Delayed Settlement Property' or a 'Takeover Declined Delayed Settlement Property' (as each of those terms are defined under the Process Deed) as a result of a Decline Notice;
- (c) **Declined Delayed Settlement Contract** means a Sale Contract in respect of a Declined Delayed Settlement Property; and
- (d) **NWH Delayed Settlement Properties Notice** has the meaning given in the Process Deed.

5.2 Copy of notice

PropCo Guarantor must (on the same day it gives a Decline Notice to BidCo under and in accordance with the Process Deed) give a copy of the Decline Notice to Healthscope.

5.3 Consequences of Decline Notice

Where a Decline Notice is given under and in accordance with the Process Deed (in respect of which time is of the essence), then:

- (a) if the Declined Delayed Settlement Contracts have not been entered into before the date of the Decline Notice:
 - (i) each of the Declined Delayed Settlement Properties will cease to be a Sale Asset with effect on the date the Decline Notice is given; and
 - (ii) the parties must enter into such documentation as may be required under and in accordance with clause 5.4(c) of the Umbrella Deed; and
- (b) PropCo and its Affiliates cease to be entitled or required to purchase any of the Declined Delayed Settlement Properties; and
- (c) neither PropCo nor any of its Affiliates shall have any other liability to the Brookfield Group or the Healthscope Group in connection with a termination of Declined Delayed Settlement Contracts in accordance with clause 5.3 of the Umbrella Deed (but, for the avoidance of doubt, provided that nothing in this clause 5.3(c) affects, limits or reduces any liability of PropCo or its Affiliates arising from a breach or default by PropCo or its Affiliates under this document, the Process Deed or any other 'NWH Property Transaction Document' (as defined in the Process Deed) occurring before any such termination (or after termination under a document that is not terminated)).

6 Agreements to procure

6.1 Leases

Healthscope must procure that each of the Relevant Healthscope Seller (as landlord) and Healthscope (as tenant):

- (a) enters into each Lease on or before the Bidder's Statement Despatch Date;
- (b) agree that the 'Rent Commencement Date' under each Lease is the day before settlement of the Sale Contract for the Sale Asset the subject of the Lease; and
- (c) as soon as reasonably practicable after each Lease is entered into (other than any Lease in Victoria), lodge at the relevant Titles Office for registration a caveat with respect to Healthscope's interest (as tenant) under each Lease (and provided that Healthscope (as caveator) must, promptly on request by any PropCo Buyer, provide a consent by Healthscope (in an appropriate form for lodgement with the relevant Titles Office) consenting to the registration of any forms of transfer required to register the Relevant PropCo Buyer as proprietor of the relevant Sale Asset and (subject to each mortgagee providing its unconditional consent to the Lease to which the caveat relates) to any forms of mortgage granted by the Relevant PropCo Buyer on settlement of, and otherwise consenting to any dealing permitted under, each Sale Contract). To the extent that the caveat is not automatically withdrawn following registration of the Lease, Healthscope must procure the removal of the caveat from title immediately following notification of registration of the Lease on title.

6.2 Sale Contracts and Umbrella Deed

- (a) On or before the Contract Date:
 - (i) Healthscope must procure:
 - (A) the Relevant Healthscope Seller to enter into (as seller) a Sale Contract for each Sale Asset with the Relevant PropCo Buyer; and
 - (B) each Relevant Healthscope Seller to enter into the Umbrella Deed.
 - (ii) PropCo must procure:
 - (A) the Relevant PropCo Buyer to enter into (as buyer) a Sale Contract for each Sale Asset with the Relevant Healthscope Seller;
 - (B) PropCo Guarantor to enter into (as guarantor of the performance of the obligations of the Relevant PropCo Buyer under) each Sale Contract required to be entered into under this clause 6.2; and
 - (C) each Relevant PropCo Buyer and PropCo Guarantor to enter into the Umbrella Deed.

- (b) On or before the date that is 25 Business Days before the Contract Date, PropCo must notify Healthscope in writing of the nominated Relevant PropCo Buyers.

6.3 PropCo Loan Documentation

PropCo must comply, or must procure that an Affiliate of PropCo complies, with:

- (a) paragraph 3 of the PropCo Debt Commitment Letter; and
- (b) its obligations to enter into the Portfolio Loan Documentation in accordance with any obligation it has to BidCo to do so (with time being of the essence in such respect).

6.4 Consent to Change of Control Event

For the purposes of clause 12.5(a) of each Lease, PropCo consents (and must procure that each Relevant PropCo Buyer (as landlord under each Lease) consents) to any Change of Control Event that occurs with respect to Healthscope (as tenant under each Lease) as a result of the Scheme or any Takeover Bid Transaction.

6.5 Consent to sublease

For the purposes of clause 12.3(a) of each Lease, PropCo consents (and must procure that each PropCo Buyer (as landlord under each Lease) consents) to any sublease for the premises under the relevant Lease entered into between Healthscope and the Relevant Subtenant prior to settlement under each Sale Contract.

7 Preparation of Leases, Disclosure Documents, Sale Contracts and Umbrella Deed

7.1 Preparation of Lease

- (a) As soon as reasonably practicable after the date of this document, and in any event not later than the date that is 20 Business Days before the Bidder's Statement Despatch Date, Healthscope must prepare and deliver a copy of each Lease to PropCo.
- (b) Each Lease must be prepared by completing the Form of Lease as follows:
 - (i) in the section of the Form of Lease headed 'Reference Schedule':
 - (A) in the section headed '[#insert name of] Hospital', by inserting the name of the hospital for the Sale Asset;
 - (B) in the section headed 'Landlord', in accordance with the instructions for completion, by inserting particulars of the Relevant Healthscope Seller (as landlord);
 - (C) in the section headed 'Tenant', in accordance with the instructions for completion, by inserting particulars of Healthscope (as tenant); and
 - (D) in the section headed 'Premises' in accordance with the instructions for completion, inserting the name of the

relevant hospital for that Sale Asset (as premises). For the avoidance of doubt, the remaining wording in that section is to remain such that the Premises description will be the name of the relevant hospital followed by the words “being the Land, and includes the Building”;

- (ii) in the section headed ‘Land’, in accordance with the instructions for completion, by deleting all details and inserting the Relevant Land Details (as land);
- (iii) in the section headed ‘Term’, by deleting all details and inserting the Relevant Term (as term);
- (iv) in the section headed ‘Commencement Date’, by deleting all details and inserting the date that is one Business Day before the Bidder’s Statement Despatch Date (**Commencement Date**) (as commencement date);
- (v) in the section headed ‘Expiry Date’, by inserting the date that is calculated by adding the Relevant Term to the Commencement Date (**Expiry Date**) (as expiry date);
- (vi) in the section headed ‘Rent’, by inserting the Relevant Commencing Rent (as rent);
- (vii) in the section headed ‘Permitted Use’, by deleting all details in paragraph (b) and inserting a description of the current use of the premises as at the Commencement Date to the extent that such use is an additional use to that described in paragraph (a) in that section;
- (viii) in the section headed ‘Existing Leases’, in accordance with the instructions for completion, by inserting a description of all specific existing leases granted over any part of the premises under the lease prior to the Commencement Date;
- (ix) in the section headed ‘Implied Statutory Provisions’, in accordance with the instructions for completion, retaining the text denoted as applicable to the jurisdiction in which the Land for that lease is located and deleting the remainder of the text adjacent the square bracketed comments for other jurisdictions;
- (x) in the section headed ‘Particulars of new lease’, in the part headed ‘First new lease’:
 - (A) by inserting a commencement date that is one day after the Expiry Date (**First Option Commencement Date**) (as commencement date);
 - (B) by inserting an expiry date calculated by adding 10 years to the First Option Commencement Date (as expiry date);
- (xi) in the parts headed ‘Second new lease’, the ‘Third new lease’, the ‘Fourth new lease’, the ‘Fifth new lease’, the ‘Sixth new lease’, the ‘Seventh new lease’, and the ‘Eighth new lease’:
 - (A) by inserting a commencement date that is one day after the expiry date of the prior lease (as commencement date) (each a **Subsequent Commencement Date**);

- (B) by inserting an expiry date calculated by adding 10 years to the Subsequent Commencement Date; and
- (xii) by annexing to the Form of Lease any form prescribed by the applicable laws of the jurisdiction in which the Relevant Premises are situated to enable the registration of the Lease at the Titles Office.
- (c) PropCo must, within 10 Business Days of receipt of each Lease under and in accordance with clause 7.1(a), give a notice specifying the details of any Lease that has not been prepared and delivered in accordance with clause 7.1(a) (and such notice must specify any necessary corrections or additions that are required to that Lease in order for that Lease to comply with the requirements of clause 7.1(a)).

7.2 Preparation of Disclosure Documents

- (a) Without prejudice to its rights and remedies under applicable laws relating to seller disclosure in connection with the conveyance of the Sale Assets (but subject to the terms of each Sale Contract), and subject to clause 7.2(b), not later than 20 Business Days prior to the Contract Date, PropCo must deliver to Healthscope for its review, for each Sale Asset, a proposed form of document that includes all information and disclosures required to be provided by the Relevant Healthscope Seller to the PropCo Buyer in order to ensure that the Relevant Healthscope Seller complies with the requirements of all applicable laws of the jurisdiction relevant to the sale of the Sale Asset, including but not limited to:
 - (i) where the Sale Asset is located in New South Wales, the disclosure requirements under the:
 - (A) *Contaminated Land Management Act 1997* (NSW);
 - (B) *Conveyancing (Sale of Land) Regulation 2017* (NSW);
 - (C) *Community Land Management Act 1989* (NSW); and
 - (D) *Strata Scheme Management Act 2015* (NSW);
 - (ii) where the Sale Asset is located in Queensland, the disclosure requirements under the:
 - (A) *Body Corporate and Community Management Act 1997* (QLD);
 - (B) *Environmental Protection Act 1994* (QLD); and
 - (C) *The Building and Other Legislation (Cladding) Amendment Regulation 2018* (QLD);
 - (iii) where the Sale Asset is located in Victoria:
 - (A) *Building Act 1993* (VIC);
 - (B) *Environment Protection (Industrial Waste Resource) Regulations 2009* (Vic);
 - (C) *Sale of Land Act 1962* (VIC); and
 - (iv) where the Sale Asset is located in Western Australia, the disclosure requirements under the *Strata Titles Act 1985* (WA),

(**"Disclosure Document"**).

- (b) PropCo's obligations to deliver the Disclosure Documents to Healthscope in accordance with clause 7.2(a) is subject to Healthscope providing to PropCo in a timely manner on request (and with any such request to be made a reasonable period before PropCo is obliged to deliver the Disclosure Documents to Healthscope under clause 7.2(a)) all information that is reasonably necessary for PropCo to prepare the Disclosure Documents under and in accordance with clause 7.2.
- (c) Within 5 Business Days of receipt of the proposed form of Disclosure Document under and in accordance with clause 7.2(a), Healthscope must procure the Relevant Healthscope Seller to finalise (including making any necessary corrections or additions) and execute the Disclosure Document, and deliver it to PropCo and PropCo Buyer.

7.3 Preparation of Sale Contracts

Within 5 Business Days of receipt of any Disclosure Document under and in accordance with clause 7.2(c), and in any event not later than 5 Business Days before the Contract Date, PropCo must deliver to Healthscope, for each Sale Asset:

- (a) to the extent applicable, a counterpart of each Disclosure Document duly executed by the Relevant PropCo Buyer; and
- (b) a Sale Contract (in duplicate) completed in accordance with clause 8, and executed by the Relevant PropCo Buyer and PropCo Guarantor; and
- (c) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the relevant Sale Contracts are executed by the Relevant PropCo Buyer and PropCo Guarantor.

7.4 Preparation of Umbrella Deed

Within 5 Business Days of receipt of any Disclosure Document under and in accordance with clause 7.2(b), and in any event not later than 5 Business Days before the Contract Date, PropCo must deliver to Healthscope:

- (a) 3 (or such other number as may be agreed between the parties) counterparts of the Umbrella Deed completed in accordance with clause 8, and executed by each Relevant PropCo Buyer and PropCo Guarantor; and
- (b) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the Umbrella Deed is executed by each Relevant PropCo Buyer and PropCo Guarantor.

7.5 What Healthscope must do

On or before the Contract Date, Healthscope must deliver to PropCo:

- (a) the Sale Contract (in duplicate) delivered to Healthscope under clause 7.3 for each Sale Asset, duly executed by the Relevant Healthscope Seller;
- (b) 3 (or such other number as may be agreed between the parties) counterparts of the Umbrella Deed, duly executed by each Relevant Healthscope Seller; and

- (c) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the relevant Sale Contracts, Disclosure Documents and Umbrella Deed (as applicable) are executed by each Relevant Healthscope Seller.

7.6 Signing

- (a) Healthscope must procure that any Sale Contract and the Umbrella Deed delivered pursuant to clause 7.5 is executed by the Relevant Healthscope Seller either:
 - (i) as prescribed under section 127 of the Corporations Act; or
 - (ii) by an attorney under a power of attorney.
- (b) PropCo must procure that any Sale Contract and the Umbrella Deed executed pursuant to clause 7.3 is executed by each Relevant PropCo Buyer either:
 - (i) as prescribed under section 127 of the Corporations Act; or
 - (ii) by an attorney under a power of attorney.
- (c) PropCo must procure that any Sale Contract and the Umbrella Deed executed pursuant to clause 7.3 is executed by the PropCo Guarantor in such manner as to ensure that the Sale Contract and Umbrella Deed are binding on, and enforceable against, PropCo Guarantor under all applicable laws.

7.7 Binding agreement

The Sale Contract for each Sale Asset and the Umbrella Deed:

- (a) will be dated (or taken to be dated) as of the date on which the Sale Contract was delivered to PropCo under clause 7.3 (and which must not be a date that is any later than the Contract Date);
- (b) binds each Relevant PropCo Buyer, PropCo Guarantor and the Relevant Healthscope Seller (as applicable) from the Contract Date; and
- (c) binds each Relevant PropCo Buyer, PropCo Guarantor and the Relevant Healthscope Seller even though:
 - (i) Healthscope does not comply with (or procure compliance by the Relevant Healthscope Seller with) clause 7.5 or clause 7.6; or
 - (ii) PropCo does not comply with clause 7.3, 7.4 or clause 7.6,

and PropCo must procure that the Relevant PropCo Buyer does not delay in completing or rescind or terminate the relevant Sale Contract or take any action, or make any claim against Healthscope or the Relevant Healthscope Seller, because of that non-compliance.

7.8 Right to rectify

- (a) Healthscope may do anything which PropCo should have done under this clause 7 but which PropCo either has not done, or in Healthscope's reasonable opinion, has not done properly (**Relevant PropCo Breach**), provided that Healthscope has first provided written notice to PropCo of the Relevant PropCo Breach and, if capable of remedy, PropCo has not remedied that Relevant PropCo Breach within 2 Business Days of being

made aware of it. If Healthscope does take action to fulfil PropCo's obligations under this clause 7, PropCo agrees to pay Healthscope's reasonably incurred Costs on demand.

- (b) PropCo may do anything which Healthscope should have done under this clause 7 but which Healthscope either has not done, or in PropCo's reasonable opinion, has not done properly (**Relevant Healthscope Breach**) provided that PropCo has first provided written notice to Healthscope of the Relevant Healthscope Breach and, if capable of remedy, Healthscope has not remedied that Relevant Healthscope Breach within 2 Business Days of being made aware of it. If PropCo does take action to fulfil Healthscope's obligations under this clause 7, Healthscope agrees to pay PropCo's reasonably incurred Costs on demand.

7.9 Power of attorney

To give effect to clause 7.6:

- (a) each of PropCo and PropCo Guarantor irrevocably appoints Healthscope and Healthscope's solicitors (and their respective agents and employees) attorney for PropCo and PropCo Guarantor respectively, and agree to ratify anything a PropCo Attorney does under this clause 7.9; and
- (b) Healthscope irrevocably appoints PropCo and PropCo's solicitors (and their respective agents and employees) attorney for Healthscope, and agrees to ratify anything a Healthscope Attorney does under this clause 7.9.

7.10 Powers

- (a) A PropCo Attorney may, upon providing 2 Business Days' prior written notice to PropCo:
 - (i) do anything which PropCo or PropCo Guarantor can lawfully authorise an attorney to do in connection with this document or which the PropCo Attorney believes is expedient to give effect to any of Healthscope's rights (these things may be done in the PropCo's name, PropCo Guarantor's name or the PropCo Attorney's name);
 - (ii) delegate their powers (including this power) and revoke a delegation; and
 - (iii) exercise their powers even if this involves a conflict of duty or they have a personal interest in doing so.
- (b) A Healthscope Attorney may, upon providing 2 Business Days' prior written notice to Healthscope:
 - (i) do anything which Healthscope can lawfully authorise an attorney to do in connection with this document or which the Healthscope Attorney believes is expedient to give effect to any of PropCo or a Relevant PropCo Buyer's rights (these things may be done in Healthscope's name or the Healthscope Attorney's name);
 - (ii) delegate their powers (including this power) and revoke a delegation; and

- (iii) exercise their powers even if this involves a conflict of duty or they have a personal interest in doing so.

8 Completion of details in Sale Contracts and Umbrella Deed

For the purpose of preparing each Sale Contract and Umbrella Deed to be delivered pursuant to clause 7, PropCo or its solicitors must (and are authorised to) complete:

- (a) each Sale Contract as follows:
 - (i) in the section of the Sale Contract headed 'Details':
 - (A) by inserting particulars of the Relevant Healthscope Seller, as seller;
 - (B) by inserting particulars of the Relevant PropCo Buyer, as buyer and PropCo Guarantor, as guarantor;
 - (C) by inserting the Relevant Price, as the purchase price;
 - (ii) in clauses 8.9(e) and 23.1 of the Sale Contract, in accordance with the instructions for completion, retaining the reference to the legislation passed in the jurisdiction in which the Land for that Sale Contract is located and deleting the remainder of the square bracketed comment;
 - (iii) in clause 25 of the Sale Contract, inserting a trustee limitation of liability clause in a form that is customary for a professional trustee in the Australian market;
 - (iv) in the section of the Sale Contract headed 'Schedule 1' ('Land Schedule'), by inserting the Relevant Land Details;
 - (v) in the section of the Sale Contract headed 'Schedule 2' ('Specified Encumbrances'), by inserting copies of all dealings registered on title for the Sale Asset as at the date on which PropCo must deliver each Sale Contract to Healthscope in accordance with clause 7.3:
 - (A) including any Encumbrances registered against dealings on title for the Sale Asset on that date; but
 - (B) excluding any:
 - (aa) caveats in respect of which the Relevant PropCo Buyer will not receive a letter of consent from the relevant caveator under and in accordance with clause 15.6 of each Sale Contract;
 - (ab) Encumbrances registered on title for the Sale Asset on that date; and
 - (ac) other Encumbrances identified in the disclosures made pursuant to clause 8(a)(viii)).
 - (vi) in the section of the Sale Contract headed 'Schedule 4' ('Hospital Lease'), by annexing a copy of the Form of Lease for the Sale

Asset to which the Sale Contract relates completed in accordance with clause 7.1(a) or, if the relevant Lease has been executed by the parties to it at the relevant time, a copy of the executed Lease;

- (vii) by inserting the name of the Relevant PropCo Buyer (as determined in accordance with clause 8(a)(i)(B)) into the attestation clause in that part of the Sale Contract headed 'Signing Page';
 - (viii) by annexing a copy of the Disclosure Document for that Sale Contract to the part of the Sale Contract headed 'Annexure C' ('Disclosures');
 - (ix) by annexing a copy of the Relevant Plans for that Sale Asset to the part of the Sale Contract headed 'Annexure D'; and
 - (x) by amending in accordance with any requirements for that Sale Contract set out in clause 1 of Schedule 3 ('Sale Contract and Lease Specifics');
- (b) the Umbrella Deed by:
- (i) in clause 18, inserting a trustee limitation of liability clause in a form that is customary for a professional trustee in the Australian market;
 - (ii) in Schedule 1 ('Sale Assets Schedule'), inserting the particulars of each Relevant PropCo Buyer (as determined in accordance with clause 8(a)(i)(B)) (as buyer) of each respective Sale Asset, as buyer of that Sale Asset;
 - (iii) at Annexure A ('PropCo Bridge Loan Term Sheet'), annexing the PropCo Bridge Loan Term Sheet;
 - (iv) at Annexure B ('Portfolio Loan Term Sheet'), annexing the Portfolio Loan Term Sheet; and
 - (v) at Annexure C ('Portfolio Leases Umbrella Deed'), annexing the Portfolio Leases Umbrella Deed.

9 Preparation for settlement

9.1 Process

During the period between the date of this document and the Contract Date, the parties agree to consult and cooperate in good faith (and to instruct their respective solicitors to do the same) regarding:

- (a) the preparation, completion and delivery of all documents and other items to be prepared under clause 7;
- (b) the status of all matters to be effected prior to settlement under the Sale Contracts;
- (c) the status of all documents and other items required under the Sale Contracts to be delivered at settlement under the Sale Contracts by each party; and

- (d) the procedure and requirements for settlement in accordance with the Sale Contracts.

9.2 Documents and other items to be provided

The parties must use reasonable endeavours to ensure that all documents and other items required under the Sale Contracts to be delivered at settlement under the Sale Contracts by each party are made available to the other to inspect as soon as reasonably practicable after the date of this document, but PropCo may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay settlement, or rescind or terminate this document if any document or other item required to be delivered at settlement under the Sale Contracts is not available for inspection.

9.3 Delay Event

- (a) Without limiting the Relevant Healthscope Seller's rights under the Sale Contracts, Healthscope must procure that each Relevant Healthscope Seller must use all reasonable endeavours to:

- (i) ensure that a Delay Event does not occur before the date for settlement of each Sale Contract; and
- (ii) if an Exception Notice is given, rectify the Delay Event as soon as practicable after the Exception Notice is given,

and, to the extent it is within its control, PropCo must procure that the Relevant PropCo Buyer must use reasonable endeavours to assist the Relevant Healthscope Seller in this respect.

10 Encumbrances

10.1 Acknowledgment – Healthscope

Healthscope acknowledges that:

- (a) PropCo will or may grant to the PropCo Financier (or a security trustee acting on its behalf) an Encumbrance over its rights under, and interest in, this document;
- (b) the Relevant PropCo Buyers will or may grant to the PropCo Financier (or a security trustee acting on its behalf) an Encumbrance over their rights under, and interest in, the Sale Contracts, the Sale Assets and each Lease; and
- (c) the grant of any such Encumbrance referred to in clause 10.1(a) and (b) will not constitute a breach of this document.

10.2 Acknowledgment – PropCo

PropCo acknowledges that:

- (a) Healthscope will grant to the Healthscope Financiers (or a security trustee acting on their behalf) an Encumbrance over its rights under, and interest in, this document;
- (b) the Relevant Healthscope Sellers will grant to the Healthscope Financiers (or a security trustee acting on their behalf) an Encumbrance over their rights under, and interest in, the Sale Contracts, the Sale Assets and

each Lease provided that such security is also granted for the benefit of the lender under the PropCo Bridge Loan and Portfolio Loan (as applicable) in accordance with the PropCo Bridge Loan Documentation and the Portfolio Loan Documentation (as applicable); and

- (c) the grant of any such Encumbrance referred to in clause 10.2(a) and (b) will not constitute a breach of this document.

11 Guarantee and indemnity

11.1 Consideration

PropCo Guarantor acknowledges that Healthscope:

- (a) enters into this document at the request of PropCo Guarantor; and
- (b) is acting in reliance on PropCo Guarantor incurring obligations and giving rights under this guarantee.

11.2 Guarantee

- (a) PropCo Guarantor unconditionally and irrevocably guarantees to Healthscope PropCo's compliance with PropCo's obligations in connection with this document, including each obligation to pay money.
- (b) PropCo Guarantor agrees to comply with those obligations on demand from Healthscope if:
 - (i) PropCo does not comply with those obligations on time and in accordance with this document;
 - (ii) an obligation PropCo would otherwise have under this document is found to be void, voidable or unenforceable; or
 - (iii) an Ipso Facto Event occurs. An **Ipso Facto Event** means PropCo is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, or administration as described in section 415D(1), 434J(1) or 451E(1) of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

A demand may be made whether or not Healthscope has made demand on PropCo.

11.3 Indemnity

PropCo Guarantor indemnifies Healthscope against, and agrees to reimburse and compensate Healthscope for, any liability or loss arising, and any Costs it incurs, if:

- (a) PropCo does not, or is unable to, perform an obligation it has (including an obligation to pay money) in connection with this document;
- (b) an obligation PropCo would otherwise have under this document (including an obligation to pay money) is found to be void, voidable or unenforceable;

- (c) an obligation PropCo Guarantor would otherwise have under clause 11.2 ("Guarantee") is found to be void, voidable or unenforceable;
- (d) a representation or warranty by PropCo in this document is found to have been incorrect or misleading (including by omission) when made or taken to be made;
- (e) a liquidator disclaims this document; or
- (f) an Insolvency Event occurs in relation to PropCo.

PropCo Guarantor agrees to pay amounts due under this indemnity on demand from Healthscope.

11.4 Extent of guarantee and indemnity

Each of the guarantee in clause 11.2 ("Guarantee") and the indemnity in clause 11.3 ("Indemnity") is a continuing obligation despite any intervening payment, settlement or other thing (including completion) and extends to all of PropCo's obligations in connection with this document. PropCo Guarantor waives any right it has of first requiring Healthscope to make demand, commence proceedings or enforce any other right against PropCo or any other person before claiming from PropCo Guarantor under this guarantee.

11.5 Acknowledgment

PropCo Guarantor acknowledges that before signing this document, and incurring obligations and giving rights under this guarantee, it:

- (a) was given a copy of this document (and all documents giving rise to an obligation of PropCo in connection with this document) and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of PropCo and any other person who guarantees any of PropCo's obligations in connection with this document.

11.6 Rights of Healthscope are protected

Rights given to Healthscope under this guarantee, and PropCo Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 11.2 ("Guarantee") are expressed to be owing;
 - (ii) releasing PropCo or giving PropCo a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of PropCo's obligations;
 - (iv) by which a person becomes a Guarantor after the contract date;

- (v) by which the obligations of any person who guarantees any of PropCo's obligations (including under this Guarantee) may become unenforceable;
- (vi) by which any person who was intended to guarantee any of PropCo's obligations does not do so, or does not do so effectively; or
- (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with this document, including this guarantee;
- (c) the death, mental or physical disability, or an Insolvency Event occurs in relation to any person including PropCo Guarantor or PropCo;
- (d) changes in the membership, name or business of any person;
- (e) acquiescence or delay by Healthscope or any other person; or
- (f) a liquidator disclaiming this document.

11.7 No merger

This guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which Healthscope is entitled; or
- (b) a judgment which Healthscope obtains against PropCo Guarantor, PropCo or any other person in connection with this document.

Healthscope may still exercise its rights under this guarantee as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

11.8 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this document, PropCo Guarantor may not, without Healthscope's written consent:

- (a) reduce its liability under this guarantee by claiming that it or PropCo or any other person has a right of set-off or counterclaim against Healthscope;
- (b) claim or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity (or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with this document or any other amount payable under this guarantee;
- (c) claim an amount from PropCo, or another guarantor (including a person who has signed this document as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the event an Insolvency Event occurs in relation to PropCo or of another guarantor of any of PropCo's obligations (including a person who has signed this document as a "Guarantor").

This clause continues after this guarantee ends.

11.9 Reinstatement of rights

Under law relating to an Insolvency Event, a person may claim that a transaction (including a payment) in connection with this document (including this guarantee) is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) Healthscope is immediately entitled as against PropCo Guarantor to the rights in connection with this document (including this guarantee) to which it was entitled immediately before the transaction; and
- (b) on request from Healthscope, PropCo Guarantor agrees to do anything (including signing any document) to restore to Healthscope any Encumbrance (including this guarantee) held by it from PropCo Guarantor immediately before the transaction.

PropCo Guarantor's obligations under this clause are continuing obligations, independent of PropCo Guarantor's other obligations under this guarantee and continue after this guarantee ends.

11.10 Extent of Guarantor's obligations

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this guarantee both individually and jointly with any one or more other persons named as "guarantor".

11.11 Dealing with interests

Healthscope may assign or otherwise deal with its rights under this guarantee in any way it considers appropriate. If Healthscope does this, PropCo Guarantor may not claim against any assignee (or any other person who has an interest in this guarantee) any right of set-off or other rights PropCo Guarantor has against Healthscope.

11.12 Costs

PropCo Guarantor agrees, within 5 business days of demand, to pay or reimburse Healthscope's Costs of exercising, enforcing or preserving rights, powers or remedies (or considering doing so) in connection with this guarantee, or doing anything in connection with any enquiry by an authority involving PropCo Guarantor, its assets, this guarantee or anything in connection with them.

PropCo Guarantor agrees to pay for anything that it agrees to do under this guarantee.

11.13 Obligation to pay interest

PropCo Guarantor agrees to pay interest on any amount under this guarantee which:

- (a) is not paid on the due date for payment; and
- (b) is not otherwise incurring interest.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

PropCo Guarantor agrees to pay interest under this clause on demand from Healthscope.

11.14 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

11.15 Compounding

Interest accrued but which has not been paid under clause 11.13 ("Obligation to pay interest") is added to the overdue amount at the end of each period of 30 days (or any other period Healthscope reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is payable on the increased overdue amount at the rate set out in clause 11.14 ("Rate of interest") and in the manner set out in clause 11.13 ("Obligation to pay interest").

11.16 Payments

PropCo Guarantor agrees to make payments under this guarantee to Healthscope (or to a person nominated by Healthscope in a notice to PropCo Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

11.17 Essential term

PropCo Guarantor's compliance with its obligations under this guarantee is an essential term of this document.

11.18 Guarantor to sign contract

PropCo agrees to ensure that PropCo Guarantor signs this document as guarantor. PropCo's obligation under this clause is an essential term of this document.

11.19 Document not binding on certain persons

The obligations of PropCo Guarantor under this document are not personally binding upon any:

- (a) trustee, officer, employee or agent of PropCo Guarantor or any successor;
- (b) any registered or beneficial holder of units in the PropCo Guarantor (a **Unitholder**); or
- (c) any annuitant under a plan of which a Unitholder acts as a trustee or carrier,

and resort shall not be had to, nor shall recourse or satisfaction be sought from any of the foregoing or the private property of any of the foregoing.

12 Representations, warranties and undertakings

12.1 Capacity representations and warranties

Each party (**Warranting Party**) represents and warrants to each other party that:

- (a) where the Warranting Party is a company, it is a company limited by shares incorporated, or taken to be incorporated, and existing under the Corporations Act;
- (b) the Warranting Party has full legal capacity and power to enter into, exercise its rights and perform its obligations under this document;
- (c) all conditions and things required by law to be fulfilled or done in order to enable the Warranting Party lawfully to enter into, and exercise its rights and perform its obligations under this document, have been fulfilled or done other than obtaining FIRB Approval;
- (d) this document constitutes valid and legally binding obligations, enforceable against the Warranting Party in accordance with its terms, except to the extent limited by equitable principles and the law regarding creditors' rights generally;
- (e) neither the Warranting Party's execution of, nor its exercise of rights or performance of its obligations under, this document does or will:
 - (i) contravene any law to which it or any of its property is subject; or
 - (ii) contravene any approval, authorisation, consent or exemption required by any applicable statute or law; or
 - (iii) contravene any undertaking or instrument binding it or any of its property; or
 - (iv) if it is a company, contravene any provisions of its constitution; and
- (f) the Warranting Party is not the subject of an Insolvency Event.

12.2 Trustee representations and warranties

- (a) Where a party (**Trustee**) enters into this document as trustee of a trust (**Trust**), that party represents and warrants to each other party that:
 - (i) the details of the Trust are accurately described in the Details;
 - (ii) the Trust has been duly established;
 - (iii) it is the only trustee of the Trust;
 - (iv) it has been validly appointed as trustee of the Trust and no action has been taken or proposed to remove it as trustee of the Trust;
 - (v) true copies of the Trust Deed (as amended) is either publicly available or have been provided to the other parties upon 2 Business Days of a request and disclose all the terms of the Trust;
 - (vi) it has power under the terms of the Trust to enter into this document and comply with its obligations under it;

- (vii) it has in full force and effect the authorisations necessary for it to enter into this document, perform obligations under it and allow it to be enforced (including any authorisation required under the Trust Deed and its constitution (if any));
 - (viii) it has a right to be fully indemnified out of the Trust Property in respect of obligations incurred by it under this document;
 - (ix) the Trust Property is sufficient to satisfy that right of indemnity and all other obligations in respect of which the Trustee has a right to be indemnified out of the Trust Property;
 - (x) it is not in default under the Trust Deed;
 - (xi) no action has been taken or proposed to terminate the Trust;
 - (xii) it and its directors and other officers have complied with their obligations in connection with the Trust;
 - (xiii) Healthscope's rights under this document against PropCo rank in priority to the interests of the beneficiaries of the Trust;
 - (xiv) it has not exercised its powers under the Trust Deed to release, abandon or restrict any power conferred on it by the Trust Deed; and
 - (xv) entry into this document is a valid exercise of its powers under the Trust Deed for the benefit of the beneficiaries.
- (b) The Trustee undertakes:
- (i) at the request of any other party, to exercise its right of indemnity from the Trust Property in respect of obligations incurred by it under this document;
 - (ii) not to create an encumbrance, or allow one to exist, over its right of indemnity from the Trust Property; and
 - (iii) to comply with its obligations as trustee of the Trust.
- (c) For the purpose of this clause 12.2 and clause 16:
- (i) **Trust Property** means all the Trustee's rights, property and undertaking which are the subject of the Trust:
 - (A) of whatever kind and wherever situated; and
 - (B) whether present or future; and
 - (ii) **Trust Deed** means the trust deed establishing the Trust.

12.3 PropCo Guarantor representations and warranties

PropCo Guarantor represents and warrants that:

- (a) the stated net assets of PropCo Guarantor (as set out in its published interim financial statements for the three and nine month period ending 30 September 2018) were, at that time, C\$1.3 billion (**Stated Net Asset Position**);

- (b) there have been no changes since the last accounts which have resulted in the net asset position of PropCo Guarantor falling below the Stated Net Asset Position by more than 10% on a constant currency basis;
- (c) the amount of cash, committed and immediately available debt funding and other funding sources previously disclosed to Healthscope available to PropCo Guarantor to perform its obligations under this document, the PropCo Bridge Loan and the Sale Contracts will be not less than the amounts to be paid by all Relevant PropCo Buyers to complete the purchase of the Sale Assets under the Sale Contracts; and
- (d) the number of Healthscope Shares it holds as at the date of this document is less than the Proscribed Interest.

12.4 PropCo Guarantor undertaking

PropCo Guarantor undertakes that it will lodge a Form 604 notice of change of interests of substantial holder with the Australian Securities Exchange pursuant to section 671B of the Corporations Act in respect to its interests in the Healthscope Shares within 1 Business Day of the date on which this document is signed.

12.5 Consistency of terms

Each party represents and warrants that so far as it is aware, the terms of this document, the Sale Contracts and the Leases are in all material respects no more or less favourable to Healthscope than the terms which have been, or are proposed to be entered into, by a Healthscope Group entity with the other Property Investor.

12.6 When made

The representations and warranties made in:

- (a) clause 12.1, clause 12.2 and clause 12.5 are taken to be made on the date of this document and repeated on the date all of the Sale Contracts have been executed by all of the parties to each such contract; and
- (b) in clause 12.3 are taken to be made by PropCo Guarantor daily by reference to the facts and circumstances then existing commencing on the date of this document and continuing until the Relevant PropCo Buyer and PropCo Guarantor have performed and discharged their respective obligations under each Sale Contract.

12.7 Reliance

- (a) PropCo acknowledges that Healthscope has entered into this documents in reliance on the representations and warranties in this clause 12.
- (b) Healthscope acknowledges that PropCo and the PropCo Guarantor have each entered into this document in reliance on the representations and warranties in this clause 12.

12.8 Indemnity

PropCo agrees, within 2 Business Days of demand, to indemnify Healthscope against, and to reimburse and compensate Healthscope for, any liability or loss arising from, and any Costs incurred in connection with:

- (a) a representation, warranty or statement made, or taken to be made, by or on behalf of PropCo or PropCo Guarantor in this document being

incorrect or misleading (including by omission) when made or taken to be made;

- (b) Healthscope exercising, enforcing or preserving rights, powers or remedies in connection with this document (or considering doing so); or
- (c) the termination of this document consequent on a PropCo Default (other than the PropCo Default described at paragraph (e) of the definition of PropCo Default).

PropCo agrees to pay an amount equal to any liability or loss and any Costs of the kind referred to in this indemnity incurred by Healthscope's officers, employees, agents or contractors.

13 Confidentiality and announcements

13.1 Obligations of confidentiality

Subject to clause 13.2 and clause 13.4:

- (a) each party acknowledges and agrees with the other party that the obligations of confidentiality under the Confidentiality Deed will apply as if they were obligations under this document, except that either party may be deemed to be the 'discloser' if it discloses Confidential Information to the other party (deemed to be the 'recipient') in connection with the Purpose.
- (b) Each party must treat the existence and terms of this document and any negotiations in relation to the Purpose as "Confidential Information" for the purposes of this clause 13.1.

13.2 Announcements and press releases

Subject to clause 13.4, a party may not make press or other announcements or releases relating to this document or the transactions the subject of this document without the approval of the other parties (such approval not to be unreasonably withheld) as to the form and manner of the announcement or release unless, and to the extent that, the announcement or release is required to be made by the party by law or by a stock exchange, in which case the party giving the announcement or release must first notify (including with reasonable details of the proposed announcement or release) the other parties a reasonable time (having regard to the time within which the announcement must be made), and must take into account (and reflect in the announcement or release to the extent it considers appropriate acting reasonably) any reasonable comments received from the other parties, before the announcement or release is made.

13.3 Other confidentiality obligations

Subject to clause 13.2 and clause 13.4, if the parties' obligations under this clause 10 are inconsistent with their obligations to each other under another confidentiality undertaking, then their obligations under this clause 13 prevail to the extent of the inconsistency.

13.4 Disclosure to BidCo

Clause 13.1 does not apply in respect of the disclosure by any party of (or otherwise prohibit or restrict any party from disclosing) any Confidential Information to BidCo or any Affiliate or Representative of BidCo.

14 No dealings

14.1 No assignment

Subject to clause 10:

- (a) Healthscope may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or to be varied in each case, without the written consent of PropCo; and
- (b) PropCo may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or to be varied in each case, without the written consent of Healthscope.

14.2 No nomination

PropCo must not nominate a substitute or additional buyer (other than any other Relevant PropCo Buyer) under this document without the written consent of Healthscope.

15 GST

15.1 Definitions and interpretation

For the purposes of this clause 15:

- (a) "**GST Act**" means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (b) "**GST Law**" has the same meaning as in the GST Act;
- (c) words and phrases which have a defined meaning in the GST Law have the same meaning when used in this clause 15, unless the contrary intention appears;
- (d) unless otherwise expressly stated in this document, all consideration to be provided under this document is exclusive of GST; and
- (e) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

15.2 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply (**GST Amount**).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

15.3 Adjustment events

If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

15.4 Reimbursements

Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 15.2 will apply to the reduced payment.

15.5 Survival

This clause will not merge upon completion and will continue to apply after expiration or termination of this document.

16 Trustee limitation of liability

16.1 Trustee

The Trustee enters into this document in its capacity as trustee of the Trust.

16.2 Limitation of Trustee's liability

- (a) Subject clause 16.2(b):
 - (i) The Trustee enters into this document only in its capacity as trustee of the Trust and in no other capacity. A liability arising under or in connection with this document is limited to and can be enforced against the Trustee only to the extent to which it is actually indemnified out of the Trust Property out of which the Trustee is entitled to be, indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
 - (ii) The parties, other than the Trustee, may not sue the Trustee under or in respect of this document in any capacity other than as trustee of the Trust, including the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust).
 - (iii) The Trustee does not have to incur any obligation under this document unless its liability in respect of that obligation is limited in the same manner as in this clause 16.2.
- (b) Despite any other provision of this clause 16.2, this clause 16.2 will not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the Trust Deed or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets

of the Trust, as a result of the Trustee's fraud, negligence or breach of trust.

- (c) No act or omission by the Trustee will constitute fraud, negligence or breach of trust for the purpose of clause 16.2(b) to the extent to which the act or omission was caused or contributed to by the failure of any other party to this document to comply with its obligations to the Trust or by any act or omission of that party.

16.3 Override

This clause 16 applies despite any other provision of this document or any principle of equity or law to the contrary.

17 Notices and other communications

17.1 Form

Unless expressly stated otherwise in this document, all notices, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and (except in the case of email) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

17.2 Delivery

Communications must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by regular ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or
- (c) sent by email to the address referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed address, then communications must be to that address, email address or number.

17.3 When effective

Communications take effect from the time they are received or taken to be received under clause 17.4 (whichever happens first) unless a later time is specified.

17.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, six Business Days after posting (or ten days after posting if sent from one country to another);
- (b) if sent by email:

- (i) when the sender receives an automated message confirming delivery; or
- (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

17.5 Receipt outside business hours

Despite clauses 17.3 and 17.4, if communications are received or taken to be received under clause 17.4 after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

18 General

18.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document.

18.2 Stamp duty

PropCo:

- (a) must pay all stamp duty (including fines and penalties) payable on, or in connection with, this document, each Sale Contract and any other document or instrument entered into under or pursuant to this document, and in respect of any transaction evidenced by this document (except, for the avoidance of doubt, as otherwise expressly provided for in this document, the Sale Contracts, the Leases (or any document PropCo or any Relevant PropCo Buyer is required to enter into pursuant to the terms of those documents)); and
- (b) indemnifies on demand Healthscope and each Relevant Healthscope Seller against any liability for stamp duty (including fines and penalties) referred to in clause 18.2(a).

18.3 Approvals and consents

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the approval or consent.

18.4 Variation and waiver

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

18.5 Remedies cumulative

The rights, powers and remedies of Healthscope in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.

18.6 Prompt performance

Each party agrees to perform its obligations under this document promptly, unless a specific time for performance is expressly stated in this document.

18.7 Further assurances

Each party agrees to (on request by any other party from time to time) do everything reasonably necessary to give effect to this document and the transactions contemplated by it.

18.8 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document:

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

18.9 No merger

The representations, warranties and undertakings in this document do not merge on the Termination Date or termination of this document.

18.10 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 16.

18.11 Counterparts

- (a) This document may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document.
- (b) A party that has signed a copy of this document may exchange it with another party by emailing or faxing the executed copy to that other party (or its solicitors) and, if requested by that other party, will promptly deliver the original copy by express post or courier. Failure to make that delivery will not affect the validity or enforceability of this document.

18.12 Provisions prohibited by law

If any provision of this document, or any obligation, right, power or remedy created by a provision:

- (a) is prohibited by a law;
- (b) does not comply with a law; or
- (c) is made unenforceable by a law,

the provision is to be interpreted so that to the extent the law permits, the provision, and any obligation, right power or remedy created by it, is not prohibited, complies with the law and is enforceable.

18.13 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

18.14 Governing law

This document is governed by the law in force in the place specified in the Details and the parties submit to the non-exclusive jurisdiction of the courts of that place.

18.15 Appointment of process agent

Without preventing any method of service allowed under any relevant law, PropCo:

- (a) irrevocably appoints the Process Agent as its process agent to receive any document in an action in connection with this document; and
- (b) agrees that failure by a process agent to notify PropCo of any document in an action in connection with this document does not invalidate the action concerned.

If for any reason the Process Agent ceases to be able to act as process agent, PropCo agrees to appoint another person acceptable to Healthscope (acting reasonably) as its process agent in the place referred to in clause 18.14 and ensure that the replacement process agent accepts its appointment and confirms its appointment to Healthscope.

PropCo represents and warrants that the Process Agent has, before the date of this document, accepted its appointment as the process agent.

PropCo agrees that service of documents on its process agent is sufficient service on it.

EXECUTED as a deed.

Commitment Deed

Schedule 1 - Sale Assets

#	Hospital	Relevant Land Details	Relevant Healthscope Seller	Relevant Tenant	Relevant Subtenant	Relevant Price (A\$) ¹
1	Norwest Private Hospital	Subject to clause 31, 9 Norbrik Drive and 11 Norbrik Drive, Bella Vista, New South Wales, Australia (being comprised in New South Wales folio identifiers 35/SP82294, 5/270592, 57/SP90088, 58/SP90088, 64 to 67 (inclusive)/SP90088 and 200/1222375)	Holmesglen Private Hospital Pty Ltd ACN 137 547 043 (in respect to New South Wales folio identifiers 57/SP90088 and 66/SP90088). Healthscope Operations Pty Ltd ACN 006 405 152 (all other titles).	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	337,027,515
2	The Hills Private Hospital	493, 495, 497-499 and 501 Windsor Road, Baulkham Hills, New South Wales, Australia (being comprised in New South Wales folio identifiers 20/1075051, 21/1075051, 11/1003058, 2/SP60520, 6/SP60520, 8 to 12 (inclusive)/SP60520, 13 to 17 (inclusive)/SP60520 and 18 to 19 (inclusive)/SP70247)	Healthscope Operations Pty Ltd ACN 006 405 152	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	70,806,149

¹ The allocation of the Relevant Price for each Sale Property may be adjusted by mutual agreement of the parties, acting reasonably, prior to execution of the Sale Contracts (provided that the aggregate of Relevant Prices under the Sale Contracts remains the same).

#	Hospital	Relevant Land Details	Relevant Healthscope Seller	Relevant Tenant	Relevant Subtenant	Relevant Price (A\$) ¹
3	Darwin Private Hospital	19 Florey Avenue, Tiwi, Northern Territory, Australia (being comprised in Certificate of title volume 822 folio 958)	Healthscope Operations Pty Ltd ACN 006 405 152	Healthscope Limited ACN 144 840 639	Darwin Private Hospital Pty Ltd ACN 009 653 712	53,290,549
4	Griffith Rehabilitation Hospital	16 Crombie Street and 13 Dunrobin Road, Hove, South Australia, Australia (being comprised in certificates of title volume 5196 folio 379, volume 5196 folio 384, volume 5165 folio 481, volume 5196 folio 380, volume 5196 folio 381, volume 5196 folio 382, volume 5196 folio 383, volume 5196 folio 385, volume 5196 folio 386, volume 5196 folio 387).	Healthscope Operations Pty Ltd ACN 006 405 152	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	45,090,228
5	The Melbourne Clinic	Subject to clause 30, 130 Church Street, Richmond, Victoria, Australia (being comprised in certificates of title volume 09999 folios 248 and 249, volume 09994 folios 141 to 146 (inclusive), volume 09994 folio 150, volume 09994 folios 203 to 219 (inclusive) and volume 09994 folios 229 to 231 (inclusive))	Healthscope Operations Pty Ltd ACN 006 405 152	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	143,054,523
6	John Fawcner Private Hospital	275 Moreland Road and 21 Jessie Street, Coburg, Victoria, Australia (being comprised in certificates of title volume 11847 folios 619-629 (inclusive))	Healthscope Operations Pty Ltd ACN 006 405 152	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	107,282,824

#	Hospital	Relevant Land Details	Relevant Healthscope Seller	Relevant Tenant	Relevant Subtenant	Relevant Price (A\$) ¹
7	The Sydney Clinic	22-26 Murray Street, Bronte, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1110649, 1/567684, 1/74847, 271/520414 and 441/997865)	Healthscope Operations Pty Ltd ACN 006 405 152	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	39,586,294
8	Lady Davidson Private Hospital	434 Bobbin Head Road, North Turramurra, New South Wales, Australia (being comprised in New South Wales folio identifier 211/1012228)	Australian Hospital Care (Lady Davidson) Pty Ltd ACN 079 309 550	Healthscope Limited ACN 144 840 639	Australian Hospital Care (Lady Davidson) Pty Ltd ACN 079 309 550	70,118,508
9	Hunter Valley Rehabilitation Centre	20 Mawson Street, Shortland, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1147809 and 8 to 10 (inclusive)/17058)	The Hunter Valley Private Hospital Pty Ltd ACN 002 830 300	Healthscope Limited ACN 144 840 639	The Hunter Valley Private Hospital Pty Ltd ACN 002 830 300	73,810,503
10	Brisbane Private Hospital	255 Wickham Terrace, Spring Hill, Queensland, Australia (being comprised in title reference 18364150 (Lot 49 on RP231249))	Brisbane Private Hospital Pty Ltd ACN 103 119 384	Healthscope Limited ACN 144 840 639	Brisbane Private Hospital Pty Ltd ACN 103 119 384	164,664,758
11	Newcastle Private Hospital	Subject to clause 31, 14 Lookout Road and 20 Lookout Road, New Lambton Heights, New South Wales, Australia (being comprised in New South Wales folio identifiers 2/1080386, 5/SP60845, 7/SP60845, 10/SP60845 and 402/1197237)	Newcastle Private Hospital Pty Ltd ACN 003 041 978	Healthscope Limited ACN 144 840 639	Newcastle Private Hospital Pty Ltd ACN 003 041 978	153,383,673

Commitment Deed

Schedule 2 - Lease Details

#	Hospital	Relevant Premises Details	Relevant Commencing Rent (A\$) ²	Relevant Term
1	Norwest Private Hospital	Subject to clause 31, 9 Norbrik Drive and 11 Norbrik Drive, Bella Vista, New South Wales, Australia (being comprised in New South Wales folio identifiers 35/SP82294, 5/270592, 57/SP90088, 58/SP90088, 64 to 67 (inclusive)/SP90088 and 200/1222375)	16,851,376	20 years
2	The Hills Private Hospital	493, 495, 497-499 and 501 Windsor Road, Baulkham Hills, New South Wales, Australia (being comprised in New South Wales folio identifiers 20/1075051, 21/1075051, 11/1003058, 2/SP60520, 6/SP60520, 8 to 12 (inclusive)/SP60520, 13 to 17 (inclusive)/SP60520 and 18 to 19 (inclusive)/SP70247)	3,540,307	19 years
3	Darwin Private Hospital	19 Florey Avenue, Tiwi, Northern Territory, Australia (being comprised in Certificate of title volume 822 folio 958)	2,664,527	21 years
4	Griffith Rehabilitation Hospital	16 Crombie Street and 13 Dunrobin Road, Hove, South Australia, Australia (being comprised in certificates of title volume 5196 folio 379, volume 5196 folio 384, volume 5165 folio 481, volume 5196 folio 380, volume 5196 folio 381, volume 5196 folio 382, volume 5196 folio 383, volume 5196 folio 385, volume 5196 folio 386, volume 5196 folio 387)	2,254,511	21 years

² If there is a reallocation of the Relevant Price for each Sale Property by mutual agreement of the parties, the parties may also agree to amend the Relevant Commencing Rent in conjunction with any such reallocation.

#	Hospital	Relevant Premises Details	Relevant Commencing Rent (A\$) ²	Relevant Term
5	The Melbourne Clinic	Subject to clause 30, 130 Church Street, Richmond, Victoria, Australia (being comprised in certificates of title volume 09999 folios 248 and 249, volume 09994 folios 141 to 146 (inclusive), volume 09994 folio 150, volume 9994 folios 203 to 219 (inclusive) and volume 09994 folios 229 to 231 (inclusive))	7,152,726	20 years
6	John Fawkner Private Hospital	275 Moreland Road and 21 Jessie Street, Coburg, Victoria, Australia (being comprised in certificates of title volume 11847 folios 619-629 (inclusive))	5,364,141	21 years
7	The Sydney Clinic	22-26 Murray Street, Bronte, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1110649, 1/567684, 1/74847, 271/520414 and 441/997865)	1,979,315	19 years
8	Lady Davidson Private Hospital	434 Bobbin Head Road, North Turramurra, New South Wales, Australia (being comprised in New South Wales folio identifier 211/1012228)	3,505,925	19 years
9	Hunter Valley Rehabilitation Centre	20 Mawson Street, Shortland, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1147809 and 8 to 10 (inclusive)/17058)	3,690,525	20 years
10	Brisbane Private Hospital	255 Wickham Terrace, Spring Hill, Queensland, Australia (being comprised in title reference 18364150 (Lot 49 on RP231249))	8,233,238	20 years
11	Newcastle Private Hospital	Subject to clause 31, 14 Lookout Road and 20 Lookout Road, New Lambton Heights, New South Wales, Australia (being comprised in New South Wales folio identifiers 2/1080386, 5/SP60845, 7/SP60845, 10/SP60845 and 402/1197237)	7,669,184	20 years

Commitment Deed

Schedule 3 - Sale Contract and Lease Specifics

1 Sale Contracts Specifics

- (a) The parties agree that the amendments set out in clauses 1.1 to 1.11 (inclusive) below are to be made to the specified Sale Contracts when preparing them, in accordance with clause 7 of this document.
- (b) For the avoidance of doubt, when preparing the Sale Contracts, to the extent that any cost, fee, levy or similar arises from or in connection with any Plan of Subdivision, such cost, fee, levy or similar is for the account of the Seller including if such amount is imposed or levied after Settlement.

1.1 Norwest Private Hospital – Sale Contract

In the Sale Contract for the Norwest Private Hospital (being the Sale Asset set out in item 1 of Schedule 1):

- (a) the following is to be included as a new clause 1.9:

“1.9 More than one Seller

The parties acknowledge and agree that, notwithstanding anything to the contrary, to the extent this contract imposes an obligation on the Seller:

- (a) that obligation is to be performed by Holmesglen Private Hospital Pty Ltd (ACN 137 547 043) in relation to that part of the Property comprised within New South Wales folio identifiers 57/SP90088 and 58/SP90088; and
 - (b) that obligation is to be performed by Healthscope Operations Pty Ltd (ACN 006 405 152) in relation to that part of the Property comprised within New South Wales folio identifiers 35/SP82294, 5/270592, 64 to 67 (inclusive)/SP90088 and 200/1222375.”;
- (b) the following is to be included as a new clause 3.5(c):
 - “(c) Notwithstanding anything to the contrary, the parties acknowledge and agree that none of the following constitute ‘Adjacent Land’ for the purposes of this contract:
 - (i) any ‘Consulting Suites’ as defined in clause 32; and
 - (ii) the building known as “Q Central’ and the land on which it is located.”;
- (c) in clause 22.3, the words “Not applicable” are deleted and the following is to be included:

“Where the Subdivision (as that term is defined in clause 32.4) is not finalised prior to Settlement, then following settlement of the Consulting Suite Contracts (as that term is defined in clause

32.4) (**Consulting Suite Settlements**) (and in any event, no later than 5 Business Days after the Consulting Suite Settlements) the Buyer must pay the Seller an amount equal to the GST exclusive purchase price under the Consulting Suite Contracts (as adjusted in accordance with the Consulting Suite Contracts and less any stamp duty and reasonable legal fees paid or payable by the Buyer in connection with the Consulting Suite Settlements). The Buyer agrees that in respect to the Consulting Suites the 'purchase price' includes the purchase price payable to the Buyer or to The Owners Strata Plan No. 82294 in connection with the sale of the Consulting Suites.”;

- (d) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as new paragraph (c) and (d) in that clause:

“(c) there is an Annual Fire Safety Statement (Form 15a) which remains outstanding with several items still being addressed by management. The due date under the notice is 22 November 2018 but management is seeking a further extension to finalise the matter; and

(d) the part of the Land comprised in New South Wales folio identifiers 35/SP82294, 5/270592, 57/SP90088, 58/SP90088, 64 to 67 (inclusive)/SP90088 and 200/1222375 are lots to which a strata scheme applies.”;

- (e) the following is to be included as a new clause 30:

“30 Financial Membership – Norwest Association

30.1 Financial Membership

The Buyer must (at its cost) ensure that it becomes a Financial Member prior to Settlement. The Seller must at its cost provide reasonable assistance to the Buyer to ensure that the Buyer becomes a Financial Member prior to Settlement.

30.2 Application for Membership

Without limiting the Buyer’s obligations under clause 30.1, the Buyer must:

- (a) lodge (and give to the Seller a copy of) the completed membership application form (in the form as notified by the Seller to the Buyer) with Norwest Association Limited within 5 Business Days after the Contract Date;
- (b) pay (and give to the Seller evidence of the payment) to Norwest Association Limited any membership fee or application fee payable in connection with that membership application form within 10 Business Days after the Contract Date; and
- (c) promptly (and in any event within 1 Business Day) notify the Seller when the Buyer becomes aware that the membership application form has been processed and accepted by Norwest Association Limited.

30.3 No claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate in connection with the Restriction on Use of Land or the Buyer's application to become a Financial Member.

30.4 Definitions

In this clause 30:

Financial Member means a financial member of Norwest Association Limited; and

Restriction on Use of Land means the restriction on use of land pursuant to Instrument no. I900774 that is registered against certificates of title folio identifiers 200/1222375, 5/270592, and CP/SP83109.”;

- (f) the following is to be included as a new clause 31:

“31 Subdivision and Consulting Suites

31.1 Subdivision and Consulting Suites

- (a) The Buyer acknowledges and agrees that:

- (i) the Seller intends to (to the extent it has not already done so) effect the Subdivision (with or without Permitted Variations); and
- (ii) the Seller intends to (to the extent it has not already done so) enter into Consulting Suite Contracts,

and confirms that, notwithstanding anything to the contrary, the Seller is authorised to do so.

- (b) Despite anything to the contrary, unless otherwise obliged to submit for registration under a Consulting Suite Contract or where submission for registration is necessary so that registration of the plan occurs prior to any required or sunset date for registration under a Consulting Suite Contract, the Seller must not submit a Plan of Subdivision for registration if the effect of the submission would delay Settlement.

31.2 Buyer's caveat

Where the Buyer (or any person claiming through the Buyer) has lodged a caveat against title to the Land, the Buyer must (promptly on request by the Seller and in the form reasonably requested) provide any withdrawal of caveat or caveator consent required to enable the Subdivision and any transfer of Consulting Suites to be effected.

31.3 Subdivision prior to settlement

Where the Subdivision is finalised prior to Settlement, the parties acknowledge and agree that (notwithstanding anything to the contrary):

- (a) the Buyer will not obtain any right, title or interest in the Consulting Suites under this contract; and
- (b) all references in this contract to "Land" (other than in this clause 31) are to be read as references to "Hospital Land".

31.4 No Subdivision prior to settlement

Where the Subdivision is not finalised prior to Settlement, the parties acknowledge and agree that (notwithstanding anything to the contrary):

- (a) the Property to be acquired by the Buyer on Settlement will include the Consulting Suites for the sole reason that the Subdivision has not been finalised and, consequently, settlement under the Consulting Suite Contract could not occur prior to Settlement;
- (b) the Buyer accepts the Property subject to the interests of any counterparties to the Consulting Suite Contracts;
- (c) the Buyer agrees to perform any Registered Proprietor Obligations of the Seller under the Consulting Suite Contracts entered into by the Seller prior to Settlement (as if named in place of the Seller);
- (d) if required by the Seller, the Buyer and Seller agree to (promptly after Settlement) take all reasonable steps to (without limiting clause 31.4(h)) assign to the Buyer each Consulting Suite Contract entered into by the Seller prior to Settlement solely for the purpose of the Buyer performing the Registered Proprietor Obligations;
- (e) the Buyer agrees to promptly perform all of the Registered Proprietor Obligations in respect to the Subdivision and the Consulting Suite Contracts entered into by the Seller prior to Settlement, and to otherwise co-operate in good faith with the Seller in connection with the Subdivision and those Consulting Suite Contracts;
- (f) the Seller agrees to perform all other obligations required for the Subdivision and settlement of the Consulting Suite Contracts entered into prior to Settlement (including by procuring that the tenant under the Hospital Lease signs, on request by the Buyer (but subject to the tenant being satisfied that all required steps have been taken to ensure that the Hospital Lease will remain in place for the remainder of the Land), such partial surrender of the Hospital lease as is required to allow the Consulting Suite to be sold free of the Hospital Lease and on the basis that there is no adjustment to the rent or other amendments to the terms and conditions of the Hospital Lease;

- (g) the Seller:
 - (i) must pay all stamp duty (including fines and penalties) payable in connection with the assignment of any Consulting Suite Contract entered into prior to Settlement or in connection with title and/or legal interest in the relevant part of the Land represented by the Consulting Suites being transferred to the Buyer; and
 - (ii) indemnifies the Buyer for all reasonable costs and expenses incurred, and any loss suffered, by the Buyer in performing the Registered Proprietor Obligations, except to the extent that the cost, expense or loss was caused by the negligent act or omission or breach by the Buyer;
- (h) where a Consulting Suite Contract has not been entered into by the Seller prior to Settlement:
 - (i) the Buyer must at the request of the Seller enter into a Consulting Suite Contract on terms reasonably required by the Seller for the sole reason that the Subdivision has not been finalised and, consequently, settlement under the Consulting Suite Contracts could not occur prior to Settlement;
 - (ii) the Buyer agrees to promptly perform all of the Registered Proprietor Obligations in respect to the Consulting Suite Contract, and to otherwise co-operate in good faith with the Seller in connection with the Consulting Suite Contract;
 - (iii) the Seller agrees to perform all other obligations required for the Subdivision and settlement of the Consulting Suite Contracts entered into prior to Settlement (including by procuring that the tenant under the Hospital Lease signs, on request by the Buyer (but subject to the tenant being satisfied that all require steps have been taken to ensure that the Hospital Lease will remain in place for the remainder of the Land), such partial surrender of the Hospital lease as is required to allow the Consulting Suite to be sold free of the Hospital Lease and on the basis that there is no adjustment to the rent or other amendments to the terms and conditions of the Hospital Lease;
 - (iv) the Seller indemnifies the Buyer for all reasonable costs and expenses incurred, and any loss suffered, by the Buyer in performing the Registered Proprietor Obligations under the Consulting Suite Contract, except to the extent that the cost, expense or loss was caused by the negligent act or omission or breach by the Buyer;
- (i) the Seller is entitled to be paid an amount equal to the GST exclusive purchase price under or otherwise

associated with each Consulting Suite Contract (as adjusted in accordance with the Consulting Suite Contract), and the Buyer must procure that such amount is paid to the Seller no later than the date which is 5 Business Days after the date that the Consulting Suite Contract completes (including, where the Consulting Suite Contract has been assigned to the Buyer, by directing the purchaser under the Contracting Suite Contract to pay that amount to the Seller on settlement of the contract);

- (j) The Seller must procure payment (or where paid by the Buyer reimbursement to the Buyer) of the outgoings applicable to a Consulting Suite until the sale of that Consulting Suite completes.
- (k) the Buyer does not obtain any right, title or interest in the Consulting Suites under this contract prior to Settlement.

31.5 No Claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate in connection with the Subdivision or the Consulting Suites Contracts.

31.6 Definitions

In this clause 31:

Consulting Suites means those volumetric lots to be created on registration of the Plan of Subdivision, generally in accordance with the areas identified as lots 68, 69, 70 and 71 on the plans included at Annexure C.

Consulting Suite Contracts means those contracts for sale entered into or proposed to be entered into by the Seller (before or after the Contract Date and before or after Settlement) with a third party purchaser for the acquisition of a Consulting Suite, and includes a contract for sale of a Consulting Suite where a third party purchaser has not on the date of this Contract been identified and includes a contract for sale of a Consulting Suite where the terms of that contract have not on the date of this Contract been agreed.

Hospital Land means the Land excluding the Consulting Suites.

Permitted Variations means any alterations, additions, variations or deletions to the Plan of Subdivision:

- (a) which may be required by a relevant Authority;
- (b) to correct a minor error which is evident on the face of the Plan of Subdivision;
- (c) which is minor and does not materially or adversely affect the Hospital Land or the proposed use of the Hospital Land; or

- (d) which do not result in a material increase in the area of the Consulting Suites.

Plan of Subdivision means the draft plans of subdivision and associated materials included at Annexure C.

Registered Proprietor Obligations means those obligations necessary to be performed by the registered proprietor of the Land in order to register a Plan of Subdivision and to complete a Consulting Suite Contract (including signing transfers of Consulting Suites, arranging for discharge of encumbrances over Consulting Suites, signing or consenting to a Plan of Subdivision and any accompanying instrument, producing titles and otherwise signing documents required to be signed by the registered proprietor of the Land in connection with a Subdivision and the Consulting Suite Contracts).

Subdivision means the subdivision, reconfiguration or amalgamation of the Land (or relevant parts) proposed generally in accordance with the Plan of Subdivision (and subject to any Permitted Variations) to create (or, in the circumstance where successive Plans of Subdivision need to be registered, to ultimately create) separate titles for the Consulting Suites and the Hospital Land, including recording any associated instrument or other document and the grant of any associated easements covenants and rights of carriageway identified in the Plan of Subdivision.”;

- (g) the following is to be included as a new clause 32:

“32 Strata or community title

32.1 Notices, certificates and inspections

- (a) Each of the Seller and the Buyer agree:
 - (i) to promptly after Settlement inform the Owners Corporation of Settlement and to co-ordinate the signing of any Information Notice addressed to the Owners Corporation; and
 - (ii) on request by the other, to provide any such assistance as may reasonably be requested including by signing any notice or form that may be necessary to enable the Buyer to become a member of the Owners Corporation.
- (b) The Seller authorises the Buyer to:
 - (i) apply for the Buyer’s own certificate; and
 - (ii) apply for and make an inspection of any record or other document in the custody or control of the Owners Corporation or relating to the scheme or any higher scheme.

32.2 No Claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation),

requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate in connection with any fact, matter or circumstance described in this clause 32.

32.3 Definitions

In this clause 32:

Information Notice means a strata information notice under section 22 of the *Strata Schemes Management Act 2015* (NSW) and a notice under section 47 of the *Community Land Management Act 1989* (NSW).

Owners Corporation means the owners corporation or the association for the scheme or any higher scheme in respect to the Land (or relevant part of it).”; and

(h) the following is to be included as a new clause 33:

“33 Construction Contract

33.1 Construction Contract

The parties agree and acknowledge that:

- (a) the Seller has entered into the Construction Contract in respect of the Property;
- (b) the right, title and interest of the Seller in the Construction Contract constitute OpCo Assets for the purposes of this contract (and are not transferred to the Buyer);
- (c) for the purposes of the Hospital Lease, the Buyer consents to and approves the works contemplated by the Construction Contract; and
- (d) the Buyer will not assume any of the Seller’s obligations or liabilities in respect of the Construction Contract.

33.2 Definitions

In this clause 33:

Construction Contract means any works and construction contract entered into by the Seller or OpCo in respect to the Property.”.

1.2 The Hills Private Hospital – Sale Contract

In the Sale Contract for The Hills Private Hospital (being the Sale Asset set out in item 2 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as new paragraphs (c) and (d) in that clause:
 - “(c) the part of the Land comprised in New South Wales folio identifiers 20/1075051, 21/1075051, 11/1003058, 2/SP60520, 6/SP60520, 8 to 12 (inclusive)/SP60520, 13 to 17

(inclusive)/SP60520, and 18 to 19(inclusive)/SP70247 are lots to which a strata scheme applies; and

- (d) part of the Land, being Lot 20 in DP1075051, is affected by a road widening proposal pursuant to which Roads and Maritime Services proposes to acquire part of that lot for the purposes of widening Windsor Road approximately 2.2 meters at the south-western boundary of the lot.”; and

- (b) the following is to be included as a new clause 30:

“30 Strata or community title

30.1 Notices, certificates and inspections

- (a) Each of the Seller and the Buyer agree:
 - (i) to promptly after Settlement inform the Owners Corporation of Settlement and to co-ordinate the signing of any Information Notice addressed to the Owners Corporation; and
 - (ii) on request by the other, to provide any such assistance as may reasonably be requested including by signing any notice or form that may be necessary to enable the Buyer to become a member of the Owners Corporation.
- (b) The Seller authorises the Buyer to:
 - (i) apply for the Buyer’s own certificate; and
 - (ii) apply for and make an inspection of any record or other document in the custody or control of the Owners Corporation or relating to the scheme or any higher scheme.

30.2 No Claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate in connection with any fact, matter or circumstance described in this clause 30.

30.3 Definitions

In this clause 30:

Information Notice means a strata information notice under section 22 of the *Strata Schemes Management Act 2015* (NSW) and a notice under section 47 of the *Community Land Management Act 1989* (NSW).

Owners Corporation means the owners corporation or the association for the scheme or any higher scheme in respect to the Land (or relevant part of it).”.

1.3 Darwin Private Hospital – Sale Contract

In the Sale Contract for the Darwin Private Hospital (being the Sale Asset set out in Item 3 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as new paragraph (c) in that clause:

“(c) there is a notice of subdivision of Lot 9731 into Lots 9746 and 9747 (LTO plan 2001/093) to be further subdivided into Lots 12544 and 12545 (LTO plan 2017/032).”;

- (b) the following is to be included as a new clause 30:

“30 Construction Contract

30.1 Construction Contract

The parties agree and acknowledge that:

- (a) the Seller has entered into the Construction Contract in respect of the Property;
- (b) the right, title and interest of the Seller in the Construction Contract constitute OpCo Assets for the purposes of this contract (and are not transferred to the Buyer);
- (c) for the purposes of the Hospital Lease, the Buyer consents to and approves the works contemplated by the Current Construction Contract; and
- (d) the Buyer will not assume any of the Seller’s obligations or liabilities in respect of the Construction Contract.

30.2 Definitions

In this clause 30:

Construction Contract means any works and construction contract entered into by the Seller or OpCo in respect to the Property (including the Current Construction Contract).

Current Construction Contract means the undated construction contract between the Healthscope Operations Pty Ltd (as principal) and Politis Roofing Pty Ltd (as contractor); and

1.4 Griffith Rehabilitation Centre – Sale Contract

In the Sale Contract for the Griffith Rehabilitation Centre (being the Sale Asset set out in item 4 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as a new paragraph (c) in that clause:

“(c) the Griffith Rehabilitation Hospital Asbestos Report dated March 2016 discloses there are a number of low risk sources of asbestos throughout the Property, and a copy of that report has been disclosed in the Due Diligence Material.”; and

- (b) the following is to be included as a new clause 30:

“30 Historical change of name

At Settlement the Seller agrees to provide to the Buyer such evidence of the change in the Seller's name from Healthscope Limited to Healthscope Operations Pty Ltd as is required to effect the registration of the transfer.”

1.5 The Melbourne Clinic – Sale Contract

In the Sale Contract for the Melbourne Clinic (being the Sale Asset set out in item 5 of Schedule 1):

- (a) the following is to be included as a new clause 3.5(c):

“(c) Notwithstanding anything to the contrary, the parties acknowledge and agree that any ‘Consulting Suites’ as defined in clause 30 do not constitute ‘Adjacent Land’ for the purposes of this contract.”

- (b) in clause 22.3, the words “Not applicable” are deleted and the following is to be included:

“Where the Subdivision (as that term is defined in clause 30.4) is not finalised prior to Settlement, then following settlement of the Consulting Suite Contracts (as that term is defined in clause 30.4) (**Consulting Suite Settlements**) (and in any event, no later than 5 Business Days after the Consulting Suite Settlements) the Buyer must pay the Seller an amount equal to the GST exclusive purchase price under the Consulting Suite Contracts (as adjusted in accordance with the Consulting Suite Contracts and less any stamp duty and reasonable legal fees paid or payable by the Buyer in connection with the Consulting Suite Settlements).”;

- (c) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as a new paragraph (c) in that clause:

“(c) the Property is in the vicinity of sites listed on the Victorian Environmental Protection Agency Priority Sites Register.”

- (d) the following is to be included as a new clause 30:

“30 Consulting Suites

30.1 Consulting Suites

Notwithstanding anything to the contrary, the Buyer acknowledges and agrees that:

- (a) the Land does not include the Consulting Suites; and
- (b) the Buyer will not obtain any right, title or interest in the Consulting Suites or any contracts for sale entered into by the Seller (before or after the Contract Date) with a third party purchaser for the acquisition of the Consulting Suites under this contract.

30.2 No Claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate in connection with the Consulting Suites.

30.3 Definition

In this clause 30, **Consulting Suites** means lot 25 in strata plan 35488R (being certificate of title volume 9994 folio 140) and known as unit 25, 132-140 Church Street, Richmond VIC 3121 together with two (2) car spaces, being lots 86 and 87 in strata plan 35488R (certificates of title volume 9994 folio 201 and volume 9994 folio 202 respectively)."

- (e) the following is to be included as a new clause 31:

"31 Historical change of name

At Settlement the Seller agrees to provide to the Buyer such evidence of the change in the Seller's name from Healthscope Limited to Healthscope Operations Pty Ltd as is required to effect the registration of the transfer."; and

- (f) the following is to be included as a new clause 32:

"32 Construction Contract

32.1 Construction Contract

The parties agree and acknowledge that:

- (a) the Seller has entered into the Construction Contract in respect of the Property;
- (b) the right, title and interest of the Seller in the Construction Contract constitute OpCo Assets for the purposes of this contract;
- (c) for the purposes of the Hospital Lease, the Buyer consents to and approves the works contemplated by the Current Construction Contract; and
- (d) the Buyer will not assume any of the Seller's obligations or liabilities in respect of the Construction Contract.

32.2 Definitions

In this clause 32:

Construction Contract means any works and construction contract entered into by the Seller or OpCo in respect to the Property (including the Current Construction Contract).

Current Construction Contract means the Formal Instrument of Agreement – Project: The Melbourne Clinic - Levels 3 and 4 Extension and Ground Floor Alterations Project (AS4300 Design and Construct Contract) (undated) between Healthscope

1.6 John Fawkner Private Hospital – Sale Contract

In the Sale Contract for the John Fawkner Private Hospital (being the Sale Asset set out in item 6 of Schedule 1):

- (a) the following is to be included as a new clause 30:

“30 Construction Contract

30.1 Construction Contract

The parties agree and acknowledge that:

- (a) the Seller has entered into the Construction Contract in respect of the Property;
- (b) the right, title and interest of the Seller in the Construction Contract constitute OpCo Assets for the purposes of this contract;
- (c) for the purposes of the Hospital Lease, the Buyer consents to and approves the works contemplated by the Current Construction Contract; and
- (d) the Buyer will not assume any of the Seller’s obligations or liabilities in respect of the Construction Contract.

30.2 Definitions

In this clause 30:

Construction Contract means any works and construction contract entered into by the Seller or OpCo in respect to the Property (including the Current Construction Contract).

Current Construction Contract means the Formal Instrument of Agreement –Project: John Fawkner Private Hospital – Main Works, 275 Moreland Road, Coburg (AS2124 Construct Only Contract) (undated) between Healthscope Operations Pty Ltd (as principal) and Cockram Construction Limited (as contractor).”.

1.7 The Sydney Clinic – Sale Contract

In the Sale Contract for the Sydney Clinic (being the Sale Asset set out in item 7 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as a new paragraph (c) in that clause:
- “(c) the Property is located within a General Heritage Conservation Area as identified in the Waverly LEP.”; and
- (b) the following is to be included as a new clause 30:

“30 Historical change of name

At Settlement the Seller agrees to provide to the Buyer such evidence of the change in the Seller's name from Healthscope Limited to Healthscope Operations Pty Ltd as is required to effect the registration of the transfer.”.

1.8 Lady Davidson Private Hospital – Sale Contract

In the Sale Contract for the Lady Davidson Private Hospital (being the Sale Asset set out in item 8 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as new paragraphs (c) and (d) in that clause:
 - “(c) the Property is listed on the National Trust Register; and
 - (d) a site audit statement exists for the Property under the Contaminated Land Management Act 1997 (NSW).”;

1.9 Hunter Valley Private Hospital – Sale Contract

In the Sale Contract for the Hunter Valley Private Hospital (being the Sale Asset set out in Item 9 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as a new paragraph (c) in that clause:
 - “(c) the Property is listed on the National Trust Register.”;

1.10 Brisbane Private Hospital – Sale Contract

In the Sale Contract for the Brisbane Private Hospital (being the Sale Asset set out in item 10 of Schedule 1):

- (a) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as new paragraphs (c), (d) and (e) in that clause:
 - “(c) the new chillers for operating theatres 15 and 16 on the Property produce noise in excess of the council limits imposed;
 - (d) a compliance certificate has not been issued for plumbing work carried out under plumbing application number 0363379; and
 - (e) the Property is listed on Brisbane City Council’s City Plan Heritage Register as a ‘Significant Heritage Site’”.
- (b) the following is to be included as a new clause 30:

“30 Construction Contract

30.1 Construction Contract

The parties agree and acknowledge that:

- (a) OpCo has entered into the Construction Contract in respect of the Property;

- (b) the right, title and interest of OpCo in the Construction Contract constitute OpCo Assets for the purposes of this contract;
- (c) for the purposes of the Hospital Lease, the Buyer consents to and approves the works contemplated by the Construction Contract; and
- (d) the Buyer will not assume any of OpCo's obligations or liabilities in respect of the Construction Contract.

30.2 Definitions

In this clause 30:

Construction Contract means any works and construction contract entered into by the Seller or OpCo in respect to the Property.”.

1.11 Newcastle Private Hospital – Sale Contract

In the Sale Contract for the Newcastle Private Hospital (being the Sale Asset set out in item 11 of Schedule 1):

- (a) the following is to be included as a new clause 3.5(c):
 - “(c) Notwithstanding anything to the contrary, the parties acknowledge and agree that any ‘Consulting Suites’ as defined in clause 31 do not constitute ‘Adjacent Land’ for the purposes of this contract.”
- (b) in clause 22.3, the words “Not applicable” are deleted and the following is to be included:

“Where the Subdivision (as that term is defined in clause 31.4) is not finalised prior to Settlement, then following settlement of the Consulting Suite Contracts (as that term is defined in clause 31.4) (**Consulting Suite Settlements**) (and in any event, no later than 5 Business Days after the Consulting Suite Settlements) the Buyer must pay the Seller an amount equal to the GST exclusive purchase price under the Consulting Suite Contracts (as adjusted in accordance with the Consulting Suite Contracts and less any stamp duty and reasonable legal fees paid or payable by the Buyer in connection with the Consulting Suite Settlements).”;
- (c) in clause 28.1, the word “and” is deleted in paragraph (a), the full stop in paragraph (b) is replaced with “; and”, and the following is to be included as new paragraphs (c) and (d) in that clause:
 - “(c) the Property:
 - (i) is affected by soil or groundwater contamination; and
 - (ii) is the subject of a notice that has been issued by the Environmental Health & Building Surveyor of the Fire Safety Unit at Penrith City Council which identifies the Property as a high risk building in terms of fire safety and a copy of that notice has been disclosed in the Due Diligence Material;

- (iii) listed on the National Trust Register; and
- (iv) has a heritage item listed in the Newcastle Environmental Plan 2012; and
- (d) the part of the Land comprised in New South Wales folio identifiers 2/1080386, 5/SP60845, 7/SP60845, 10/SP60845 and 402/1197237 are lots to which a strata scheme applies (and which is registered in strata plan 60845).”;
- (d) the following is to be included as a new clause 30:

“30 Restrictions on Use

30.1 Variation of Restrictions on Use

Prior to Settlement, the Seller must:

- (a) procure the Owner’s Corporation to vary the Restrictions on Use by way of special resolution such that the Restrictions on Use do not apply to the part of the land to which the Buyer is the registered proprietor;
- (b) procure that a Variation of Restrictions on Use to record the effect of that special resolution on title is lodged with NSW Land Registry Services; and
- (c) use all reasonable endeavours to procure that the Variation of Restrictions on Use is registered by NSW Land Registry Services.

30.2 No claim or action regarding registration

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because a Variation of Restrictions on Use has not been registered as at Settlement.

30.3 Definitions

In this clause 30:

Owner’s Corporation means the owners corporation for Strata Plan 60845;

Restrictions on Use means Part 2, clause 1 of the restrictions on use of land pursuant to Instrument no. SP60845 that is registered against certificates of title folio identifiers 5/SP60845, 7/SP60845, 10/SP60845 and CP/SP60845; and

Variation of Restrictions on Use means the prescribed form required by NSW Land Registry Services to register a variation or modification of restriction on the use of land, reflecting the variation contemplated by this clause 30.”;

- (e) the following is to be included as a new clause 31:

“31 Subdivision and Consulting Suites

31.1 Subdivision and Consulting Suites

- (a) The Buyer acknowledges and agrees that:
 - (i) the Seller intends to (to the extent it has not already done so) effect the Subdivision (with or without Permitted Variations); and
 - (ii) the Seller intends to (to the extent it has not already done so) enter into Consulting Suite Contracts,and confirms that, notwithstanding anything to the contrary, the Seller is authorised to do so.
- (b) Despite anything to the contrary, unless otherwise obliged to submit for registration under a Consulting Suite Contract or where submission for registration is necessary so that registration of the plan occurs prior to any required or sunset date for registration under a Consulting Suite Contract, the Seller must not submit a Plan of Subdivision for registration if the effect of the submission would delay Settlement.

31.2 Buyer's caveat

Where the Buyer (or any person claiming through the Buyer) has lodged a caveat against title to the Land, the Buyer must (promptly on request by the Seller and in the form reasonably requested) provide any withdrawal of caveat or caveator consent required to enable the Subdivision and any transfer of Consulting Suites to be effected.

31.3 Subdivision prior to settlement

Where the Subdivision is finalised prior to Settlement, the parties acknowledge and agree that (notwithstanding anything to the contrary):

- (a) the Buyer will not obtain any right, title or interest in the Consulting Suites under this contract; and
- (b) all references in this contract to “Land” (other than in this clause 31) are to be read as references to “Hospital Land”.

31.4 No Subdivision prior to settlement

Where the Subdivision is not finalised prior to Settlement, the parties acknowledge and agree that (notwithstanding anything to the contrary):

- (a) the Property to be acquired by the Buyer on Settlement will include the Consulting Suites for the sole reason that the Subdivision has not been finalised and, consequently, settlement under the Consulting Suite Contract could not occur prior to Settlement;

- (b) the Buyer accepts the Property subject to the interests of any counterparties to the Consulting Suite Contracts;
- (c) the Buyer agrees to perform any Registered Proprietor Obligations of the Seller under the Consulting Suite Contracts entered into by the Seller prior to Settlement (as if named in place of the Seller);
- (d) if required by the Seller, the Buyer and Seller agree to (promptly after Settlement) take all reasonable steps to (without limiting clause 31.4(h)) assign to the Buyer each Consulting Suite Contract entered into by the Seller prior to Settlement solely for the purpose of the Buyer performing the Registered Proprietor Obligations;
- (e) the Buyer agrees to promptly perform all of the Registered Proprietor Obligations in respect to the Subdivision and the Consulting Suite Contracts entered into by the Seller prior to Settlement, and to otherwise co-operate in good faith with the Seller in connection with the Subdivision and those Consulting Suite Contracts;
- (f) the Seller agrees to perform all other obligations required for the Subdivision and settlement of the Consulting Suite Contracts entered into prior to Settlement (including by procuring that the tenant under the Hospital Lease signs, on request by the Buyer (but subject to the tenant being satisfied that all required steps have been taken to ensure that the Hospital Lease will remain in place for the remainder of the Land), such partial surrender of the Hospital lease as is required to allow the Consulting Suite to be sold free of the Hospital Lease and on the basis that there is no adjustment to the rent or other amendments to the terms and conditions of the Hospital Lease;
- (g) the Seller:
 - (i) must pay all stamp duty (including fines and penalties) payable in connection with the assignment of any Consulting Suite Contract entered into prior to Settlement or in connection with title and/or legal interest in the relevant part of the Land represented by the Consulting Suites being transferred to the Buyer; and
 - (ii) indemnifies the Buyer for all reasonable costs and expenses incurred, and any loss suffered, by the Buyer in performing the Registered Proprietor Obligations, except to the extent that the cost, expense or loss was caused by the negligent act or omission or breach by the Buyer;
- (h) where a Consulting Suite Contract has not been entered into by the Seller prior to Settlement:
 - (i) the Buyer must at the request of the Seller enter into a Consulting Suite Contract on terms reasonably required by the Seller for the sole reason that the Subdivision has not been

finalised and, consequently, settlement under the Consulting Suite Contracts could not occur prior to Settlement;

- (ii) the Buyer agrees to promptly perform all of the Registered Proprietor Obligations in respect to the Consulting Suite Contract, and to otherwise co-operate in good faith with the Seller in connection with the Consulting Suite Contract;
 - (iii) the Seller agrees to perform all other obligations required for the Subdivision and settlement of the Consulting Suite Contracts entered into prior to Settlement (including by procuring that the tenant under the Hospital Lease signs, on request by the Buyer (but subject to the tenant being satisfied that all required steps have been taken to ensure that the Hospital Lease will remain in place for the remainder of the Land), such partial surrender of the Hospital lease as is required to allow the Consulting Suite to be sold free of the Hospital Lease and on the basis that there is no adjustment to the rent or other amendments to the terms and conditions of the Hospital Lease; and
 - (iv) the Seller indemnifies the Buyer for all reasonable costs and expenses incurred, and any loss suffered, by the Buyer in performing the Registered Proprietor Obligations under the Consulting Suite Contract, except to the extent that the cost, expense or loss was caused by the negligent act or omission or breach by the Buyer;
- (i) the Seller is entitled to be paid an amount equal to the GST exclusive purchase price under or otherwise associated with each Consulting Suite Contract (as adjusted in accordance with the Consulting Suite Contract), and the Buyer must procure that such amount is paid to the Seller no later than the date which is 5 Business Days after the date that the Consulting Suite Contract completes (including, where the Consulting Suite Contract has been assigned to the Buyer, by directing the purchaser under the Consulting Suite Contract to pay that amount to the Seller on settlement of the contract);
 - (j) The Seller must procure payment (or where paid by the Buyer reimbursement to the Buyer) of the outgoings applicable to a Consulting Suite until the sale of that Consulting Suite completes.
 - (k) the Buyer does not obtain any right, title or interest in the Consulting Suites under this contract prior to Settlement.

31.5 No Claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay

Settlement, rescind or terminate in connection with the Subdivision or the Consulting Suites Contracts.

31.6 Definitions

In this clause 31:

Consulting Suites means those volumetric lots to be created on registration of the Plan of Subdivision, generally in accordance with the areas identified as lots 1 to 10 (inclusive) on the plans included at Annexure C.

Consulting Suite Contracts means those contracts for sale entered into or proposed to be entered into by the Seller (before or after the Contract Date and before or after Settlement) with a third party purchaser for the acquisition of a Consulting Suite, and includes a contract for sale of a Consulting Suite where a third party purchaser has not on the date of this Contract been identified and includes a contract for sale of a Consulting Suite where the terms of that contract have not on the date of this Contract been agreed.

Hospital Land means the Land excluding the Consulting Suites.

Permitted Variations means any alterations, additions, variations or deletions to the Plan of Subdivision:

- (a) which may be required by a relevant Authority;
- (b) to correct a minor error which is evident on the face of the Plan of Subdivision;
- (c) which is minor and does not materially or adversely affect the Hospital Land or the proposed use of the Hospital Land; or
- (d) which do not result in a material increase in the area of the Consulting Suites.

Plan of Subdivision means the draft plans of subdivision and associated materials included at Annexure C.

Registered Proprietor Obligations means those obligations necessary to be performed by the registered proprietor of the Land in order to register a Plan of Subdivision and to complete a Consulting Suite Contract (including signing transfers of Consulting Suites, arranging for discharge of encumbrances over Consulting Suites, signing or consenting to a Plan of Subdivision and any accompanying instrument, producing titles and otherwise signing documents required to be signed by the registered proprietor of the Land in connection with a Subdivision and the Consulting Suite Contracts).

Subdivision means the subdivision, reconfiguration or amalgamation of the Land (or relevant parts) proposed generally in accordance with the Plan of Subdivision (and subject to any Permitted Variations) to create (or, in the circumstance where successive Plans of Subdivision need to be registered, to ultimately create) separate titles for the Consulting Suites and the Hospital Land, including recording any associated instrument or other document and the grant of any associated easements

covenants and rights of carriageway identified in the Plan of Subdivision.”;

- (f) the following is to be included as a new clause 32:

“32 Construction Contract

32.1 Construction Contract

The parties agree and acknowledge that:

- (a) the Seller has entered into the Construction Contract in respect of the Property;
- (b) the right, title and interest of the Seller in the Construction Contract constitute OpCo Assets for the purposes of this contract;
- (c) for the purposes of the Hospital Lease, the Buyer consents to and approves the works contemplated by the Construction Contract; and
- (d) the Buyer will not assume any of the Seller’s obligations or liabilities in respect of the Construction Contract.

32.2 Definitions

In this clause 33:

Construction Contract means any works and construction contract entered into by the Seller or OpCo in respect to the Property.”; and

- (g) the following is to be included as a new clause 34:

“33 Strata or community title

33.1 Notices, certificates and inspections

- (a) Each of the Seller and the Buyer agree:
 - (i) to promptly after Settlement inform the Owners Corporation of Settlement and to co-ordinate the signing of any Information Notice addressed to the Owners Corporation; and
 - (ii) on request by the other, to provide any such assistance as may reasonably be requested including by signing any notice or form that may be necessary to enable the Buyer to become a member of the Owners Corporation.
- (b) The Seller authorises the Buyer to:
 - (i) apply for the Buyer’s own certificate; and
 - (ii) apply for and make an inspection of any record or other document in the custody or control of the Owners Corporation or relating to the scheme or any higher scheme.

33.2 No Claim or action

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate in connection with any fact, matter or circumstance described in this clause 34.

33.3 Definitions

In this clause 34:

Information Notice means a strata information notice under section 22 of the *Strata Schemes Management Act 2015* (NSW) and a notice under section 47 of the *Community Land Management Act 1989* (NSW).

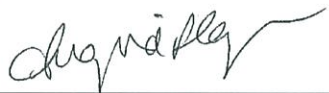
Owners Corporation means the owners corporation or the association for the scheme or any higher scheme in respect to the Land (or relevant part of it)."

Signing page

DATED: 7 February 2019

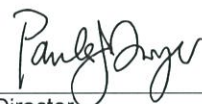
Healthscope

Signed sealed and delivered
by
Healthscope Limited
by

sign here ► 

Company Secretary/Director

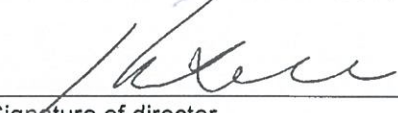
print name Ingrid Player

sign here ► 

Director

print name Paula Dwyer

**EXECUTED by NWH AUSTRALIA
ASSETCO PTY LTD AS TRUSTEE OF
NWH AUSTRALIA ASSET TRUST:**



Signature of director

CRAIG MITCHELL

Name



Signature of director/secretary

Richard Roos

Name

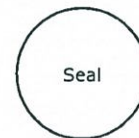
**SIGNED, SEALED AND DELIVERED
by NORTHWEST HEALTHCARE
PROPERTIES REAL ESTATE
INVESTMENT TRUST in the presence
of:**



Signature of witness

ELIZA BLANDFORD

Name of witness





Signature of authorised signatory

BERNARD W. CRO

Name of authorised signatory

Commitment Deed

Annexure “A” – Form of Sale Contract

Project Vigour

Contract of Sale – *[#insert name of]* Hospital

Dated *[#contract to be entered into and dated no later than 1 Business
Day before the date of the Scheme Meeting]*

[#insert name and ACN/ABN] (“**Seller**”)

[#insert name and ACN/ABN] (“**Buyer**”)

NorthWest Healthcare Properties Real Estate Investment Trust
(“**Guarantor**”)

King & Wood Mallesons

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Governor Phillip Tower
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Contract of Sale – [#insert name of] Hospital

Contents

Details	1
Agreed terms	3
1 Definitions and interpretation	3
1.1 Definitions	3
1.2 Capitalised terms in the Details	10
1.3 Interpretation	10
1.4 Next day	11
1.5 Next Business Day	11
1.6 Headings	11
1.7 Meaning not limited	11
1.8 Construction	11
2 Settlement conditional	12
2.1 Conditions Precedent	12
2.2 Reasonable endeavours	12
2.3 Information	12
2.4 Notification	12
2.5 No waiver of Conditions Precedent	12
2.6 Termination	12
2.7 Consequences of termination	12
3 Sale of the Property	13
3.1 Agreement to purchase	13
3.2 Title	13
3.3 As is, where is sale	13
3.4 When risk passes	13
3.5 Adjacent Land	13
4 Delay Event	13
4.1 Delay Events – Extension of Settlement Date	13
4.2 Delay Sunset Date	15
4.3 Consequences of termination	15
5 Hospital Lease	15
5.1 Seller to procure entry into Hospital Lease	15
5.2 Buyer acknowledgement	16
6 Trial settlement	16
6.1 Process	16
6.2 Documents and other items to be provided by the Seller	16
7 Transfer and Settlement	17
7.1 Delivery of Transfer Documents	17
7.2 Settlement Date	17
7.3 Place and time for Settlement	17
7.4 Purchase Price	17
7.5 Settlement deliverables	18

7.6	Notice to complete	18
7.7	Payment of stamp duty	18
7.8	Duties Online Form	18
7.9	Electronic conveyancing	19
8	Default and damages	20
8.1	Buyer's default	20
8.2	Cure period	20
8.3	Damages not limited	21
8.4	Insolvency and trustees	21
9	Representations and warranties	21
9.1	Representations and warranties	21
9.2	When made	22
9.3	Trustee representations and warranties	22
10	Seller Warranties	23
10.1	Seller Warranties	23
10.2	When made	23
10.3	Disclosures	23
10.4	Limitations	24
10.5	Cap on Seller's liability	24
10.6	Time for bringing Claims	24
10.7	Thresholds	24
10.8	Acknowledgement	25
11	Foreign investment approval	25
11.1	Acquisition and settlement conditional	25
11.2	Status of FIRB Application	25
11.3	Buyer's FIRB Application obligations	25
11.4	Acceptable conditions	25
12	Consequences of rescission	25
13	Interest	26
13.1	Settlement after the Settlement Date	26
13.2	Delay caused by Seller	26
13.3	Default interest	26
13.4	Essential term	26
14	Inclusions and exclusions	26
14.1	Plant and Equipment included in sale	26
14.2	No representations by Seller	27
14.3	Seller not liable	27
14.4	No formal delivery	27
14.5	Quality of Plant and Equipment	27
14.6	Assignment of warranties	27
14.7	Buyer acknowledgement	27
15	Tenancies	27
15.1	Buyer takes subject to Tenancies	27
15.2	No claims in connection with Tenancies	27
15.3	Seller's obligations until Settlement	28

15.4	Buyer's obligations after Settlement	28
15.5	Assignment of Tenant's covenants	28
15.6	Tenants' caveats	28
15.7	Expired leases	28
15.8	Tenant's fixtures	28
16	Tenants' rights	29
16.1	Recognition of rights	29
16.2	Execution of documents	29
16.3	Seller may delay Settlement	29
16.4	Buyer not to take action in relation to documents	29
17	Subtenancies	29
18	Interim leasing and management	30
18.1	Interim management	30
18.2	Buyer's consent	30
18.3	Buyer taken to have consented	30
18.4	Buyer not to take action in relation to Seller's actions	30
19	Incomplete Tenancy Documents	31
19.1	Execution and registration	31
19.2	Alteration of Tenancy Documents	31
19.3	Seller can delay lodging for registration	31
19.4	Obligations regarding registration	31
19.5	Indemnity in connection with Tenancy Documents	31
19.6	Buyer not to take action in relation to incomplete Tenancy Documents	32
20	Guarantee and indemnity	32
20.1	Consideration	32
20.2	Guarantee	32
20.3	Indemnity	33
20.4	Extent of guarantee and indemnity	33
20.5	Acknowledgment	33
20.6	Rights of the Seller are protected	33
20.7	No merger	34
20.8	Guarantor's rights are suspended	34
20.9	Reinstatement of rights	35
20.10	Extent of Guarantor's obligations	35
20.11	Dealing with interests	35
20.12	Costs	35
20.13	Obligation to pay interest	36
20.14	Rate of interest	36
20.15	Compounding	36
20.16	Payments	36
20.17	Appointment of process agent	36
20.18	Essential term	37
20.19	Guarantor to sign contract	37
20.20	Document not binding on certain persons	37
21	Seller's right to sue	37
21.1	Property legislation	37
21.2	Seller may sue	37

21.3	Buyer to assign to Seller	37
21.4	Buyer to assist Seller	37
21.5	Meaning of “sue”	38
22	Adjustments	38
22.1	Confirmation of no adjustments	38
22.2	No variation of Hospital Lease	38
22.3	Consulting Suite Adjustments	38
22.4	Purchase Price adjustment (Rent Adjustment Notice)	38
23	GST	39
23.1	GST interpretation	39
23.2	Exclusive amount	39
23.3	Going concern	39
23.4	Seller registered for GST	39
23.5	Buyer registered for GST	39
23.6	Not a going concern	40
23.7	GST on any other supply	40
23.8	Tax invoice	40
23.9	Adjustments	40
23.10	Reimbursement	41
23.11	Timing of payment of GST amount	41
23.12	Survival of GST clauses	41
24	Confidentiality	41
24.1	Disclosure of Confidential Information	41
24.2	Announcements and press releases	41
24.3	Other confidentiality obligations	42
24.4	Disclosure to BidCo	42
25	Trustee limitation of liability	42
25.1	Trustee	42
25.2	Limitation of Trustee's liability	42
25.3	Override	43
25.4	Definition	43
26	Foreign resident capital gains withholding	43
26.1	Application of foreign resident capital gains withholding	43
26.2	Clearance Certificate given by Seller	43
26.3	Buyer entitled to withhold	43
26.4	Buyer's obligation to notify of intention to withhold	43
26.5	Purchaser Payment Notification Form	44
26.6	Buyer obligations in respect of the Withholding Amount	44
26.7	Discharge of liability	44
26.8	Definitions and interpretation	44
27	Notices and other communications	45
27.1	Form	45
27.2	Delivery	45
27.3	When effective	45
27.4	When taken to be received	46
27.5	Receipt outside business hours	46
27.6	Notices served on Seller	46
27.7	Notices served on Buyer	46

28	Buyer's acknowledgements	46
28.1	Disclosures	46
28.2	Victorian Land Acknowledgements	46
28.3	No abstract or requisitions	47
28.4	Independent due diligence enquiries	47
28.5	Terms excluded	48
28.6	No claim or right	48
29	General	48
29.1	Annexures	48
29.2	Seller's disclosure	48
29.3	Caveats	49
29.4	Buyer's caveat	49
29.5	Service	49
29.6	Entire agreement	49
29.7	Indemnities continue	49
29.8	Indemnity payments	49
29.9	No merger	50
29.10	Variation and waiver	50
29.11	Costs	50
29.12	Remedies cumulative	50
29.13	Rights and obligations are unaffected	50
29.14	No assignment	50
29.15	No nomination	50
29.16	Further assurances	50
29.17	Counterparts	50
29.18	Applicable law	51
29.19	Time not of the essence	51
29.20	Severability	51
Schedule 1	Land Schedule	52
Schedule 2	Specified Encumbrances	53
Schedule 3	Settlement Deliverables Schedule	54
Schedule 4	Hospital Lease	56
Schedule 5	OpCo Assets	57
Schedule 6	Seller Warranties	58
	Signing page	59
Annexure A	Promissory Note	61
Annexure B	Hospital Lease Deed of Covenant	63
Annexure C	Disclosures	64
Annexure D	Plans	65

Contract of Sale – [#insert name of] Hospital

Details

Interpretation – definitions are in clause 1 (“Definitions and interpretation”)

Parties	Seller, Buyer and Guarantor	
Seller	Name	<i>[#insert name of Healthscope group entity that is the registered proprietor of the Land]</i>
	ABN	[#]
	Address	[#]
	Fax	[#]
	Trustee details for Seller acting as trustee	
	Trust name	[#]
	Trust’s ABN	[#]
	Trust Deed parties	[#]
Buyer	Trust Deed date	[#]
	Name	[#]
	ABN	[#]
	Address	[#]
	Fax	[#]
	Attention	[#]
	Trustee details for Buyer acting as trustee	
	Trust name	[#]
Guarantor	Trust’s ABN	[#]
	Trust Deed parties	[#]
	Trust Deed date	[#]
	Name	NorthWest Healthcare Properties Real Estate Investment Trust
	Address	180 Dundas Street West, Suite 1100, Toronto, Ontario, Canada M5G 1Z8
	Email	pdl@nw Streit.com with a copy to john.brewster@ashurst.com
	Attention	Chief Executive Officer

Buyer's solicitors	Name	Ashurst Australia
	Address	Level 26, 181 William Street, Melbourne VIC 3000 Australia
	Fax	(03) 9679 3111
	Attention	Richard Brooks / John Brewster
	Email	richard.brooks@ashurst.com / john.brewster@ashurst.com
Seller's solicitors	Name	King & Wood Mallesons
	Address	Level 61 Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000
	Fax	+61 2 9296 3999
	Attention	Mark Bayliss / Chris Pitson
	Email	mark.bayliss@au.kwm.com / chris.pitson@au.kwm.com
Property	(a)	the Land;
	(b)	all improvements on the Land; and
	(c)	the Plant and Equipment.
Land	The land identified in Schedule 1 ("Land").	
Specified Encumbrances	Each of the encumbrances described in Schedule 2 ("Specified Encumbrances").	
Purchase Price	\$[#] (exclusive of GST), as may be adjusted under clause 22.4(a).	
Settlement Date	(a)	in the context of a Scheme, the next day after the Implementation Date (which must be a Business Day); or
	(b)	in the context of a Takeover Bid Transaction, the date notified as the Settlement Date under and in accordance with clause 7.2(c),
	as may be extended under and in accordance with clause 4 ("Delay Event").	
Hospital Lessee	Healthscope Limited (ACN 144 840 639)	
Contract Date	[#insert contract date – to be no later than 1 Business Day before the date of the Scheme Meeting]	

Contract of Sale – [#insert name of] Hospital

Agreed terms

1 Definitions and interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears:

Adjacent Land means any land that is:

- (a) immediately adjoining, or otherwise near to, the Land;
- (b) owned by the Seller or a Related Body Corporate of the Seller; and
- (c) either:
 - (i) occupied or used by the Seller or a Related Body Corporate of the Seller for the operation of the hospital on the Land; or
 - (ii) held by the Seller or a Related Body Corporate of the Seller for the purpose of future development or expansion of the hospital on the Land.

Affiliate means, in respect of a party, a trust, fund, partnership or company which is:

- (a) Controlled by the relevant party; or
- (b) Controlled by an entity which Controls the relevant party; or
- (c) is Controlled by an entity which is a Related Body Corporate of an entity that Controls the relevant party; or
- (d) is a Related Body Corporate of the relevant party.

Authorised Officer means for a party, a director or secretary or any other person appointed by the party to act as an Authorised Officer for the purposes of this contract.

Authority means any government or any governmental, semi-governmental, local government, administrative, fiscal or judicial body, department, committee, commission, authority, tribunal, agency, minister, statutory body or entity.

Bank means the Reserve Bank of Australia or an Australian-owned bank, as published by the Australian Prudential Regulation Authority as at the Settlement Date.

Bank Cheque means a cheque drawn by a Bank on itself.

BidCo means:

- (a) in the context of a Scheme, VIG Bidco Pty Limited ACN 631 014 938; or
- (b) in the context of a Takeover Bid Transaction, BCP VIG Holdings LP.

Business Day means a day on which banks are open for general banking business in Sydney, New South Wales and Melbourne, Victoria, (not being a Saturday, Sunday or public holiday in either of those places).

Claim means any claim, notice, demand, action, proceeding, litigation, investigation or judgment, however it arises and whether it is present or future, fixed or unascertained, actual or contingent, and whether involving a third party or a party to this contract and specifically includes making any objection or claim for compensation, requiring the Seller to take or refrain from taking any action, a delay in Settlement or ending this contract or attempting or purporting to do so.

Condition Precedent Satisfaction Date means:

- (a) for the FIRB Approval Condition, the date that is 21 days before the later of:
 - (i) date of the Scheme Meeting; and
 - (ii) 30 June 2019; and
- (b) for the Implementation Condition, 1 November 2019,

or, for each Condition Precedent, such later date as may be agreed between the Buyer and the Seller.

Conditions Precedent has the meaning given in clause 2.1 ("Conditions Precedent").

Confidentiality Deed means the confidentiality deed dated 7 January 2019 between Healthscope Limited ACN 144 840 639 and NWH Australia AssetCo Pty Ltd ACN 617 449 948.

Confidential Information means all information disclosed or otherwise made available by the Seller or its Representatives to the Buyer or its Representatives in connection with this contract, including:

- (a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Seller or any of its Related Bodies Corporate or Representatives;
- (b) proprietary or confidential information of a third party to whom the Seller or any of its Related Bodies Corporate owe an obligation of confidentiality;
- (c) information derived or produced partly or wholly from such information, including any calculation, conclusion, summary or computer modelling; and
- (d) information which is capable of protection at law or equity as confidential information or is otherwise confidential in nature,

whether the information was:

- (e) disclosed orally, in writing or in electronic or machine readable form; or
- (f) disclosed or created before, on or after the Contract Date; or
- (g) disclosed as a result of discussions between the parties concerning or arising out of this contract,

but excluding the Excluded Information.

Control means, with respect to any person (other than an individual), the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise, and for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this document, a fund advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person.

Controller has the meaning it has in the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Costs includes costs, charges and expenses, including those incurred in connection with advisers.

Data Room means each of:

- (a) the electronic data room maintained at the following web address:

<https://dataroom.ansarada.com/mvc/ProjectSand%7C45177/2691551/DocumentIndex#/DocumentIndex> (Project Sand); and

- (b) the electronic data room maintained at the following web address:

<https://services.intralinks.com/web/index.html?#workspace/6253235> (Project Liberty),

as made available to the Buyer prior to the date of this document, in each case containing the materials described in the data room indexes annexed to the Umbrella Deed (a copy of which will be contained on the USB of data room materials to be provided under the Umbrella Deed).

Delay Sunset Date means:

- (c) the date which is 90 days after the 'Settlement Date' specified in the Details (disregarding any extension of that date effected under clause 4 ("Delay Event")), and which must be extended for an additional 90 days if the lender under the Portfolio Loan or PropCo Bridge Loan gives a 'Loan Extension Notice' (as that term is defined in the Process Deed); or
- (d) such later date as may be agreed between the parties.

Details means the section of this contract headed "Details".

Discloser Group has the meaning it has in the Confidentiality Deed.

Due Diligence Material means:

- (a) all information and materials relating in any way to the Property or any Tenancy which were made available in a Data Room prior to the Contract Date; and
- (b) the information and materials disclosed or referred to in this contract (including in Annexure C ("Disclosures")).

Duties Online Form means the digital form introduced or imposed by the State Revenue Office of Victoria for the purpose of assessment of duty on transfers of land.

Effective has the meaning it has in the Implementation Deed.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any “security interest” as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Excluded Information means Confidential Information:

- (a) which is in or becomes part of the public domain otherwise than through a breach of this contract or other obligation of confidentiality owed to the Seller, its Related Bodies Corporate, its Representatives or a third party; or
- (b) which the Buyer can prove by contemporaneous written documentation was already known to it at the time it was disclosed, or otherwise made available, by the Seller or its Related Bodies Corporate or its Representatives (unless such knowledge arose from disclosure of information in breach of an obligation owed to or by a third party); or
- (c) which the Buyer acquires from a third party entitled to disclose it.

Financier Tripartite Deed means a tripartite deed as contemplated by clause 12.8 of the Hospital Lease which satisfies the landlord consent deed requirements set out in:

- (a) in the context of a Scheme, the ‘Agreed Security Principles’ of the PropCo Bridge Loan Term Sheet; and
- (b) in the context of a Takeover Bid Transaction, the ‘Agreed Security Principles’ of the Portfolio Loan Term Sheet.

FIRB means the Foreign Investment Review Board.

FIRB Act means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

FIRB Application means all necessary notices and forms, duly completed and signed, to ensure that the Notifiable Action complies with the FIRB Act and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

FIRB Approval means the occurrence of one of the following events (whether before, on or after the Contract Date):

- (a) in respect of the FIRB Application, the day that is 10 days after the end of the decision period specified in section 77 of FIRB Act passes without an order prohibiting the Notifiable Action having been made under section 67 or section 68 of the FIRB Act;
- (b) if an interim order is made under section 68 of the FIRB Act in respect of the FIRB Application, the end of the period specified in the order passes without an order prohibiting the Notifiable Action under section 67 of FIRB Act having been made; or
- (c) a no objection notification is given by the Treasurer (or the Treasurer’s delegate) under Division 2, Subdivision B of the FIRB Act in respect of the Notifiable Action.

FIRB Approval Condition means the condition specified in clause 11.1 (“Acquisition and settlement conditional”).

Government Agency has the meaning it has in the Implementation Deed.

GST has the meaning it has in the GST Act.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Guarantee means the guarantee and indemnity by the Guarantor under clause 20 (“Guarantee and indemnity”).

A party is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this contract);
- (d) an application or order has been made (and in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 14 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this contract reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other parties to this contract.

Hospital Lease means the lease of the Property entered into (or to be entered into) between the Seller (as landlord) and the Hospital Lessee (as tenant) in the form set out in Schedule 4 (“Hospital Lease”).

Hospital Lease Deed of Covenant means a ‘Master Lease Deed of Covenant’ in the form included at Annexure B, completed by:

- (a) inserting the Contract Date as the date of the contract in the definition of ‘Contract’;

- (b) inserting the details of the Buyer trust contained in the Details of this contract in the definition of 'Buyer Trust';
- (c) inserting the date upon which Settlement occurs as the Effective Date;
- (d) completing the 'Details' section by including:
 - (i) details of the Seller (as the 'Seller');
 - (ii) details of the Buyer (as the 'Buyer'); and
 - (iii) details of the Land (as the 'Property'); and
- (e) inserting the correct execution clauses for a deed for the Seller, the Buyer and the Tenant.

Hospital Lessee means Healthscope Limited ACN 144 840 639.

Implementation Condition means either:

- (a) the Scheme has become Effective; or
- (b) the Offer becoming (or being declared) free of all of the Takeover Bid Conditions.

Implementation Date has the meaning it has in the Implementation Deed.

Implementation Deed means the implementation deed entered into between VIG Bidco Pty Limited ACN 631 014 938 and Healthscope Limited ACN 144 840 639 prior to the date of this contract.

Interest Rate means, for each daily balance, the rate 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the day, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the day.

Liability means any loss, damage (including death or injury), cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Notifiable Action means the acquisition by the Buyer of the Property under and in accordance with this contract.

Offer has the meaning it has in the Implementation Deed.

OpCo means Healthscope Operations Pty Ltd ACN 006 405 152.

OpCo Assets means the assets so described in Schedule 5 ("OpCo Assets").

Plant and Equipment means the chattels, fixtures and fittings included in the sale (see clause 14.1 ("Plant and Equipment included in sale")).

Portfolio Leases Umbrella Deed means the 'Portfolio Leases Umbrella Deed' entered into in accordance with the Umbrella Deed.

Portfolio Loan has the meaning it has in the Umbrella Deed.

Portfolio Loan Term Sheet has the meaning it has in the Umbrella Deed.

PPSA means the *Personal Property Securities Act 2009* (Cth).

PPS Register means the personal property securities register maintained under and in accordance with the PPSA.

Process Agent means Ashurst, Lawyers, Level 26, 181 William Street, Melbourne VIC 3000 Attention: John Brewster.

Process Deed means the 'Process, Voting Commitment and Exclusivity Deed' entered into between VIG Bidco Pty Limited ACN 631 014 938 and the Guarantor prior to the date of this contract.

PropCo Bridge Loan has the meaning it has in the Umbrella Deed.

PropCo Bridge Loan Term Sheet has the meaning it has in the Umbrella Deed.

Property Investor has the meaning it has in the Confidentiality Deed.

Related Body Corporate has the meaning it has in the Corporations Act.

Related Entity has the meaning it has in the Corporations Act.

Representative of a party includes:

- (a) a Related Entity of that party; and
- (b) an employee, agent, auditor, adviser, consultant, contractor or subcontractor of that party or of a Related Body Corporate of that party,

but does not include:

- (c) a financier of a party; or
- (d) a partner or joint venturer of a party.

Scheme has the meaning it has in the Implementation Deed.

Scheme Meeting has the meaning it has in the Implementation Deed.

Second Court Date has the meaning it has in the Implementation Deed.

Seller Warranties means the warranties in Schedule 6 ("Seller Warranties").

Settlement means settlement on the sale and purchase of the Property in accordance with clause 7 ("Transfer and Settlement").

Settlement Deliverables Schedule means the schedule of items and documents to be delivered on Settlement in Schedule 3 ("Settlement Deliverables Schedule").

State means the State or Territory of the Commonwealth of Australia in which the Property is situated.

Takeover Bid Conditions has the meaning it has in the Implementation Deed.

Takeover Bid Transaction has the meaning it has in the Implementation Deed.

Taxes means taxes, levies, imposts, charges and duties (including stamp and transaction duties) imposed by any Authority together with any related interest, penalties, fines and expenses in connection with them.

Tenancy means:

- (a) the Hospital Lease; and
- (b) any other lease, a licence (other than a sublease or a sublicense) and any other arrangement referred to in this contract in connection with the use or occupation of the Property (including those entered into before, on or after the Contract Date).

Tenancy Document means every document recording the terms of a Tenancy (including documents varying the terms of a Tenancy).

Tenant means a person entitled under a Tenancy to use or occupy any part of the Property.

Titles Office means the office responsible for the registration of dealings and the administration of titles in the State.

Transfer Documents means the forms of transfer required to register the Buyer as the proprietor in the Land.

Treasurer means the Treasurer of the Commonwealth of Australia.

Umbrella Deed means the 'Umbrella Deed' entered into between, among others, the Seller, the Buyer and the Guarantor in relation to the Property (and other properties) on or about the date of this contract.

1.2 Capitalised terms in the Details

Capitalised terms in the Details have the meanings given to them in the Details.

1.3 Interpretation

Unless the contrary intention appears, in this contract:

- (a) a reference to a document (including this contract) includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (b) a reference to a document (including this contract) includes any variation, replacement or novation of it;
- (c) a reference to a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this contract;
- (d) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) the word "law" includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (f) the singular includes the plural and vice versa;
- (g) the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any Authority;

- (h) a reference to a particular person includes a reference to the person's executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (i) a reference to a body or Authority includes a reference, if that body or Authority ceases to exist, to the body or Authority which has substantially the same functions and objects as the first body or Authority;
- (j) an agreement, representation or warranty in favour of two or more persons is for the benefit of them jointly and each of them individually;
- (k) an agreement, representation or warranty by two or more persons binds them jointly and each of them individually;
- (l) a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (m) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (n) if the time for something to be done or to happen is a day which is not a Business Day, the time is extended to the next Business Day;
- (o) a reference to time is a reference to the time in New South Wales;
- (p) a reference to any thing (including any amount) is a reference to the whole and each part of it; and
- (q) a reference to accounting standards is a reference to the accounting standards as defined in the Corporations Act, and a reference to an accounting term is a reference to that term as it is used in those accounting standards, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia.

1.4 Next day

If an act under this contract to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.

1.5 Next Business Day

If an event under this contract must occur on a specified day which is not a Business Day, then the specified day will be taken to be the next Business Day.

1.6 Headings

Headings (including those in brackets at the beginning of paragraphs) are inserted for convenience and do not affect the interpretation of this contract.

1.7 Meaning not limited

In this contract the words "include", "includes", "including", "for example" and "such as" are not words of limitation.

1.8 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this contract any part of it.

2 Settlement conditional

2.1 Conditions Precedent

Settlement of this contract is conditional on satisfaction of:

- (a) the FIRB Approval Condition; and
- (b) the Implementation Condition,

(Conditions Precedent).

2.2 Reasonable endeavours

The Buyer must (to the extent it is not already satisfied as at the Contract Date) use reasonable endeavours to satisfy the FIRB Approval Condition as soon as reasonably practicable after the Contract Date.

2.3 Information

Each party must keep the other informed of any circumstances which may result in any of the Conditions Precedent not being satisfied in accordance with its terms.

2.4 Notification

When a party becomes aware that any of the Conditions Precedent has been satisfied, it must promptly notify the other parties.

2.5 No waiver of Conditions Precedent

The parties acknowledge and agree that the Conditions Precedent are for the benefit of the Seller and the Buyer, and that the FIRB Approval Condition and the Implementation Condition cannot be waived by any party.

2.6 Termination

If a Condition Precedent is not satisfied by 5.00pm on the Condition Precedent Satisfaction Date for that Condition Precedent, then the Seller or the Buyer may before satisfaction of the relevant Condition Precedent, terminate this contract by giving notice to the other.

2.7 Consequences of termination

If this contract terminates under clause 2.6 ("Termination"), then, in addition to any other rights, powers or remedies provided under this contract or at law:

- (a) if the Buyer, or anyone claiming through the Buyer, has lodged a caveat on the title to the Property, then the Buyer must withdraw (or procure the withdrawal of) that caveat within 5 Business Days of the date of termination or do everything necessary to ensure that the caveat is withdrawn within 5 Business Days of the date of termination; and
- (b) each party retains the rights it has against any other party in connection with any breach of this contract arising before termination.

3 Sale of the Property

3.1 Agreement to purchase

The Seller agrees to sell and the Buyer agrees to purchase the Property for the Purchase Price and on the terms and conditions of this contract.

3.2 Title

- (a) The Property is sold:
 - (i) subject to the Tenancies; and
 - (ii) otherwise free from all Encumbrances except for the Specified Encumbrances.
- (b) The Buyer may not make any requisition or objection on the title to the Property.

3.3 As is, where is sale

The Buyer acknowledges that the Seller sells the Property on an “as is, where is” basis, in its present state and condition, subject to:

- (a) any legal and physical defects (whether or not they are apparent by inspection); and
- (b) any matter referred to in this contract.

3.4 When risk passes

The risk in respect of the Property passes to the Buyer on Settlement.

3.5 Adjacent Land

- (a) If any Adjacent Land is not sold or transferred to the Buyer under this contract, then each party agrees, at its own expense, on the request of another party, to do everything reasonably necessary to transfer any such Adjacent Land to the Buyer (for a nominal consideration of \$1 (inclusive of GST, if any)) simultaneously with, or otherwise as soon as reasonably practicable after, Settlement.
- (b) The parties obligations under this clause 3.5 (“Adjacent Land”) continue after Settlement.

4 Delay Event

4.1 Delay Events – Extension of Settlement Date

- (a) If the Seller:
 - (i) becomes aware of a caveat affecting the title to the Property (other than a caveat lodged by the Buyer or any person claiming an interest through the Buyer) and has not obtained a withdrawal of caveat from the relevant party in whose favour the caveat is registered; or
 - (ii) becomes aware of an Encumbrance affecting title to the Property (other than a Specified Encumbrance) and has not

obtained a release (as the case may be), from the relevant party in whose favour the Encumbrance is registered; or

- (iii) becomes aware of any other circumstances that are not within its control that could result in title to the Property not being able to be transferred, and accordingly settlement of this contract not being able to proceed, on the Settlement Date,

(each a **Delay Event**) then the Seller may notify the Buyer of the Delay Event (**Exception Notice**) at any time before the Settlement Date.

- (b) The Seller must keep the Buyer informed of any likely delays or circumstances that may lead to the issue of an Exception Notice.
- (c) An Exception Notice must specify:
 - (i) the circumstances giving rise to the Delay Event (including the reason for any potential delay to settlement and any proposed actions the Seller has taken prior to the date of the Exception Notice to rectify such circumstances); and
 - (ii) the Seller's proposed course of action with respect to the Delay Event from the date of the Exception Notice.
- (d) Without limiting the Seller's rights under this clause 4 ("Delay Event"), the Seller must use all reasonable endeavours to:
 - (i) ensure that a Delay Event does not occur before the Settlement Date; and
 - (ii) if an Exception Notice is given, rectify the Delay Event as soon as practicable after the Exception Notice is given,

and, to the extent it is within its control, the Buyer must use reasonable endeavours to assist the Seller in this respect.

- (e) The Seller may withdraw an Exception Notice by notice to the Buyer, and must promptly withdraw it once the relevant Delay Event is rectified.
- (f) If as at 9am on the day that is 1 Business Day before the Settlement Date, there is an Exception Notice which has been given under clause 4.1(a) and not withdrawn under clause 4.1(e), then the date for settlement of this contract will be extended to a date notified by the Seller acting reasonably (and by reference to the nature of, and expected period to resolve, the Delay Event).
- (g) The parties agree and acknowledge that:
 - (i) more than one Exception Notice can be given under clause 4.1(a); and
 - (ii) the date for Settlement may be extended under clause 4.1(f) on more than one occasion,

but in all circumstances provided that the date for Settlement may not be extended beyond the Delay Sunset Date unless the parties otherwise agree.

4.2 Delay Sunset Date

Notwithstanding anything to the contrary in this clause 4 ("Delay Event"), if this contract is not settled by the Delay Sunset Date, then either party may terminate this contract by serving a notice on the other.

4.3 Consequences of termination

If this contract is terminated under clause 4.2 ("Delay Sunset Date"), then, in addition to any other rights, powers or remedies provided under this contract or at law:

- (a) if the Buyer, or anyone claiming through the Buyer, has lodged a caveat on the title to the Property, then the Buyer must withdraw (or procure the withdrawal of) that caveat within 5 Business Days of the date of termination or do everything necessary to ensure that the caveat is withdrawn within 5 Business Days of the date of termination;
- (b) each party retains the rights it has against any other party in connection with any breach of this contract arising before termination.

5 Hospital Lease

5.1 Seller to procure entry into Hospital Lease

- (a) To the extent it has not already done so, the Seller:
 - (i) must enter into (as landlord) and procure that the Hospital Lessee (as tenant) enters into the Hospital Lease on or before the date that is 10 Business Days before the Settlement Date; and
 - (ii) must (except where the Land is located in Victoria), during the period from satisfaction of the Implementation Condition until the date that is 8 Business Days prior to Settlement:
 - (A) lodge the Hospital Lease for registration at the Titles Office; and
 - (B) use reasonable endeavours to effect the registration of the Hospital Lease.
- (b) If the Seller has not entered into, or has not procured that the Hospital Lessee has entered into, the Hospital Lease on or before the date that is 5 Business Days before the Settlement Date, the Buyer may delay Settlement until the date that is 5 Business Days after the Hospital Lease has been entered into.
- (c) Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because the Hospital Lease is not registered on Settlement.
- (d) Where the Hospital Lease is not registered on or before Settlement, the Buyer and Seller must (except where the Land is located in Victoria) both take all necessary steps to ensure the Hospital Lease is promptly registered after Settlement.

5.2 Buyer acknowledgement

The Buyer acknowledges and agrees that:

- (a) for the purpose of clause 18.2 ("Buyer's consent"), the Buyer consents to the Seller consenting to the grant by the Hospital Lessee of a subtenancy under the Hospital Lease to OpCo or Affiliate of OpCo;
- (b) the Seller is permitted to (to the extent it has not already done so) transfer the OpCo Assets to OpCo or any Affiliate of OpCo;
- (c) the Seller, OpCo and any Affiliate are each entitled to retain any OpCo Assets; and
- (d) notwithstanding anything to the contrary, this contract does not convey any right, title or interest in the OpCo Assets to the Buyer.

6 Trial settlement

6.1 Process

- (a) On the date nominated by the Seller acting reasonably (to be not less than 5 Business Days before the Settlement Date), the parties or their representatives must meet at the offices of the Seller's solicitors or another place agreed between the parties for the purpose of conducting a trial settlement (**Trial Settlement**) to be conducted in accordance with clause 6.2.
- (b) Without limiting clause 6.1(a), during the period between the Contract Date and Settlement the parties agree to consult and cooperate in good faith regarding the status of all matters to be effected prior to Settlement, the status of all documents and other items required under clause 6 to be delivered at Settlement by each party and the procedure and requirements for Settlement in accordance with this contract (and to instruct their respective solicitors to do the same).
- (c) The obligation of any party to provide any item to any other party or to do anything at or before Settlement is not abrogated by the provisions of this clause 6.

6.2 Documents and other items to be provided by the Seller

- (a) The parties must use reasonable endeavours to ensure that all documents and other items required under clause 6 to be delivered at Settlement by each party are made available to the other to inspect at the Trial Settlement, but, without limiting clause 6.1(c), the Buyer may not make a Claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, or rescind or terminate this contract if any document or other item required to be delivered at Settlement is not available for inspection at the Trial Settlement.
- (b) The documents and other items that have been inspected at the Trial Settlement will be placed in a secure box or boxes and sealed by both the Seller and the Buyer or their representatives, except for any documents and other items that the Seller wishes to use before Settlement.

7 Transfer and Settlement

7.1 Delivery of Transfer Documents

The Buyer must prepare the Transfer Documents and deliver them to the Seller not less than 5 Business Days before the Settlement Date.

7.2 Settlement Date

- (a) Subject to clause 5.1(b), the parties must settle this contract on the Settlement Date.
- (b) In the context of a Scheme, the Seller agrees to keep the Buyer informed as to the anticipated Implementation Date (and agrees to ensure that the Implementation Date falls on the day where the immediately following day is a Business Day) and to confirm the Implementation Date no less than 5 Business Days prior to that date.
- (c) In the context of a Takeover Bid Transaction:
 - (i) the Seller must notify the Buyer of the Settlement Date promptly (and in any event within 2 Business Days) after the date on which the Offer has become (or been declared) free of all of the Takeover Bid Conditions;
 - (ii) the date notified as the Settlement Date under clause 7.2(c)(i) must not be earlier than the date that is 5 Business Days after the date of the notice; and
 - (iii) the Seller agrees to use best endeavours to keep the Buyer informed as to the anticipated date on which the Offer will become (or be declared) free of all of the Takeover Bid Conditions.

7.3 Place and time for Settlement

Settlement is to take place:

- (a) at the Seller's solicitors address stated in this contract; and
- (b) at a time (after 9.00am and before 3.00pm) nominated by the Seller or otherwise agreed by the parties.

7.4 Purchase Price

At Settlement, the Buyer must:

- (a) pay to the Seller the Purchase Price and any other amount payable by the Buyer under this contract (less any amount payable by the Seller to the Buyer under this contract); and
- (b) deliver to the Seller any documents or other things as required by this contract, including the documents and other things identified in clause 2 of the Settlement Deliverables Schedule.

Payment must be made:

- (c) if the Scheme is implemented and the PropCo Bridge Loan has been drawn (and an amount no less than the Purchase Price remains outstanding under the PropCo Bridge Loan), by the issue by the Buyer of

a promissory note in favour of the Seller with a face value equal to the Purchase Price in the form set out in Annexure A ("Promissory Note");

- (d) in the context of a Takeover Bid Transaction where the Property is a 'Settlement Date Delayed Settlement Property' (as that term is defined in the Process Deed), if the Portfolio Loan has been drawn (and an amount no less than the Purchase Price remains outstanding under the Portfolio Loan), by the issue by the Buyer of a promissory note in favour of the Seller with a face value equal to the Purchase Price in the form set out in Annexure A ("Promissory Note"); and
- (e) otherwise, at the Seller's election by:
 - (i) electronic transfer of cleared funds to a bank account or accounts nominated by the Seller; or
 - (ii) one or more unendorsed Bank Cheques made payable to the Seller or as the Seller or the Seller's solicitors direct.

7.5 Settlement deliverables

At Settlement, the Seller must deliver or make available to the Buyer each of the documents and items identified in clause 1 of the Settlement Deliverables Schedule in each case in the form and by the method identified in the Settlement Deliverables Schedule (except that the documents and items in clause 1.3 of the Settlement Deliverables Schedule may be provided as soon as reasonably practical after Settlement).

7.6 Notice to complete

If a party is entitled or required to serve a notice to complete, then 14 days from the day the notice is served is a reasonable period to allow for Settlement in that notice. A shorter period is allowed if that shorter period is reasonable.

7.7 Payment of stamp duty

The Buyer:

- (a) must pay all stamp duty (including fines and penalties) payable on this contract, on any instruments entered into under this contract, and in respect of any transaction evidenced by this contract (other than in relation to the Hospital Lease or any other Tenancies); and
- (b) indemnifies on demand the Seller against any Liability for that stamp duty (including fines and penalties).

7.8 Duties Online Form

Where the Land is in Victoria:

- (a) at least 5 days prior to Settlement, the Seller's solicitors must begin the Duties Online Form relating to the sale of the Property and send to the Buyer's solicitors an online invitation;
- (b) the Buyer must ensure that the Seller's sections of the Duties Online Form are completed within 2 days from receiving the online invitation; and

- (c) the parties agree to each sign the Duties Online Form once each party has been notified that the Duties Online Form is available to be signed (electronically or manually).

7.9 Electronic conveyancing

The parties acknowledge and agree that:

- (a) to the maximum extent permitted by law, the sale and purchase under this contract will not be effected as an Electronic Transaction;
- (b) to the extent the sale and purchase under this contract is required to be conducted as an Electronic Transaction:
 - (i) any aspects of Settlement required to be performed electronically are to be performed in accordance with the ECNL; and
 - (ii) all other aspects of Settlement will be conducted in person (in accordance with clause 7.3(a)); and
- (c) the parties must:
 - (i) consult and cooperate in good faith regarding the procedure for Settlement under and in accordance with this contract (and implement any changes to the procedure for Settlement under and in accordance with this contract) required to give effect to Settlement on the Settlement Date in accordance with this clause 7.9 (and must instruct their respective solicitors to do the same); and
 - (ii) take all steps (before and on Settlement) in order to give effect to this clause 7.9.

For the purposes of this clause 7.9:

- (d) **Conveyancing Transaction** has the meaning given in the ECNL;
- (e) **ECNL** means the electronic conveyancing national law adopted pursuant to the *[#insert as applicable: Electronic Conveyancing (Adoption of National Law) Act 2012 (NSW) / Electronic Conveyancing (Adoption of National Law Act) 2013 (VIC) / Electronic Conveyancing National Law (Queensland) Act 2013 (QLD) / Electronic Conveyancing Act 2014 (WA) / Electronic Conveyancing National Law (South Australia) Act 2013 (SA) / Electronic Conveyancing (National Uniform Legislation) Act 2013 (NT)]*;
- (f) **Electronic Transaction** means a Conveyancing Transaction to be conducted for the parties by their legal representatives as Subscribers in an ELN and in accordance with the ECNL and the Participation Rules;
- (g) **ELN** has the meaning given in the ECNL;
- (h) **Subscribers** has the meaning given in the ECNL; and
- (i) **Participation Rules** has the meaning given in the ECNL.

8 Default and damages

8.1 Buyer's default

Subject to clause 8.2 ("Cure period"), if the Buyer does not comply with this contract (or a notice under or in connection with it), the Seller may terminate this contract for the Buyer's breach by notice to the Buyer. After the Seller terminates this contract, the Seller may:

- (a) retain any money paid by the Buyer under this contract as security for any money recoverable under this clause 8.1 ("Buyer's default"):
 - (i) for 12 months after the Seller terminates this contract; or
 - (ii) if the Seller commences proceedings under this clause 8.1 ("Buyer's default") at any time up to and including the date which is 12 months after the Seller terminates this contract, until those proceedings are concluded; and
- (b) sue the Buyer either:
 - (i) if the Seller has resold the Property under a contract entered into within 12 months after the Seller terminates this contract, to recover:
 - (A) the deficiency on resale (after allowing for any capital gains tax or GST payable on any money recovered under this clause 8.1 ("Buyer's default")); and
 - (B) the reasonable Costs arising out of or in connection with the Buyer's non-compliance with this contract or the notice, and of the resale and any attempted resale; or
 - (ii) to recover damages for breach of contract.

8.2 Cure period

The Seller may only terminate this contract in accordance with clause 8.1, if:

- (a) the breach is a breach by the Buyer of its obligation to pay the Purchase Price under clause 7.4(a); or
- (b) the breach is not capable of remedy, and is (or will be) prejudicial to the Seller in any material respect; or
- (c) the breach is capable of remedy and is (or will be) prejudicial to the Seller in any material respect, and:
 - (i) the Seller has first given a notice to the Buyer requiring the Buyer to remedy the breach within a reasonable period of time (and, in any event, being not less than 2 Business Days) to be specified in the notice; and
 - (ii) the Buyer fails to remedy the breach within the period specified in the notice.

8.3 Damages not limited

A party's right to damages, whether under this contract or otherwise, arising from a breach by any other party is not limited or prejudiced by the right to terminate or the termination of this contract.

8.4 Insolvency and trustees

If the Buyer:

- (a) is a body corporate and is or becomes Insolvent; or
- (b) enters into this contract in its capacity as the trustee of a trust, and the party ceases to be the trustee of the trust or any step is taken to remove the party as trustee of the trust or to appoint another trustee of the trust, in either case without the Seller's consent,

then the Seller may:

- (c) terminate this contract by notice on the Buyer; and
- (d) exercise its rights under clause 8.1 ("Buyer's default") as if that termination were for breach by the Buyer.

9 Representations and warranties

9.1 Representations and warranties

Each party (**Warranting Party**) represents and warrants to each other party that:

- (a) where the Warranting Party is a company, it is a company limited by shares incorporated, or taken to be incorporated, and existing under the Corporations Act;
- (b) the Warranting Party has full legal capacity and power to enter into, exercise its rights and perform its obligations under this contract;
- (c) all conditions and things required by law to be fulfilled or done in order to enable the Warranting Party lawfully to enter into, and exercise its rights and perform its obligations under this contract, have been fulfilled or done other than obtaining FIRB Approval;
- (d) this contract constitutes valid and legally binding obligations, enforceable against the Warranting Party in accordance with its terms, except to the extent limited by equitable principles and the law regarding creditors' rights generally;
- (e) neither the Warranting Party's execution of, nor its exercise of rights or performance of its obligations under, this contract does or will:
 - (i) contravene any law to which it or any of its property is subject; or
 - (ii) contravene any approval, authorisation, consent or exemption required by any applicable statute or law; or
 - (iii) contravene any undertaking or instrument binding it or any of its property; or
 - (iv) if it is a company, contravene any provisions of its constitution; and

- (f) the Warranting Party is not Insolvent.

9.2 When made

The representations and warranties given by the parties under and in accordance with clause 9.1 ("Representations and warranties") are taken to be made on the Contract Date and repeated on Settlement.

9.3 Trustee representations and warranties

- (a) Where a party (**Trustee**) enters into this contract as trustee of a trust (**Trust**), that party represents and warrants to each other party that:
- (i) the details of the Trust are accurately described in the Details;
 - (ii) the Trust has been duly established;
 - (iii) it is the only trustee of the Trust;
 - (iv) it has been validly appointed as trustee of the Trust and no action has been taken or proposed to remove it as trustee of the Trust;
 - (v) true copies of the Trust Deed (including any amending documents) have been provided to each other party and disclose all the terms of the Trust;
 - (vi) it has power under the terms of the Trust to enter into this contract and comply with its obligations under it;
 - (vii) it has in full force and effect the authorisations necessary for it to enter into this contract, perform obligations under it and allow it to be enforced (including any authorisation required under the Trust Deed and its constitution (if any));
 - (viii) it has a right to be fully indemnified out of the Trust Property in respect of obligations incurred by it under this contract;
 - (ix) the Trust Property is sufficient to satisfy that right of indemnity and all other obligations in respect of which the Trustee has a right to be indemnified out of the Trust Property;
 - (x) it is not in default under the Trust Deed;
 - (xi) no action has been taken or proposed to terminate the Trust;
 - (xii) it and its directors and other officers have complied with their obligations in connection with the Trust;
 - (xiii) the Seller's rights under this contract rank in priority to the interests of the beneficiaries of the Trust;
 - (xiv) it has not exercised its powers under the Trust Deed to release, abandon or restrict any power conferred on it by the Trust Deed; and
 - (xv) entry into this contract is a valid exercise of its powers under the Trust Deed for the benefit of the beneficiaries.

- (b) The Trustee undertakes:
 - (i) at the request of any other party, to exercise its right of indemnity from the Trust Property in respect of obligations incurred by it under this contract;
 - (ii) not to create an encumbrance, or allow one to exist, over its right of indemnity from the Trust Property; and
 - (iii) to comply with its obligations as trustee of the Trust.
- (c) For the purpose of this clause 9.3 ("Trustee representations and warranties"):
 - (i) **Trust Property** means all the Trustee's rights, property and undertaking which are the subject of the Trust:
 - (A) of whatever kind and wherever situated; and
 - (B) whether present or future; and
 - (ii) **Trust Deed** means the trust deed establishing the Trust.

10 Seller Warranties

10.1 Seller Warranties

The Seller warrants to the Buyer that each of the Seller Warranties is correct in all material respects.

10.2 When made

The representations and warranties given by the Seller under and in accordance with clause 10.1 ("Seller Warranties") are taken to be made on the Contract Date and repeated on each of:

- (a) the day that is 4 Business Days prior to the date of the Scheme Meeting;
- (b) the Second Court Date;
- (c) the day one Business Day before the Settlement Date (before any extension under clause 4.1);
- (d) the Settlement Date (before any extension under clause 4.1); and
- (e) Settlement.

10.3 Disclosures

Despite anything else in this contract, each of the Seller Warranties is excluded, limited or qualified to the extent that information in connection with their subject matter is:

- (a) disclosed or referred to in this contract or the Due Diligence Material;
- (b) disclosed in or identifiable from any publicly available information which the Buyer would have been aware had it conducted searches of records open to public inspection maintained by:

- (i) the Australian Securities and Investments Commission (where the searches were conducted on the day that is 1 Business Day prior to the Contract Date);
 - (ii) the PPS Register (where the searches were conducted on the day that is 1 Business Day prior to the Contract Date); and
 - (iii) the Titles Office (where the searches were conducted on the day that is 1 Business Day prior to the Contract Date); or
- (c) a fact, matter or circumstance that is within the knowledge of the Buyer or its Representatives.

10.4 Limitations

No Seller Warranty is breached by reason of, and the Seller is not liable to the Buyer or any other person for breach of any Seller Warranty in respect of, any fact, matter or circumstance to the extent that it is caused by, or contributed to by, any act or omission, of, or by the Buyer or at the request of or with the consent of the Buyer.

10.5 Cap on Seller's liability

The maximum liability of the Seller for all Claims made or brought by the Buyer under or in connection with this contract or the transactions contemplated by it in respect of Claims for breach of:

- (a) a warranty set out in clause 9.1 ("Representations and warranties"); or
- (b) the Seller Warranties set out in clause (a) of Schedule 6 ("Seller Warranties"),

is limited to an amount equal to 100% of the Purchase Price.

10.6 Time for bringing Claims

The Seller is liable only in respect of any Claim for breach of a warranty set out in clause 9.1 ("Representations and warranties") or the Seller Warranties set out in clause (a) of Schedule 6 ("Seller Warranties"):

- (a) where the Buyer has notified the Seller of any such Claim (including the facts, matter or circumstance which give rise to the Claim) within 10 Business Days after the Buyer first becomes aware of the Claim; and
- (b) such notification is made by the Buyer no later than the date that is 6 months after Settlement.

10.7 Thresholds

The Buyer must not make any Claim under or in connection with any breach of a warranty set out in clause 9.1 ("Representations and warranties") or the Seller Warranties set out in clause (a) of Schedule 6 ("Seller Warranties") unless:

- (a) the Buyer has given notice describing with reasonable details of the matter or circumstance giving rise to the Claim and of the basis of the calculation of the amount of the Claim within 20 Business Days of the Buyer first becoming aware of the Claim; and

- (b) the amount of the Liability suffered or incurred by the Buyer is more than \$500,000.00, in which case the Buyer may make a Claim for the whole amount of the Loss, and not just the excess.

10.8 Acknowledgement

Without affecting whether any other breach of this contract is a material breach, the Seller acknowledges that a breach of the Seller Warranties is a material breach by the Seller of this contract.

11 Foreign investment approval

11.1 Acquisition and settlement conditional

Settlement of this contract is (and the provisions of this contract that relate to acquisition of the Property, including clauses 3 ("Sale of the Property") and 14.1 ("Plant and Equipment included in sale") are conditional on FIRB Approval.

11.2 Status of FIRB Application

The Buyer confirms that it has lodged the FIRB Application and paid the fee for that FIRB Application prior to the Contract Date.

11.3 Buyer's FIRB Application obligations

The Buyer:

- (a) must not withdraw the FIRB Application unless requested by FIRB;
- (b) must promptly comply with all reasonable requests for further information and take all other necessary and reasonable steps in respect of the FIRB Application;
- (c) must promptly inform the Seller of all matters relating to the FIRB Application that could result in the Buyer not obtaining FIRB Approval for the Notifiable Action by the Condition Precedent Satisfaction Date for the FIRB Approval Condition; and
- (d) must, if requested by the Seller, provide the Seller with copies of all material notices and communications sent to, or received from, a Government Agency in relation to the FIRB Application (provided that such copies may redact any information that is commercially sensitive to the Buyer or its indirect owners, and must be treated by the Seller as Confidential Information for the purposes of clause 24).

11.4 Acceptable conditions

The Buyer acknowledges and agrees that it must accept all conditions imposed (or that are sought to be imposed) by FIRB that are reasonable having regard to the transactions contemplated by this contract and the Umbrella Deed and which are required in order to secure the FIRB Approval.

12 Consequences of rescission

Subject to any other provision of this contract, if this contract is rescinded under a clause in this contract giving a party a right to rescind, or under a law:

- (a) any money paid by the Buyer under this contract must be refunded;

- (b) a party can claim for damages or Costs arising out of a breach of this contract; and
- (c) a party will not otherwise be liable to pay any other party any damages or Costs.

13 Interest

13.1 Settlement after the Settlement Date

If Settlement occurs after the Settlement Date as a result of a default on the part of the Buyer, then on Settlement the Buyer must pay to the Seller interest on:

- (a) the balance of the Purchase Price; and
- (b) any other amount payable by the Buyer to the Seller under this contract,

from the Settlement Date to and including the date of Settlement at the Interest Rate.

13.2 Delay caused by Seller

The Buyer need not pay interest under clause 13.1 ("Settlement after the Settlement Date") for any period that the Buyer's failure to settle is caused by the Seller not being ready, willing and able to settle or by a default of the Seller that has been notified to the Seller by the Buyer before, and that is subsisting in any material respect as at, the Settlement Date.

13.3 Default interest

If the Buyer need not otherwise pay interest under this contract on an amount payable to the Seller, then it must pay interest at the Interest Rate on that amount from when it becomes due for payment, during the period that it remains unpaid, calculated on daily balances. The Buyer must pay interest under this clause on demand.

13.4 Essential term

Payment of interest in accordance with this clause 13 ("Interest") is an essential term of this contract.

14 Inclusions and exclusions

14.1 Plant and Equipment included in sale

The Plant and Equipment on the Land at the Contract Date is included in the sale except for any chattels, fixtures and fittings which are:

- (a) the OpCo Assets; or
- (b) owned or hired by a Tenant; or
- (c) leased by a Tenant (unless they are leased under a Tenancy Document); or
- (d) not owned by the Seller; or
- (e) otherwise specifically excluded from the sale.

The Plant and Equipment included in the sale becomes the property of the Buyer on Settlement.

14.2 No representations by Seller

The Seller does not make any representation or warranty about the condition of the Plant and Equipment and the Buyer accepts them in their state of repair and condition at the Contract Date.

14.3 Seller not liable

The Seller is not liable for, and the Buyer releases the Seller from Liability or loss arising from, and Costs incurred in connection with, damage to, mechanical breakdown of, or fair wear and tear to, the Plant and Equipment which occur after the Contract Date, unless caused by the Seller's negligence.

14.4 No formal delivery

The Seller need not give formal delivery of the Plant and Equipment but must ensure that the Plant and Equipment are left at the Property on Settlement.

14.5 Quality of Plant and Equipment

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because of the quality of any Plant and Equipment.

14.6 Assignment of warranties

To the extent permitted by law, on Settlement, the Seller assigns to the Buyer any warranties given by any supplier or manufacturer of any Plant and Equipment.

14.7 Buyer acknowledgement

The Buyer acknowledges and agrees that OpCo (or an Affiliate of OpCo) is owner of the OpCo Assets and nothing in this contract transfers or purports to transfer those assets.

15 Tenancies

15.1 Buyer takes subject to Tenancies

The Buyer acknowledges that:

- (a) it takes title to the Property subject to the Tenancies; and
- (b) it has inspected and has satisfied itself about the Tenancies.

15.2 No claims in connection with Tenancies

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate:

- (a) because of anything in connection with any matter referred to in clause 15.1 ("Buyer takes subject to Tenancies"); or
- (b) because (except in respect of the Hospital Lease):
 - (i) any Tenancy is not legally binding;
 - (ii) any Tenancy is not in existence at Settlement;
 - (iii) any Tenant is in breach of its obligations at Settlement; or
 - (iv) any Tenant is not in possession of the premises the subject of its Tenancy at Settlement.

15.3 Seller's obligations until Settlement

Until Settlement the Seller must comply with its obligations to Tenants in connection with the Tenancies.

15.4 Buyer's obligations after Settlement

From Settlement the Buyer must (subject to the Hospital Lease), comply with the Seller's obligations to Tenants in connection with the Tenancies.

15.5 Assignment of Tenant's covenants

Subject to clause 21 ("Seller's right to sue"), the Seller assigns to the Buyer from Settlement all the Seller's rights under the Tenancies, including under any guarantees given in connection with the Tenancies.

15.6 Tenants' caveats

If a Tenant lodges (or has lodged) a caveat on the title to the Property claiming an interest disclosed in this contract which would prevent registration of a transfer to the Buyer (or, if applicable, registration of a mortgage granted by the Buyer), then the Buyer:

- (a) must execute promptly, and use reasonable endeavours to procure any Buyer's mortgagee to execute promptly, all documents the Seller may reasonably require recognising that interest;
- (b) on Settlement must accept a letter or consent from the Tenant consenting to the registration of the transfer to the Buyer and any mortgage of the Buyer's interest in the Property; and
- (c) may not require the Seller to have that caveat withdrawn or to give a withdrawal of that caveat.

15.7 Expired leases

The Buyer may not require the Seller to have removed from the title to the Property leases which have expired or been terminated or surrendered.

15.8 Tenant's fixtures

The Buyer takes title to the Property subject to the right of any Tenant to remove its fixtures and other property. On Settlement, the Seller assigns to the Buyer all the Seller's rights (if any, and to the extent not otherwise assigned to OpCo or an Affiliate of OpCo) in connection with Tenant's fixtures.

16 Tenants' rights

16.1 Recognition of rights

The Buyer must execute (and use reasonable endeavours to have its mortgagee execute) and promptly deliver to the Seller, before Settlement, all documents the Seller reasonably considers necessary to comply with the Seller's obligations under a Tenancy including, if required by the Seller, a document under which:

- (a) the Buyer recognises the Tenant's rights under the Tenancy; and
- (b) the Tenant confirms that the Buyer will have the benefit of the Tenant's covenants under the Tenancy; and
- (c) the Seller is released from its obligations under the Tenancy arising after Settlement.

Without limiting the Buyer's obligations under this clause 16.1, the Buyer must deliver to the Seller no less than 5 Business Days prior to the Settlement Date:

- (d) 3 originals of the Hospital Lease Deed of Covenant, each properly executed by the Buyer; and
- (e) 3 originals of the Financier Tripartite Deed, each properly executed by the Buyer.

16.2 Execution of documents

The Seller must use all reasonable endeavours to have the documents referred to in clause 16.1 ("Recognition of rights") executed by the Tenant and the Tenant's financier if relevant) and delivered to the Buyer on, or as soon as practicable after, Settlement.

16.3 Seller may delay Settlement

The Seller may delay Settlement until the Buyer has complied with clause 16.1 ("Recognition of rights"). If the Seller exercises this right, then any obligations of the Buyer that are essential remain essential.

16.4 Buyer not to take action in relation to documents

- (a) Subject to clause 5 ("Hospital Lease"), and without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because the documents executed by the Buyer or its mortgagee under clause 16.1 ("Recognition of rights") have not been executed by the Tenant, or delivered to the Buyer, on or before Settlement.
- (b) Clause 16.4(a) does not apply to any document in connection with the Hospital Lease.

17 Subtenancies

The Buyer acknowledges that:

- (a) there may be subtenancies in existence or in the course of negotiation, execution or registration at Settlement; and

- (b) the Seller does not make any warranties or representations in connection with those subtenancies; and
- (c) subject to those subtenancies being granted in accordance with the relevant lease, the Buyer takes title subject to those subtenancies.

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because of anything in connection with those subtenancies.

18 Interim leasing and management

18.1 Interim management

From the Contract Date until Settlement (but subject to the Hospital Lease), the Seller agrees to manage the Property in accordance with its standard of management in place at the Contract Date, having regard to its obligations under clause 18.2 ("Buyer's consent").

18.2 Buyer's consent

The Seller must obtain the Buyer's consent if the Seller wishes to:

- (a) negotiate or grant a new Tenancy (other than the Hospital Lease); or
- (b) vary a Tenancy; or
- (c) consent to an assignment or transfer of a Tenancy; or
- (d) consent to a subtenancy; or
- (e) terminate a Tenancy; or
- (f) accept a surrender of a Tenancy; or
- (g) negotiate or carry out a rent review for a Tenancy,

unless the Seller is obliged to do that thing by the relevant Tenancy or otherwise by law.

18.3 Buyer taken to have consented

Except in the case of any request for consent relating to the Hospital Lease, the Buyer is taken to have consented under clause 18.2 ("Buyer's consent") if within seven days after being asked to consent the Buyer does not inform the Seller that it consents or that it withholds consent.

18.4 Buyer not to take action in relation to Seller's actions

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because of anything the Seller does under this clause 18 (except if what the Seller does relates to the Hospital Lease) ("Interim leasing and management").

19 Incomplete Tenancy Documents

19.1 Execution and registration

The Seller must use reasonable endeavours before Settlement to have all Tenancy Documents:

- (a) executed by all parties and, if necessary, stamped; and
- (b) (other than the Hospital Lease) registered, if this must be done to create a legal lease or to protect an option for a new lease or because of an agreement between the Seller and the Tenant.

19.2 Alteration of Tenancy Documents

The Seller may, without the Buyer's consent, alter a Tenancy Document (other than the Hospital Lease) if the Titles Office requires this before registration.

19.3 Seller can delay lodging for registration

The Seller is not in breach of clause 19.1 ("Execution and registration") if the Seller delays lodging Tenancy Documents for registration or uplifts Tenancy Documents lodged for registration because in the Seller's reasonable opinion the Tenancy Documents may not be registered before Settlement.

19.4 Obligations regarding registration

If a Tenancy Document which must be registered for a reason set out in clause 19.1(b) is not registered on Settlement:

- (a) if the document is not signed, the Buyer must use reasonable endeavours to arrange for the document to be signed by all parties to it (with the Buyer being substituted for the Seller); and
- (b) if the document is not in registrable form, the Buyer must (subject to obtaining any required agreement or consent to enable it to do so) arrange for the document to be put into registrable form; and
- (c) the Buyer must use reasonable endeavours to comply with the Seller's obligations in connection with registering the document; and
- (d) the Seller must pay to or allow the Buyer any amount paid by the Tenant for government charges in connection with the document (but the Seller has no other obligation in connection with the payment of those charges); and
- (e) the Seller must assist the Buyer to answer the Titles Office's requisitions in connection with the Tenancy Document.

19.5 Indemnity in connection with Tenancy Documents

The Buyer indemnifies the Seller against any liability or loss arising from, and any Costs incurred in connection with, the Buyer or its assigns or successors in title not complying with the Buyer's obligations under this clause 19 ("Incomplete Tenancy Documents") (including legal Costs on a full indemnity basis).

19.6 Buyer not to take action in relation to incomplete Tenancy Documents

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, rescind or terminate because:

- (a) a Tenancy Document (other than the Hospital Lease) is not executed or registered on Settlement if the Seller has complied with clause 19.1 ("Execution and registration"); or
- (b) a Tenancy Document (other than the Hospital Lease) has been altered under clause 19.2 ("Alteration of Tenancy Documents"); or
- (c) of anything else referred to in this clause 19 ("Incomplete Tenancy Documents").

20 Guarantee and indemnity

20.1 Consideration

The Guarantor acknowledges that the Seller:

- (a) enters into this contract at the request of the Guarantor; and
- (b) is acting in reliance on the Guarantor incurring obligations and giving rights under this Guarantee.

20.2 Guarantee

- (a) The Guarantor unconditionally and irrevocably guarantees to the Seller the Buyer's compliance with the Buyer's obligations in connection with this contract, including each obligation to pay money.
- (b) The Guarantor agrees to comply with those obligations on demand from the Seller if:
 - (i) the Buyer does not comply with those obligations on time and in accordance with this contract;
 - (ii) an obligation the Buyer would otherwise have under this document is found to be void, voidable or unenforceable as a result of or in connection with:
 - (A) any act or omission of the Buyer; or
 - (B) the nature or constituent documents of the Buyer entity; or
 - (iii) an Ipso Facto Event occurs. An **Ipso Facto Event** means the Buyer is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, or administration as described in section 415D(1), 434J(1) or 451E(1) of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

A demand may be made whether or not the Seller has made demand on the Buyer.

20.3 Indemnity

The Guarantor indemnifies the Seller against, and agrees to reimburse and compensate the Seller for, any liability or loss arising, and any Costs it incurs, if:

- (a) the Buyer does not, or is unable to, perform an obligation it has (including an obligation to pay money) in connection with this contract;
- (b) an obligation the Buyer would otherwise have under this contract (including an obligation to pay money) is found to be void, voidable or unenforceable as a result of or in connection with:
 - (i) any act or omission of the Buyer; or
 - (ii) the nature or constituent documents of the Buyer entity;
- (c) an obligation the Guarantor would otherwise have under clause 20.2 ("Guarantee") is found to be void, voidable or unenforceable;
- (d) a representation or warranty by the Buyer in this contract is found to have been incorrect or misleading (including by omission) when made or taken to be made;
- (e) a liquidator disclaims this contract; or
- (f) the Buyer becomes Insolvent.

The Guarantor agrees to pay amounts due under this indemnity on demand from the Seller.

20.4 Extent of guarantee and indemnity

Each of the guarantee in clause 20.2 ("Guarantee") and the indemnity in clause 20.3 ("Indemnity") is a continuing obligation despite any intervening payment, settlement or other thing (including Settlement) and extends to all of the Buyer's obligations in connection with this contract. The Guarantor waives any right it has of first requiring the Seller to make demand, commence proceedings or enforce any other right against the Buyer or any other person before claiming from the Guarantor under this Guarantee.

20.5 Acknowledgment

The Guarantor acknowledges that before signing this contract, and incurring obligations and giving rights under this Guarantee, it:

- (a) was given a copy of this contract (and all documents giving rise to an obligation of the Buyer in connection with this contract) and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of the Buyer and any other person who guarantees any of the Buyer's obligations in connection with this contract.

20.6 Rights of the Seller are protected

Rights given to the Seller under this Guarantee, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:

- (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 20.2 ("Guarantee") are expressed to be owing;
- (ii) releasing the Buyer or giving the Buyer a concession (such as more time to pay);
- (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Buyer's obligations;
- (iv) by which a person becomes a Guarantor after the Contract Date;
- (v) by which the obligations of any person who guarantees any of the Buyer's obligations (including under this Guarantee) may become unenforceable;
- (vi) by which any person who was intended to guarantee any of the Buyer's obligations does not do so, or does not do so effectively; or
- (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with this contract, including this Guarantee;
- (c) the death, mental or physical disability, or Insolvency of any person including the Guarantor or the Buyer;
- (d) changes in the membership, name or business of any person;
- (e) acquiescence or delay by the Seller or any other person; or
- (f) a liquidator disclaiming this contract.

20.7 No merger

This Guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Seller is entitled; or
- (b) a judgment which the Seller obtains against the Guarantor, the Buyer or any other person in connection with this contract.

The Seller may still exercise its rights under this Guarantee as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

20.8 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this contract, the Guarantor may not, without the Seller's written consent:

- (a) reduce its liability under this Guarantee by claiming that it or the Buyer or any other person has a right of set-off or counterclaim against the Seller;
- (b) claim or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity

(or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with this contract or any other amount payable under this Guarantee;

- (c) claim an amount from the Buyer, or another guarantor (including a person who has signed this contract as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the Insolvency of the Buyer or of another guarantor of any of the Buyer's obligations (including a person who has signed this contract as a "Guarantor").

This clause continues after this Guarantee ends.

20.9 Reinstatement of rights

Under law relating to Insolvency, a person may claim that a transaction (including a payment) in connection with this contract (including this Guarantee) is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Seller is immediately entitled as against the Guarantor to the rights in connection with this contract (including this Guarantee) to which it was entitled immediately before the transaction; and
- (b) on request from the Seller, the Guarantor agrees to do anything (including signing any document) to restore to the Seller any Encumbrance (including this Guarantee) held by it from the Guarantor immediately before the transaction.

The Guarantor's obligations under this clause are continuing obligations, independent of the Guarantor's other obligations under this Guarantee and continue after this Guarantee ends.

20.10 Extent of Guarantor's obligations

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this Guarantee both individually and jointly with any one or more other persons named as "Guarantor".

20.11 Dealing with interests

The Seller may assign or otherwise deal with its rights under this Guarantee in any way it considers appropriate. If the Seller does this, the Guarantor may not claim against any assignee (or any other person who has an interest in this Guarantee) any right of set-off or other rights the Guarantor has against the Seller.

20.12 Costs

The Guarantor agrees, within 5 Business Days of demand, to pay or reimburse the Seller's Costs of exercising, enforcing or preserving rights, powers or remedies (or considering doing so) in connection with this Guarantee, or doing anything in connection with any enquiry by an authority involving the Guarantor, its assets, this Guarantee or anything in connection with them.

The Guarantor agrees to pay for anything that it agrees to do under this Guarantee.

20.13 Obligation to pay interest

The Guarantor agrees to pay interest on any amount under this Guarantee which:

- (a) is not paid on the due date for payment; and
- (b) is not otherwise incurring interest.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

The Guarantor agrees to pay interest under this clause on demand from the Seller.

20.14 Rate of interest

The rate of interest applying to each daily balance is the Interest Rate.

20.15 Compounding

Interest accrued but which has not been paid under clause 20.13 ("Obligation to pay interest") is added to the overdue amount at the end of each period of 30 days (or any other period the Seller reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is payable on the increased overdue amount at the rate set out in clause 20.14 ("Rate of interest") and in the manner set out in clause 20.13 ("Obligation to pay interest").

20.16 Payments

The Guarantor agrees to make payments under this Guarantee to the Seller (or to a person nominated by the Seller in a notice to the Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction (unless such deduction is required by law); and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

20.17 Appointment of process agent

- (a) Without preventing any method of service allowed under any relevant law, the Guarantor:
 - (i) irrevocably appoints the Process Agent as its process agent to receive any document in an action in connection with this contract; and
 - (ii) agrees that failure by a process agent to notify the Guarantor of any document in an action in connection with this document does not invalidate the action concerned.
- (b) If for any reason the Process Agent ceases to be able to act as process agent, the Guarantor agrees to appoint another person acceptable to the Seller (acting reasonably) as its process agent in the place referred to in clause 29.18 ("Applicable law") and ensure that the replacement process agent accepts its appointment and confirms its appointment to the Seller.

- (c) The Guarantor represents and warrants that the Process Agent has, before the Contract Date, accepted its appointment as the process agent.
- (d) The Guarantor agrees that service of documents on its process agent is sufficient service on it.

20.18 Essential term

The Guarantor's compliance with its obligations under this Guarantee is an essential term of this contract.

20.19 Guarantor to sign contract

The Buyer agrees to ensure that the Guarantor signs this contract as Guarantor. The Buyer's obligation under this clause is an essential term of this contract.

20.20 Document not binding on certain persons

The obligations of the Guarantor under this document are not personally binding upon any:

- (a) trustee, officer, employee or agent of the Guarantor or any successor;
- (b) any registered or beneficial holder of units in the NorthWest Healthcare Properties Real Estate Investment Trust (a **Unitholder**); or
- (c) any annuitant under a plan of which a Unitholder acts as a trustee or carrier,

and resort shall not be had to, nor shall recourse or satisfaction be sought from any of the foregoing or the private property of any of the foregoing.

21 Seller's right to sue

21.1 Property legislation

The Seller and the Buyer intend clause 21.2 ("Seller may sue") to apply despite **[#insert as applicable: section 117 of the Property Law Act 1974 (Qld) / section 117 of the Conveyancing Act 1919 (NSW) / section 141 of the Property Law Act 1958 (Vic) / section 77 of the Property Law Act 1969 (WA) / section 130 of the Law of Property Act (NT).]**

21.2 Seller may sue

The Seller retains the right after Settlement to sue for or in respect of the period up to and including Settlement under or in connection with any Tenancy except the Hospital Lease. That right to sue does not pass to the Buyer.

21.3 Buyer to assign to Seller

If clause 21.2 ("Seller may sue") does not preserve the Seller's right to sue, then, if asked by the Seller, the Buyer must assign to the Seller the right to sue.

21.4 Buyer to assist Seller

- (a) If the Seller asks the Buyer to do so and pays the Buyer's reasonable expenses, the Buyer must do everything reasonably necessary to help the Seller sue, including allowing the Seller to sue in the Buyer's name.

- (b) The Seller indemnifies the Buyer against any Liability which the Buyer may incur or may become liable for (including any consequential loss which the Buyer may incur or become liable for) as a consequence of the Buyer assisting the Seller pursuant to a request made by the Seller under clause 21.4(a) ("Buyer to assist Seller").

21.5 Meaning of "sue"

In this clause 21 ("Seller's right to sue"), "sue" means to sue for breach of covenant or provision in a Tenancy Document, including to sue to recover money.

22 Adjustments

22.1 Confirmation of no adjustments

The parties acknowledge that:

- (a) under the provisions of the Hospital Lease the Hospital Lessee (as tenant) is:
 - (i) responsible for all rates, water, sewerage and drainage service and usage charges, land tax, strata levies, body corporate, owners corporation and strata scheme manager charges and all other periodic outgoings for the Property from Settlement until the end of the term of the Hospital Lease; and
 - (ii) entitled to receipt of the rent and other money payable under the Tenancies (other than the Hospital Lease) from Settlement until the end of the term of the Hospital Lease,

(in each case subject to the terms and conditions of the Hospital Lease) and accordingly the parties have agreed that no adjustment or apportionment of the Purchase Price is required as between the Buyer and Seller, except to the extent set out in clause 22.3 or clause 22.4; and
- (b) the Seller is responsible for the payment of rates and all other periodic outgoings for the Property until Settlement.

22.2 No variation of Hospital Lease

Nothing in clause 22.1 ("Confirmation of no adjustments") varies, or otherwise impacts on the operation of, the Hospital Lease.

22.3 Consulting Suite Adjustments

Not applicable **[#Replace with post-settlement adjustment clause for applicable properties]**

22.4 Purchase Price adjustment (Rent Adjustment Notice)

The Buyer and Seller agree that where a 'Rent Adjustment Notice' is given by the Hospital Lessee in respect of the Hospital Lease and the Property under clause 7.1 of the Portfolio Leases Umbrella Deed, then subject to the terms of the Portfolio Leases Umbrella Deed:

- (a) the Purchase Price is reduced by an amount equal to the aggregate of the 'Purchase Price Adjustment Amount' as defined in clause 7.3 of the Portfolio Leases Umbrella Deed and the 'Stamp Duty Difference' as

defined in clause 7.5 of the Portfolio Leases Umbrella Deed (**Purchase Price Adjustment Amount**);

- (b) the Seller must ensure that, in accordance with clause 7.3 and clause 7.5 of the Portfolio Leases Umbrella Deed, the Hospital Lessee pays to the Buyer (on behalf of the Seller) an amount equal to the Purchase Price Adjustment Amount; and
- (c) the Buyer agrees that the Seller complying with clause 22.4(b) satisfies any and all obligations of the Seller in respect of the Purchase Price Adjustment Amount.

The parties acknowledge that no such adjustment will take place in respect of the Hospital Lease and the Property until after Settlement has occurred. In the event of an inconsistency between the terms of the Portfolio Leases Umbrella Deed and the terms of this clause 22.4, the terms of the Portfolio Leases Umbrella Deed prevail.

23 GST

23.1 GST interpretation

In this clause 23 ("GST"):

- (a) words and expressions which are not defined in this contract, but which have a defined meaning in the GST Law, have the meaning they have in the GST Law, unless the context requires otherwise; and
- (b) "**GST Law**" has the meaning it has in the GST Act.

23.2 Exclusive amount

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this contract are exclusive of GST.

23.3 Going concern

The parties agree that the sale of the Property under this contract:

- (a) is a supply of an enterprise as a going concern in accordance with section 38-325 of the GST Act; and
- (b) will accordingly be classified as a GST-free supply.

23.4 Seller registered for GST

The Seller warrants to the Buyer that:

- (a) it is registered or it will be registered for GST purposes under the GST Act on Settlement; and
- (b) it will continue to lease the Property to which clause 23.3 ("Going concern") relates until Settlement.

23.5 Buyer registered for GST

The Buyer warrants that it is registered or it will be registered for GST purposes under the GST Act on Settlement.

23.6 Not a going concern

- (a) If for any reason (other than a failure by the Seller (as landlord) to enter into, and procure that the Hospital Lessee (as tenant) enters into, the Hospital Lease as required by under clause 5.1(a)(i)), the supply of the Property is not a supply of a going concern and GST is payable by the Seller or the representative member of the GST group which the Seller is a member of on the supply of the Property then, the Buyer must pay to the Seller:
 - (i) subject to clause 23.11, an additional amount equal to the amount of GST payable on the supply of the Property; and
 - (ii) except to the extent the Seller is in breach of a warranty under clause 23.4, any interest, penalties or similar amount imposed on the Seller as a result of the supply of the Property having been treated as the supply of a going concern.
- (b) Subject to clause 23.6(a)(i), if Settlement has already occurred, payment of any GST under this clause must be made by the Buyer within 5 Business Days of the Seller requesting payment from the Buyer.

23.7 GST on any other supply

If GST is imposed on any supply (other than the supply of the Property) made by a supplier under or in connection with this contract, to the extent that any consideration payable or to be provided by the recipient under any other clause in this contract for the supply is exclusive of GST, the recipient must pay to the supplier an additional amount in respect of GST.

23.8 Tax invoice

The right of a supplier to recover GST under this agreement is subject to the issue of a tax invoice to the recipient in respect of the relevant supply.

23.9 Adjustments

If for any reason (including the occurrence of an adjustment event) the amount of GST payable on a taxable supply (taking into account any increasing or decreasing adjustment in relation to the taxable supply) varies from the GST payable by the recipient under clauses 23.6 ("Not a going concern") or 23.7 ("GST on any other supply"):

- (a) the supplier must provide a refund or credit to the recipient, or the recipient must pay a further amount to the supplier as appropriate; and
- (b) the refund, credit or further amount (as the case may be) will be calculated by the supplier in accordance with the GST Act; and
- (c) the supplier must notify the recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. If there is an adjustment event in relation to the supply, the requirement of the supplier to notify the recipient will be satisfied by the supplier issuing the recipient an adjustment note within 14 days after becoming aware of the occurrence of the adjustment event.

23.10 Reimbursement

If a party is entitled to be reimbursed or indemnified under this contract, the amount to be reimbursed or indemnified does not include any amount for GST for which the party is entitled to an input tax credit.

23.11 Timing of payment of GST amount

- (a) To the extent that an amount in respect of GST is payable by the Buyer under this contract, the parties agree in good faith to manage the payment of any amount in respect of GST by the Buyer and to the Commissioner by the Seller, such as to minimise the cash flow impact on the Buyer. At first instance, this is to be done by way of seeking agreement from the Commissioner to offset any GST refund to the Buyer arising from its acquisition of the Property against the liability of the Seller in respect of its supply of the Property.
- (b) Failing the obtaining of an agreement from the Commissioner under clause 23.11(a), the Buyer is only required to pay an amount in respect of GST to the Seller, 2 business days before the date that the Seller (or the representative member of the GST group which the Seller is a member) is required to pay that GST amount to the Commissioner.

23.12 Survival of GST clauses

Despite any other provision of this contract, this clause 23 ("GST") will survive Settlement or the termination or rescission of this contract.

24 Confidentiality

24.1 Disclosure of Confidential Information

Subject to clauses 24.2 ("Announcements and press releases") and clause 24.4 ("Disclosure to BidCo"), before Settlement, no Confidential Information relating to this contract may be disclosed by any party to any person except:

- (a) to officers and employees of the parties and the Related Bodies Corporate of the parties requiring the information for the purposes of this contract; or
- (b) to professional advisers and financiers of a party requiring the information for the purposes of this contract (if the relevant person has entered into a confidentiality undertaking in favour of the other parties in the form of this clause with necessary changes); or
- (c) for the purpose of making any application to any Authority or third party for any approval, consent or non-objection to the transaction contemplated by this contract; or
- (d) with the consent of the party who supplied the information; or
- (e) if a party is required to do so by law or by a stock exchange; or
- (f) if a party is required to do so in connection with legal proceedings relating to this contract.

24.2 Announcements and press releases

- (a) Subject to clause 24.4 ("Disclosure to BidCo"), before Settlement, a party may not make press or other announcements or releases relating to this

contract or the transactions the subject of this contract without the approval of the other parties (such approval not to be unreasonably withheld) as to the form and manner of the announcement or release unless, and to the extent that, the announcement or release is required to be made by the party by law or by a stock exchange, in which case the party giving the announcement or release must first notify (including with reasonable details of the proposed announcement or release) the other parties a reasonable time (having regard to the time within which the announcement must be made), and must take into account (and reflect in the announcement or release to the extent it considers appropriate acting reasonably) any reasonable comments received from the other parties, before the announcement or release is made.

- (b) After Settlement, a party can make press and other announcements and communications relating to this contract without the consent of the other parties.

24.3 Other confidentiality obligations

Subject to clause 24.2 ("Announcements and press releases") and clause 24.4 ("Disclosure to BidCo"), if the parties' obligations under this clause 24 ("Confidentiality") are inconsistent with their obligations to each other under another confidentiality undertaking, then their obligations under this clause prevail to the extent of the inconsistency.

24.4 Disclosure to BidCo

Nothing in clauses 24.1 ("Disclosure of Confidential Information") or 24.2 ("Announcements and press releases") applies in respect of the disclosure by any party of (or otherwise prohibits or restricts any party from disclosing) any confidential information to BidCo or any Affiliate or Representative of BidCo.

25 Trustee limitation of liability

25.1 Trustee

The Trustee enters into this document in its capacity as trustee of the Trust.

25.2 Limitation of Trustee's liability

- (a) The Trustee enters into this contract only in its capacity as trustee of the Trust and in no other capacity. A liability arising under or in connection with this contract is limited to and can be enforced against the Trustee only to the extent to which it is actually indemnified out of the Trust Property out of which the Trustee is entitled to be, indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this contract and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this contract.
- (b) The parties, other than the Trustee, may not sue the Trustee under or in respect of this contract in any capacity other than as trustee of the Trust, including the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust).
- (c) The Trustee does not have to incur any obligation under this contract unless its liability in respect of that obligation is limited in the same manner as in this clause 25.2.

- (d) The provisions of this clause 25.2 will not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the Trust Deed or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust, as a result of the Trustee's fraud, negligence or breach of trust.
- (e) No act or omission by the Trustee will constitute fraud, negligence or breach of trust for the purpose of clause 25.2(d) to the extent to which the act or omission was caused or contributed to by the failure of any other party to this contract to comply with its obligations to the Trust or by any act or omission of that party.

25.3 Override

This clause 25 applies despite any other provision of this contract or any principle of equity or law to the contrary.

25.4 Definition

In this clause 25 "**Trustee**" means each party that is expressed to enter into this contract as trustee or is expressed to be a trust.

26 Foreign resident capital gains withholding

26.1 Application of foreign resident capital gains withholding

Clauses 26.2 ("Clearance Certificate given by Seller") to 26.7 ("Discharge of liability") do not apply if:

- (a) the sale of the Property is a transaction that is excluded under section 14-215(1); or
- (b) the Seller gives to the Buyer, on or before the date that is 5 Business Days before Settlement, a Clearance Certificate.

26.2 Clearance Certificate given by Seller

- (a) The Seller must give to the Buyer, on or before the date that is 5 Business Days before Settlement, a Clearance Certificate.
- (b) If clause 26.1(a) or 26.1(b) applies, the Buyer acknowledges and agrees that:
 - (i) the Buyer is not required to pay a Withholding Amount; and
 - (ii) the Buyer may not withhold any amount in respect of a Withholding Amount from the price payable on Settlement to the Seller.

26.3 Buyer entitled to withhold

If the Buyer is required to pay an amount to the Commissioner under section 14-200, the Buyer is entitled to withhold that amount from the price payable on Settlement an amount equal to the Withholding Amount.

26.4 Buyer's obligation to notify of intention to withhold

- (a) If the Buyer considers that it is entitled to withhold an amount under clause 26.3 ("Buyer entitled to withhold ") the Buyer must give a notice to

the Seller, at least 5 Business Days before Settlement, of the Buyer's intention to withhold that amount. The Buyer's notice must contain:

- (i) an estimate of the Withholding Amount, together with reasonable details as to how the amount has been calculated; and
 - (ii) details of the Seller and the property that the Buyer proposes to include in the Buyer Payment Notification Form.
- (b) If requested by the Seller no later than 2 Business Days before Settlement, the Buyer must include amended details of the Seller and the property in the Buyer Payment Notification Form it lodges with the Commissioner, provided that the Seller provides satisfactory evidence to the Buyer (acting reasonably) to justify such changes.
- (c) If requested by the Buyer, the Seller must promptly provide the Buyer with such information as the Buyer (acting reasonably) requires to comply with its obligation to pay the amount in accordance with section 14-200.

26.5 Purchaser Payment Notification Form

The Buyer must give the Seller a copy of:

- (a) any Buyer Payment Notification Form lodged by the Buyer with the Commissioner, within two Business Days after the Buyer lodges the form; and
- (b) any response from the Commissioner to the Buyer Payment Notification Form, within two Business Days after the Buyer receives the response.

26.6 Buyer obligations in respect of the Withholding Amount

The Buyer must:

- (a) produce at Settlement a Bank Cheque for the Withholding Amount payable to the Deputy Commissioner of Taxation;
- (b) immediately after Settlement forward the Bank Cheque and the Buyer Payment Notification Form to the payee; and
- (c) within two Business Days of obtaining written evidence of receipt of the payment of the Withholding Amount to the payee, provide to the Seller a copy of such written evidence.

26.7 Discharge of liability

- (a) On the payment of the Withholding Amount to the Commissioner, the Buyer is discharged from all liability to pay the Withholding Amount to the Seller.
- (b) The Seller cannot refuse to settle if the Buyer complies with clause 26.5 ("Purchaser Payment Notification Form") and clause 26.6(a).

26.8 Definitions and interpretation

For the purposes of this clause 26 ("Foreign resident capital gains withholding"):

- (a) all section references are to those provisions of Schedule 1 to the *Taxation Administration Act 1953* (Cth);
- (b) **"Buyer Payment Notification Form"** means the 'Foreign Resident Capital Gains Withholding Purchaser Payment Notification Form' concerning the Property and the Withholding Amount;
- (c) **"Clearance Certificate"** means a certificate issued by the Commissioner under section 14-220 that is valid and applies to the Seller and is for a period covering the time the Seller gives the certificate to the Buyer prior to Settlement;
- (d) **"Commissioner"** means the Commissioner of Taxation of Australia; and
- (e) **"Withholding Amount"** means an amount that the Buyer is required to pay to the Commissioner, determined in accordance with section 14-200(3).

27 Notices and other communications

27.1 Form

Unless expressly stated otherwise in this contract, all notices, certificates, consents, approvals, waivers and other communications in connection with this contract must be in writing, signed by the sender (if an individual) or an Authorised Officer, or the solicitor, of the sender and (except in the case of email) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

27.2 Delivery

Communications must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by prepaid ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or
- (c) sent by fax to the fax number set out or referred to in the Details; or
- (d) sent by email to the address referred to in the Details; or
- (e) given in any other way permitted by law.

However, if the intended recipient has notified a changed address or changed fax number, then communications must be to that address, email address or number.

27.3 When effective

Communications take effect from the time they are received or taken to be received under clause 27.4 ("When taken to be received") (whichever happens first) unless a later time is specified.

27.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, six Business Days after posting (or ten days after posting if sent from one country to another); or
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

27.5 Receipt outside business hours

Despite clauses 27.3 ("When effective") and 27.4 ("When taken to be received"), if communications are received or taken to be received under clause 27.4 ("When taken to be received") after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

27.6 Notices served on Seller

Despite the other provisions of this clause 27 ("Notices and other communications"), any communication in connection with this contract to be served on the Seller must also be delivered to the Seller at its solicitor's address set out in the Details.

27.7 Notices served on Buyer

Despite the other provisions of this clause 27 ("Notices and other communications"), any communication in connection with this contract to be served on the Buyer must also be delivered to the Buyer at its solicitor's address set out in the Details.

28 Buyer's acknowledgements

28.1 Disclosures

The Buyer acknowledges and agrees that:

- (a) the Seller has, without limitation, disclosed the materials included in Annexure C ("Disclosures") to this contract; and
- (b) without limiting clause 28.1(a), all materials or disclosures included in Annexure C ("Disclosures") to this contract are also disclosed in and by this contract.

28.2 Victorian Land Acknowledgements

Where the Land is in Victoria:

- (a) the Buyer warrants that it has not received any promise from the Seller or the Seller's agent (or any other person acting on behalf of the Seller) in relation to obtaining a loan for the purchase of the Property; and
- (b) the Buyer acknowledges that before paying any money or signing any document in relation to the sale and purchase contemplated by this contract, the Buyer received, read, understood and accepted the contents of the Section 32 Statement (as defined in the *Sale of Land Act 1962* (Vic)) signed by the Seller and given to the Buyer.

28.3 No abstract or requisitions

- (a) The Buyer is not entitled to an abstract of title.
- (b) The Buyer may not issue any objection to, or requisitions on, the title to the Property and waives any right it may have to do so.

28.4 Independent due diligence enquiries

The Buyer acknowledges and agrees that:

- (a) it has not been induced to enter into this contract by, and does not rely on any written or oral representations, warranties (except the Seller Warranties), undertakings, covenants, agreements or information provided or statements about any matter which affects the Property made by or on behalf of, the Seller or any of the Seller's Representatives;
- (b) it has been given the opportunity to inspect and view the Due Diligence Material and each Tenancy Document and undertake a full due diligence on the Property, and it has satisfied itself in connection with the matters arising from its due diligence;
- (c) it is satisfied that the description or particulars of the Land and title are correct;
- (d) neither the Seller nor any of the Seller's Representatives, warrant the accuracy, currency, reliability or completeness of any of the Due Diligence Material;
- (e) neither the Seller, nor any of the Seller's Representatives, assume liability for any material contained in the Due Diligence Material;
- (f) it has satisfied itself as to the correctness of the information in the Due Diligence Material by independent investigations and it has not relied on any material contained in the Due Diligence Material as a statement or representation of fact or as to any further matter;
- (g) when entering into this contract the Buyer relied exclusively on the following matters independently of any statements, inducements or representations made by or on behalf of the Seller or any of the Seller's Representatives:
 - (i) the investigations relating to the Property made by or on behalf of the Buyer, including any dilapidation, infestation or defect (patent or latent) which may affect the Property;
 - (ii) the skill and judgment of the Buyer, its consultants and representatives; and

- (iii) the opinions or advice obtained by the Buyer independently of the Seller or any of the Seller's Representatives; and
- (h) the Buyer has made its own independent investigations or assessments about, and has relied upon the Buyer's own judgment in respect of those investigations or assessments about, each of the matters referred to, disclosed or described in this contract.

28.5 Terms excluded

The Buyer acknowledges and agrees that, subject to any law to the contrary, all terms, conditions, warranties and statements, whether express, implied, written, oral, collateral, statutory or otherwise, are excluded and that the Seller disclaims all liability in connection with these to the maximum extent permitted by law.

28.6 No claim or right

Without limiting any clause in this contract preventing the Buyer from making a claim, requisition or objection, the Buyer may not make a claim (including a claim for damages or compensation), requisition or objection, deduct or retain any amount, delay Settlement, or rescind or terminate this contract:

- (a) because of anything referred to, disclosed or described in this contract;
- (b) because of anything which arises directly or indirectly from or relates to the condition of the Property on or before Settlement;
- (c) because:
 - (i) any Tenancy (other than the Hospital Lease) is not legally binding;
 - (ii) any Tenancy (other than the Hospital Lease) is not in existence at Settlement;
 - (iii) any tenant of a Tenancy (other than the Hospital Lease) is in breach of its obligations at Settlement or is Insolvent; or
 - (iv) any tenant of a Tenancy (other than the Hospital Lease) is not in possession or occupation of the premises the subject of its Tenancy at Settlement; or
- (d) because of anything the Seller does under clause 18 ("Interim leasing and management").

29 General

29.1 Annexures

The Seller does not warrant the accuracy or completeness of any document annexed or exhibited to this contract.

29.2 Seller's disclosure

The Seller discloses everything in each document annexed, attached or exhibited to this contract, whether or not the document is referred to in this contract.

29.3 Caveats

If at Settlement a caveat affects the title to the Property (other than a caveat referred to in clause 29.4 ("Buyer's caveat") or clause 15.6 ("Tenants' caveats")), the Buyer may not require the Seller to have the caveat withdrawn but must accept a withdrawal of the caveat so far as it affects the Property, if it is in the prescribed form so that it is capable of registration and the Seller allows the lodgement fees to the Buyer.

29.4 Buyer's caveat

- (a) If the Buyer lodges a caveat in respect of its interest in the Property under this contract (**Buyer Caveat**) then:
 - (i) the Buyer must ensure that the Buyer Caveat will not prevent registration of the Hospital Lease (or a subtenancy granted to an Affiliate of OpCo);
 - (ii) without limiting paragraph (i), the Buyer must (promptly on request by the Seller) provide a consent from the Buyer (in an appropriate form for lodgement with the Titles Office) consenting to the registration of a dealing permitted under this contract; and
 - (iii) if the Buyer Caveat affects the title to the Property at Settlement, then the Buyer may not require the Seller to have that caveat withdrawn or give a withdrawal of caveat, and must settle this contract despite the caveat.
- (b) The Buyer indemnifies the Seller against, and must reimburse and compensate it for, any Liability arising from, and any Costs incurred in connection with any breach of this clause 29.4 ("Buyer's caveat") by the Buyer.

29.5 Service

Despite clause 27 ("Notices and other communications"), any document under or relating to this contract to be served on the Seller must be delivered to the Seller at its solicitor's address set out in the Details.

29.6 Entire agreement

This contract constitutes the entire agreement of the parties about the sale of the Property and supersedes all previous agreements, understandings and negotiations on the sale of the Property. The Buyer agrees that in entering into this contract it has not relied on any representation or warranty about its subject matter (including the development potential of, or future profits from, the Property) except those included in this contract.

29.7 Indemnities continue

The indemnities in this contract are continuing obligations, independent of the other obligations of the indemnifying party and continue after Settlement or termination. A party need not incur expense or make payment before enforcing a right of indemnity under this contract.

29.8 Indemnity payments

A party giving an indemnity under this contract must pay amounts due under that indemnity on demand from the indemnified party.

29.9 No merger

The representations, warranties (except those implied by law) and undertakings in this contract do not merge on Settlement or termination.

29.10 Variation and waiver

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

29.11 Costs

The parties agree to pay their own legal and other Costs in connection with the preparation, execution and Settlement of this contract and other related documentation except for stamp duty. This clause does not limit a party's right to recover Costs in a claim for damages for breach of contract.

29.12 Remedies cumulative

The rights and remedies provided in this contract are in addition to other rights and remedies given by law independently of this contract.

29.13 Rights and obligations are unaffected

Rights given to the parties under this contract and the parties' liabilities under it are not affected by anything which might otherwise affect them by law.

29.14 No assignment

The Buyer may not assign or otherwise deal with its rights under this contract or allow any interest in them to arise or to be varied in each case, without the written consent of the Seller.

29.15 No nomination

The Buyer must not nominate a substitute or additional purchaser under this contract without the written consent of the Seller.

29.16 Further assurances

Each party agrees, at its own expense, on the request of another party, to do everything reasonably necessary to give effect to this contract and the transactions contemplated by it, including by signing documents.

29.17 Counterparts

- (a) This contract may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument. If so, the signed copies are treated as making up the one document.
- (b) A party that has signed a copy of this contract may exchange it with another party by emailing or faxing the executed copy to that other party (or its solicitors) and, if requested by that other party, will promptly deliver the original copy by express post or courier. Failure to make that delivery will not affect the validity or enforceability of this contract.

29.18 Applicable law

This contract is governed by the law in force in the State or Territory in which the Property is situated. Each party submits to the non-exclusive jurisdiction of the courts of that place.

29.19 Time not of the essence

Subject to any provision of this contract to the contrary, time is not of the essence in this contract.

29.20 Severability

If the whole or any part of a provision of this contract is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this contract has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 29.20 has no effect if the severance alters the basic nature of this contract or is contrary to public policy.

Contract of Sale – [#insert name of] Hospital

Schedule 1 Land Schedule

[#]

Contract of Sale – [#insert name of] Hospital

Schedule 2 Specified Encumbrances

The **Specified Encumbrances** are each of the following:

- [#]

Contract of Sale – [#insert name of] Hospital

Schedule 3 Settlement Deliverables Schedule

1 Settlement deliverables – Seller responsibility

1.1 Title documents

At Settlement the Seller must give the Buyer:

- (a) subject to any Tenancies referred to in this contract, vacant possession of those parts of the Property that are in the possession of the Seller; and
- (b) the Transfer Documents (unless previously given to the Buyer) in registrable form, other than for stamping and any other things to be done by the Buyer; and
- (c) a discharge or release (in registrable form other than for stamping) of any mortgage or charge registered on the freehold title to the Property and a release of any other Encumbrance affecting the Property (other than the Specified Encumbrances);
- (d) any instrument, declaration, document or other thing required from the Seller to stamp and register the Transfer Documents (including any original duplicate Certificate of Title for the Property or if the certificate of title is electronic procure that the electronic certificate of title is nominated to the discharge of any mortgage and Transfer Documents);
- (e) in respect of any security interest entered on the PPS Register that affects the Seller and that relates to the Property, an executed release of the Property (generally in the form of release issued by the Australian Bankers' Association, but excluding any undertaking to register a Financing Change Statement on the PPS Register); and
- (f) a withdrawal of caveat in the prescribed form (other than a caveat referred to in clause 29.4 ("Buyer's caveat") or in clause 15.6 ("Tenants' caveats"), or notified as a Specified Encumbrance) of any caveat noted on the title to the Property.
- (g) an original fully executed copy of the Hospital Lease;
- (h) a deed in accordance with clause 13.5(b) of the Hospital Lease executed by the Hospital Lessee under the Hospital Lease and which provides that the Buyer's assumption of liability is from the date upon which Settlement under this contract occurs;
- (i) (subject to the 'Buyer' under the Umbrella Deed having complied with its obligations under clause 11.1 of the Umbrella Deed) an original fully executed copy of the Portfolio Leases Umbrella Deed, provided that the delivery of an original fully executed copy of the Portfolio Leases Umbrella Deed on or before Settlement to the Guarantor or any other 'Buyer' under the Umbrella Deed satisfies the Seller's obligations under this paragraph (i); and
- (j) a completed notice of disposition in respect of the Property (if required by law or conveyancing practice).

1.2 Delivery of certain documents

At Settlement, the Seller must give to the Buyer:

- (a) if the Hospital Lease has not been registered:
 - (i) one original of the fully executed Hospital Lease; and
 - (i) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the Hospital Lease was executed by the Seller and the Hospital Lessee;
- (b) notices of attornment to Tenants; and
- (c) notices addressed to each guarantor under the Tenancy Documents notifying guarantors of the assignment of the Seller's rights under any guarantees, and the Tenancies, to the Buyer, except where the Hospital Lessee will become the landlord for the relevant Tenancy.

1.3 Other documents to be delivered at or after Settlement

The Seller must give to the Buyer at Settlement or as soon as reasonably practical after Settlement:

- (a) all original Tenancy Documents and any related securities including bank guarantees, except where the premises the subject of the Tenancy Documents will be within the area the subject of the Hospital Lease; and
- (b) if requested by the Buyer, subject to the Buyer paying the Seller's reasonable third party costs (excluding internal costs) incurred in obtaining copies and delivering to the Buyer:
 - (i) copies of all material Tenancy Documents in respect of the Property (except for those referred to in paragraph (g) of clause 1.1 of this Schedule and paragraph (a) of this clause 1.3 of the Schedule; and
 - (ii) copies of the following documents where held by or on behalf of the Seller:
 - (A) any survey and building plans for the Property, and lease survey plans for Tenancies;
 - (B) any certificates and approvals from Authorities relating to the Property.

2 Settlement deliverables – Buyer responsibility

2.1 Delivery of certain documents

At Settlement, the Buyer must give the Seller:

- (a) 3 originals of the Financier Tripartite Deed, each properly executed by the Buyer.

Contract of Sale – [#insert name of] Hospital

Schedule 4 Hospital Lease

[#]

Contract of Sale – [#insert name of] Hospital

Schedule 5 OpCo Assets

The following assets:

- (a) all machinery, furniture and equipment including computers, trade fixtures, inventory, supplies and other personal property used in the operation and/or maintenance of the Property;
- (b) all proprietary operating systems of OpCo or any Affiliate or subtenant of OpCo;
- (c) all Tenancy files;
- (d) any survey and building plans for the Property, and lease survey plans for Tenancies;
- (e) any certificates and approvals from Authorities relating to the Property;
- (f) any licences or permits given by any person or Authority relating to the Property including the use or occupation of the Property or activities in the Property;
- (g) keys and access cards for the Property (other than those held by Tenants); and
- (h) any other items or works located at the Property which are not permanently affixed to or incorporated into:
 - (i) the Land; or
 - (ii) the improvements on the Land; and
- (i) any other assets which this contract expressly designates as OpCo Assets.

Contract of Sale – [#insert name of] Hospital

Schedule 6 Seller Warranties

The **Seller Warranties** are:

- (a) The Seller is the only holder of, and has good title to the Property, free from any mortgage or other interest (including any Encumbrance), except for:
 - (i) conditions in the Crown grant;
 - (ii) Specified Encumbrances which are not required to be released or removed;
 - (iii) the Tenancies; and
 - (iv) the statutory rights relating to water supply, sewerage, drainage, electricity, telephone and other services in, passing through or over the Land, whether or not protected by registered easement.

Contract of Sale – [#insert name of] Hospital

Signing page

DATED:

SELLER'S EXECUTION

EXECUTED by _____)
in accordance with section 127(1) of)
the *Corporations Act 2001* (Cth) by)
authority of its directors:)
)

.....)
Signature of director)

.....)
Name of director (block letters))

.....)
Signature of director/company)
secretary*)

*delete whichever is not applicable)

.....)
Name of director/company secretary*)
(block letters))

*delete whichever is not applicable)

OR

SIGNED by _____ as)
attorney for _____)
under power of attorney dated)
_____ in the presence)
of:)
)

.....)
Signature of witness)

.....)
Name of witness (block letters))

.....)
By executing this document the)
attorney states that the attorney has)
received no notice of revocation of the)
power of attorney)

BUYER'S EXECUTION

EXECUTED by _____)
in accordance with section 127(1) of)
the *Corporations Act 2001* (Cth) by)
authority of its directors:)
)
)

.....)
Signature of director)

.....)
Name of director (block letters))

.....)
Signature of director/company)
secretary*)
*delete whichever is not applicable)

.....)
Name of director/company secretary*)
(block letters))
*delete whichever is not applicable)

OR

SIGNED by _____ as)
attorney for _____)
under power of attorney dated)
_____ in the presence)
of:)
)
)
)

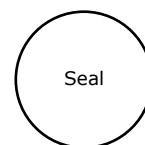
.....)
Signature of witness)

.....)
Name of witness (block letters))

.....)
By executing this document the)
attorney states that the attorney has)
received no notice of revocation of the)
power of attorney)

GUARANTOR'S EXECUTION

SIGNED, SEALED AND DELIVERED by
NORTHWEST HEALTHCARE
PROPERTIES REAL ESTATE
INVESTMENT TRUST in the presence of:



Signature of witness

Name of witness

Signature of authorised signatory

Name of authorised signatory

Contract of Sale – [#insert name of] Hospital

Annexure A Promissory Note

**[#Buyer] (ACN [#])
as trustee of the [#]**

Promissory Note #1

Issue date: _____ 2019

Payable at: Level 61, Governor Phillip Tower, 1 Farrer Place, Sydney
NSW 2000

[#Buyer] (ACN [#]) as trustee of the [#] unconditionally and irrevocably promises to pay to (or to the order of) **[#Seller] (ACN [#])** the sum of **A\$[#]**, on demand on presentation and surrender of this promissory note at the address set out above or as otherwise agreed between the issuer and the holder.

All amounts payable under this promissory note must be paid in immediately available funds in Australian dollars.

This promissory note is governed by the laws of New South Wales.

EXECUTED by **[#BUYER] (ACN [#])** in)
accordance with section 127(1) of the)
Corporations Act 2001 (Cth) by)
authority of its directors:)

.....)
Signature of director)

.....)
Name of director (block letters))

.....
Signature of director/company
secretary*
*delete whichever is not applicable

.....
Name of director/company secretary*
(block letters)
*delete whichever is not applicable

[on reverse side]

Indorsements

Indorsement 1 *[Note: Indorsements to be included as applicable.]*

Please pay:

(Insert full name and ACN/ABN of indorsee (ie new payee))

For and on behalf of:

(Insert full name and ACN/ABN of indorser (ie current holder))

by its duly authorised officer/attorney

Signed:.....

Print name:

Print title:

Date of indorsement:

Indorsement 2

[Note: Indorsements to be included as applicable.]

Please pay:

(Insert full name and ACN/ABN of indorsee (ie new payee))

For and on behalf of:

(Insert full name and ACN/ABN of indorser (ie current holder))

by its duly authorised officer/attorney

Signed:.....

Print name:

Print title:

Date of indorsement:

Indorsement 3

[Note: Indorsements to be included as applicable.]

Please pay:

(Insert full name and ACN/ABN of indorsee (ie new payee))

For and on behalf of:

(Insert full name and ACN/ABN of indorser (ie current holder))

by its duly authorised officer/attorney

Signed:.....

Print name:

Print title:

Date of indorsement:

Contract of Sale – [#insert name of] Hospital

Annexure B Hospital Lease Deed of Covenant

[#]

Master Lease Deed of Covenant

Dated

("Seller")

("Buyer")

Healthscope Limited ACN 144 840 639 ("**Tenant**")

King & Wood Mallesons

Level 61

Governor Phillip Tower

1 Farrer Place

Sydney NSW 2000

Australia

T +61 2 9296 2000

F +61 2 9296 3999

DX 113 Sydney

www.kwm.com

Master Lease Deed of Covenant

Contents

Details	1
General terms	3
1 Defined terms & interpretation	3
1.1 Defined terms	3
1.2 Interpretation	3
1.3 Headings	4
1.4 Construction	5
2 Assignment of Rights	5
3 Buyer to comply with Obligations and Rights	5
4 Tenant to comply	5
5 Buyer trustee provisions	5
6 Notices	6
6.1 Form	6
6.2 Delivery	7
6.3 When effective	7
6.4 When taken to be received	7
6.5 Receipt outside business hours	7
7 General	8
7.1 Counterparts	8
7.2 Variation and waiver	8
7.3 Prompt performance	8
7.4 Further assurances	8
7.5 Serving documents	8
7.6 Legal costs	8
7.7 Governing law and jurisdiction	8
7.8 Provisions prohibited by law	8
7.9 Severability	8
Signing page	10

Master Lease Deed of Covenant

Details

Parties	Seller, Buyer and Tenant	
Seller	Name	#
	ACN	#
	Address	#
	Email	#
	Attention	#
Buyer	Name	#
	ACN	#
	Address	#
	Email	#
	Attention	#
Tenant	Name	Healthscope Limited
	ACN	144 840 639
	Address	#
	Email	#
	Attention	#
Property		#
Master Lease	The lease between the Seller (as landlord) and the Tenant (as tenant) over the Property and dated prior to the date of this document.	
Business Day place (s)	A day on which banks are open for general banking business in the capital city of the State or Territory in which the Property is situated (not being a Saturday, Sunday or public holiday in that place)	
Recitals	A	The Seller is the landlord under the Master Lease.
	B	The Seller has entered into the Contract to sell the Property to the Buyer.

- C** Under the terms of the Contract the Seller assigns to the Buyer, with effect from the Effective Date, the benefit of all assignable covenants under the Master Lease.
- D** Under the terms of the Master Lease, the Seller must procure agreement from any purchaser of its interest in the Master Lease or the Property that the purchaser agrees to perform all of the obligations of the landlord under the Master Lease.
- E** Under the terms of the Contract the Buyer agrees to enter into this document to covenant in favour of the Tenant to comply with the Seller's obligations under the Master Lease.

Master Lease Deed of Covenant

General terms

1 Defined terms & interpretation

1.1 Defined terms

In this deed:

Authorised Officer means:

- (a) in the case of the Seller a director, secretary or any other person appointed by that party to act as an Authorised Officer for the purposes of this document;
- (b) in the case of the Buyer, a director or secretary of the Buyer, or any person who purports to be a “chief executive officer” or “executive vice president” of that party or any other person nominated by that party to act as an Authorised Officer for the purposes of this document; and
- (c) in the case of the Tenant, a director, secretary or any other person appointed by that party to act as an Authorised Officer for the purposes of this document.

Buyer Trust means #.

Contamination has the same meaning as in the Master Lease.

Contract means the contract for sale of the Property between the Seller and the Buyer dated #.

Details means the section of this document headed ‘Details’.

Effective Date means the date of completion of the sale and purchase under the Contract.

Master Lease means the document referred to in the Details.

Property means the land described in the Details.

Rent has the same meaning as in the Master Lease.

Rent Day has the same meaning as in the Master Lease.

Umbrella Deed means the ‘Portfolio Leases Umbrella Deed’ entered into between the Buyer, the Tenant and others and dated on or about the Effective Date.

1.2 Interpretation

In this document, unless the contrary intention appears:

- (a) labels used for definitions are for convenience only and do not affect interpretation;

- (b) a reference to a document (including this document) includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document;
- (d) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (e) the word "law" includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (f) the singular includes the plural and vice versa;
- (g) the word "person" includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;
- (h) a reference to a body or authority includes a reference, if that body or authority ceases to exist, to the body or authority which has substantially the same functions and objects as the first body or authority;
- (i) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (j) a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (k) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (l) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (m) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (n) the words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (o) if an act under this document to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day;
- (p) a reference to any thing (including any amount) is a reference to the whole and each part of it; and
- (q) a reference to time of day is a reference to time in the State or Territory in which the Property is situated.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

1.4 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this document or any part of it.

2 Assignment of Rights

Subject to clause 21 of the Contract, the Seller assigns to the Buyer, on and from the Effective Date, all covenants contained in the Master Lease on the part of the tenant in favour of the landlord whether or not those covenants touch and concern or run with the land.

3 Buyer to comply with Obligations and Rights

- (a) The Buyer covenants with the Tenant to observe, perform and be bound by the obligations and liabilities and covenants of the landlord under the Master Lease on and from the Effective Date as if the Buyer had executed the Master Lease as landlord, whether or not those covenants touch and concern or run with the land.
- (b) On and from the Effective Date, the Buyer is entitled to exercise all Rights to which the Seller was entitled as landlord under the Master Lease.
- (c) The Buyer agrees that for the purposes of the Master Lease that the Umbrella Deed is 'Applicable' and 'applies' on and from the Effective Date.
- (d) Notwithstanding clause 3(a) the Buyer does not assume liability for any Contamination of the Property or otherwise assume any liability in connection with the condition of the Property (including the improvements on it) before Completion.

4 Tenant to comply

- (a) The Tenant covenants with the Buyer to observe, perform and be bound by the obligations and liabilities and covenants of the Tenant under the Master Lease on and from the Effective Date as if the Buyer had executed the Master Lease as landlord, whether or not those covenants touch and concern or run with the land.
- (b) The parties agree that the 'Rent Commencement Date' under the Master Lease is the day before the Effective Date.
- (c) On the Effective Date the Tenant must pay to the Buyer an instalment of Rent for the period from and including the Effective Date to but excluding the next Rent Day under the Master Lease.

5 Buyer trustee provisions

- (a) The Buyer enters into, and incurs obligations under, this document only in its capacity as trustee of the Buyer Trust and in no other capacity.
- (b) Subject to paragraph (f), the Buyer:

- (i) will not be liable to pay or satisfy any obligation or liability under this document out of any assets held by it personally or in its capacity as trustee or responsible entity of any other trust or managed investment scheme, other than the Buyer Trust; and
 - (ii) will only be liable to pay or satisfy any of its obligations or liabilities under this document to the extent to which these obligations or liabilities can be satisfied out of property of the Buyer Trust out of which the Buyer is actually indemnified for that liability.
- (c) Subject to paragraph (f), each other party to this document may only enforce any rights it has under or in connection with this document against the Buyer in the Buyer's capacity as trustee of the Buyer Trust (and not in its personal capacity or any other capacity), and the remedies of each other party to this document are limited to the right of that party to be subrogated to the Buyer's right of indemnity against the assets of the Buyer Trust. Without limiting the generality of this paragraph (c), the other party must not take any action for the winding up, liquidation, administration, receivership or similar of the Buyer itself or seek recourse against the beneficiaries or members of the Buyer Trust.
- (d) Each other party to this document agrees that neither it nor any receiver or attorney that it appoints may incur any liability on behalf of or for the account of the Buyer unless that liability is subject to the limitation contained in this clause.
- (e) The provisions of this clause are paramount and apply to this document regardless of any other provision of this document or any other document or instrument, even a provision which seeks to apply regardless of any other provision.
- (f) The provisions of paragraphs (a) to (c) shall not apply to any obligation or liability of the Buyer to the extent that it is not satisfied because, under the trust deed of the Buyer Trust or by operation of law, there is a reduction in the extent of the Buyer's indemnity out of the assets of the Buyer Trust as a result of the Buyer's own fraud, negligence or breach of trust. In such a case, the Buyer's liability is limited to an amount equal to the value of the assets held on trust by the Buyer for the Buyer Trust.

6 Notices

6.1 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person identified in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

6.2 Delivery

Communications must be:

- (a) left at the address set out or referred to in the Details;
- (b) sent by regular ordinary post (airmail, if appropriate) to the address referred to in the Details;
- (c) sent by fax to the fax number referred to in the Details;
- (d) sent by email to the address referred to in the Details; or
- (e) given in any other way permitted by law.

If the intended recipient has notified changed contact details, then communications must be sent to the changes contact details.

6.3 When effective

Communications take effect from the time they are received or taken to be received under clause 6.4 (whichever happens first) unless a later time is specified in the communication.

6.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 Business Days after posting if sent from one country to another);
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

6.5 Receipt outside business hours

Despite anything else in this clause 6, if communications are received or taken to be received under clause 6.4 after 5.00pm on a Business Day or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day. For the purposes of this clause 6.5, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

7 General

7.1 Counterparts

This document may be executed in any number of counterparts. All counterparts when taken together constitute one document and the date on which the last counterpart is executed will be the date of the document.

7.2 Variation and waiver

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

7.3 Prompt performance

Each party agrees to perform its obligations under this document promptly, unless a specific time for performance is expressly stated in this document.

7.4 Further assurances

Each party agrees to (on request by any other party from time to time) do everything reasonably necessary to give effect to this document and the transactions contemplated by it.

7.5 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 6.2.

7.6 Legal costs

Each party must pay its own legal and other costs and expenses of negotiating, preparing, executing and performing its obligations under this document.

7.7 Governing law and jurisdiction

This deed is governed by the law in force in the State or Territory in which the Property is situated and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of that place.

7.8 Provisions prohibited by law

If any provision of this document, or any obligation, right, power or remedy created by a provision:

- (a) is prohibited by a law;
- (b) does not comply with a law; or
- (c) is made unenforceable by a law,

the provision is to be interpreted so that to the extent the law permits, the provision, and any obligation, right power or remedy created by it, is not prohibited, complies with the law and is enforceable.

7.9 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this

document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

EXECUTED as a deed

Master Lease Deed of Covenant

Signing page

DATED: _____

SELLER

#

BUYER

#

TENANT

#

Contract of Sale – [#insert name of] Hospital

Annexure C Disclosures

1

Contract of Sale – [#insert name of] Hospital

Annexure D Plans

[#]

Commitment Deed

Annexure “B” – Form of Lease

Reference Schedule – [#insert name of] Hospital

The Landlord and the Tenant agree that the provisions of this Lease (including the Master Lease Terms set out in the attached annexure) are covenants.

Landlord

[#] ABN [#]

Address: [#]

Fax: [#]

Email: [#]

Attention: [#]

Tenant

Healthscope Limited ABN 65 144 840 639

Address: [#]

Fax: [#]

Email: [#]

Attention: [#]

Premises

[#insert name of] Hospital, being the Land, and includes the Building.

Land

[#] **[Where the premises are part of a Shared Scheme the 'Land' will be the lot(s) in the Shared Scheme owned by the landlord which are to be leased to the Tenant]**

Term

[#]

Commencement Date

[#]

Expiry Date

[#]

Rent (clause 3 ("Rent"))

\$[#] per annum (exclusive of GST)

Umbrella Deed

Applicable

Public Liability Insurance Amount (clause 7 ("Insurances"))

\$20 million

Permitted Use (clause 9 ("Use and access hours"))

- (a) hospital and other uses associated with a healthcare precinct (including the provision of hospital, medical or health care services, consulting suites, education, laboratories, research and training facilities, car parking, ancillary retail (such as a chemist or supermarket), medical centres and any other services which a health care services provider may choose to provide on either an inpatient or out-patient basis (including pathology and diagnostic imaging services)), skilled nursing and other post-acute housing options; and
- (b) **[#to include any other current use on the Commencement Date]**.

Existing Leases (clause 24.10 ("Concurrent and existing leases"))

All leases granted over any part of the Premises prior to the Commencement Date, including **[#to include any specific leases]**

Implied Statutory Provisions (clause 24.1 ("Exclusion of statutory provisions"))

[#if Premises are in New South Wales]

- (a) the covenants, powers and provisions implied in leases by sections 84, 84A, 85 and 86 of the *Conveyancing Act 1919* (NSW) do not apply; and
- (b) words used in any of the forms of words in the first column of part 2 of schedule 4 to the *Conveyancing Act 1919* (NSW) do not imply a covenant under section 86 of that Act.

[#if Premises are in Northern Territory]

the conditions and covenants implied in leases by sections 117 and 119 of the *Law of Property Act 2000* (NT) do not apply.

[#if Premises are in Queensland]

the covenants, powers and provisions implied in leases by sections 105, 107 and 109 of the *Property Law Act 1974* (Qld) do not apply.

[#if Premises are in South Australia]

- (a) the covenants, powers and provisions implied in leases by sections 124 and 125 of the *Real Property Act 1886* (SA) do not apply; and
- (b) words used in any of the forms of words in schedule 16 to the *Real Property Act*

1886 (SA) do not imply a covenant under section 265 of that Act.

[#if Premises are in Victoria]

- (a) the covenants, powers and provisions implied in leases by section 67 of the *Transfer of Land Act 1958* (Vic) do not apply; and
- (b) to the extent the law permits, the proviso implied in leases by section 144 of the *Property Law Act 1958* (Vic) does not apply.

[#if Premises are in Western Australia]

- (a) sections 80 and 82 of the *Property Law Act 1969* (WA) and the covenants, powers and provisions implied in leases by sections 92, 93 and 94 of the *Transfer of Land Act 1893* (WA) do not apply; and
- (b) words used in any of the form of words in column one of the twelfth schedule of the *Transfer of Land Act 1893* (WA) do not imply a covenant under section 94 of that Act.

Particulars of new lease (clause 18 (“Option for a new lease”))

First new lease

term:	10 years
commencement date:	[#]
expiry date	[#]
rent review dates:	Fixed Increase Dates and percentage
	On each 1 January 2.5% during the term

Second new lease

term:	10 years
commencement date:	[#]
expiry date:	[#]
rent review dates:	Fixed Increase Dates and percentage
	On each 1 January 2.5% during the term

Third new lease

term:	10 years
commencement date:	[#]
expiry date:	[#]
rent review dates:	Fixed Increase Dates and percentage
	On each 1 January 2.5% during the term

Fourth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Fifth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Sixth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Seventh new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Eighth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates:

Fixed Increase Dates and percentage

On each 1 January 2.5%
during the term

Master Lease Terms

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Master Lease Terms

Contents

Contents	2
1 Definitions and interpretation	6
1.1 Definitions	6
1.2 General interpretation	13
1.3 No partnership, agency or joint venture	14
1.4 Enforceability of powers etc	14
1.5 Relationship between this document and the Reference Schedule	14
1.6 Effect of execution	14
1.7 Umbrella Deed	15
2 Grant of Lease	15
3 Rent	15
3.1 Instalments of Rent	15
3.2 Broken periods	15
4 Fixed increases in Rent	15
5 Outgoings and other payments by the Tenant	15
5.1 Tenant to pay Outgoings	15
5.2 Separately metered Services	16
5.3 Shared Scheme levies	17
5.4 Challenges to Premises Valuations	17
5.5 Future Taxes on Premises or Building	18
5.6 Adjustments and errors	18
5.7 Landlord insurance	18
6 Payments	18
6.1 Manner of payment	18
6.2 Adjustment of payments	18
6.3 No demand necessary	19
6.4 Payment when no next Rent Day	19
6.5 Obligations not affected	19
6.6 Interest on overdue amounts	19
6.7 Rate of interest	19
7 Insurances	19
7.1 Tenant to take out insurances	19
7.2 The policy	20
7.3 Evidence	20
7.4 Obligations relating to cover	20
7.5 Notifications relating to claims	20
7.6 Use of claim proceeds	21
7.7 Payment of deductible	21

8	Indemnities and releases	21
8.1	Indemnity	21
8.2	Right to recover	21
8.3	Risk	21
8.4	Release	21
8.5	Condition of Premises	21
9	Use and access hours	22
9.1	Permitted Use	22
9.2	Access hours	23
10	Tenant's additional obligations	23
10.1	General obligations	23
10.2	Prohibited acts	23
10.3	Environmental Notices	23
10.4	Evidence of Compliance	23
10.5	Reporting	24
10.6	Indemnity	24
10.7	Tenant's Associates to comply	25
11	Repair and Tenant's works	25
11.1	Repair and replacement	25
11.2	Services	25
11.3	Where approval for works is not required	26
11.4	Landlord's approval – Major Works	26
11.5	Landlord to sign	26
11.6	Naming and signage	27
11.7	Occupational health and safety	27
12	Transfer and other dealings	27
12.1	Prohibited dealings	27
12.2	Transfer conditions	28
12.3	Sublease	29
12.4	Transfer to a Tenant Group Member	30
12.5	Change in control of Tenant	30
12.6	Consent	30
12.7	Guarantor	30
12.8	Encumbrances	31
12.9	Provisions which are varied on assignment	31
13	Landlord's additional obligations and rights	31
13.1	Quiet enjoyment and non-derogation	31
13.2	Consents	31
13.3	To enter	32
13.4	Shared Scheme	32
13.5	Sale of Landlord's interest	33
13.6	Landlord Change in Control	33
13.7	Landlord may rectify	34
13.8	Agents	35
13.9	Landlord Encumbrances	35
13.10	Subdivision	35
13.11	Notices	35
13.12	Landlord's Associates	35

14	Expiry or ending of lease	35
14.1	Tenant to vacate	35
14.2	No exercise	36
14.3	No removal of certain items	36
14.4	Removal of Tenant's Property	36
14.5	Conditions applying to removal	36
14.6	Landlord may treat Tenant's Property as abandoned	36
14.7	Tenant's Property at Tenant's risk	36
14.8	No make good obligations	37
14.9	Tenant to give Landlord keys	37
15	Holding over	37
15.1	Monthly tenancy	37
15.2	Terms of monthly tenancy	37
16	Damage to Building or Premises and resumption	37
16.1	Damage and destruction	37
16.2	Damage caused by Landlord	37
16.3	Reconstruction	38
16.4	Resumption	39
17	Default	39
17.1	Landlord's right to terminate	39
17.2	Compensation for breach	39
17.3	Mitigate loss	40
17.4	Indemnity for termination	40
17.5	No other right to terminate	40
18	Option for a New lease	40
18.1	Grant of New lease	40
18.2	Terms of New lease	40
19	GST	41
19.1	Definitions and interpretation	41
19.2	GST exclusive	41
19.3	Payment of GST	41
19.4	Adjustment events	42
19.5	Reimbursements	42
19.6	Survival	42
20	Personal Property Securities Act	42
20.1	PPSA further steps	42
20.2	Exclusion of PPSA provisions	42
20.3	No notice required unless mandatory	43
20.4	PPSA registration information	43
20.5	PPSA confidentiality	43
21	Notices and other communications	43
21.1	Form	43
21.2	Delivery	44
21.3	When effective	44
21.4	When taken to be received	44
21.5	Receipt outside business hours	44

22	Dispute Resolution	45
22.1	Legal proceedings conditional	45
22.2	Notice of Dispute	45
22.3	Referral of Dispute	45
22.4	Instructions	45
22.5	Assistance	45
22.6	Final and binding	45
22.7	Costs	46
23	Trustee Limitation of Liability	46
24	General	47
24.1	Exclusion of statutory provisions	47
24.2	Costs and stamp duty	47
24.3	Variation and waiver	47
24.4	Prompt performance	47
24.5	Inconsistent law	47
24.6	Supervening law	47
24.7	Rules of construction	47
24.8	Counterparts	48
24.9	Severability	48
24.10	Concurrent lease and existing licences	48
25	Governing law	49
25.1	Governing law and jurisdiction	49
25.2	Serving documents	49
Schedule 1	Guarantee provisions	50
Schedule 2	Right of first offer	55

Master Lease Terms

1 Definitions and interpretation

1.1 Definitions

The following definitions, together with those in the Reference Schedule, apply unless the contrary intention appears:

Authorised Officer means:

- (a) in the case of the Landlord any person who purports to be a 'chief executive officer' or 'executive vice president' of the Landlord, a director or secretary of the Landlord, or any other person specified by the Landlord to act as an Authorised Officer for the purposes of this Lease by a notice to the Tenant and the Guarantor; and
- (b) in the case of the Tenant, a director or secretary of the Tenant or any other person specified by the Tenant as an Authorised Officer for the purposes of this Lease by a notice to the Landlord; and
- (c) in the case of the Guarantor, a director or secretary of the Guarantor or any other person specified by the Guarantor as an Authorised Officer for the purposes of this Lease by a notice to the Landlord.

Building means the buildings and all other improvements (other than the Tenant's Property) on the Land excluding, where the Land is part of a Shared Scheme, any part of buildings and other improvements located on other lots or units not comprising the Land or which are located on the common property of the Shared Scheme or which are the responsibility of the Governing Body.

Business Day means a day on which banks are open for general banking business in the capital city of the State or Territory in which the Land is situated (not being a Saturday, Sunday or public holiday in that place).

Change of Control Event means where a person or group of persons that is beneficially entitled to the Prescribed Rights transfers, disposes or ceases to be beneficially entitled to the Prescribed Rights.

Commencement Date means the 'Commencement Date' of this Lease as stated in the Reference Schedule.

Competitor means any person or third party involved in or who owns or operates a business involved in the provision of health or medical services similar to the Permitted Use (in whole or part) (**Similar Business**), except where such person or third party:

- (a) is only involved in a Similar Business as a result of being an equity investor in a vehicle that owns or operates a Similar Business; or
- (b) is an institutional investor who has invested (whether directly or indirectly) in a Similar Business but whose primary business activities does not involve a Similar Business,

(the exceptions in paragraphs (a) and (b) being the **Investor Exceptions**), provided that the Investor Exceptions do not apply where the investor controls directly or indirectly the management or policies (whether through the ownership of voting securities or otherwise) of the vehicle owning or operating the Similar Business.

Contamination means the presence in, on, under or above any land of a substance at a concentration above the concentration at which the substance is

normally present in, on, under or above land in the same locality being a presence which presents a risk of harm to human health or any other aspect of the Environment, and **Contaminant**, **Contaminants** and **Contaminate** each have a corresponding meaning.

Controller has the meaning it has in the Corporations Act.

Core Hospital Operations means the provision of medical treatment or health care services as a hospital, including wards, theatres and nursing stations.

Corporations Act means the *Corporations Act 2001* (Cth).

Costs includes costs, charges and expenses, including those incurred in connection with advisers.

CPI means the Consumer Price Index - All Groups weighted average of eight capital cities.

EBITDAR means earnings before interest, taxes, depreciation, amortization and rent costs adjusted for any non-recurring items and as determined in accordance with generally accepted accounting principles.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Environment includes:

- (a) ecosystems and their constituent parts, including people and communities;
- (b) natural and physical resources;
- (c) the qualities and characteristics of locations, places and areas;
- (d) heritage values of places; and
- (e) the social, economic and cultural aspects of any of the things described in paragraphs (a) to (d).

Environmental Notice means any direction, order, demand or other requirement to take any action or refrain from taking any action in respect of the Premises or its use:

- (a) from any authority; and
- (b) in connection with any law relating to Contamination, occupational health and safety, or which has as one of its purposes or effects the protection of the Environment.

Essential Term means:

- (a) the Tenant's obligation to comply with clause 12.1(a); and
- (b) the Tenant's obligation to comply with clause 10.1(a) in respect to those laws and requirements which, if breached, would have a material adverse effect on the Premises, the Tenant or the Landlord.

Existing Leases means the leases (if any) identified as 'Existing Leases' in the Reference Schedule.

Expiry Date means the date stated as the 'Expiry Date' in the Reference Schedule.

Fixed Increase Date means each 1 January during the Term.

Governing Body means each entity which manages or administers any Shared Scheme of which the Premises are part.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the meaning given to that term in the GST Act.

Guarantee means:

- (a) where the Umbrella Deed applies, the guarantee and indemnity in clause 10 of the Umbrella Deed; or
- (b) any guarantee and indemnity entered into pursuant to clause 12.

Guarantor means:

- (a) where the Umbrella Deed applies, the person identified as the 'Guarantor' in the Umbrella Deed; or
- (b) each person providing a guarantee and indemnity pursuant to clause 12.

Implied Statutory Provisions means all covenants, powers or other provisions implied in leases by statute or law, including any identified in the Reference Schedule.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Landlord);
- (d) an application or order has been made (and, in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Landlord reasonably deduces it is so subject);

- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction,

and **Insolvency** means that a person is Insolvent.

Land means the land described in the Reference Schedule.

Landlord means the person identified as the 'Landlord' in the Reference Schedule.

Landlord Act or Omission means any negligent or wilful act or omission on the part of the Landlord or the Landlord's Associates or a default on the part of the Landlord.

Landlord Group Member means:

- (a) each Related Body Corporate of the Landlord;
- (b) NorthWest Healthcare Properties REIT and its subsidiaries;
- (c) a company, fund or trust:
 - (i) controlled directly or indirectly by NorthWest Healthcare Properties REIT or its Related Bodies Corporate; or
 - (ii) directly or indirectly under the common control of NorthWest Healthcare Properties REIT or its Related Bodies Corporate and another person or persons,

and a fund advised or managed directly or indirectly by a person will also be deemed to be controlled by such person;
- (d) the Related Bodies Corporate of the entities listed above; and
- (e) any other person acting in its capacity as trustee, manager or custodian of any person listed above,

and the term "body corporate" when used in the definition of Related Body Corporate must be read to include entities, trusts and funds.

Landlord's Associates means each of the Landlord's employees, officers, agents, contractors, suppliers and consultants.

Landlord's Property means all plant, equipment, fixtures, fittings, and machinery permanently affixed to or incorporated into the Premises in situ as at the Commencement Date or paid for at the Landlord's expense during the Term.

Lease means:

- (a) these lease terms (as varied by the Reference Schedule); and
- (b) the Reference Schedule and the land registry form.

Major Works means:

- (a) structural alterations, additions, or improvements to the Premises including works comprising one or more new buildings, or one or more

additional structures or the material remodelling, rebuilding or expansion of existing Buildings; or

- (b) the replacement of major plant and equipment,

where the relevant works will cost more than the lesser of:

- (c) \$10,000,000; and
- (d) the amount equal to 30% of EBITDAR for the Tenant's Business for the immediately prior financial year.

The dollar amount set out in paragraph (c) of this definition:

- (e) shall be adjusted annually for movements in CPI from the Commencement Date; and
- (f) excludes GST.

New lease means the particulars of each new lease set out in the Reference Schedule.

Occupancy Costs means Rent, Outgoings and all other money payable by the Tenant pursuant to the terms of this Lease.

OH&S Law means any occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises or the Land.

Outgoings means the out of pocket fees, costs and expenses paid or payable by the Landlord in connection with the Land, Premises or the Building including:

- (a) Rates and Taxes, and usage and other charges imposed by any authority and levies and charges imposed under a Shared Scheme law; and
- (b) subject to clause 5.7, insurance which the Landlord acting reasonably considers is appropriate and which the Landlord has taken out (including for loss of rent and outgoings).

However, the amount of Outgoings:

- (c) will be reduced by the amount of any credit or refund of GST to which the Landlord is entitled as a result of incurring Outgoings; and
- (d) for the avoidance of doubt, excludes:
 - (i) the Landlord's income tax and capital gains tax or other similar tax which may after the Commencement Date apply to the income of the Landlord derived in connection with the Land or Premises or Building, or which may after the Commencement Date apply to any proceeds derived in connection with any dealing with the Land or Premises or Building by the Landlord, without limiting the obligations of the Tenant to comply with clause 19;
 - (ii) payment of interest, fees and charges on amounts borrowed or raised by the Landlord; and
 - (iii) internal and overhead Costs and internal management Costs.

Permitted Use means the 'Permitted Use' stated in the Reference Schedule.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Premises means the premises identified as the 'Premises' in the Reference Schedule.

Prescribed Rights means:

- (a) more than 50% of the voting rights in the Landlord or the Tenant (as applicable); or
- (b) more than 50% of the voting rights in any trust, fund, partnership or company which beneficially holds or controls or otherwise effectively controls 50% or more of the voting rights in the Landlord or the Tenant (as applicable); or
- (c) where the Landlord or Tenant (as applicable) is the trustee of a unit trust (**Party Trust**), more than 50% of the units in the Party Trust; or
- (d) where the holder of the units in the Party Trust is itself the trustee of a unit trust (**Holding Trust**) more than 50% of the units in the Holding Trust.

Each of paragraphs (a) to (d) of this definition operate independently and are not to be read down by reference to any other paragraph in this definition.

Public Liability Insurance Amount means the amount stated as such in the Reference Schedule.

Rates includes council rates, water rates, sewerage rates, and all other rates, charges, assessments, levies and other fees (having regard to any discounts available to the Landlord or the Tenant).

Receiver includes a receiver or receiver and manager.

Reference Schedule means the Reference Schedule which incorporates the lease terms in this document (including by reference to provisions filed in the office of the relevant land titles office or by annexing these lease terms).

Related Body Corporate has the meaning set out in section 50 of the *Corporations Act 2001* (Cth).

Rent means the yearly amount stated in the Reference Schedule, as varied under this Lease.

Rent Commencement Date means the Commencement Date or such other date agreed between the Landlord and the Tenant.

Rent Day means the Rent Commencement Date and, for each month in the Term, the first day of each month.

Responsible Rates Payer is defined in clause 5.1(d).

Services means the services (such as water, sewerage, drainage, gas, electricity, communications, fire fighting, air conditioning, lifts and escalators) to or of the Building or any premises in it or the Land, provided by authorities, the Landlord or any person authorised by the Landlord, and includes all plant and equipment in connection with those services.

Shared Scheme means each scheme or plan regulated by a Shared Scheme law that affects the Premises. Examples of properties that are often part of a shared scheme are strata title units and properties in integrated developments.

Shared Scheme law means any legislation that provides for the:

- (a) subdivision and development of land with shared property;
- (b) subdivision of buildings;
- (c) management of land that is subdivided and has shared property; or
- (d) management of subdivided buildings.

Taxes includes the Landlord's land tax and any other property tax assessed on the Premises, but excludes the Landlord's income tax and capital gains tax.

Tenant means the person identified as the 'Tenant' in the Reference Schedule.

Tenant's Associates means each of the Tenant's Subtenants and each of the Tenant's and a Tenant's Subtenant's respective employees, officers, agents, contractors, suppliers, consultants and other persons who enter the Premises, the Building or the Land with the consent (express or implied) or at the invitation of the Tenant or a Tenant's Subtenant, and includes patients.

Tenant Group Member means:

- (a) each Related Body Corporate of the Tenant;
- (b) where the Tenant is not Healthscope Limited ACN 144 840 639, Healthscope Limited ACN 144 840 639 and its subsidiaries;
- (c) a company, fund or trust:
 - (i) controlled directly or indirectly by Healthscope Limited ACN 144 840 639 or its Related Bodies Corporate; or
 - (ii) directly or indirectly under the common control of Healthscope Limited ACN 144 840 639 or its Related Bodies Corporate and another person or persons;
- (d) the Related Bodies Corporate of the entities listed above; and
- (e) any other person acting in its capacity as trustee or custodian of any person listed above,

and the term "body corporate" when used in the definition of Related Body Corporate must be read to include entities, trusts and funds.

Tenant's Business means the business carried on by the Tenant from the Premises, and includes the business carried on from the Premises by any Tenant Subtenant who is a Tenant Group Member.

Tenant's Property means all property on the Premises which is not Landlord's Property, and includes all improvements made to the Premises which the Tenant or the Tenant's Subtenant has made at its Cost, and all machinery, furniture and equipment including computers, trade fixtures, inventory, supplies and other personal property owned or leased by the Tenant or the Tenant's Subtenant and used in the operation and/or maintenance of the Premises and all proprietary operating systems of the Tenant or the Tenant's Subtenant.

Tenant's Subtenant means any person (not being the Tenant) entitled to occupy the Premises during the Term (or any extension of it or holding over under it), regardless of whether they are in occupation.

Term means the period referred to in the Reference Schedule from and including the Commencement Date to and including the Expiry Date.

Umbrella Deed means the 'Portfolio Leases Umbrella Deed' dated on or about the Commencement Date between the Tenant, the Landlord and others.

1.2 General interpretation

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect interpretation. Item numbers referred to are those in the Details. Unless the contrary intention appears, in this Lease:

- (a) labels used for definitions are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (d) a reference to a document also includes any variation, replacement or novation of it;
- (e) a reference to **"this Lease"** also includes any renewal or extension of it or holding over under it;
- (f) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (g) a reference to **"person"** includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (h) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) a reference to a time of day is a reference to time in the State or Territory in which the Land is situated;
- (j) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (k) a reference to **"law"** includes common law, principles of equity and legislation (including regulations);
- (l) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (m) a reference to **"regulations"** includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (n) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;
- (o) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;

- (p) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (q) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (r) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (s) if a party must do something under this Lease on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day;
- (t) if the day on which a party must do something under this Lease is not a Business Day, then except for making payments (which must be made on the preceding Business Day), the party must do it on the next Business Day;
- (u) a reference to a professional association or institute, or other industry body, includes a succeeding body serving similar objects or that takes its place;
- (v) a reference to accounting standards is a reference to accounting standards, principles and practices generally accepted in the relevant place, consistently applied;
- (w) a reference to an accounting term in an accounting context is a reference to that term as it is used in relevant accounting standards; and
- (x) a reference to any dealing with the Land by the Landlord includes a dealing by the Landlord with the Building or the Premises.

1.3 No partnership, agency or joint venture

Nothing in this Lease creates the relationship of partners, principal and agent or joint venturers between the Landlord and the Tenant.

1.4 Enforceability of powers etc

Any law which prejudicially affects any party's powers, discretions, remedies, rights or obligations (**Power**) is excluded to the extent lawfully permissible. If any Power cannot be given full effect, that Power must be severed or read down to maintain (as far as possible) all other provisions of this Lease.

1.5 Relationship between this document and the Reference Schedule

- (a) To the extent there is any inconsistency between this document and the Reference Schedule, the terms of the Reference Schedule prevail.
- (b) Unless otherwise agreed in writing, the parties agree that an amendment or variation to this document does not affect the terms of a Lease whose Commencement Date falls prior to the effective date of that amendment or Lease variation and the terms of this document (as they were prior to that amendment or variation) will continue to apply to any such Lease.

1.6 Effect of execution

- (a) The Tenant and the Landlord are bound by this Lease even though this Lease may not have been registered or may never be registered and despite any obligation the Landlord may have to register it.
- (b) This Lease is a deed, even if it is not registered.

1.7 Umbrella Deed

- (a) References in this Lease that the Umbrella Deed 'applies' means (subject to clause 1.7(d)) that the Reference Schedule states that the Umbrella Deed is 'Applicable'.
- (b) Where the Umbrella Deed applies this Lease is a 'Portfolio Lease' and the Premises are 'Portfolio Lease Premises' for the purposes of the Umbrella Deed.
- (c) Where the Umbrella Deed applies each party must comply with their respective obligations under and in connection with the Umbrella Deed.
- (d) Notwithstanding anything to the contrary the Umbrella Deed does not apply to this Lease prior to the Rent Commencement Date.

2 Grant of Lease

The Landlord leases the Premises to the Tenant on the conditions in this Lease.

3 Rent

3.1 Instalments of Rent

The Tenant agrees to pay the Rent by equal monthly instalments in advance on each Rent Day.

3.2 Broken periods

If an instalment is for a period of less than one month, then that instalment is that proportion of one twelfth of the Rent which the number of days in the period bears to the number of days in the month in which that period begins.

4 Fixed increases in Rent

The Rent from and including each Fixed Increase Date is the amount payable immediately before the Fixed Increase Date increased by 2.5%, provided that the Rent increase on 1 January 2020 will be an increase of that proportion of 2.5% that the number of days in the Term from the Commencement Date to 1 January 2020 bears to 365.

5 Outgoings and other payments by the Tenant

5.1 Tenant to pay Outgoings

- (a) The Tenant must pay all Outgoings without set off or deduction on or before the due date for payment, provided that, where the relevant Outgoing is charged directly to the Landlord, the Landlord provides reasonable notice (and being not less than 15 Business Days' notice) of due date for payment to the Tenant.
- (b) Where the Landlord does not comply with clause 5.1(a) and the Tenant becomes liable to pay a penalty or interest charge in connection with late payment of an Outgoing then (without otherwise limiting the rights of the Tenant) the Landlord must pay that penalty or interest charge.

- (c) The Landlord must provide all reasonable information required by the Tenant in connection with Outgoings, including providing original copies of invoices, notices, correspondence, or other details to allow the Tenant to substantiate the source and quantity of Outgoings.
- (d) The Landlord and the Tenant must use all reasonable endeavours to have (to the extent permitted by law) the Tenant nominated as the person responsible to pay the Rates and Taxes which are charged or levied on the Premises (**Responsible Rates Payer**).
- (e) The Landlord must make available to the Tenant any discounts available to the Landlord on the amount of Rates and Taxes payable in respect to the Premises.
- (f) If the Tenant becomes the Responsible Rates Payer then it may, at its own Cost and in its own name, object to, appeal, or institute such other proceedings as the Tenant may deem appropriate to effect a reduction of Rates and Taxes.
- (g) If the Tenant exercises its rights under clause 5.1(f):
 - (i) the Tenant does so at its own Cost and risk and indemnifies and must keep indemnified the Landlord against all liability, loss, claim or Costs suffered or incurred by the Landlord as a result of the Tenant's objection;
 - (ii) the Tenant must not reach any compromise agreement with the relevant authority without the prior consent of the Landlord (which consent must not be unreasonably withheld or delayed); and
 - (iii) the Landlord must reasonably co-operate with the Tenant in such objection, appeal, or other action but at no Cost to the Landlord.
- (h) Rates and Taxes imposed or assessed in respect of the period during which the Term ends with respect to the Premises shall be adjusted and pro-rated between the Landlord and the Tenant with respect to the Premises, whether or not such Rate or Tax is imposed or assessed before or after this Lease ends, and the Tenant's obligation to pay its pro-rated share shall survive the ending of this Lease.

5.2 Separately metered Services

- (a) Without limiting clause 5.1, the Tenant must pay all assessments for all Services relating to the Premises or the Building to the relevant assessing authority on or before the due date provided that, where the relevant Services are in the name of the Landlord, the Landlord provides reasonable notice (and being not less than 15 Business Days' notice) of the due dates for payment to the Tenant. Where the Landlord does not comply with this clause 5.2 and the Tenant becomes liable to pay a penalty or interest charge in connection with the late payment of a Services assessment then (without otherwise limiting the rights of the Tenant) the Landlord must pay that penalty or interest charge.
- (b) The Tenant and the Landlord must use all reasonable endeavours to arrange (to the extent permitted by law) for Services to be in the name of the Tenant and/or billed directly to the Tenant.

5.3 Shared Scheme levies

If the Premises are part of a Shared Scheme the Tenant agrees to pay on demand all levies and charges for the lot or lots which comprise the Premises (or a proportion of those levies and charges based on the lettable area of the Premises as a proportion of the lettable area of the lot or lots to which those levies and charges apply if the Premises comprise more or less than the whole of a lot).

5.4 Challenges to Premises Valuations

- (a) If the Tenant is not the Responsible Rates Payer as contemplated under clause 5.1(d), then this clause 5.4 will apply.
- (b) The Landlord must notify the Tenant of each assessed Rate and Tax and provide to the Tenant the notice of assessment and all accompanying material received by the Landlord in connection with the Rate or Tax (including the assessed value of the Premises for the purposes of the assessment) (**Rates Notice**) within 5 Business Days following receipt of the Rates Notice by the Landlord.
- (c) The Landlord must also advise the Tenant within a reasonable time after receipt of the Rates Notice (but no later than 5 Business Days after it notifies the Tenant of the Rates Notice) if the Landlord is objecting to the Rates Notice. If the Landlord does not advise the Tenant of its objection within 5 Business Days, then it will be deemed to have given notice that it is not objecting to the Rates Notice.
- (d) If the Landlord advises the Tenant that the Landlord will object to a Rates Notice, the Landlord must:
 - (i) act in accordance with the reasonable directions of the Tenant in respect of the objection (including submitting notices, objections, correspondence and other documentation in a timely manner as required by Tenant);
 - (ii) the Tenant indemnifies and must keep indemnified the Landlord against all liability, loss, claim or Costs suffered or incurred by the Landlord as a result of acting in accordance with the directions of the Tenant; and
 - (iii) the Tenant must not reach any compromise agreement with the relevant authority without the prior consent of the Landlord (which consent must not be unreasonably withheld or delayed).
- (e) If the Landlord has advised the Tenant that it is not objecting or has failed within the required time to advise the Tenant whether it will or will not object to a Rates Notice, the Landlord must permit the Tenant, at the Tenant's Cost to object to that Rates Notice or to otherwise appeal, or institute such other proceedings as the Tenant may deem appropriate to effect a reduction of Rates or Taxes, and for that purpose use the Landlord's name.
- (f) If the Tenant exercises its rights under clause 5.4(e):
 - (i) the Tenant does so at its own Cost and risk and indemnifies and must keep indemnified the Landlord against all liability, loss, claim or costs suffered or incurred by the Landlord as a result of the Tenant's objection; and

- (ii) the Tenant must not reach any compromise agreement with the authority without the prior consent of the Landlord (which consent must not be unreasonably withheld or delayed).

5.5 Future Taxes on Premises or Building

Without limiting clause 5.1, the Tenant must pay and discharge all Rates, Taxes, charges, assessments, outgoing and impositions which may at any time during the Term be:

- (a) assessed, charged or imposed upon or in respect of the Land, the Premises or the Building; or
- (b) the use and occupation of the Land, the Premises or the Building,

assessed directly against the Tenant. The payment must be made to the relevant assessing authority not later than the due date for the payment.

5.6 Adjustments and errors

- (a) If the Landlord or the Tenant has to calculate the money the Tenant or the Landlord (as applicable) owes by using a time period, and this Lease starts or ends during that time period, the Landlord or the Tenant (as applicable) must make the necessary proportional adjustment. The adjustment must be based on the proportion that the number of days that the Tenant is the tenant bears to the number of days during the time period.
- (b) If either the Tenant or the Landlord proves an error in any calculation, the Landlord or the Tenant (as applicable) must correct it and any necessary adjusting payment or credit must be made as soon as possible.

5.7 Landlord insurance

The Landlord agrees that provided the Tenant effects a business interruption insurance policy which is on terms a prudent tenant would effect, the Landlord will not seek to recover the Costs of any insurance policy for loss of rent and outgoing, and provided the Tenant otherwise effects the insurance the Tenant is obliged to effect in accordance with clause 7.1 the Landlord will not seek to recover the Costs of any insurance policy for other similar loss which the Landlord elects to effect. Where Rent abates in accordance with clause 16.2 the Tenant must claim on and pay to the Landlord any amount it recovers under its business interruption insurance policy in respect to the relevant damage or destruction event to meet rent obligations up to the amount of the abatement.

6 Payments

6.1 Manner of payment

The Tenant agrees to make payments under this Lease to the Landlord (or to a person nominated by the Landlord in a notice to the Tenant) by the method the Landlord reasonably requires without set-off or counterclaim and without deduction.

6.2 Adjustment of payments

If the Tenant pays an amount which is found later to be incorrect, then even if the Landlord has given the Tenant a receipt, the Tenant agrees to pay the Landlord (or the Landlord agrees to pay the Tenant) the difference between what the

Tenant has paid and what the Tenant should have paid, within 7 days after either the Landlord or the Tenant gives the other a notice about the mistake.

6.3 No demand necessary

The Landlord need not make demand for any amount payable by the Tenant unless this Lease says that demand must be made.

6.4 Payment when no next Rent Day

If the Tenant has agreed to pay the Landlord an amount on the next Rent Day and there is no next Rent Day, then the Tenant agrees to pay that amount within 7 days after the Landlord demands it.

6.5 Obligations not affected

The expiry or ending of this Lease does not affect the Tenant's obligations to make payments under this Lease for periods before then.

6.6 Interest on overdue amounts

The Tenant agrees to pay interest on any amount under this Lease which is not paid on the due date for payment by the Tenant. Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

The Tenant agrees to pay interest under this clause 6.6 on demand from the Landlord.

6.7 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

7 Insurances

7.1 Tenant to take out insurances

The Tenant agrees to:

- (a) maintain public and products liability insurance in respect of the Premises for at least the Public Liability Insurance Amount for any one event and in the aggregate (as varied by notice from the Landlord to the Tenant, from time to time, having regard to prudent practise for a hospital of a similar size and nature);
- (b) maintain business interruption insurance which a prudent tenant would take out;
- (c) maintain other insurances which are required by law or which a prudent tenant would take out, including those in connection with Tenant's works on the Premises; and
- (d) procure in the name of the Landlord and the Tenant for their respective rights and interests industrial special risk insurance for the Premises on a

full reinstatement basis and on terms that are consistent with generally accepted industry terms for a hospital of a similar size and nature as the Premises and ensure that the policy of insurance contains a waiver of subrogation rights provision,

other than where the relevant policy must be effected by or for the benefit of a Governing Body.

7.2 The policy

Each policy under clause 7.1 must (other than in respect to workers compensation insurance and business interruption insurance or where otherwise not applicable):

- (a) subject to the requirements of clause 7.1(d), be in the names of or note the Tenant, the Landlord and any other person nominated by the Landlord for their respective rights and interests;
- (b) to the extent practicable, designate the Tenant and the Landlord as loss payee;
- (c) be on terms and for an amount satisfactory to the Landlord acting reasonably; and
- (d) be with a reputable insurance company which has a financial security rating with Standard & Poors' of at least A- or the equivalent rating with another reputable rating agency.

7.3 Evidence

- (a) The Tenant agrees to produce evidence satisfactory to the Landlord of current insurance cover (including a certified copy of each policy) whenever the Landlord asks, but not more than once every 6 months.
- (b) With respect to the insurance required to be procured under clause 7.1(d), the Tenant must, at intervals not greater than 3 years, provide to the Landlord updated valuations or assessments of the replacement value of the Premises prepared by a licensed valuer and must effect insurance in accordance with that valuation or assessment.

7.4 Obligations relating to cover

The Tenant:

- (a) may not do anything that causes the insurance cover to be reduced or cancelled (and the Tenant agrees to notify the Landlord if it is); or
- (b) must notify the Landlord if an insurer denies or disputes a claim.

7.5 Notifications relating to claims

The Tenant agrees to notify the Landlord if:

- (a) an insurance policy required under clause 7.1 is cancelled;
- (b) an event occurs which gives rise to an insurance claim where the claim is for an amount of \$500,000 or more (excluding GST); or
- (c) an insurance claim is refused either in part or in full where the event giving rise to the claim will have a material adverse effect on the Tenant's Business.

Nothing in this clause 7.5 obliges the Tenant to disclose information which it is prohibited by law from disclosing, or which may give rise to a loss of legal professional privilege if disclosed. The amount in clause 7.5(b) shall be adjusted annually for movements in CPI from the Commencement Date.

7.6 Use of claim proceeds

Subject to clause 16.3(c), the Tenant agrees to apply the proceeds of any industrial special risk insurance claim which the insurer does not require to be used for replacement or reinstatement to replace or reinstate the insured item.

7.7 Payment of deductible

The Tenant agrees that it is liable to pay or bear any deductible or excess in connection with a claim it makes under an insurance policy which it effects under this clause 7.

8 Indemnities and releases

8.1 Indemnity

The Tenant indemnifies and must keep indemnified the Landlord against any liability, loss, claim or Costs suffered or incurred in connection with:

- (a) the Tenant not complying with any of its obligations under this Lease;
- (b) the use of the Premises not being permitted by law;
- (c) the Tenant's use and occupation of the Premises; or
- (d) damage, loss, injury or death to any person or anything,

except to the extent it is caused by a Landlord Act or Omission. The Tenant agrees that neither the Tenant's obligation to effect insurance pursuant to clause 7 nor any shortfall in any insurance proceeds available to the Tenant limits the Tenant's obligations under this clause 8.1.

8.2 Right to recover

Where this Lease provides an indemnity in favour of one party to another, the party obtaining the benefit of the indemnity does not need to incur any Cost or make any payment before enforcing rights under that indemnity.

8.3 Risk

The Tenant occupies the Premises and uses the Premises, the Building and the Land at its own risk.

8.4 Release

The Tenant releases the Landlord from, and agrees that the Landlord is not liable for, any liability, loss or Costs in connection with the Tenant's or the Tenant's Associates use or occupation of the Premises, the Building or the Land, (including damage, loss, injury or death to any person or anything), except to the extent caused by a Landlord Act or Omission.

8.5 Condition of Premises

- (a) The Landlord does not expressly or impliedly agree or warrant:

- (i) the condition of the Premises (including with respect to any Contamination which may or may not exist on the Premises, the Building or the Land); or
- (ii) that the design, shape, size or finishes of the Land, the Building or the Premises are or will be suitable or adequate for the Tenant's purpose or the Tenant's Business,

and the Tenant must satisfy itself in this regard and in regard to all facts, matters and circumstances relating to or affecting the Building, the Premises or the Land. To the fullest extent permitted by law, all warranties by the Landlord as to the suitability of the Land, the Building and the Premises and as to the adequacy of the Premises implied by law are expressly negated.

- (b) The Tenant accepts the condition of the Land, the Building and the Premises in an "as is where is" condition.
- (c) Notwithstanding the Building or the Premises (or any part) is damaged or destroyed before the Commencement Date, the Tenant must pay Rent from the Rent Commencement Date and Occupancy Costs.
- (d) Clause 16 applies notwithstanding that any damage or destruction of the Premises occurred before the Commencement Date.

9 Use and access hours

9.1 Permitted Use

- (a) The Tenant agrees to use the Premises only for the Permitted Use.
- (b) The Tenant may at any time, by at least 10 Business Days prior notice to the Landlord, alter the Permitted Use of the Premises or an area within the Premises provided that:
 - (i) the altered or additional use is permitted by law;
 - (ii) the altered or additional use does not result in any:
 - (A) additional material regulatory requirements for the Landlord; or
 - (B) additional material requirements in order for the Landlord to comply with any additional laws,

provided that the altered or additional use cannot be objected to by the Landlord under this paragraph where the Cost of any such additional material requirements will be met by the Tenant; and
 - (iii) the predominant use of the Premises remains as a hospital and uses associated with and complementary to a healthcare precinct.
- (c) The Landlord does not expressly or impliedly warrant that the Premises are suitable for the Permitted Use or for any other purpose.
- (d) The Tenant acknowledges that the Tenant has relied on the Tenant's own skill and judgment and has made its own enquiries in determining the suitability of the Premises for the Permitted Use and the Tenant's Business

9.2 Access hours

The Tenant may have access to and use the Premises 24 hours a day on each day of the Term subject to the Landlord's rights under this Lease.

10 Tenant's additional obligations

10.1 General obligations

The Tenant agrees to:

- (a) comply on time with all laws and the requirements of authorities in connection with the Premises (including obtaining all permits), including laws and requirements in connection with Contamination and health and safety;
- (b) observe the maximum load weights throughout the Building;
- (c) keep the Premises clean, tidy and free of vermin;
- (d) except as required by law, maintain the Tenant's Business in continuance operation, without closure, during the Term (subject to clause 16); and
- (e) if this Lease is a sublease, comply with the terms of any headlease so far as they affect the Premises.

10.2 Prohibited acts

The Tenant may not:

- (a) remove the Landlord's Property from the Premises (except as otherwise permitted by the terms of this Lease);
- (b) store or use inflammable, volatile or explosive substances or any Contaminants on the Premises unless they are required for the Permitted Use (and the Tenant must comply with the provisions of all laws and the requirements of all authorities relating to the handling and storage of such substances or Contaminant);
- (c) do anything to Contaminate the Premises or the Environment; or
- (d) if this Lease is a sublease, do anything which may cause the Landlord to be in breach of any headlease.

10.3 Environmental Notices

The Tenant must promptly comply with any Environmental Notice made during or before the Term including if it relates to a period before the Commencement Date.

10.4 Evidence of Compliance

The Tenant must give the following to the Landlord:

- (a) a copy of any Environmental Notice received by the Tenant, no later than 10 Business Days after receipt by the Tenant;
- (b) copies of all reports, invoices and other documents relating to the Environmental Notice or the Tenant's compliance with the Environmental Notice; and

- (c) copies of any notices or orders received by the Tenant from an authority which relate to the Building, the Premises or the Land where the notice or order asserts a breach of a material law or requirement by the Tenant with respect to the Building, the Premises or the Land, no later than 10 Business Days after receipt by the Tenant.

10.5 Reporting

Without limiting or being limited by clause 7.5 or clause 10.4, no later than 20 Business Days after the end of each calendar year, the Tenant must provide the Landlord the following information relevant to the Premises:

- (a) the last annual audited financial accounts and statements for the Guarantor and the Tenant which have been prepared;
- (b) EBITDAR for the Tenant's Business for the last 12 months in the form and in the reasonable detail agreed by the Landlord and the Tenant from time to time, each acting reasonably;
- (c) capital expenditure spent in the last 12 months in respect of each item of expenditure exceeding \$1,000,000 (excluding GST);
- (d) details of any correspondence with authorities in relation to the Building's compliance with laws and Environmental compliance with laws where a failure to comply would have a material adverse effect on the ability of the Tenant to conduct the Tenant's Business;
- (e) details of any insurance claims:
 - (i) in excess of \$500,000 (excluding GST); and
 - (ii) which involve the Landlord,which have been made in relation to any insurances the Tenant is required to maintain and which the Landlord is named as an insured or noted as an interested party;
- (f) details of the replacement of any plant items or Landlord's Property which has been replaced due to it reaching the end of its economic life and which has a replacement cost in excess of \$500,000 (excluding GST); and
- (g) updated Landlord's Property fixed asset register for items which have been replaced for the purposes of maintaining a fixed asset register.

Each of the dollar amounts set out in this clause 10.5 shall be adjusted annually for movements in CPI from the Commencement Date.

10.6 Indemnity

The Tenant indemnifies and must keep indemnified the Landlord against any loss, claim, liability, or Cost suffered or incurred by the Landlord in respect of:

- (a) any Contamination of the Premises, except to the extent that any such loss, claim, liability or Cost arises from any Contamination caused by the Landlord or the Landlord's Associates; and
- (b) any remediation of the Premises (whether or not required by an Environmental Notice) carried out by the Landlord in relation to any Contamination not caused by the Landlord or the Landlord's Associates.

10.7 Tenant's Associates to comply

The Tenant must ensure that the Tenant's Associates do not do anything, or omit to do anything, which if done or omitted to be done by the Tenant would be a breach of the Tenant's obligations under this Lease.

11 Repair and Tenant's works

11.1 Repair and replacement

The Tenant agrees:

- (a) to keep the Premises and the Tenant's Property in good repair (having regard to:
 - (i) the age and condition of the Premises at the Commencement Date; or
 - (ii) in respect to any part of the Premises on which a 'Brownfield Development' under the Umbrella Deed (where it applies) has been undertaken, the condition of that part of the Premises following completion of that development,fair wear and tear excepted unless otherwise expressly provided for in this Lease or the Umbrella Deed (where it applies);
- (b) to keep the Premises to a standard appropriate for the Permitted Use;
- (c) it is responsible for the repair, maintenance and when the relevant element reaches the end of its useful life or otherwise requires replacement, capital replacement of the Building structure (including the roof, rainwater installations, external walls and any improvements or fixtures to the external walls, hardstand areas, car parks and windows and redecoration of external and internal fabric and finishes), and all Services;
- (d) it is responsible to effect at the Tenant's own Cost any necessary structural works or structural repairs to ensure that the Building is structurally sound and watertight during the Term; and
- (e) without limiting clause 10, it is responsible for the remediation of any Contamination on the Premises except to the extent that the Contamination is caused by the Landlord or the Landlord's Associates (which Contamination the Landlord must remediate at its Cost).

11.2 Services

- (a) The Tenant agrees that the Landlord shall have no responsibility for the repair or maintenance or capital replacement of the Services, nor for ensuring the Services are available to the Premises.
- (b) If the Services fail to function or to function properly for any reason:
 - (i) the Tenant will not by reason of any such failure be entitled to terminate this Lease;
 - (ii) the Tenant or any person claiming through or under the Tenant will not have any claim in respect of any such failure for compensation or damages against the Landlord unless such failure is as a result of any Landlord Act or Omission; and

- (iii) the Tenant will not have any right to abatement of Occupancy Costs as a result of any such failure.
- (c) The Tenant must enter into and keep current adequate maintenance service contracts in respect of the Services.

11.3 Where approval for works is not required

- (a) The Tenant may undertake works, alterations, additions or decorations within the Premises without the Landlord's prior consent unless the works are Major Works.
- (b) The Tenant must ensure that works under this clause 11.3 are done:
 - (i) in a proper and workmanlike manner;
 - (ii) in accordance with all laws and the requirements of authorities;
 - (iii) by licensed contractors holding appropriate insurances; and
 - (iv) on terms which do not purport to grant to any contractor undertaking the works security over the Land or any Landlord's Property for the obligations of the Tenant under the contract,

and, once the works are completed, the Tenant must provide the Landlord with copies of all approvals to occupy and use the relevant works.

11.4 Landlord's approval – Major Works

- (a) The Tenant must not carry out Major Works to the Premises without the Landlord's prior consent. The Landlord must not unreasonably withhold or delay its consent if the Tenant has established to the Landlord's reasonable satisfaction that:
 - (i) the works will be carried out by appropriately qualified and insured contractors;
 - (ii) all materials, plant and equipment being used are suitable and of appropriate quality;
 - (iii) the works will be architecturally consistent with, or complementary to, the Building;
 - (iv) the works will not connect any part of the Premises to improvements on land that is not a part of the Premises; and
 - (v) the works will be otherwise in accordance with all laws and requirements of authorities.
- (b) The Tenant must ensure that the Major Works are otherwise carried out in accordance with the requirements of clause 11.3(b).

11.5 Landlord to sign

Subject to the Tenant complying with clauses 11.3 and 11.4, the Landlord consents to the Tenant lodging any forms required by any authority in respect to any works being undertaken by the Tenant (provided that in the case of Major Works the works have been approved by the Landlord) and must:

- (a) on request by the Tenant, promptly sign any forms required by any authority in respect to any works; and
- (b) not obstruct the Tenant in any way from seeking all necessary approvals to any works.

11.6 Naming and signage

The Tenant may, without the Landlord's consent:

- (a) name the Premises;
- (b) affix or display any advertisement, logo, notice, sign or other device to or in the Premises; and
- (c) use the name of or any picture or likeness of the Premises for any advertisement or purpose.

For the avoidance of doubt, the Tenant has all signage and naming rights in respect to the Premises. The Landlord agrees that the Tenant owns those rights and that the Landlord does not obtain any interest in such rights.

11.7 Occupational health and safety

- (a) If the Tenant (including if acting as agent for the Landlord) carries out on the Premises, the Building or the Land, or procures to be carried out on the Premises, the Building or the Land, works to which an OH&S Law applies:
 - (i) the Landlord will appoint the Tenant or, if requested by the Tenant, will appoint the Tenant's contractor, to any position under the OH&S Law necessary for the parties to comply with the law (and the Tenant must accept, or procure that its contractor accepts, that appointment);
 - (ii) the Landlord authorises the Tenant or the Tenant's contractor (as applicable) to exercise whatever authority is necessary to discharge the responsibilities of the appointment under clause 11.7(a)(i);
 - (iii) the Tenant must comply with, or must procure that its contractor complies with, and must ensure that the works are carried out in accordance with, the OH&S Law; and
 - (iv) the Tenant or the Tenant's contractor (as applicable) is responsible for the works at all times until they are completed.
- (b) The Tenant's (or Tenant's contractor's) appointment under clause 11.7(a)(i), and the Tenant's (or Tenant's contractor's) authority under clause 11.7(a)(ii), starts when the works are commenced and ends when the works are completed.

12 Transfer and other dealings

12.1 Prohibited dealings

The Tenant may only:

- (a) transfer or assign this Lease in accordance with clause 12.2 ("Transfer conditions") or clause 12.4 ("Transfer to a Tenant Group Member"), and

(where the Umbrella Deed applies) in accordance with the Umbrella Deed; or

- (b) sublet or licence the Premises (or any part) in accordance with clause 12.3 ("Sublease") or clause 12.4 ("Transfer to a Tenant Group Member").

12.2 Transfer conditions

- (a) The Tenant may only transfer or assign the whole of this Lease if, before it transfers or assigns:
 - (i) it obtains the consent of the Landlord;
 - (ii) where there is a Guarantor, the Tenant procures either:
 - (A) a replacement guarantor who is respectable; or
 - (B) a bank guarantee in favour of the Landlord in substitution for a replacement guarantor of an amount equal to the sum of six months' Rent and Rates and Taxes; and
 - (iii) the proposed new tenant and any new guarantor enter into a deed with the Landlord in a form reasonably required by the Landlord under which the proposed new tenant agrees to perform all of the obligations of the Tenant in this Lease and the new guarantor (where applicable) guarantees and indemnifies the Landlord against any failure of the new tenant to perform all of the obligations of the Tenant under this Lease on the terms included at Schedule 1; and
- (b) The Landlord may not withhold or delay its consent to an assignment or transfer of this Lease where the Tenant satisfies the Landlord (acting reasonably) that:
 - (i) where there is a replacement guarantor, the new tenant and the new guarantor (taken as a whole) have the operational and financial capability to meet the obligations of the Tenant under this Lease (having regard to the standard at which the hospital operations at the Premises are required to be operated and maintained); or
 - (ii) where a bank guarantee is provided instead of a replacement guarantor, the new tenant has the operational and financial capability to meet the obligations of the Tenant under this Lease (having regard to the provision of the bank guarantee and the standard at which the hospital operations at the Premises are required to be operated and maintained).
- (c) Where the Landlord consents to the assignment or transfer of this Lease in accordance with clause 12.2(a), the Tenant and any existing Guarantor are released from their respective obligations under this Lease (and where it applies, the Umbrella Deed in respect of this Lease) and at the same time as the new tenant and any new guarantor enter into the deed referred to in clause 12.2(a)(iii) the Landlord, Tenant and Guarantor must enter into a deed under which the release of the Tenant and the Guarantor is recorded.

12.3 Sublease

- (a) The Tenant may sublet, license or grant concessions to any person to occupy or use any area or areas within the Premises without the Landlord's consent provided that:
 - (i) the term of any sublease, licence or concession does not extend beyond the expiry date of the current Term for the Premises;
 - (ii) the terms of any sublease, licence or concession are consistent with the terms of this Lease;
 - (iii) with respect to a sublease or licence only, the sublet or licensed area does not comprise that part of the Premises on which Core Hospital Operations are undertaken (except where the sublease or licence is for an area 200m² or less), unless Landlord consent is obtained to the sublease or licence (such consent not to be unreasonably withheld or delayed); and
 - (iv) with respect to any sublease, licence or concession for an area greater than 200m², before granting the sublease, licence or concession, the Tenant gives to the Landlord (at least 10 Business Days before the proposed dealing):
 - (A) notice of the sublease, licence or concession; and
 - (B) a copy of the terms of the sublease, licence or concession.
- (b) Where the area the subject of a sublease, licence or concession is 200m² or less the Tenant must give the Landlord promptly after the dealing is entered into:
 - (A) notice of the sublease, licence or concession; and
 - (B) a copy of the terms of the sublease, licence or concession.
- (c) The Tenant may:
 - (i) vary the terms of any sublease or licence or concession, subject to the varied terms remaining consistent with the requirements in clause 12.3(a);
 - (ii) terminate or surrender any sublease or licence or concession; or
 - (iii) agree to transfer of assign or otherwise deal with any sublease or licence,without obtaining the Landlord's consent, but the Tenant must provide the Landlord with notice of any such action within 10 Business Days after such action occurring.
- (d) Where the Tenant enters into a sublease, licence or concession the Tenant may satisfy its obligations under this Lease with respect to that part of the Premises to which the sublease, licence or concession relates by procuring that the sublessee, licensee or concessionaire (as applicable) complies with those obligations.

12.4 Transfer to a Tenant Group Member

- (a) Despite clauses 12.2 ("Transfer conditions") and 12.3 ("Sublease"), the consent of the Landlord is not required to any assignment or transfer of the whole or any part of this Lease, or to the sub-letting or licence of the whole or any part of the Premises, to any Tenant Group Member.
- (b) If the Tenant assigns this Lease as permitted by clause 12.4(a):
 - (i) it must give at least 10 Business Days prior notice of the assignment to the Landlord;
 - (ii) without limiting the obligations of the Tenant under the Umbrella Deed (where it applies), it must ensure that the assignee enters into the deed with the Landlord in a form reasonably required by the Landlord under which the assignee agrees to perform all of the obligations of the Tenant in this Lease;
 - (iii) the Tenant is released from its obligations under this Lease (and the Landlord and Tenant must enter into a deed under which the release of the Tenant is recorded); and
 - (iv) any Guarantor will not be released from its obligations under this Lease or (where it applies), the Umbrella Deed.

12.5 Change in control of Tenant

- (a) The Tenant must not permit a Change of Control Event in respect to the Tenant unless it obtains the Landlord's prior consent (which consent must not be unreasonably withheld or delayed).
- (b) Clause 12.5(a) does not apply to, and the Tenant will not be required to obtain the Landlord's prior consent to, a Change of Control Event or otherwise comply with the requirements of this clause 12.5:
 - (i) where the Tenant is listed on any stock exchange; and/or
 - (ii) the ultimate holding company of the Tenant is listed on any stock exchange and the Tenant will remain a subsidiary of the same ultimate holding company both before and after the Change of Control Event; and/or
 - (iii) where the Prescribed Rights remain held directly or indirectly by a Tenant Group Member; and/or
 - (iv) in the case of an initial quotation on a recognised stock exchange of the securities of the Tenant or its holding company.

12.6 Consent

Where the consent of the Landlord is required to a Change of Control Event in accordance with clause 12.5 ("Change in control of Tenant") the Landlord may not withhold or delay that consent where the Tenant satisfies the Landlord (acting reasonably) that the person or group of persons who will hold or control the Prescribed Rights is (or are) respectable and have the financial capability to perform (or procure the performance of) the Tenant's obligations under this Lease.

12.7 Guarantor

Where:

- (a) a Change of Control Event of the Tenant is permitted in accordance with this Lease; and
- (b) a replacement guarantee is provided by a respectable person who has the financial capacity to guarantee the performance by the Tenant of its obligations under this Lease (as demonstrated by the Tenant to the Landlord and approved by the Landlord (acting reasonably)),

the Guarantor is released from its obligations under this Lease and (where it applies) the Umbrella Deed in respect of this Lease (and the Landlord must enter into a deed on reasonable terms to record that release).

12.8 Encumbrances

- (a) Subject to the parties agreeing and entering into the form of deed referred to in clause 12.8(b), the Tenant may create or allow an Encumbrance over the Tenant's interest in this Lease (and where it applies the Umbrella Deed) or the Tenant's Property in favour of the Tenant's financier (or a security trustee acting on their behalf) without the consent of the Landlord.
- (b) Where reasonably required by the Tenant or the Landlord (or their respective financiers, or a security trustee acting on their behalf), the Landlord and Tenant agree to enter into a tripartite deed with the Tenant's financier (on terms required or accepted by the Landlord, acting reasonably) in respect of the exercise of rights under the Encumbrance by the Tenant's financier.

12.9 Provisions which are varied on assignment

Where this Lease is assigned as permitted by clause 12.2, the following provisions of this Lease are varied as follows:

- (a) the Reference Schedule will state that the Umbrella Deed is 'Not Applicable';
- (b) the clause included at Schedule 2 ('Right of First Offer') will be included in this Lease; and
- (c) the definition of 'Tenant Group Member' will be varied by replacing the name of the entity in paragraphs (b) and (c) of that definition with the ultimate parent entity of the assignee.

13 Landlord's additional obligations and rights

13.1 Quiet enjoyment and non-derogation

- (a) Subject to the Landlord's rights, the Tenant may occupy the Premises during the Term without interference by the Landlord or any person lawfully claiming through the Landlord.
- (b) The Landlord must not derogate from the grant of this Lease.

13.2 Consents

If the Landlord has agreed to obtain a person's consent in connection with this Lease, then the Landlord agrees to do everything reasonably necessary to obtain that consent.

13.3 To enter

- (a) The Landlord may enter the Premises at reasonable times on reasonable notice to see if the Tenant is complying with its obligations under this Lease or to do anything the Landlord must or may do under this Lease.
- (b) In exercising its rights under clause 13.3(a), the Landlord must:
 - (i) not cause any undue interference to the occupation, use or enjoyment of the Premises by the Tenant;
 - (ii) be accompanied by a nominee of the Tenant (if required by the Tenant);
 - (iii) use its best endeavours to avoid damage to the Premises or the Tenant;
 - (iv) immediately make good any damage caused to the Premises or the Tenant by the exercise of those rights; and
 - (v) give the Tenant the names of those persons who are to enter the Premises and other identifying details reasonably required by the Tenant. The Landlord acknowledges that the security requirements of the Tenant may prevent the Landlord from accessing certain parts of the Premises at particular times.

13.4 Shared Scheme

If the Premises are part of a Shared Scheme:

- (a) the Tenant agrees to give the Landlord copies of any notices issued by the Governing Body after the Tenant receives them;
- (b) the Tenant agrees to comply with the rules and by-laws of the Shared Scheme;
- (c) if certain obligations of the Landlord under this Lease may only be performed by the Governing Body:
 - (i) without limiting clause 13.4(g) the Landlord agrees to use reasonable endeavours to cause the Governing Body to comply with those obligations; and
 - (ii) despite the other provisions of this Lease, the Landlord is not otherwise obliged to perform those obligations;
- (d) if certain obligations of the Tenant under this Lease may only be performed by the Governing Body:
 - (i) the Landlord agrees to use reasonable endeavours to cause the Governing Body to comply with those obligations; and
 - (ii) despite the other provisions of this Lease, the Tenant is not otherwise obliged to perform those obligations;
- (e) the Tenant is entitled to use the common property of the Shared Scheme;
- (f) the Tenant agrees to consent (and agrees to procure that any person claiming through the Tenant consents) to any alteration to the plan relating to the Shared Scheme and to any rules and by-laws of the

Shared Scheme, if those alterations do not adversely affect the Tenant's rights under this Lease; and

- (g) the Landlord appoints the Tenant as its proxy or authorised representative to attend meetings and vote at any meeting of the Governing Body.

13.5 Sale of Landlord's interest

- (a) The Landlord must not:

- (i) sell or transfer all or part of its interest in the Premises or this Lease; or
- (ii) grant any interest superior to or concurrent with this Lease,

(Landlord Dealing) to:

- (iii) any third party which is a Competitor; or
- (iv) any other third party without first obtaining the prior consent of the Tenant, such consent not to be withheld where the Landlord satisfies the Tenant (acting reasonably) that the third party:
 - (A) is a respectable person (including that the person is not a person named, or controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a person who is named, on a sanctions list, or who is a 'politically exposed person' for the purposes of anti-money laundering or counter-terrorism financing (or equivalent) laws or guidelines); and
 - (B) has the financial capacity to perform (or procure the performance of) any obligations of the Landlord under the Umbrella Deed (where it applies) and this Lease that have not been performed or otherwise discharged at the date of the relevant Landlord Dealing.

- (b) Without limiting the obligations of the Landlord under the Umbrella Deed (where it applies), before any Landlord Dealing, the Landlord must procure the relevant third party to enter into a deed with the Tenant in a form reasonably required by the Tenant under which the third party agrees to perform all of the obligations of the Landlord under this Lease and the Tenant agrees to perform all of the obligations of the Tenant under this Lease in favour of the third party.

13.6 Landlord Change in Control

- (a) Without limiting its obligations under the Umbrella Deed (where it applies), if there is a proposed Change of Control Event in respect to or affecting the Landlord, then the Landlord must not permit that Change of Control Event unless it obtains the Tenant's prior consent (which consent must not be unreasonably withheld or delayed).
- (b) Clause 13.6(a) does not apply to, and the Landlord will not be required to obtain the Tenant's prior consent to, a Change of Control Event or otherwise comply with the requirements of clause 13.6(a):
 - (i) where the Landlord is listed on any recognised stock exchange (and the Change of Control Event arises because of a dealing in the shares of the Landlord on that stock exchange); or

- (ii) where the trust, fund, partnership or company which holds the Prescribed Rights in the Landlord is listed on any recognised stock exchange, the Change of Control Event arises because of a dealing in the shares or other interests of the trust, fund, partnership or company on that stock exchange and the Prescribed Rights will remain held by that trust, fund, partnership or company; or
- (iii) in the case of a Change of Control Event caused by an initial quotation on any recognised stock exchange of the securities of the Landlord or its holding company; or
- (iv) where, after the Change of Control Event, the Landlord will not be controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by:
 - (A) a Competitor;
 - (B) a person named, or controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a person who is named, on a sanctions list, or who is a 'politically exposed person' for the purposes of anti-money laundering or counter-terrorism financing (or equivalent) laws or guidelines; or
 - (C) a person who is incapable of performing (or procuring the performance of) the monetary obligations of the Landlord under the Umbrella Deed (where it applies) and this Lease; or
- (v) where one or more Landlord Group Members retain, after the Change of Control Event, the Prescribed Rights in the Landlord, and provided that after the Change of Control Event the Landlord will not be controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a Competitor or a person described in clause 13.6(b)(iv)(B) or (C).
- (c) The Tenant agrees that the mere change of trustee, responsible entity, custodian or manager is not sufficient of itself to comprise a 'Change of Control Event', provided that the Landlord must ensure that the replacement trustee, responsible entity, custodian or manager is not a Competitor or a person described in clause 13.6(b)(iv)(B) or (C).

The Landlord must promptly notify the Tenant of any proposed Change of Control Event where it believes the Change of Control Event will not require the consent of the Tenant pursuant to clause 13.6(b)(iv) or (v), and must provide to the Tenant with that notice reasonable details to support its belief.

13.7 Landlord may rectify

After giving the Tenant at least 7 days' notice (except in the case of an emergency, which does not require notice), the Landlord may:

- (a) do anything which the Tenant should have done under this Lease but which it has not done; and
- (b) recover the Costs incurred by the Landlord as a debt payable on demand.

The Landlord may exercise its rights under this clause 13.7 even though this Lease has expired or has been ended.

13.8 Agents

The Landlord may appoint agents or others to exercise any of its rights or perform any of its duties under this Lease. Communications from the Landlord override those from the agents or others if they are inconsistent.

13.9 Landlord Encumbrances

- (a) The Landlord may create or allow an Encumbrance over the Land or the Premises and this Lease without the consent of the Tenant. The Tenant must reasonably co-operate with the granting by the Landlord of any such Encumbrance, including by entering into a non-disturbance deed or tripartite deed with the Landlord's financier and the Landlord where reasonably required by the Landlord's financier.
- (b) The Landlord must, at its Cost obtain the unconditional written consent to this Lease (and where it applies, the Umbrella Deed) from every mortgagee of the Land, and any other holder of an Encumbrance whose interests would otherwise have priority over this Lease, prior to the Commencement Date.

13.10 Subdivision

The Landlord must not subdivide the Land, grant any easements over the Land or alter any rights or benefits attached to the Land without the consent of the Tenant (and where an easement is required at law to be created for the benefit of an authority the Tenant must consent to that easement).

13.11 Notices

The Landlord must:

- (a) provide to the Tenant any notices received by the Landlord in respect of the Premises or any part from an authority or any other person which may affect the Tenant's use or occupation of the Premises; and
- (b) not object, or assist in or encourage any objection, to any application by or on behalf of the Tenant for a development application or a planning permit or amendments to a development application or a planning permit for development or use of the Premises or any part of it where the development the subject of the development application or planning permit is permitted under this Lease.

13.12 Landlord's Associates

The Landlord agrees to ensure that the Landlord's Associates do not do anything, or omit to do anything, which if done or omitted to be done by the Landlord would be a breach of the Landlord's obligations under this Lease.

14 Expiry or ending of lease

14.1 Tenant to vacate

The Tenant agrees to vacate the Premises on the earlier of the Expiry Date and the date this Lease is ended and, subject to clause 14.3, deliver back possession of the Premises to the Landlord clean and free from rubbish.

14.2 No exercise

At the expiry or earlier termination of this Lease, the Tenant must use reasonable endeavours to, at the Landlord's Cost, facilitate the transfer, as directed by the Landlord, of any approvals, consents and licences attaching to, or required to operate, the Core Hospital Operations conducted in or on the Premises. For the avoidance of doubt, this clause 14.2 does not oblige the Tenant to actually procure or otherwise obtain the approval or consent of any authority or other third party.

14.3 No removal of certain items

The Tenant may not remove Tenant's Property which are improvements and which, if removed, would prevent the Premises from continuing to be capable of operating as a hospital (including improvements which if removed would prevent the provision from the Premises of those Core Hospital Operations that are being provided prior to the expiration of this Lease).

14.4 Removal of Tenant's Property

- (a) Subject to clauses 14.3 and 14.4(b), the Tenant may at any time prior to the expiration of this Lease remove all the Tenant's Property (and must remove any such items that are not affixed to the Premises) from the Premises.
- (b) Prior to removing any of the Tenant's Property which is affixed to the Premises, the Tenant must provide the Landlord with a schedule of works which it proposes to undertake in removing the Tenant's Property (including a list of those items of the Tenant's Property which the Tenant proposes to remove from the Premises). Upon receipt of the schedule of works, the Landlord and the Tenant must meet and, in good faith, discuss the proposed schedule of works, including the items of the Tenant's Property which the Tenant proposes to remove from the Premises.

14.5 Conditions applying to removal

When removing any Tenant's Property from the Premises, the Tenant must:

- (a) make good any damage caused by such removal; and
- (b) remove all rubbish and leave the parts of the Premises used in removing the Tenant's Property clean.

14.6 Landlord may treat Tenant's Property as abandoned

- (a) The Landlord may treat the Tenant's Property as abandoned and deal with it in any way it sees fit at the Tenant's expense if the Tenant does not remove the Tenant's Property in accordance with this clause 14.
- (b) The parties agree that clause 14.6(a) operates in place of any legislation that might otherwise apply to goods remaining on the Premises.
- (c) The Tenant agrees to ensure that no Encumbrance in any abandoned Tenant's Property exists at the time the Landlord exercises its rights under clause 14.6(a).

14.7 Tenant's Property at Tenant's risk

Without limiting any other provision of this Lease, the Tenant's Property is at the Tenant's risk at all times.

14.8 No make good obligations

Nothing in this clause 14 imposes any obligation on the Tenant to make good or redecorate the Premises on the expiration or sooner termination of this Lease.

14.9 Tenant to give Landlord keys

On the day the Tenant must vacate the Premises, the Tenant agrees to give the Landlord the keys, access cards and similar devices for the Building and the Premises held by the Tenant, the Tenant's Associates and any other person they have given them to.

15 Holding over

15.1 Monthly tenancy

If the Tenant continues to occupy the Premises after the Expiry Date with the Landlord's approval, it does so under a monthly tenancy:

- (a) which may be ended by either the Landlord or the Tenant on one month's notice expiring on any day; and
- (b) at a rent equal to one twelfth of the annual Rent applying on the Expiry Date increased by 2.5% percent, with such Rent increasing on each anniversary of the Expiry Date by 2.5%.

15.2 Terms of monthly tenancy

The monthly tenancy is otherwise on the same terms as this Lease except for those changes which:

- (a) are necessary to make this Lease appropriate for a monthly tenancy; or
- (b) the Landlord requires as a condition of giving its approval to the holding over.

16 Damage to Building or Premises and resumption

16.1 Damage and destruction

Subject to clause 16.2 ("Damage caused by Landlord"), if the Premises is wholly or partially destroyed or damaged then:

- (a) the Tenant will not be entitled to terminate this Lease or to any abatement of Occupancy Costs; and
- (b) the Tenant may (in its absolute discretion) elect to reinstate the Premises unless the Tenant (or the Tenant's Associates) caused the damage or destruction (in which case it must reinstate the Premises).

16.2 Damage caused by Landlord

- (a) If:
 - (i) the Premises is wholly or partially destroyed or damaged by a Landlord Act or Omission; and

- (ii) the damage or destruction has rendered the Premises unfit for the Permitted Use (in whole or in part),

then:

- (iii) the Tenant may reduce its payments of Occupancy Costs under this Lease for the period from and including the date the damage occurs to and including the date:

- (A) this Lease is ended; or

- (B) to but excluding the date the Premises are made fit for the Tenant's use,

whichever happens first. Any reduction must be proportionate to the loss of amenity caused by the damage; and

- (iv) the Landlord indemnifies and must keep indemnified the Tenant against any liability or loss arising from, and any Costs incurred in connection with the damage or destruction.

- (b) On the first Rent Day after the proportion is agreed or decided, the Tenant agrees to pay the Landlord (or the Landlord agrees to credit the Tenant with) any difference between what the Tenant has paid under this Lease and what the Tenant should have paid for the period from and including the date the damage occurs to but excluding that Rent Day.

16.3 Reconstruction

- (a) Within 60 Business Days of the damage or destruction occurring (except in circumstances where the damage or destruction is caused by the Tenant or the Tenant's Associates), the Tenant must provide the Landlord with a notice advising the Landlord whether it elects to reinstate the Premises. If a notice is not given within that 60 Business Day period the Tenant is taken to have elected not to reinstate the Premises.
- (b) If the Tenant elects to reinstate the Premises or the Tenant is required to reinstate the Premises, the Tenant must:
 - (i) consult with the Landlord on the appropriate highest and best use for a reinstatement of the Premises. The parties must consult as to the highest and best use before the Tenant commences any works to reinstate the Premises;
 - (ii) except to the extent the parties agree otherwise under clause 16.3(b)(i), at its sole Cost diligently and in a timely manner (taking into account the nature and extent of the required tasks and matters which are outside the control of the Tenant):
 - (A) reinstate the Premises to a similar size, amenity and trading potential to that previously enjoyed by the Premises prior to the damage or destruction; and
 - (B) obtain the licences, consents, approvals, permits and registrations required to carry on the Permitted Use from the reinstated Premises; and
 - (iii) apply any proceeds received or payable under any insurance policy for the purpose of reinstating the Premises.

- (c) If the Tenant elects not to, or is taken to have elected not to, reinstate the Premises, it must:
 - (i) pay (or cause its insurer to pay) the amount required to reinstate the Premises to the Landlord, and allow such access to the Premises (or the relevant part) in order for the Landlord to effect the reinstatement; and
 - (ii) continue to pay all Occupancy Costs until expiration or earlier termination of this Lease.

16.4 Resumption

If a competent authority resumes or compulsory acquires the whole or any part of the Premises such that the Tenant can no longer operate the Tenant's Business or a material part from the Premises either the Landlord or the Tenant may end this Lease on any day by giving at least six (6) months' prior notice to the other following the date the acquiring authority takes possession of the whole or part of the Premises.

17 Default

17.1 Landlord's right to terminate

Subject to determination of any matter which has been referred for determination under clause 22 ("Dispute Resolution") the Landlord may end this Lease (and the Tenant acknowledges that the Landlord may re-enter the Premises after this Lease has been validly terminated) by giving the Tenant written notice if:

- (a) any money payable by the Tenant or the Guarantor to the Landlord under this Lease, or Guaranteed Lease Money, of (in each case) an aggregate amount exceeding the amount equal to one month's Rent, has not been paid within 20 Business Days after the due date and the Landlord has issued to the Tenant or the Guarantor (as applicable) notice demanding payment and the Tenant or the Guarantor (as applicable) has not complied with such notice within 10 Business Days after receipt of such notice; or
- (b) the Tenant is in breach of an Essential Term and, where the breach is capable of remedy, such breach remains unrectified for a reasonable time having regard to the consequences of the breach (being a period of not less than 20 Business Days) after the Landlord has issued to the Tenant notice of the breach.

For the purposes of this clause 17.1 **Guaranteed Lease Money** means money payable by the Tenant under this Lease the payment of which is guaranteed by the Guarantor under the Umbrella Deed (where it applies).

17.2 Compensation for breach

For the purposes of clause 17.1(b) a breach of this Lease that cannot be remedied, but for which:

- (a) the Landlord can be compensated; and
 - (b) the Tenant pays the Landlord reasonable compensation for the breach,
- will be taken to be a breach which can be, and which has been by virtue of the compensation paid, remedied.

17.3 Mitigate loss

The Landlord acknowledges that it has a general duty to mitigate its loss in the event of termination of a Lease under clause 17.1 ("Landlord's right to terminate").

17.4 Indemnity for termination

The Tenant indemnifies and must keep indemnified the Landlord against any liability or loss arising from, and any Costs incurred in connection with the Landlord exercising its right of termination under clause 17.1 ("Landlord's right to terminate") including the loss to the Landlord of the benefit of this Lease, provided that this indemnity in this clause 17.4 shall not extend to any liability or loss or Costs to the extent it is caused or contributed to by a Landlord Act or Omission.

17.5 No other right to terminate

It is expressly agreed between the Landlord and the Tenant that the Landlord shall not be entitled to re-enter the Premises, forfeit, or terminate or determine this Lease except strictly in accordance with clause 17.1 ("Landlord's right to terminate").

18 Option for a New lease

18.1 Grant of New lease

The Landlord agrees to grant a New lease under this clause 18 on the Expiry Date to commence on the next day, but only if:

- (a) the Tenant gives the Landlord a notice stating that it wants a New lease of the Premises for the term first specified in the Reference Schedule;
- (b) the Landlord receives that notice between 36 months and 18 months before the Expiry Date;
- (c) at the time the Tenant gives that notice the Tenant is not in subsisting breach of an obligation to pay money or an Essential Term of this Lease of which notice has been given by the Landlord to the Tenant prior to the Tenant giving the Landlord a notice pursuant to clause 18.1(a); and
- (d) the Tenant delivers to the Landlord before the Expiry Date a guarantee of, or a guarantee of and an indemnity in connection with, the Tenant's obligations under the New lease by the same Guarantor, or another person who the Tenant can demonstrate to the Landlord (acting reasonably) has the financial capacity to guarantee the obligations of the Tenant under the New lease, on the same terms as any given in connection with the Tenant's obligations under this Lease.

18.2 Terms of New lease

The New lease is to be identical with this Lease except that:

- (a) if particulars of more than one New lease are specified in the Reference Schedule, the particulars of the New lease first specified are deleted from the Reference Schedule;
- (b) if particulars of only one New lease are specified in the Reference Schedule, this clause 18 and the relevant item in the Reference Schedule are deleted;

- (c) the term, the commencement date, the expiry date, and the rent review dates are to be those first specified in the Reference Schedule;
- (d) the Rent Commencement Date will be the commencement date of the New lease;
- (e) the rent from the commencement date of the New lease is to be the amount equal to the Rent payable under this Lease immediately prior to the commencement date of the New lease (except where the commencement date of the New lease is also a Fixed Increase Date, in which case the rent from the commencement date of the New lease is to be the amount equal to the Rent payable under this Lease immediately prior to the commencement date of the New lease, increased by 2.5%);
- (f) the New lease must reflect any variations to this Lease, whether registered or not, which become effective during the Term; and
- (g) where the first rent review date under the New lease (**First New Lease Rent Review Date**) is less than 12 months since the last rent review date under this Lease (**Last Lease Rent Review Date**), then the rent increase on the First New Lease Rent Review Date will be an increase of that proportion of 2.5% that the number of days from (but excluding) the Last Lease Rent Review Date to (and including) the First New Lease Rent Review Date bears to 365.

19 GST

19.1 Definitions and interpretation

For the purposes of this clause 19:

- (a) words and phrases which have a defined meaning in the GST Law have the same meaning when used in this clause 19, unless the contrary intention appears; and
- (b) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies is to be treated as if it were a separate supply.

19.2 GST exclusive

Unless this Lease expressly states otherwise, all consideration to be provided under this Lease is exclusive of GST.

19.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this Lease, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply ("**GST Amount**").
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause 19.3 does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

19.4 Adjustment events

If an adjustment event arises for a supply made under or in connection with this Lease, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

19.5 Reimbursements

Any payment, indemnity, reimbursement or similar payment that is required to be made under this Lease which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 19.3 ("Payment of GST") will apply to the reduced payment.

19.6 Survival

This clause will continue to apply after expiration or termination of this Lease.

20 Personal Property Securities Act

20.1 PPSA further steps

If the Landlord determines that this Lease (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, the Tenant agrees to do anything the Landlord reasonably asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) to enable the Landlord to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by the Landlord.

20.2 Exclusion of PPSA provisions

To the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
 - (i) the Landlord need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the PPSA, the Landlord need not comply with sections 132 and 137(3);
- (c) if the PPSA is amended after the date of this Lease to permit the Tenant and the Landlord to agree to not comply with or to exclude other provisions of the PPSA, the Landlord may notify the Tenant that any of these provisions is excluded, or that the Landlord need not comply with any of these provisions as notified to the Tenant by the Landlord; and
- (d) the Tenant agrees not to exercise its rights to make any request of the Landlord under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

20.3 No notice required unless mandatory

To the extent the law permits, the Tenant waives:

- (a) its rights to receive any notice that is required by:
 - (i) any provision of the PPSA (including a notice of a verification statement); or
 - (ii) any other law before a secured party or Receiver exercises a right, power or remedy; and
- (b) any time period that must otherwise lapse under any law before a secured party or Receiver exercises a right, power or remedy.

If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

However, nothing in this clause 20.3 prohibits the Landlord or any Receiver from giving a notice under the PPSA or any other law.

20.4 PPSA registration information

The Tenant agrees to notify the Landlord:

- (a) at least 14 days before the Tenant does any of the following:
 - (i) if the Tenant does not have an ACN or ARBN (or if the Tenant is the trustee of a trust and the trust does not have an ABN or ARSN), the Tenant changes its name;
 - (ii) the Tenant becomes trustee of a trust with an ABN or ARSN, or a partner in a partnership with an ABN, other than a trust or partnership referred to in this Lease; and
 - (iii) if the Tenant is a trustee of a trust without an ABN or ARSN, or a partner in a partnership without an ABN, the trust or partnership acquires such a number; and
- (b) if the Tenant has an ACN or ARBN (or is the trustee of a trust that has an ABN or ARSN or is a partner in a partnership has an ABN), as soon as possible after the Tenant becomes aware that the number will change or cease to apply.

Any notice given under this clause 20.4 must state that it is given under this clause.

20.5 PPSA confidentiality

Each party agrees not to disclose any information in connection with this Lease under section 275(4) of the PPSA unless section 275(7) of the PPSA applies.

21 Notices and other communications

21.1 Form

Unless this Lease expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this

Lease must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

21.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details;
- (c) sent by fax to the fax number referred to in the Details;
- (d) sent by email to the address referred to in the Details; or
- (e) given in any other way permitted by law.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

21.3 When effective

Communications take effect from the time they are received or taken to be received under clause 21.4 ("When taken to be received") (whichever happens first) unless a later time is specified in the communication.

21.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 Business Days after posting if sent from one country to another);
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

21.5 Receipt outside business hours

Despite anything else in this clause 21, if communications are received or taken to be received under clause 21.4 ("When taken to be received") after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at

9.00am on the next Business Day. For the purposes of this clause 21.5, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

22 Dispute Resolution

22.1 Legal proceedings conditional

A party may not begin legal proceedings in connection with a dispute under this Lease (other than a dispute as to non-payment of Rent) unless that dispute has first been decided by a person to whom it has been referred under this clause 22. This clause does not prevent a party from seeking urgent or equitable relief.

22.2 Notice of Dispute

If this clause 22 applies, either party may give the other a notice requiring the dispute to be decided under this clause 22.

22.3 Referral of Dispute

This dispute must be referred to a person agreed on by the parties but if the parties do not agree on a person within 7 days after the notice is given, then to a person appropriately qualified to deal with the dispute nominated by the Chair of Resolution Institute (or his or her nominee) at the request of either the Landlord or the Tenant. The parties agree that the appointed person must have at least 10 years current and continuous standing in the person's profession at the date of the appointment and must be:

- (a) in the case of a legal matter, a practising barrister;
- (b) in the case of a financial or accountancy matter, a practising chartered accountant; or
- (c) in any other case, a qualified person,

(and being the **Expert**).

22.4 Instructions

The parties must instruct the Expert that they:

- (a) act as an expert and not as an arbitrator;
- (b) may decide on rules of conduct and enquire into the dispute as they think fit including hearing representations and taking advice from people the Expert considers appropriate; and
- (c) must give a written decision including reasons.

22.5 Assistance

The parties may make submissions and must give every assistance the Expert requires, including providing copies of relevant documents.

22.6 Final and binding

The Expert's decision is final and binding on the parties, unless:

- (a) there is an obvious error in the Expert's decision;
- (b) the dispute relates to a matter of law; or
- (c) the dispute relates to a monetary claim that is in excess of \$500,000 (as adjusted annually for movements in the CPI from the Commencement Date).

22.7 Costs

Unless the Expert decides otherwise:

- (a) each party must pay its own Costs in connection with the dispute; and
- (b) the Costs of referring the dispute to the Expert and the Expert's Costs, and the Cost of enquiries, must be shared equally.

23 Trustee Limitation of Liability

- (a) The Landlord enters into, and incurs obligations under, this Lease only in its capacity as trustee of the Trust and in no other capacity.
- (b) Subject to paragraph (f), the Landlord:
 - (i) will not be liable to pay or satisfy any obligation or liability under this Lease out of any assets held by it personally or in its capacity as trustee or responsible entity of any other trust or managed investment scheme, other than the Trust; and
 - (ii) will only be liable to pay or satisfy any of its obligations or liabilities under this Lease to the extent to which these obligations or liabilities can be satisfied out of property of the Trust out of which the Landlord is actually indemnified for that liability.
- (c) Subject to paragraph (f), each other party to this Lease may only enforce any rights it has under or in connection with this Lease against the Landlord in the Landlord's capacity as trustee of the Trust (and not in its personal capacity or any other capacity), and the remedies of each other party to this Lease are limited to the right of that party to be subrogated to the Landlord's right of indemnity against the assets of the Trust. Without limiting the generality of this paragraph (c), the other party must not take any action for the winding up, liquidation, administration, receivership or similar of the Landlord itself or seek recourse against the beneficiaries or members of the Trust.
- (d) Each other party to this Lease agrees that neither it nor any receiver or attorney that it appoints may incur any liability on behalf of or for the account of the Landlord unless that liability is subject to the limitation contained in this clause.
- (e) The provisions of this clause are paramount and apply to this Lease regardless of any other provision of this Lease or any other document or instrument, even a provision which seeks to apply regardless of any other provision.
- (f) The provisions of paragraphs (a) to (c) shall not apply to any obligation or liability of the Landlord to the extent that it is not satisfied because, under the trust deed of the Trust or by operation of law, there is a reduction in the extent of the Landlord's indemnity out of the assets of the Trust as a

result of the Landlord's own fraud, negligence or breach of trust. In such a case, the Landlord's liability is limited to an amount equal to the value of the assets held on trust by the Landlord for the Trust.

- (g) In this clause the term "Trust" means any trust in respect of which the Landlord is trustee from time to time, and which has been notified to the Tenant.

24 General

24.1 Exclusion of statutory provisions

In this Lease the Implied Statutory Provisions are excluded to the extent permitted by law.

24.2 Costs and stamp duty

- (a) The Tenant must pay all registration fees and stamp duty properly assessed on this Lease.
- (b) Each party must pay its own Costs for preparing, negotiating, and executing this Lease or any renewal of it.
- (c) Each defaulting party must pay the other party's Costs incurred as a result of or in connection with the defaulting party's breach of this Lease.
- (d) The Tenant must pay the Landlord's reasonable legal Costs in considering proposed dealings by the Tenant under clause 12 and giving, considering and obtaining consents and approvals under this Lease.

24.3 Variation and waiver

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

24.4 Prompt performance

Each party agrees to perform its obligations under this Lease promptly, unless a specific time for performance is expressly stated in this Lease.

24.5 Inconsistent law

To the extent the law permits, this Lease prevails to the extent it is inconsistent with any law.

24.6 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this Lease with the result that the party's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

24.7 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this Lease or any part of it.

24.8 Counterparts

- (a) This Lease may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document.
- (b) A party that has signed a copy of this Lease may exchange it with another party by emailing or faxing the executed copy to that other party (or its solicitors) and, if requested by that other party, will promptly deliver the original copy by express post or courier. Failure to make that delivery will not affect the validity or enforceability of this Lease.

24.9 Severability

If the whole or any part of a provision of this Lease is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Lease has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this Lease or is contrary to public policy.

24.10 Concurrent lease and existing licences

- (a) This Lease is concurrent with the Existing Leases.
- (b) The Tenant must perform the obligations of the Landlord which arise during or before the Term in connection with the Existing Leases in favour of the tenants under the Existing Leases.
- (c) The Tenant may enforce all rights, powers and remedies of the Landlord under the Existing Leases to the exclusion of the Landlord.
- (d) The Tenant is entitled to all rent and other money paid or payable to the Landlord under the Existing Leases during the Term.
- (e) The Tenant is solely responsible during the Term for:
 - (i) all acts, omissions and defaults of the tenants under the Existing Leases; and
 - (ii) all matters or circumstances arising from the Existing Leases being in place prior to and after the Commencement Date.
- (f) The Tenant indemnifies and must keep indemnified the Landlord against any liability or loss arising from, and any Costs incurred in connection with the Existing Leases during the Term, including:
 - (i) as a result of the Existing Leases being in place prior to the Commencement Date;
 - (ii) as a result of the Tenant failing to do any thing, or exercise any right, under an Existing Lease; and
 - (iii) in respect of any claims brought by, or against, the tenants under the Existing Leases (regardless of whether such claim or grounds for claim arose prior to or after the Commencement Date),

provided that this indemnity shall not extend to any liability or loss or Cost to the extent it is caused by a Landlord Act or Omission.

- (g) Where prior to the Commencement Date the Tenant has granted any licence or concession in respect to any part of the Premises:
 - (i) the Landlord consents to such licence or concession;
 - (ii) the Landlord agrees that it does not obtain any right or interest in such licence or concession;
 - (iii) the Tenant is entitled to all licence fees and other consideration payable by the licensee or concessionaire under the licence or concession; and
 - (iv) the Tenant acknowledges that the licensee or concessionaire is a Tenant Associate.

25 Governing law

25.1 Governing law and jurisdiction

The law in force in the State or Territory in which the Premises are situated governs this Lease and, to the extent the law permits, all matters in connection with this Lease including any non-contractual matters. The parties submit to the non-exclusive jurisdiction of the courts of that place. To the extent the law permits, the law of the Commonwealth as it applies in that jurisdiction governs a security interest arising under this Lease.

25.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this Lease may be served on a party by being delivered or left at that party's address for service of notices under clause 21.2 ("Delivery").

Schedule 1 Guarantee provisions

1 **Guarantee and indemnity**

1.1 **Consideration**

The Guarantor acknowledges that the Landlord:

- (a) enters into this Lease at the request of the Guarantor; and
- (b) is acting in reliance on the Guarantor incurring obligations and giving rights under this Guarantee.

1.2 **Guarantee**

- (a) The Guarantor unconditionally and irrevocably guarantees to the Landlord the Tenant's compliance with the Tenant's obligations in connection with:
 - (i) this Lease; and
 - (ii) its occupation of the Premises,including each obligation to pay money.
- (b) If the Tenant does not comply with those obligations on time and in accordance with this Lease or if an **Ipsso Facto Event** occurs, then the Guarantor agrees to comply with those obligations on demand from the Landlord. A demand may be made whether or not the Landlord has made demand on the Tenant. An **Ipsso Facto Event** means the Tenant is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, or administration as described in section 415D(1), 434J(1) or 451E(1) of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

1.3 **Indemnity**

The Guarantor indemnifies and must keep indemnified the Landlord against any liability or loss arising, and any Costs it incurs, if:

- (a) the Tenant does not, or is unable to, perform an obligation it has (including an obligation to pay money) in connection with this Lease;
- (b) an obligation the Tenant would otherwise have under this Lease (including an obligation to pay money) is found to be void, voidable or unenforceable;
- (c) an obligation the Guarantor would otherwise have under clause 1.2 of this schedule 1 is found to be void, voidable or unenforceable;

- (d) a liquidator disclaims this Lease; or
- (e) the Tenant becomes Insolvent.

The Guarantor agrees to pay amounts due under this indemnity on demand from the Landlord.

1.4 Nature of guarantee

Each of the guarantee in clause 1.2 of this schedule 1 and the indemnity in clause 1.3 of this schedule 1 is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Tenant's obligations in connection with this Lease. The Guarantor waives any right it has of first requiring the Landlord to make demand, commence proceedings or enforce any other right against the Tenant or any other person before claiming from the Guarantor under this Guarantee.

1.5 Acknowledgment

The Guarantor acknowledges that before signing this Lease, and incurring obligations and giving rights under this Guarantee, it:

- (a) was given a copy of this Lease and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of the Tenant and any other person who guarantees any of the Tenant's obligations in connection with this Lease.

1.6 Rights of the Landlord are protected

Rights given to the Landlord under this Guarantee, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 1.2 of this schedule 1 are expressed to be owing;
 - (ii) releasing the Tenant or giving the Tenant a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Tenant's obligations;
 - (iv) by which a person becomes a Guarantor after the date of this Lease;
 - (v) by which the obligations of any person who guarantees any of the Tenant's obligations (including under this Guarantee) may become unenforceable;
 - (vi) by which any person who was intended to guarantee any of the Tenant's obligations does not do so, or does not do so effectively; or

- (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with this Lease (including this Guarantee) including the termination, surrender or expiry of, or any assignment, subletting, licensing, extension or renewal or any reduction or conversion of the Term;
- (c) any transfer of a right of the Landlord;
- (d) the death, mental or physical disability, or Insolvency of any person including the Guarantor or the Tenant;
- (e) changes in the membership, name or business of any person;
- (f) acquiescence or delay by the Landlord or any other person;
- (g) any change in the Tenant's occupation of the Premises; or
- (h) a liquidator disclaiming this Lease.

1.7 No merger

This Guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Landlord is entitled; or
- (b) a judgment which the Landlord obtains against the Guarantor, the Tenant or any other person in connection with this Lease.

The Landlord may still exercise its rights under this Guarantee as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

1.8 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this Lease or the Tenant's occupation of the Premises, the Guarantor may not, without the Landlord's consent:

- (a) reduce its liability under this Guarantee by claiming that it or the Tenant or any other person has a right of set-off or counterclaim against the Landlord;
- (b) claim, or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity (or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with this Lease or any other amount payable under this Guarantee;
- (c) claim an amount from the Tenant, or another guarantor (including a person who has signed this Lease as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the Insolvency of the Tenant or of another guarantor of any of the Tenant's obligations (including a person who has signed this Lease as a "Guarantor").

This clause 1.8 of this schedule 1 continues after this Guarantee ends.

1.9 Reinstatement of rights

Under law relating to Insolvency, a person may claim that a transaction (including a payment) in connection with this Lease (including this Guarantee) is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Landlord is promptly entitled as against the Guarantor to the rights in connection with this Lease (including this Guarantee) to which it was entitled promptly before the transaction; and
- (b) on request from the Landlord, the Guarantor agrees to do anything (including signing any document) to restore to the Landlord any Encumbrance (including this Guarantee) held by it from the Guarantor promptly before the transaction.

The Guarantor's obligations under this clause 1.9 of this schedule 1 are continuing obligations, independent of the Guarantor's other obligations under this Guarantee and continue after this Guarantee ends.

1.10 Extent of Guarantor's obligations

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this Guarantee both individually and jointly with any one or more other persons named as "Guarantor".

1.11 Costs

- (a) The Guarantor agrees, within 5 Business Days of demand, to pay or reimburse the Landlord's Costs of exercising, enforcing or preserving rights, powers or remedies in connection with this Guarantee.
- (b) The Guarantor agrees to pay for anything that it agrees to do under this Guarantee.

1.12 Obligation to pay interest

The Guarantor agrees to pay interest on any amount under this Guarantee which:

- (a) is not paid on the due date for payment; and
- (b) is not otherwise incurring interest.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

The Guarantor agrees to pay interest under this clause 1.12 of this schedule 1 on demand from the Landlord.

1.13 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

1.14 Payments

The Guarantor agrees to make payments under this Guarantee to the Landlord (or to a person nominated by the Landlord in a notice to the Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in promptly available funds.

1.15 Compounding

Interest accrued but which has not been paid under clause 1.12 of this schedule 1 is added to the overdue amount at the end of each period of 30 days (or any other period the Landlord reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is payable on the increased overdue amount at the rate set out in clause 1.13 of this schedule 1 and in the manner set out in clause 1.12 of this schedule 1

1.16 Each signatory bound

This Guarantee binds each person who signs this Lease as Guarantor even if another person who was intended to sign as Guarantor does not sign it or is not bound by it.

1.17 References to “this Lease”

In this Guarantee, a reference to “this Lease” includes this Lease even if this Lease is not registered, or is found not to be a lease, or is found to be a lease for a term less than the Term.

Schedule 2 Right of first offer

1 Right of first offer – sale or transfer by Landlord

1.1 Right of first offer

The Landlord must not enter into a binding agreement to sell or otherwise transfer the Land to a third party or to hold the benefit of the Land for a third party (**Land Dealing**) without first complying with the requirements of this clause 1 of this schedule 2.

1.2 First Offer Notice

If the Landlord wishes to effect a Land Dealing the Landlord must:

- (a) give notice to the Tenant of the proposed Land Dealing (**Relevant Disposal Notice**); and
- (b) include with the Relevant Disposal Notice a contract of sale for the Land (with only the details of the price and the buyer not completed), which must be on fair and reasonable terms (including by providing as a condition precedent to completion or the contract for sale (as applicable) the buyer obtaining (on conditions acceptable to it acting reasonably) all regulatory and other approvals required for it to complete the purchase and a reasonable period of time for those approvals to be obtained) (**Land Contract Terms**).

1.3 First Offer Period

- (a) Within 30 Business Days from the date the Tenant receives the Relevant Disposal Notice (**First Offer Period**) the Tenant (or a nominee of the Tenant) may make an offer to the Landlord to purchase the Land by completing, signing and delivering to the Landlord the Land Contract Terms in duplicate with the details of the buyer and price completed.

The price included in Land Contract Terms is the **Offered Price**.

- (b) At any time during the First Offer Period, the Tenant may notify the Landlord that it does not wish to purchase the Land.
- (c) The Landlord may accept an offer made by the Tenant or its nominee pursuant to clause 1.3(a) of this schedule 2 by, within 15 Business Days after receipt of the completed and signed Land Contract Terms, signing the Land Contract Terms and providing an original counterpart of the fully executed Land Contract Terms to the Tenant.

1.4 Failure or refusal

If:

- (a) the Tenant notifies the Landlord under clause 1.3(b) of this schedule 2 that it does not wish to purchase the Land or fails to notify the Landlord; or

- (b) the offer is not accepted in accordance with clause 1.3(c) of this schedule 2;

(the date that the first of the circumstances in clause 1.4(a) or 1.4(b) of this schedule 2 occurs being the **Refusal Date** (and in the case of the Tenant failing to notify the Landlord, the Refusal Date is the day after the expiry of the First Offer Period)):

- (c) the Landlord may, (subject to clause 1.5 of this schedule 2) within 9 months after the Refusal Date (but not before the Refusal Date), enter into an agreement to transfer the Land to a third party on terms which are not (when taken as a whole) more materially favourable than the Land Contract Terms included with the Relevant Disposal Notice, and at a price at not less than 95% of any Offered Price (being a **Permitted Dealing**). The Landlord must promptly notify the Tenant where it enters into any agreement to sell or transfer the Land or to hold the Land for the benefit of a third party; and
- (d) The Landlord may not sell the Land or otherwise transfer the Land to a third party or hold the benefit of the Land for a third party without again complying with this clause 1 of this schedule 2.

1.5 No effect on other obligations

- (a) Nothing in this clause 1 of this schedule 2 affects the obligations of the Landlord under clause 13.5 of this Lease.
- (b) The rights granted to the Tenant in this clause 1 of this schedule 2 are intended to run with the Land, and the Landlord must obtain a covenant from any assignee or transferee of its interest in the Land in the document referred to in clause 13.5 of this Lease to be bound by this clause 1 of this schedule 2.

Commitment Deed

Annexure “C” – Form of Officer’s Certificate

Officer’s Certificate

To: Healthscope Limited ACN 144 840 639 (“**Healthscope**”)

Attention: Ingrid Player

Copy To: VIG Bidco Pty Limited (ACN 631 014 938)

Attention: Ingrid Player

[#insert date]^

Dear Madam

Confirmation of committed equity and debt funding

I refer to the deed entitled ‘Project Vigour Commitment Deed’ dated **[#insert date]** 2019 between Healthscope Limited ACN 144 840 639, NWH Australia AssetCo Pty Ltd ACN 617 449 948 as trustee of the NWH Australia Asset Trust and NorthWest Healthcare Properties Real Estate Investment Trust (**Commitment Deed**).

Capitalised terms used in this certificate have the meaning given to them in the Commitment Deed unless otherwise defined in this certificate (in which case they have the meaning given in this certificate).

It is proposed that PropCo will procure each Relevant PropCo Buyer to buy each Sale Asset on the terms of the Commitment Deed, and that PropCo Guarantor will guarantee the performance by each Relevant PropCo Buyer of the buyer’s obligations under each Sale Contract (**Obligations**).

Accordingly, Healthscope seeks confirmation that PropCo Guarantor has sufficient committed equity and debt funding to perform the Obligations.

I hereby certify that:

- (a) I am **[#the Chief Executive Officer/President/an Executive Vice President]** of PropCo Guarantor and have held this position for **[#insert number]** years;
- (b) the stated net assets of PropCo Guarantor (as set out in its published interim financial statements for the three and nine month period ending 30 September 2018) were, at that time, C\$1.3 billion (**Stated Net Asset Position**);
- (c) there have been no changes since the last accounts which have resulted in the net asset position of PropCo Guarantor falling below the Stated Net Asset Position by more than 10% on a constant currency basis; and
- (d) the amount of cash, committed and immediately available debt funding and other funding sources previously disclosed to Healthscope available to PropCo Guarantor to perform its obligations under this document, the PropCo Bridge Loan and the Sale Contracts will be not less than the amounts to be paid by all

Relevant PropCo Buyers to complete the purchase of the Sale Assets under and in accordance with the Sale Contracts.

This certificate is being entered into on behalf of PropCo Guarantor and I bear no personal liability in respect of any of the confirmations or otherwise under this certificate.

Yours sincerely

[Name]

[Chief Executive Officer/President/Executive Vice President]

NorthWest Healthcare Properties Real Estate Investment Trust

Notes:

^ date must be no later than 2 Business Days after the date on which this certificate is requested by Healthscope.

Commitment Deed

Annexure “D” – Form of Umbrella Deed

Project Vigour

Umbrella Deed – Sale Contracts

Dated

Each of the parties identified as a 'Seller' in Schedule 1 ("**Seller**")

Each of the parties identified as a 'Buyer' in Schedule 1 ("**Buyer**")

NorthWest Healthcare Properties Real Estate Investment Trust ("**PropCo Guarantor**")

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Umbrella Deed – Sale Contracts

Contents

Details	1
General terms	2
1 Interpretation	2
1.1 Definitions	2
1.2 References to certain general terms	6
1.3 Headings	7
1.4 Construction	8
1.5 Inconsistency	8
1.6 Joint notices	8
2 Consideration	8
3 Term and termination of this document	8
4 No interdependency of Sale Contracts	8
5 Delays to settlement – Decline Notice	8
5.1 Definitions	8
5.2 Copy of notice	9
5.3 Termination	9
5.4 Consequences of termination	9
6 Loan repayment triggers	11
6.1 Termination	11
6.2 Consequences of termination	11
7 PropCo default	11
7.1 Termination	11
7.2 Cure period	12
7.3 Consequences of termination	13
8 Implementation Deed termination	13
8.1 Termination	13
8.2 Consequences of termination	13
9 Seller’s novation election	14
10 Consents to Change in Control and sublease	14
11 Portfolio Leases Umbrella Deed	14
11.1 Preparation of Portfolio Leases Umbrella Deed	14
11.2 Execution and escrow	15
11.3 Finalisation and release	15
11.4 Binding agreement	16
11.5 Right to rectify	16

12	Guarantee and indemnity	16
12.1	Consideration	16
12.2	Guarantee	17
12.3	Indemnity	17
12.4	Extent of guarantee and indemnity	18
12.5	Acknowledgment	18
12.6	Rights of the Seller are protected	18
12.7	No merger	19
12.8	Guarantor's rights are suspended	19
12.9	Reinstatement of rights	19
12.10	Extent of Guarantor's obligations	20
12.11	Dealing with interests	20
12.12	Costs	20
12.13	Obligation to pay interest	20
12.14	Rate of interest	20
12.15	Compounding	20
12.16	Payments	21
12.17	Essential term	21
12.18	Guarantor to sign contract	21
12.19	Document not binding on certain persons	21
13	Representations and warranties	21
13.1	Capacity representations and warranties	21
13.2	Trustee representations and warranties	22
13.3	When made	23
13.4	Reliance	23
14	Confidentiality and announcements	23
14.1	Obligations of confidentiality	23
14.2	Announcements and press releases	24
14.3	Other confidentiality obligations	24
14.4	Disclosure to BidCo	24
15	Encumbrances	24
16	No dealings	25
16.1	No assignment	25
16.2	No nomination	25
17	GST	25
17.1	Definitions and interpretation	25
17.2	Payment of GST	25
17.3	Adjustment events	26
17.4	Reimbursements	26
17.5	Survival	26
18	Trustee limitation of liability	26
18.1	Trustee	26
18.2	Limitation of Trustee's liability	26
18.3	Override	27
18.4	Definition	27
18.5	Multiple trustee capacities	27

19	Notices and other communications	27
19.1	Form	27
19.2	Delivery	27
19.3	When effective	27
19.4	When taken to be received	27
19.5	Receipt outside business hours	28
20	General	28
20.1	Costs	28
20.2	Approvals and consents	28
20.3	Variation and waiver	28
20.4	Inconsistent law	28
20.5	Supervening law	28
20.6	Remedies cumulative	28
20.7	Prompt performance	29
20.8	Further assurances	29
20.9	Indemnities and reimbursement obligations	29
20.10	No merger	29
20.11	Serving documents	29
20.12	Counterparts	29
20.13	Rules of construction	29
20.14	Provisions prohibited by law	29
20.15	Severability	30
20.16	Governing law	30
20.17	Appointment of process agent	30
	Schedule 1 – Sale Assets Schedule	31
	Signing page	34
	Annexure A – Portfolio Loan Term Sheet	35
	Annexure B – Portfolio Leases Umbrella Deed	36

Umbrella Deed – Sale Contracts

Details

Parties	Seller, Buyer and PropCo Guarantor	
Recitals	A	The Sale Contracts have been (or will be) entered into on or about the date of this document, each between a Seller (as seller), a Buyer (as buyer) and PropCo Guarantor (as guarantor).
	B	The Seller, Buyer and PropCo Guarantor have agreed to enter into this document to supplement the provisions of those Sale Contracts.
Seller	Name	Each of the parties identified as a 'Seller' in Schedule 1
	Address	[#]
	Email	[#]
	Attention	[#]
Buyer	Name	Each of the parties identified as a 'Buyer' in Schedule 1
	Address	[#]
	Email	[#]
	Attention	[#]
PropCo Guarantor	Name	NorthWest Healthcare Properties Real Estate Investment Trust
	Address	180 Dundas Street West, Suite 1100, Toronto, Ontario, Canada M5G 1Z8
	Email	pdl@nwhreit.com with a copy to john.brewster@ashurst.com
	Attention	Chief Executive Officer
Governing law	Victoria	
Date of this document	See Signing page	

Umbrella Deed – Sale Contracts

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears.

Affiliate means, in respect of a party, a trust, fund, partnership or company which is:

- (a) Controlled by the relevant party; or
- (b) Controlled by an entity which Controls the relevant party; or
- (c) is Controlled by an entity which is a Related Body Corporate of an entity that Controls the relevant party; or
- (d) is a Related Body Corporate of the relevant party.

Authorised Officer means:

- (a) in the case of the Buyer and PropCo Guarantor, a director or secretary of the Buyer or PropCo Guarantor (as applicable), or any person who purports to be a “chief executive officer” or “executive vice president” of that party or any other person nominated by that party to act as an Authorised Officer for the purposes of this document;
- (b) in the case of the Seller, a director, secretary or any other person appointed by a party to act as an Authorised Officer for that party for the purpose of this document.

BidCo means:

- (a) in the context of a Scheme, VIG Bidco Pty Limited ACN 631 014 938; or
- (b) in the context of a Takeover Bid Transaction, BCP VIG Holdings LP.

Brookfield Group means BidCo and its Affiliates.

Business Day means a day on which banks are open for general banking business in Sydney, New South Wales and Melbourne, Victoria (not being a Saturday, Sunday or public holiday in either of those places).

Buyer means each of the parties identified as a ‘Buyer’ in Schedule 1.

Change of Control Event has the meaning it has in each Hospital Lease.

Commitment Deed means the commitment deed entered into prior to the date of this document between Healthscope, PropCo and PropCo Guarantor in respect of Healthscope procuring the sale of the Sale Assets to, and PropCo procuring the acquisition of the Sale Assets by, nominated Affiliates of PropCo.

Confidential Information means all Information disclosed or otherwise made available by the Seller or its Representatives to the Buyer or its Representatives in connection with this document, including:

- (a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Seller or any of its Related Bodies Corporate or Representatives;
- (b) proprietary or confidential information of a third party to whom the Seller or any of its Related Bodies Corporate owe an obligation of confidentiality;
- (c) information derived or produced partly or wholly from such information, including any calculation, conclusion, summary or computer modelling; and
- (d) information which is capable of protection at law or equity as confidential information or is otherwise confidential in nature,

whether the information was:

- (e) disclosed orally, in writing or in electronic or machine readable form; or
- (f) disclosed or created before, on or after the date of this document; or
- (g) disclosed as a result of discussions between the parties concerning or arising out of this document,

but excluding the Excluded Information.

Control means, with respect to any person (other than an individual), the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise, and for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this document, a fund advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person.

Corporations Act means the *Corporations Act 2001* (Cth).

Costs includes costs, charges and expenses, including those incurred in connection with advisers and any legal costs on a full indemnity basis.

Details means the section of this document headed 'Details'.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Excluded Information means Confidential Information:

- (a) which is in or becomes part of the public domain otherwise than through a breach of this document or other obligation of confidentiality owed to the Seller, its Related Bodies Corporate, its Representatives or a third party; or
- (b) which the Buyer can prove by contemporaneous written documentation was already known to it at the time it was disclosed, or otherwise made

available, by the Seller or its Related Bodies Corporate or its Representatives (unless such knowledge arose from disclosure of information in breach of an obligation owed to or by a third party); or

- (c) which the Buyer acquires from a third party entitled to disclose it.

FIRB Approval has the meaning it has in the Commitment Deed.

Funding Obligations means the obligations of PropCo (or any Affiliate of PropCo) in connection with:

- (a) making available the PropCo Bridge Loan under and in accordance with the PropCo Bridge Loan Documentation;
- (b) making available the Portfolio Loan under and in accordance with the Portfolio Loan Documentation; and
- (c) the payment of the purchase price (or any other amount) by the Buyer under each Sale Contract.

Healthscope means Healthscope Limited ACN 144 840 639.

Healthscope Financier means the financiers providing facilities to BidCo and/or Healthscope (or its subsidiaries) for the purpose of refinancing existing debt facilities (and including any refinancing of such facilities).

Healthscope Group has the meaning it has in the Implementation Deed.

Healthscope Operations means Healthscope Operations Pty Ltd ACN 006 405 152.

Hospital Lease means, in respect of a Sale Asset, the lease (in the form annexed to the Sale Contract in respect of that Sale Asset) to be granted by the relevant Seller to Healthscope before Settlement.

Implementation Deed means the implementation deed entered into between VIG Bidco Pty Limited ACN 631 014 938 and Healthscope prior to the date of this document.

Insolvency Event means, in relation to a person:

- (a) the person resolving that it be wound up or a court making an order for the winding up or dissolution of the person;
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the person or in relation to the whole, or a substantial part, of its assets;
- (c) the person being subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved or the person executing a deed of company arrangement;
- (d) the person ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this document;
- (e) the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation); or
- (f) the person being deregistered as a company or otherwise dissolved;

- (g) an application or order having been made (other than where the application or order (as the case may be) is set aside within 14 days), resolution passed, or any other action having been taken, in each case in connection with that entity, in respect of any of the things described in paragraphs (a) to (f) above;
- (h) the person is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (i) the person is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this document reasonably deduces it is so subject); or
- (j) something having a substantially similar effect to any of the things described in paragraphs (a) to (i) above happens in connection with that person under the law of any foreign jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved by the other parties to this document.

Portfolio Leases Umbrella Deed means a deed to be entered into between, among others, each Buyer (as landlord), Healthscope (as tenant) and Healthscope Operations (as guarantor) in the form in Annexure B ("Form of Portfolio Leases Umbrella Deed"), as completed in accordance with clause 9.

Portfolio Loan means the secured loan from PropCo or an Affiliate of PropCo to Healthscope (or any other member of the Healthscope Group as directed by BidCo) on the terms set out in the Portfolio Loan Term Sheet.

Portfolio Loan Documentation means a facility agreement and related finance documents (including security documents) in connection with the Portfolio Loan on the terms set out in the Portfolio Loan Term Sheet and as otherwise agreed between the parties.

Portfolio Loan Term Sheet means the term sheet attached as Annexure A to this document.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Process Agent means Ashurst, Lawyers, Level 26, 181 William Street, Melbourne VIC 3000 Attention: John Brewster.

Process Deed means the 'Process, Voting Commitment and Exclusivity Deed' entered into between VIG Bidco Pty Limited ACN 631 014 938 and PropCo Guarantor prior to the date of this document.

PropCo means NWH Australia AssetCo Pty Ltd ACN 617 449 948 as trustee of the NWH Australia Asset Trust.

PropCo Bridge Loan means the loan to be made available by PropCo or an Affiliate of PropCo to BidCo (or any other member of the Brookfield Group as directed by BidCo) on the terms set out in the PropCo Debt Commitment Letter.

PropCo Bridge Loan Documentation means a facility agreement and related finance documents (including security documents) in connection with the PropCo Bridge Loan on the terms set out in the PropCo Debt Commitment Letter and as otherwise agreed between the parties.

PropCo Debt Commitment Letter means the debt commitment letter entered into before the date of this document between PropCo (or an Affiliate of PropCo)

and BidCo (or any other member of the Brookfield Group as directed by BidCo) in connection with the PropCo Bridge Loan.

Related Body Corporate has the meaning given in the Corporations Act.

Relevant Subtenant means, in respect of a Sale Asset, the person described as 'Relevant Subtenant' for that Sale Asset in the table included at Schedule 1.

Representative of a party includes:

- (a) a Related Body Corporate of the party; and
- (b) an employee, agent, officer, director, auditor, adviser of that party.

Sale Asset means each real property asset described in Schedule 1.

Sale Contract means each of the sale contracts entered into by a Seller (as seller), a Buyer (as buyer) and PropCo Guarantor (as guarantor) in respect of a Sale Asset on or about the date of this document.

Scheduled Settlement Date means the 'Settlement Date' set out in the details of each Sale Contract, but disregarding any extension of that date effected under clause 4 of the Sale Contracts.

Scheme has the meaning it has in the Implementation Deed.

Scheme Meeting has the meaning it has in the Implementation Deed.

Scheme Meeting Date has the meaning it has in the Implementation Deed.

Seller means each of the parties identified as a 'Seller' in Schedule 1.

Settlement has the meaning it has in each Sale Contract.

Specified Encumbrance has the meaning it has in each Sale Contract.

Takeover Bid Transaction has the meaning it has in the Implementation Deed.

Termination Date means the date on which all Sale Contracts have been terminated.

Titles Office means, in respect of a Sale Asset, the office responsible for the registration of dealings and the administration of titles in the State or Territory of Australia where the Sale Asset is located.

1.2 References to certain general terms

Unless the contrary intention appears, in this document:

- (a) labels used for definitions are for convenience only and do not affect interpretation;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document (including this document) includes any variation, replacement or novation of it;

- (d) a reference to a clause, annexure or schedule is a reference to a clause in or annexure or schedule to this document;
- (e) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) the word “law” includes common law, principles of equity, and laws made by parliament (and laws made by parliament include State, Territory and Commonwealth laws and regulations and other instruments under them, and consolidations, amendments, re-enactments or replacements of any of them);
- (g) the singular includes the plural and vice versa;
- (h) the word “person” includes an individual, a firm, a body corporate, a partnership, joint venture, an unincorporated body or association, or any authority;
- (i) a reference to a body or authority includes a reference, if that body or authority ceases to exist, to the body or authority which has substantially the same functions and objects as the first body or authority;
- (j) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (k) a reference to a group of persons or things is a reference to any two or more of them jointly and to each of them individually;
- (l) a reference to Australian dollars, dollars, A\$ or \$ is a reference to the lawful currency of Australia;
- (m) if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (n) a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (o) a reference to accounting standards is a reference to the accounting standards as defined in the Corporations Act, and a reference to an accounting term is a reference to that term as it is used in those accounting standards, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia;
- (p) the words “including”, “for example” or “such as” when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind;
- (q) if an act under this document to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day;
- (r) a reference to time is a reference to the time in New South Wales; and
- (s) a reference to any thing (including any amount) is a reference to the whole and each part of it.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

1.4 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this document or any part of it.

1.5 Inconsistency

The parties agree and acknowledge that, in the event of an inconsistency between this document and a Sale Contract, this document prevails to the extent of the inconsistency.

1.6 Joint notices

Notwithstanding anything to the contrary, the parties agree and acknowledge that:

- (a) where a notice is given by or to any person comprising the Buyer, that notice is taken to be a notice given by or to (as applicable) all persons comprising the Buyer; and
- (b) where a notice is given by or to any person comprising the Seller, that notice is taken to be a notice given by or to (as applicable) all persons comprising the Seller.

2 Consideration

Each party acknowledges entering into this document and incurring obligations and giving rights under this document for valuable consideration received from each other party.

3 Term and termination of this document

This document commences on the date of this document and terminates on the Termination Date.

4 No interdependency of Sale Contracts

The parties agree and acknowledge that the Sale Contracts are not interdependent and that (without limitation) termination or rescission of a Sale Contract does not (unless this document states otherwise) constitute termination or rescission of any other Sale Contract.

5 Delays to settlement – Decline Notice

5.1 Definitions

For the purposes of this clause 5:

- (a) **Brookfield** means VIG Bidco Pty Limited ACN 631 014 938;
- (b) **Declined Delayed Settlement Property** means a Sale Asset which is a 'Scheme Declined Delayed Settlement Property' or a 'Takeover Declined Delayed Settlement Property' under the Process Deed as a result of a Decline Notice;

- (c) **Declined Delayed Settlement Contract** means a Sale Contract in respect of a Declined Delayed Settlement Property;
- (d) **Decline Notice** means a NWH Delayed Settlement Properties Notice given (or deemed to be given) under clause 10.2(c)(ii) or clause 10.2(d)(iv) of the Process Deed; and
- (e) **NWH Delayed Settlement Properties Notice** has the meaning given in the Process Deed.

5.2 Copy of notice

PropCo Guarantor must (on the same day it gives a Decline Notice to Brookfield under the Process Deed) give a copy of the Decline Notice to the Seller and Healthscope.

5.3 Termination

Where a Decline Notice is given (or deemed to be given) under and in accordance with the Process Deed (in respect of which time is of the essence), then each of the Declined Delayed Settlement Contracts is terminated with effect on the date the Decline Notice is given (or deemed to be given).

5.4 Consequences of termination

If a Declined Delayed Settlement Contract is terminated under clause 5.3 ("Termination"), then, in addition to any other rights, powers or remedies provided under the Declined Delayed Settlement Contract, this document or at law:

- (a) if the Buyer, or anyone claiming through the Buyer, has lodged a caveat on the title to the Declined Delayed Settlement Properties, then the Buyer must withdraw (or procure the withdrawal of) that caveat within 5 Business Days of the date of termination or do everything necessary to ensure that the caveat is withdrawn within 5 Business Days of the date of termination;
- (b) each party retains the rights it has against any other party in connection with any breach of the Declined Delayed Settlement Contract arising before termination;
- (c) the parties must enter into such documentation as is required by the Seller acting reasonably to vary the Portfolio Leases Umbrella Deed by:
 - (i) the removal of the 'Buyer' under each Declined Delayed Settlement Sale Contract as a party to the Portfolio Leases Umbrella Deed (except to the extent they are also party to that document as 'Landlord' in respect of any Sale Asset that is not a Declined Delayed Settlement Property);
 - (ii) decreasing the amount of the 'Brownfield Funding Commitment' in the definitions in clause 1.1 to be the amount calculated by dividing the aggregate sale prices under all Sale Contracts (less the aggregate sale prices under the Declined Delayed Settlement Contracts) by \$1,258,115,524 and multiplying the resulting amount by \$500,000,000;
 - (iii) decreasing the amount of the 'Initial Capex Commitment' in the definitions in clause 1.1 to be the amount calculated by dividing the aggregate sale prices under all Sale Contracts (less the aggregate sale prices under the Declined Delayed Settlement

Contracts) by \$1,258,115,524 and multiplying the resulting amount by \$50,000,000;

- (iv) in clause 3.2(b), replacing '\$50,000,000' each time it appears with the amount calculated by dividing the aggregate sale price under all Sale Contracts (less the aggregate sale prices of the Declined Delayed Settlement Contracts) by \$1,258,115,524 and multiplying the resulting amount by \$50,000,000;
- (v) removing any rows relating to the Declined Delayed Settlement Properties from the table in schedule 1;
- (vi) replacing schedule 2 with a new schedule which is as prepared by the Seller acting reasonably and having regard to the principles that:
 - (A) each Sale Asset (excluding the Declined Delayed Settlement Properties) is to be included in a 'Pool' under the Portfolio Leases Umbrella Deed (**Pool**);
 - (B) the Declined Delayed Settlement Properties are not to be included in any Pool; and
 - (C) the allocation of the Sale Properties (excluding Declined Delayed Settlement Properties) to Pools should generally give effect to an apportionment of value (in each case determined by reference to the sale price of the Sale Properties (excluding Declined Delayed Settlement Properties) under the Sale Contracts (excluding the Declined Delayed Settlement Contracts) such that:
 - (aa) the Sale Properties (excluding Declined Deferred Sale Properties) allocated to Pool A constitute approximately 70% of the aggregate value of all Sale Properties (excluding Declined Delayed Settlement Properties);
 - (ab) the Sale Properties (excluding Declined Delayed Settlement Properties) allocated to Pool B constitute approximately 15% of the aggregate value of all Sale Properties (excluding Declined Delayed Settlement Properties); and
 - (ac) the Sale Properties (excluding Declined Delayed Settlement Properties) allocated to Pool C constitute approximately 15% of the aggregate value of all Sale Properties (excluding Declined Delayed Settlement Properties);
- (vii) removing any rows relating to the Declined Delayed Settlement Properties from the table in schedule 3; and
- (viii) removing any rows relating to the Declined Delayed Settlement Properties from the table in schedule 5; and
- (d) neither PropCo nor any of its Affiliates shall have any other liability to the Brookfield Group or the Healthscope Group in connection with a termination of Declined Delayed Settlement Contracts in accordance with

clause 5.3, provided that nothing in this clause 5.4(d) affects, limits or reduces any liability of PropCo or its Affiliates arising from a breach or default by PropCo or its Affiliates under this document, the Process Deed or any other 'NWH Property Transaction Document' (as defined in the Process Deed) occurring before that termination (or after termination under a document that is not terminated).

6 Loan repayment triggers

6.1 Termination

The Seller may terminate any or all of the Settlement Date Delayed Settlement Contracts (as defined in clause 6.1(a) below) which have not yet settled by giving a notice to the Buyer, if:

- (a) the Sale Contract failed to settle on the Scheduled Settlement Date (each such Sale Contract being a **Settlement Date Delayed Settlement Contract**); and
- (b) the lender under the Portfolio Loan or PropCo Bridge Loan (as applicable):
 - (i) requires mandatory prepayment under the Portfolio Loan Documentation or PropCo Bridge Loan Documentation as contemplated under clause 11.5(b) of the Process Deed;
 - (ii) does not provide a 'Loan Extension Notice' under clause 11.5(c) of the Process Deed; or
 - (iii) provides a 'Loan Extension Notice' under clause 11.5(c) of the Process Deed, but an amount of the Portfolio Loan or PropCo Bridge Loan (as applicable) remains drawn on the 'Extended Loan Repayment Date' under the Process Deed.

6.2 Consequences of termination

If a Settlement Date Delayed Settlement Contract is terminated under clause 6.1 ("Termination"), then, in addition to any other rights, powers or remedies provided under the Deferred Sale Contract, this document or at law:

- (a) if the Buyer, or anyone claiming through the Buyer, has lodged a caveat on the title to the relevant Sale Assets, then the Buyer must withdraw (or procure the withdrawal of) that caveat within 5 Business Days of the date of termination or do everything necessary to ensure that the caveat is withdrawn within 5 Business Days of the date of termination;
- (b) each party retains the rights it has against any other party in connection with any breach of the Settlement Date Delayed Settlement Contract arising before termination.

7 PropCo default

7.1 Termination

Subject to clause 7.2, the Seller may terminate any or all of the Sale Contracts by giving a notice to the Buyer, if:

- (a) the PropCo Bridge Loan Documentation or the Portfolio Loan Documentation is not:
 - (i) agreed by the respective parties to that documentation within 60 days after the date of the Commitment Deed (with time being of the essence in such respect); and
 - (ii) executed and delivered by the lender and borrower parties to that documentation before the Scheme Meeting Date (with time being of the essence in such respect);
- (b) the lender under the PropCo Bridge Loan fails to make an advance of funds to the borrower when required to do so under the PropCo Bridge Loan Documentation;
- (c) the lender under the Portfolio Loan fails to make an advance of funds to the borrower when required to do so under the Portfolio Loan Documentation;
- (d) a 'PropCo Default' occurs as described in paragraph (a) of the definition of that term under the Commitment Deed; or
- (e) any other 'PropCo Default' occurs under the Commitment Deed.

The Seller agrees to, prior to making an election to terminate some (but not all) Sale Contracts under this clause 7.1 (and in selecting which Sale Contracts will not be terminated as a result of that election), have regard to the nature of the event that gave rise to the termination right and whether that event will prevent the Seller being able to perform its obligations under any Sale Contracts that are not terminated.

7.2 Cure period

- (a) The Seller may not under clause 7.1 terminate any or all of the Sale Contracts in respect of the circumstances described in paragraph (d) of clause 7.1 without having first given the Buyer notice in writing requiring the Buyer to remedy the breach or circumstances within a reasonable period of time (being not less than 2 Business Days in any case) to be stated in the notice. If the Buyer fails to remedy the breach or circumstances within that reasonable period, the Seller has the right to terminate this document by giving notice in writing to the Buyer at any time before the breach or circumstance is remedied. No right to terminate shall arise where the breach or circumstance was caused by an incident or delay which is short-term and which will not materially adversely impact the Seller or BidCo.
- (b) If respect of the circumstances described in paragraphs (a), (b), (c) and (e) of clause 7.1, subject to clause 7.2(c) the Seller has the right to terminate this document by giving notice in writing to the Buyer and clause 7.2(a) does not apply.
- (c) The parties agree:
 - (i) to act reasonably and in good faith in agreeing the form of, and executing, the PropCo Bridge Loan Documentation and Portfolio Loan Documentation;
 - (ii) that a party (or in the case of the PropCo Bridge Loan Documentation, BidCo) will be deemed to be acting unreasonably

if it fails to agree to finance documentation that is on the terms specified in the PropCo Debt Commitment Letter or Portfolio Loan Term Sheet and otherwise on customary terms; and

- (iii) the Seller is not entitled to exercise its right to terminate under clause 7.1(a) to the extent the failure to agree, execute and deliver PropCo Bridge Loan Documentation and Portfolio Loan Documentation in the required timeframe was caused by the Seller's breach of clause 7.2(c)(i) or a failure by BidCo to act reasonably and in good faith in agreeing the form of, and executing, the PropCo Bridge Loan Documentation.

7.3 Consequences of termination

If a Sale Contract is terminated under clause 7.1 ("Termination") or clause 7.2 ("Cure period"), then, in addition to any other rights, powers or remedies provided under the Sale Contract, this document or at law:

- (a) if the Buyer, or anyone claiming through the Buyer, has lodged a caveat on the title to the relevant Sale Assets, then the Buyer must withdraw (or procure the withdrawal of) that caveat within 5 Business Days of the date of termination or do everything necessary to ensure that the caveat is withdrawn within 5 Business Days of the date of termination;
- (b) each party retains the rights it has against any other party in connection with any breach of the Sale Contract arising before termination.

8 Implementation Deed termination

8.1 Termination

If the Implementation Deed is terminated prior to the date of the Scheme Meeting, then:

- (a) all of the Sale Contracts will terminate on the same day as the Implementation Deed is terminated; and
- (b) the Seller must promptly notify the Buyer of that termination.

8.2 Consequences of termination

If the Sale Contracts are terminated under clause 8.1 ("Termination"), then, in addition to any other rights, powers or remedies provided under this document, a Sale Contract or at law:

- (a) if a Buyer, or anyone claiming through a Buyer, has lodged a caveat on the title to any Sale Asset, then the Buyer must lodge (or procure the lodgement of) a withdrawal of caveat at the Titles Office in respect of that caveat within 5 Business Days of the date of termination or do everything necessary to ensure that the caveat is withdrawn within 5 Business Days of the date of termination; and
- (b) each party retains the rights it has against any other party in connection with any breach of this document or a Sale Contract arising before termination.

9 Seller's novation election

- (a) Where the Seller is entitled to terminate a Sale Contract the Seller may (in its absolute discretion) instead of terminating that Sale Contract require the Buyer (by notice to the Buyer) to assign, transfer or novate its interest under the Sale Contract to a person notified by the Seller (**Transferee**).
- (b) If the Seller gives a notice under clause 9(a) then the Buyer agrees to comply with the requirements notified by the Seller acting reasonably (including entering into appropriate assignment, transfer or novation documentation) provided that:
 - (i) the Buyer is released from its obligations under the Sale Contract with effect on the assignment, transfer or novation;
 - (ii) the Buyer is not required to assume any unusual or onerous obligations under the assignment, transfer or novation documentation (and is not required to provide any warranties);
 - (iii) the Seller or the Transferee pays or reimburses to the Buyer any amount of stamp duty that the Buyer would have been entitled to receive as a refund from the relevant revenue or duties office if the Sale Contract had instead been terminated; and
 - (iv) any stamp duty associated with the assignment, transfer or novation is the responsibility of the Seller or the Transferee.

10 Consents to Change in Control and sublease

- (a) For the purposes of clause 12.5(a) of each Hospital Lease, each Buyer consents (as landlord under each Hospital Lease) to any Change of Control Event that occurs with respect to Healthscope (as tenant under each Hospital Lease) as a result of the Scheme or any Takeover Bid Transaction.
- (b) For the purposes of clause 12.3(a) of each Hospital Lease, each Buyer consents (as landlord under each Hospital Lease) to any sublease for the premises under the relevant Hospital Lease entered into between Healthscope and the Relevant Subtenant.
- (c) The Seller holds the benefit of clauses 10(a) and 10(b)) on trust for Healthscope.
- (d) This clause 10 will not merge upon Settlement and will continue to apply after expiration or termination of this document.

11 Portfolio Leases Umbrella Deed

11.1 Preparation of Portfolio Leases Umbrella Deed

Within 5 Business Days of the date of this document the Buyer must deliver to the Seller:

- (a) the Portfolio Leases Umbrella Deed (in triplicate):
 - (i) completed by:

- (A) inserting in the 'Details' section:
 - (aa) the address and attention particulars of the Buyer (as relevant landlord);
 - (ab) the address and attention particulars of Healthscope (as tenant); and
 - (ac) the address and attention particulars of Healthscope Operations (as guarantor); and
- (B) inserting in schedule 1, the details of each Buyer (as relevant landlord); and
- (C) inserting on the signing page appropriate execution blocks for all parties; and
- (ii) executed by each Buyer either:
 - (A) as prescribed under section 127 of the Corporations Act; or
 - (B) by an attorney under a power of attorney; and
- (b) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the Portfolio Leases Umbrella Deed is executed by each Buyer.

11.2 Execution and escrow

Promptly after receipt of the documents under clause 11.1, each Seller must:

- (a) procure that Healthscope executes the Portfolio Leases Umbrella Deed (in triplicate) provided under clause 11.1 either:
 - (i) as prescribed under section 127 of the Corporations Act; or
 - (ii) by an attorney under a power of attorney;
- (b) procure that Healthscope Operations executes the Portfolio Leases Umbrella Deed (in triplicate) provided under clause 11.1 either:
 - (i) as prescribed under section 127 of the Corporations Act; or
 - (ii) by an attorney under a power of attorney; and
- (c) otherwise hold the Portfolio Leases Umbrella Deed (in triplicate) in escrow pending the earliest date on which a Sale Contract is Settled (that date being the **Effective Date**).

11.3 Finalisation and release

Promptly on or after the Effective Date:

- (a) the Seller must (and is authorised to) procure that the Portfolio Leases Umbrella Deed is completed by:
 - (i) dating the Portfolio Leases Umbrella Deed as the Effective Date;
 - (ii) completing the Portfolio Leases Umbrella Deed by including the Effective Date as the 'Effective Date'; and

- (b) the Seller must provide to the Buyer:
 - (i) one original of the fully executed Portfolio Leases Umbrella Deed;
 - (ii) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the Portfolio Leases Umbrella Deed is executed by Healthscope; and
 - (iii) if applicable, a copy of the power of attorney (registered or certified (as applicable)), under which the Portfolio Leases Umbrella Deed is executed by Healthscope Operations,.

and the Buyer acknowledges and agrees that the delivery of the original fully executed Portfolio Leases Umbrella Deed in accordance with this clause 11.3 satisfies the obligations of the Seller under clause 1.1(i) of Schedule 3 in each Sale Contract.

11.4 Binding agreement

The Portfolio Leases Umbrella Deed:

- (a) will be dated (or taken to be dated) as of the Effective Date;
- (b) binds each Buyer, Healthscope and Healthscope Operations from the Effective Date; and
- (c) binds each Buyer, Healthscope and Healthscope Operations even though:
 - (i) the Seller does not comply with (or procure compliance by Healthscope or Healthscope Operations with) clause 11.2 or clause 11.3; or
 - (ii) the Buyer does not comply with clause 11.1,

and the Buyer may not delay in completing or rescind or terminate the relevant Sale Contract or take any action, or make any claim against the Seller, arising from or in connection with the Buyer's non-compliance.

11.5 Right to rectify

The Seller may do anything which the Buyer should have done under this clause 11 but which the Buyer either has not done, or in the Seller's opinion, has not done properly. If the Seller does so, the Buyer agrees to pay the Buyer's Costs on demand.

12 Guarantee and indemnity

12.1 Consideration

PropCo Guarantor acknowledges that the Seller:

- (a) enters into this document at the request of PropCo Guarantor; and
- (b) is acting in reliance on PropCo Guarantor incurring obligations and giving rights under this guarantee.

12.2 Guarantee

- (a) PropCo Guarantor unconditionally and irrevocably guarantees to the Seller the Buyer's compliance with the Buyer's obligations in connection with this document, including each obligation to pay money.
- (b) PropCo Guarantor agrees to comply with those obligations on demand from the Seller if:
 - (i) the Buyer does not comply with those obligations on time and in accordance with this document;
 - (ii) an obligation the Buyer would otherwise have under this document is found to be void, voidable or unenforceable as a result of or in connection with:
 - (A) any act or omission of the Buyer; or
 - (B) the nature or constituent documents of the Buyer entity; or
 - (iii) an Ipso Facto Event occurs. An **Ipso Facto Event** means the Buyer is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, or administration as described in section 415D(1), 434J(1) or 451E(1) of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

A demand may be made whether or not the Seller has made demand on the Buyer.

12.3 Indemnity

PropCo Guarantor indemnifies the Seller against, and agrees to reimburse and compensate the Seller for, any liability or loss arising, and any Costs it incurs, if:

- (a) the Buyer does not, or is unable to, perform an obligation it has (including an obligation to pay money) in connection with this document;
- (b) an obligation the Buyer would otherwise have under this document (including an obligation to pay money) is found to be void, voidable or unenforceable as a result of or in connection with:
 - (C) any act or omission of the Buyer; or
 - (D) the nature or constituent documents of the Buyer entity;
- (c) an obligation PropCo Guarantor would otherwise have under clause 12.2 ("Guarantee") is found to be void, voidable or unenforceable;
- (d) a representation or warranty by the Buyer in this document is found to have been incorrect or misleading (including by omission) when made or taken to be made;
- (e) a liquidator disclaims this document; or
- (f) an Insolvency Event occurs in relation to the Buyer.

PropCo Guarantor agrees to pay amounts due under this indemnity on demand from the Seller.

12.4 Extent of guarantee and indemnity

Each of the guarantee in clause 12.2 ("Guarantee") and the indemnity in clause 12.3 ("Indemnity") is a continuing obligation despite any intervening payment, settlement or other thing (including completion) and extends to all of the Buyer's obligations in connection with this document. PropCo Guarantor waives any right it has of first requiring the Seller to make demand, commence proceedings or enforce any other right against the Buyer or any other person before claiming from PropCo Guarantor under this guarantee.

12.5 Acknowledgment

PropCo Guarantor acknowledges that before signing this document, and incurring obligations and giving rights under this guarantee, it:

- (a) was given a copy of this document (and all documents giving rise to an obligation of the Buyer in connection with this document) and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of the Buyer and any other person who guarantees any of the Buyer's obligations in connection with this document.

12.6 Rights of the Seller are protected

Rights given to the Seller under this guarantee, and PropCo Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 12.2 ("Guarantee") are expressed to be owing;
 - (ii) releasing the Buyer or giving the Buyer a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Buyer's obligations;
 - (iv) by which a person becomes a Guarantor after the date of this document;
 - (v) by which the obligations of any person who guarantees any of the Buyer's obligations (including under this Guarantee) may become unenforceable;
 - (vi) by which any person who was intended to guarantee any of the Buyer's obligations does not do so, or does not do so effectively; or
 - (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with this document, including this guarantee;
- (c) the death, mental or physical disability, or Insolvency Event in relation to any person including PropCo Guarantor or the Buyer;

- (d) changes in the membership, name or business of any person;
- (e) acquiescence or delay by the Seller or any other person; or
- (f) a liquidator disclaiming this document.

12.7 No merger

This guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Seller is entitled; or
- (b) a judgment which the Seller obtains against PropCo Guarantor, the Buyer or any other person in connection with this document.

The Seller may still exercise its rights under this guarantee as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

12.8 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this document, PropCo Guarantor may not, without the Seller's written consent:

- (a) reduce its liability under this guarantee by claiming that it or the Buyer or any other person has a right of set-off or counterclaim against the Seller;
- (b) claim or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity (or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with this document or any other amount payable under this guarantee;
- (c) claim an amount from the Buyer, or another guarantor (including a person who has signed this document as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the Insolvency of the Buyer or of another guarantor of any of the Buyer's obligations (including a person who has signed this document as a "Guarantor").

This clause continues after this guarantee ends.

12.9 Reinstatement of rights

Under law relating to insolvency, a person may claim that a transaction (including a payment) in connection with this document (including this guarantee) is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Seller is immediately entitled as against PropCo Guarantor to the rights in connection with this document (including this guarantee) to which it was entitled immediately before the transaction; and
- (b) on request from the Seller, PropCo Guarantor agrees to do anything (including signing any document) to restore to the Seller any Encumbrance (including this guarantee) held by it from PropCo Guarantor immediately before the transaction.

PropCo Guarantor's obligations under this clause are continuing obligations, independent of PropCo Guarantor's other obligations under this guarantee and continue after this guarantee ends.

12.10 Extent of Guarantor's obligations

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this guarantee both individually and jointly with any one or more other persons named as "guarantor".

12.11 Dealing with interests

The Seller may assign or otherwise deal with its rights under this guarantee in any way it considers appropriate. If the Seller does this, PropCo Guarantor may not claim against any assignee (or any other person who has an interest in this guarantee) any right of set-off or other rights PropCo Guarantor has against the Seller.

12.12 Costs

PropCo Guarantor agrees, within 5 Business Days of demand, to pay or reimburse the Seller's Costs of exercising, enforcing or preserving rights, powers or remedies (or considering doing so) in connection with this guarantee, or doing anything in connection with any enquiry by an authority involving PropCo Guarantor, its assets, this guarantee or anything in connection with them.

PropCo Guarantor agrees to pay for anything that it agrees to do under this guarantee.

12.13 Obligation to pay interest

PropCo Guarantor agrees to pay interest on any amount under this guarantee which:

- (a) is not paid on the due date for payment; and
- (b) is not otherwise incurring interest.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

PropCo Guarantor agrees to pay interest under this clause on demand from the Seller.

12.14 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

12.15 Compounding

Interest accrued but which has not been paid under clause 12.13 ("Obligation to pay interest") is added to the overdue amount at the end of each period of 30 days (or any other period the Seller reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is

payable on the increased overdue amount at the rate set out in clause 12.14 ("Rate of interest") and in the manner set out in clause 12.13 ("Obligation to pay interest").

12.16 Payments

PropCo Guarantor agrees to make payments under this guarantee to the Seller (or to a person nominated by the Seller in a notice to PropCo Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction (unless that deduction is required by law); and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in immediately available funds.

12.17 Essential term

PropCo Guarantor's compliance with its obligations under this guarantee is an essential term of this document.

12.18 Guarantor to sign contract

The Buyer agrees to ensure that PropCo Guarantor signs this document as guarantor. The Buyer's obligation under this clause is an essential term of this document.

12.19 Document not binding on certain persons

The obligations of the PropCo Guarantor under this document are not personally binding upon any:

- (a) trustee, officer, employee or agent of the PropCo Guarantor or any successor;
- (b) any registered or beneficial holder of units in the NorthWest Healthcare Properties Real Estate Investment Trust (a **Unitholder**); or
- (c) any annuitant under a plan of which a Unitholder acts as a trustee or carrier,

and resort shall not be had to, nor shall recourse or satisfaction be sought from any of the foregoing or the private property of any of the foregoing.

13 Representations and warranties

13.1 Capacity representations and warranties

Each party (**Warranting Party**) represents and warrants to each other party that:

- (a) where the Warranting Party is a company, it is a company limited by shares incorporated, or taken to be incorporated, and existing under the Corporations Act;
- (b) the Warranting Party has full legal capacity and power to enter into, exercise its rights and perform its obligations under this document;
- (c) all conditions and things required by law to be fulfilled or done in order to enable the Warranting Party lawfully to enter into, and exercise its rights

and perform its obligations under this document, have been fulfilled or done other than obtaining FIRB Approval;

- (d) this document constitutes valid and legally binding obligations, enforceable against the Warranting Party in accordance with its terms, except to the extent limited by equitable principles and the law regarding creditors' rights generally;
- (e) neither the Warranting Party's execution of, nor its exercise of rights or performance of its obligations under, this document does or will:
 - (i) contravene any law to which it or any of its property is subject; or
 - (ii) contravene any approval, authorisation, consent or exemption required by any applicable statute or law; or
 - (iii) contravene any undertaking or instrument binding it or any of its property; or
 - (iv) if it is a company, contravene any provisions of its constitution; and
- (f) no Insolvency Event has occurred in respect of the Warranting Party.

13.2 Trustee representations and warranties

- (a) Where a party (**Trustee**) enters into this document as trustee of a trust (**Trust**), that party represents and warrants to each other party that:
 - (i) the details of the Trust are accurately described in the Details;
 - (ii) the Trust has been duly established;
 - (iii) it is the only trustee of the Trust;
 - (iv) it has been validly appointed as trustee of the Trust and no action has been taken or proposed to remove it as trustee of the Trust;
 - (v) true copies of the Trust Deed (including any amending documents) have been provided to the other parties and disclose all the terms of the Trust;
 - (vi) it has power under the terms of the Trust to enter into this document and comply with its obligations under it;
 - (vii) it has in full force and effect the authorisations necessary for it to enter into this document, perform obligations under it and allow it to be enforced (including any authorisation required under the Trust Deed and its constitution (if any));
 - (viii) it has a right to be fully indemnified out of the Trust Property in respect of obligations incurred by it under this document;
 - (ix) the Trust Property is sufficient to satisfy that right of indemnity and all other obligations in respect of which the Trustee has a right to be indemnified out of the Trust Property;
 - (x) it is not in default under the Trust Deed;
 - (xi) no action has been taken or proposed to terminate the Trust;

- (xii) it and its directors and other officers have complied with their obligations in connection with the Trust;
 - (xiii) the Seller's rights under this document rank in priority to the interests of the beneficiaries of the Trust;
 - (xiv) it has not exercised its powers under the Trust Deed to release, abandon or restrict any power conferred on it by the Trust Deed; and
 - (xv) entry into this document is a valid exercise of its powers under the Trust Deed for the benefit of the beneficiaries.
- (b) The Trustee undertakes:
- (i) at the request of any other party, to exercise its right of indemnity from the Trust Property in respect of obligations incurred by it under this document;
 - (ii) not to create an encumbrance, or allow one to exist, over its right of indemnity from the Trust Property; and
 - (iii) to comply with its obligations as trustee of the Trust.
- (c) For the purpose of this clause 13.2:
- (i) **Trust Property** means all the Trustee's rights, property and undertaking which are the subject of the Trust:
 - (A) of whatever kind and wherever situated; and
 - (B) whether present or future; and
 - (ii) **Trust Deed** means the trust deed establishing the Trust.

13.3 When made

The representations and warranties made in clause 13.1 and clause 13.2 are taken to be made on the date of this document.

13.4 Reliance

- (a) The Buyer acknowledges that the Seller has entered into this documents in reliance on the Buyer's representations and warranties in this clause 13.
- (b) The Seller acknowledges that the Buyer has entered into this documents in reliance on the Seller's representations and warranties in this clause 13.

14 Confidentiality and announcements

14.1 Obligations of confidentiality

Subject to clause 14.2 and clause 14.4, no Confidential Information relating to this document may be disclosed by any party to any person except:

- (a) to officers and employees of the parties and the Related Bodies Corporate of the parties requiring the information for the purposes of this document; or
- (b) to professional advisers and financiers of a party requiring the information for the purposes of this document (if the relevant person has entered into a confidentiality undertaking in favour of the other parties in the form of this clause with necessary changes); or
- (c) for the purpose of making any application to any Authority or third party for any approval, consent or non-objection to the transaction contemplated by this document; or
- (d) with the consent of the party who supplied the information; or
- (e) if a party is required to do so by law or by a stock exchange; or
- (f) if a party is required to do so in connection with legal proceedings relating to this document.

14.2 Announcements and press releases

Subject to clause 14.4, a party may not make press or other announcements or releases relating to this document or the transactions the subject of this document without the approval of the other parties (such approval not to be unreasonably withheld) as to the form and manner of the announcement or release unless, and to the extent that, the announcement or release is required to be made by the party by law or by a stock exchange, in which case the party giving the announcement or release must first notify (including with reasonable details of the proposed announcement or release) the other parties a reasonable time (having regard to the time within which the announcement must be made), and must take into account (and reflect in the announcement or release to the extent it considers appropriate acting reasonably) any reasonable comments received from the other parties, before the announcement or release is made.

14.3 Other confidentiality obligations

Subject to clause 14.2 and clause 14.4, if the parties' obligations under this clause 14 are inconsistent with their obligations to each other under another confidentiality undertaking, then their obligations under this clause 14 prevail to the extent of the inconsistency.

14.4 Disclosure to BidCo

Clause 14.1 does not apply in respect of the disclosure by any party of (or otherwise prohibit or restrict any party from disclosing) any confidential information to BidCo or any Affiliate or Representative of BidCo.

15 Encumbrances

The Buyer and PropCo Guarantor acknowledge that:

- (a) the Seller will grant to the Healthscope Financier (or a security trustee acting on its behalf) an Encumbrance over its rights under, and interest in, this document;
- (b) the Seller will grant to the Healthscope Financier (or a security trustee acting on its behalf) an Encumbrance over their rights under, and interest in, the Sale Contracts, the Sale Assets and each Hospital Lease; and

- (c) the grant of any such Encumbrance referred to in clause 15(a) and clause 15(b) will not constitute a breach of this document.

16 No dealings

16.1 No assignment

Subject to clause 15:

- (a) the Seller may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or to be varied in each case, without the written consent of the Buyer; and
- (b) the Buyer may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or to be varied in each case, without the written consent of the Seller.

16.2 No nomination

The Buyer must not nominate a substitute or additional buyer under this document without the written consent of the Seller.

17 GST

17.1 Definitions and interpretation

For the purposes of this clause 17:

- (a) “**GST Act**” means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth);
- (b) words and phrases which have a defined meaning in the GST Act have the same meaning when used in this clause 17, unless the contrary intention appears;
- (c) unless otherwise expressly stated in this document, all consideration to be provided under this document is exclusive of GST; and
- (d) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

17.2 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply (**GST Amount**).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

17.3 Adjustment events

If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

17.4 Reimbursements

Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 17.2 will apply to the reduced payment.

17.5 Survival

This clause will not merge upon completion and will continue to apply after expiration or termination of this document.

18 Trustee limitation of liability

18.1 Trustee

The Trustee enters into this document in its capacity as trustee of the Trust.

18.2 Limitation of Trustee's liability

- (a) The Trustee enters into this document only in its capacity as trustee of the Trust and in no other capacity. A liability arising under or in connection with this document is limited to and can be enforced against the Trustee only to the extent to which it is actually indemnified out of the Trust Property out of which the Trustee is entitled to be, indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this document and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (b) The parties, other than the Trustee, may not sue the Trustee under or in respect of this document in any capacity other than as trustee of the Trust, including the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Trustee or prove in any liquidation, administration or arrangement of or affecting the Trustee (except in relation to property of the Trust).
- (c) The Trustee does not have to incur any obligation under this document unless its liability in respect of that obligation is limited in the same manner as in this clause 18.2.
- (d) The provisions of this clause 18.2 will not apply to any obligation or liability of the Trustee to the extent that it is not satisfied because under the Trust Deed or by operation of law there is a reduction in the extent of the Trustee's indemnification out of the assets of the Trust, as a result of the Trustee's fraud, negligence or breach of trust.
- (e) No act or omission by the Trustee will constitute fraud, negligence or breach of trust for the purpose of clause 18.2(d) to the extent to which

the act or omission was caused or contributed to by the failure of any other party to this document to comply with its obligations to the Trust or by any act or omission of that party.

18.3 Override

This clause 18 applies despite any other provision of this document or any principle of equity or law to the contrary.

18.4 Definition

In this clause 18 "**Trustee**" means each party that is expressed to enter into this document as trustee or is expressed to be a trust.

18.5 Multiple trustee capacities

Where a person is expressed to enter into this document as trustee of more than one trust, this clause 16 is to be read such that the person constitutes a different "Trustee" for each trust.

19 Notices and other communications

19.1 Form

Unless expressly stated otherwise in this document, all notices, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender and (except in the case of email) marked for the attention of the person identified in the Details or, if the recipient has notified otherwise, then marked for attention in the way last notified.

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

19.2 Delivery

Communications must be:

- (a) left at the address set out or referred to in the Details; or
- (b) sent by regular ordinary post (airmail, if appropriate) to the address set out or referred to in the Details; or
- (c) sent by email to the address referred to in the Details; or
- (d) given in any other way permitted by law.

However, if the intended recipient has notified a changed address, then communications must be to that address, email address or number.

19.3 When effective

Communications take effect from the time they are received or taken to be received under clause 19.4 (whichever happens first) unless a later time is specified.

19.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, six Business Days after posting (or ten days after posting if sent from one country to another);
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

19.5 Receipt outside business hours

Despite clauses 19.3 and 19.4, if communications are received or taken to be received under clause 19.4 after 5.00pm in the place of receipt or on a non-Business Day, they are to be taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

20 General

20.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document.

20.2 Approvals and consents

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the approval or consent.

20.3 Variation and waiver

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

20.4 Inconsistent law

To the extent the law permits, this document prevails to the extent it is inconsistent with any law.

20.5 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this document with the result that the party's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

20.6 Remedies cumulative

The rights and remedies provided in this document are in addition to other rights, powers and remedies given by law independently of this document.

20.7 Prompt performance

Each party agrees to perform its obligations under this document promptly, unless a specific time for performance is expressly stated in this document.

20.8 Further assurances

Each party agrees to (on request by any other party from time to time) do everything reasonably necessary to give effect to this document and the transactions contemplated by it.

20.9 Indemnities and reimbursement obligations

Any indemnity, reimbursement or similar obligation in this document:

- (a) is a continuing obligation despite the satisfaction of any payment or other obligation in connection with this document, any settlement or any other thing;
- (b) is independent of any other obligations under this document; and
- (c) continues after this document, or any obligation arising under it, ends.

It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity in connection with this document.

20.10 No merger

The representations, warranties and undertakings in this document do not merge on the Termination Date or termination of this document.

20.11 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 19.

20.12 Counterparts

- (a) This document may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document.
- (b) A party that has signed a copy of this document may exchange it with another party by emailing or faxing the executed copy to that other party (or its solicitors) and, if requested by that other party, will promptly deliver the original copy by express post or courier. Failure to make that delivery will not affect the validity or enforceability of this document.

20.13 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it.

20.14 Provisions prohibited by law

If any provision of this document, or any obligation, right, power or remedy created by a provision:

- (a) is prohibited by a law;

- (b) does not comply with a law; or
- (c) is made unenforceable by a law,

the provision is to be interpreted so that to the extent the law permits, the provision, and any obligation, right power or remedy created by it, is not prohibited, complies with the law and is enforceable.

20.15 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

20.16 Governing law

This document is governed by the law in force in the place specified in the Details and the parties submit to the non-exclusive jurisdiction of the courts of that place.

20.17 Appointment of process agent

Without preventing any method of service allowed under any relevant law, PropCo Guarantor:

- (a) irrevocably appoints the Process Agent as its process agent to receive any document in an action in connection with this document; and
- (b) agrees that failure by a process agent to notify PropCo Guarantor of any document in an action in connection with this document does not invalidate the action concerned.

If for any reason the Process Agent ceases to be able to act as process agent, PropCo Guarantor agrees to appoint another person acceptable to the Seller (acting reasonably) as its process agent in the place referred to in clause 20.16 and ensure that the replacement process agent accepts its appointment and confirms its appointment to the Seller.

PropCo Guarantor represents and warrants that the Process Agent has, before the date of this document, accepted its appointment as the process agent.

PropCo Guarantor agrees that service of documents on its process agent is sufficient service on it.

EXECUTED as a deed.

Umbrella Deed – Sale Contracts

Schedule 1 – Sale Assets Schedule

#	Hospital	Sale Asset – Land Details	Seller	Buyer	Relevant Subtenant
1	Norwest Private Hospital	Subject to clause 31 of the Sale Contract, 9 Norbrik Drive and 11 Norbrik Drive, Bella Vista, New South Wales, Australia (being comprised in New South Wales folio identifiers 35/SP82294, 5/270592, 57/SP90088, 58/SP90088, 64 to 67 (inclusive)/SP90088 and 200/1222375)	Holmesglen Private Hospital Pty Ltd ACN 137 547 043 (in respect to New South Wales folio identifiers 57/SP90088 and 66/SP90088). Healthscope Operations Pty Ltd ACN 006 405 152 (all other titles).	[#] ACN [#]	Healthscope Operations Pty Ltd ACN 006 405 152
2	The Hills Private Hospital	493, 495, 497-499 and 501 Windsor Road, Baulkham Hills, New South Wales, Australia (being comprised in New South Wales folio identifiers 20/1075051, 21/1075051, 11/1003058, 2/SP60520, 6/SP60520, 8 to 12 (inclusive)/SP60520, 13 to 17 (inclusive)/SP60520 and 18 to 19 (inclusive)/SP70247)	Healthscope Operations Pty Ltd ACN 006 405 152	[#] ACN [#]	Healthscope Operations Pty Ltd ACN 006 405 152
3	Darwin Private Hospital	19 Florey Avenue, Tiwi, Northern Territory, Australia (being comprised in Certificate of title volume 822 folio 958)	Healthscope Operations Pty Ltd ACN 006 405 152	[#] ACN [#]	Darwin Private Hospital Pty Ltd ACN 009 653 712
4	Griffith Rehabilitation Hospital	16 Crombie Street and 13 Dunrobin Road, Hove, South Australia, Australia (being comprised in certificates of title volume 5196 folio 379, volume	Healthscope Operations Pty Ltd ACN 006 405 152	[#] ACN [#]	Healthscope Operations Pty Ltd ACN 006 405 152

#	Hospital	Sale Asset – Land Details	Seller	Buyer	Relevant Subtenant
		5196 folio 384, volume 5165 folio 481, volume 5196 folio 380, volume 5196 folio 381, volume 5196 folio 382, volume 5196 folio 383, volume 5196 folio 385, volume 5196 folio 386, volume 5196 folio 387).			
5	The Melbourne Clinic	Subject to clause 30 of the Sale Contract, 130 Church Street, Richmond, Victoria, Australia (being comprised in certificates of title volume 09999 folios 248 and 249, volume 09994 folios 141 to 146 (inclusive), volume 09994 folio 150, volume 09994 folios 203 to 219 (inclusive) and volume 09994 folios 229 to 231 (inclusive))	Healthscope Operations Pty Ltd ACN 006 405 152	[#] ACN [#]	Healthscope Operations Pty Ltd ACN 006 405 152
6	John Fawkner Private Hospital	275 Moreland Road and 21 Jessie Street, Coburg, Victoria, Australia (being comprised in certificates of title volume 11847 folios 619-629 (inclusive))	Healthscope Operations Pty Ltd ACN 006 405 152	[#] ACN [#]	Healthscope Operations Pty Ltd ACN 006 405 152
7	The Sydney Clinic	22-26 Murray Street, Bronte, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1110649, 1/567684, 1/74847, 271/520414 and 441/997865)	Healthscope Operations Pty Ltd ACN 006 405 152	[#] ACN [#]	Healthscope Operations Pty Ltd ACN 006 405 152
8	Lady Davidson Private Hospital	434 Bobbin Head Road, North Turrumurra, New South Wales, Australia (being comprised in New South Wales folio identifier 211/1012228)	Australian Hospital Care (Lady Davidson) Pty Ltd ACN 079 309 550	[#] ACN [#]	Australian Hospital Care (Lady Davidson) Pty Ltd ACN 079 309 550
9	Hunter Valley Rehabilitation Centre	20 Mawson Street, Shortland, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1147809 and 8 to 10 (inclusive)/17058)	The Hunter Valley Private Hospital Pty Ltd ACN 002 830 300	[#] ACN [#]	The Hunter Valley Private Hospital Pty Ltd ACN 002 830 300

#	Hospital	Sale Asset – Land Details	Seller	Buyer	Relevant Subtenant
10	Brisbane Private Hospital	255 Wickham Terrace, Spring Hill, Queensland, Australia (being comprised in title reference 18364150 (Lot 49 on RP231249))	Brisbane Private Hospital Pty Ltd ACN 103 119 384	[#] ACN [#]	Brisbane Private Hospital Pty Ltd ACN 103 119 384
11	Newcastle Private Hospital	Subject to clause 31 of the Sale Contract, 14 Lookout Road and 20 Lookout Road, New Lambton Heights, New South Wales, Australia (being comprised in New South Wales folio identifiers 2/1080386, 5/SP60845, 7/SP60845, 10/SP60845 and 402/1197237)	Newcastle Private Hospital Pty Ltd ACN 003 041 978	[#] ACN [#]	Newcastle Private Hospital Pty Ltd ACN 003 041 978

Umbrella Deed – Sale Contracts

Signing page

Seller Execution

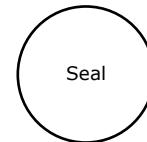
[#]

Buyer Execution

[#]

PropCo Guarantor Execution

SIGNED, SEALED AND DELIVERED by
NORTHWEST HEALTHCARE
PROPERTIES REAL ESTATE
INVESTMENT TRUST in the presence of:



Signature of witness

Signature of authorised signatory

Name of witness

Name of authorised signatory

Annexure A – Portfolio Loan Term Sheet

This term sheet forms an annexure to the Process, Voting Commitment and Exclusivity Deed dated on or about 31 January 2019 between NorthWest Healthcare Properties REIT and Bidco (***Bilateral Deed***)

Strictly private and confidential

Project Vigour – Propco Portfolio Loan (Takeover) Term Sheet

Sponsor	As for Propco Bridge Loan.
Senior Borrower / Company	[#] <i>TBC if it will be the 1 Target borrower, not the individual freehold owning Target entities</i>
Guarantors / Security	As no financial assistance whitewash is required to be conducted, the Lenders will receive on Financial Close, subject to the Agreed Security Principles, security from the Senior Borrower, and requisite wholly-owned subsidiaries of the Senior Borrower as needed to comply with the minimum Guarantor Group coverage test. Schedule 5 sets out the Agreed Security Principles applicable to the security. Schedule 6 sets out the Intercreditor Principles applicable to the sharing of the security as between Propco and Bidco's Senior Lenders.
Lender or Propco	[#] <i>TBC if it will be a single Propco even if delayed settlement contract is with a Propco Sub</i>
Security Trustee	As for Propco Bridge Loan.
Facility	Bullet term loan facility.
Facility Limit	The Facility will be sized at an amount equal to the consideration for the Settlement Date Delayed Settlement Properties.
Currency	AUD
Availability Period	From the date of the Commitment Deed to and including the end of the Certain Funds Period (as defined in the PropCo Bridge Loan).
Purpose	Towards funding the payment of a distribution to the shareholders of Healthscope Limited at Financial Close (" HSO Distribution ").
Maturity Date	As for the Propco Bridge Loan – 90 days from Financial Close (unless extended by a further 90 days at the election of Propco, by providing no later than 11 Business Days' prior written notice).
Repayment at calendar quarter end date	As for the Propco Bridge Loan - The Senior Borrower must repay the Facility so that the aggregate outstanding principal balance is reduced to A\$250 million or less no later than the 10 th Business Day before the first calendar quarter end date occurring after Financial Close.
Interest	An amount equal to the sum of the base rent that would have been payable by the lessee of the Settlement Date Delayed Settlement Property pursuant to the lease for such Settlement Date Delayed Settlement Property as if the Lease had commenced on Financial Close. Interest shall be paid on each date on which rent would have been payable under the Leases and on the date on which any amount referable to a Settlement Date Delayed Settlement Property is prepaid or repaid.
Fees	None.
Default Interest	As for the Propco Bridge Loan - 2.0% p.a. in addition to the applicable Interest, on overdue sums only.

Voluntary Cancellation	As for the Propco Bridge Loan - The Senior Borrower may cancel all or part of the unutilised amount of the Facility on giving 2 Business Days' irrevocable, written notice
Repayment at maturity	As for the Propco Bridge Loan -The outstanding balance of the Facility must be repaid in full on the Maturity Date.
Voluntary Prepayment	As for the Propco Bridge Loan - The Senior Borrower may prepay all or part of the principal outstanding under the Facility on giving 2 business days' irrevocable, written notice without premium or penalty. Amounts repaid or prepaid under the Facility may not be redrawn.
Mandatory Prepayment for Post-Close Delayed Properties	If following Initial Completion, there are any Settlement Date Delayed Settlement Properties which Propco elects not to retain on an "all or nothing" basis (" Declined Properties "), then Propco may, within 10 Business Days' of Initial Completion, issue a repayment notice (which may be via email) to the Senior Borrower requiring that the Propco Bridge Loan be prepaid by the Declined Funded Amount within 11 Business Days of receipt of such notice (or to the extent any portion of the Propco Portfolio Loan was funded by Propco from the ANZ Facilities, such portion will be prepayable within such shorter period (being not less than 5 Business Days) prescribed for prepayment under the ANZ Facilities agreement. " Declined Funded Amount " means an amount specified by Propco not exceeding the consideration attributable to Declined Properties.
Mandatory Prepayment from Delayed Settlement Property Sale Proceeds	The Senior Borrower must immediately prepay the Facility in an amount equal to the sum of the Purchase Price for the relevant Settlement Date Delayed Settlement Properties once sold. Amounts owed to Propco may be set off by the consideration received by the Senior Borrower (or its subsidiary) from the sale of the Settlement Date Delayed Settlement Properties. This may occur via endorsement of promissory note(s) issued by Propco or its subsidiaries as consideration for the purchase of the Settlement Date Delayed Settlement Properties. [Note: Set-off/PNote mechanics to be confirmed]
Financial Covenants	None.
Conditions precedent to drawdown	Those set out in Schedule 1 only. For avoidance of doubt, there are no additional conditions precedent to drawdown other than those set out in Schedule 1 (ie no customary bank-style "no incorrect representation/no Default" conditions precedent as the basis for the Propco SLB transaction in the takeover scenario, is that Propco must fund a fixed amount – in the expected scenario, 100% of this are to purchase the Sale Assets, but in the contingency scenario where there are Settlement Date Delayed Settlement Properties, the funding still has to be provided but takes on the character of this loan.
Representations and Warranties	Refer Schedule 2.
Undertakings	Refer Schedule 3.
Events of Default	Refer Schedule 4.
Assignment	No party may transfer their rights under the Finance Documents without the consent of the other parties.
Documentation	All documentation will be in a form and substance satisfactory to the Senior Borrower and Propco. The Senior Borrower's counsel to prepare first draft of the Finance Documents.

Governing law and jurisdiction:	Victoria
Counsel for Senior Borrower	King & Wood Mallesons
Counsel for Lender	Ashurst

Schedule 1 – Conditions precedent

Part A: Conditions precedent to first drawdown in form and substance satisfactory to Propco

- 1 **(Verification certificates)** Verification Certificate signed by a director of each Obligor including customary attachments.
- 2 **(Finance Documents)** Duly executed counterparts of all Finance Documents required to be entered into on or before Financial Close.
- 3 **(Senior Debt)** Evidence (which may be by way of a director's certificate) that the Senior Facilities will, contemporaneously with Financial Close be, advanced to HSO.
- 4 **(Acquisition)** A certificate signed by a director of HSO confirming that:
 - (a) the Takeover has been declared or become unconditional;
 - (b) on Financial Close, Bidco will have a relevant interest (as defined in the Corporations Act 2001) in at least 50.1% of all the Target Shares;
 - (c) all material Authorisations required to complete the Acquisition have been obtained, and all conditions precedent to completion under the Acquisition Documents have been, or will on the drawing of the first Loan, be satisfied or waived, provided that there is no (i) waiver of the Implementation Deed MAC Condition, (ii) waiver of its rights under the Implementation Deed in respect of any Prescribed Occurrence, (iii) amendment to the definition of 'Material Adverse Change' (as defined in the Implementation Deed), (iv) waiver of its rights under clause 8.4(a)(1) of the Implementation Deed, where such waiver would be materially prejudicial to the Lender unless the Lender has provided its prior written consent, such consent not to be unreasonably withheld or delayed (provided further, in the case of any of (i), (ii) or (iii), the consent of the Lender is only required if the proceeds of the ANZ Facilities are to be used to fund the Propco Portfolio Loan, and ANZ has elected not to fund under the ANZ Facilities by reason of equivalent conditions precedent under the ANZ Facilities).
- 5 **(Legal opinions)** Customary capacity and enforceability legal opinions from counsel for Propco on the Obligors and the Finance Documents.
- 6 **(Drawdown notice)** the Lender has received a drawdown notice in respect of the Loan (which may be given on the same day as Financial Close).

Part B: Conditions subsequent to be satisfied within 5 Business Days after Financial Close in form previously agreed with Propco:

- 1 **(No breach of 2J.3 confirmation)** with respect to each of the Target Group members, a certificate signed by a director of the relevant entity, together with extracts of resolutions of the board of directors, confirming compliance with the requirements of section 260A of the Corporations Act.

Schedule 2 – Representations and Warranties

As for Propco Bridge Loan.

Schedule 3 – Undertakings

All undertakings will apply to Obligors only.

Part A: Information

Each Obligor must:

1. **(Defaults)** promptly notify Propco if it becomes aware of any subsisting Default.

Part B: Undertakings

- 1 **(Commitment Deed)** from Financial Close, comply with its obligations under the Commitment Deed and Delayed Settlement Property Contracts.
- 2 **(Real Property Mortgages)** if the Propco Portfolio Loan is not repaid in full within 2 Business Days of its first advance ("**Trigger Date**"), procure that relevant Target Group members grant registrable real property mortgages over the relevant Settlement Date Delayed Settlement Properties as part of the Transaction Security by the first calendar quarter end date occurring after Financial Close.

Part C: Negative Undertakings

As for Propco Bridge Loan, except that there will be:

- 1 a permission for the Obligors to make the HSO Distribution at Financial Close;
- 2 a permission to distribute the sale proceeds of any Delayed Settlement Property in order to repay the Facility.

Schedule 4 - Events of Default & Review Event

Events of Default

As for Propco Bridge Loan.

Schedule 5 – Agreed Security Principles

1 Terms of Transaction Security Documents

As for Propco Bridge Loan.

2 Landlord consent deed requirements

As for Propco Bridge Loan.

Schedule 6 – Intercreditor Principles

As for Propco Bridge Loan.

Schedule 7 – Definitions

As for Propco Bridge Loan except that:

- any reference to the “Senior Facilities” shall be a reference to the facilities made available to the Target (or a 100% subsidiary of Healthscope Limited)
- a reference to “Holdco” shall be a reference to the “Senior Borrower”
- the following additional definitions shall apply:

“Delayed Settlement Property Contract” has the meaning given to that term in the Bilateral Deed.

“HSO” means Healthscope Limited (ACN 144 840 639)

“Purchase Price” has the meaning given to that term in the Delayed Settlement Property Contract.

“Settlement Date Delayed Settlement Properties” has the meaning given to that term in the Bilateral Deed.

“Takeover” has the meaning given to that term in the Bilateral Deed.

“Target Shares” means fully paid ordinary shares in HSO.

Annexure B – Portfolio Leases Umbrella Deed

Project Vigour

Portfolio Leases Umbrella Deed

Dated

Each of the persons listed in Schedule 1 ("**Relevant Landlord**")

Healthscope Limited ("**Tenant**")

Healthscope Operations Pty Limited ("**Guarantor**")

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Portfolio Leases Umbrella Deed

Details	4
General terms	5
1 Interpretation	5
1.1 Definitions	5
1.2 References to certain general terms	14
1.3 Headings	15
1.4 Construction	16
1.5 Inconsistency	16
1.6 Effective Date	16
2 Consideration	16
3 Brownfield capital expenditure and other Landlord committed capital	16
3.1 Available funding	16
3.2 Reduction in commitment	16
3.3 Brownfield proposal	16
3.4 Rent increase – Brownfield Development	17
3.5 Initial Capex Commitment	18
3.6 Initial Capex Projects	18
3.7 Reduction in commitment	18
3.8 Rent Increase – Initial Capex Project	18
3.9 Progressive funding	18
3.10 Interest on progress claim amounts	19
4 Right of first offer – sale or transfer by Landlord or Portfolio Only Change of Control Event	19
4.1 Right of first offer	19
4.2 First Offer Notice	19
4.3 Portfolio land disposal	20
4.4 First Offer Period	20
4.5 Failure or refusal	21
4.6 No effect on other obligations	22
4.7 Where clause does not apply	23
5 Right of first offer – Landlord Change of Control Event	23
6 Dealing Rights and Restrictions	25
6.1 Tenant may undertake permitted dealings	25
6.2 Substitution	25
6.3 Repurchase	26
6.4 Minimum Pool Value	27
6.5 Clause does not affect other rights	27
7 Rent Adjustment	28
7.1 Tenant may adjust rent	28
7.2 Form of notice	28
7.3 Purchase price adjustment	28
7.4 Variation of Rent Affected Lease	28
7.5 Reimbursement of stamp duty difference	29
7.6 Consequential floor price adjustment	29

8	Rent reallocation	30
8.1	Acknowledgement	30
8.2	Reallocation notice	30
8.3	Form of notice	30
8.4	Variation of Rent Reallocation Leases	30
8.5	Consequential changes	31
8.6	Limit on clause 6 rights	31
9	Cross-termination right	31
10	Guarantee and indemnity	31
10.1	Consideration	31
10.2	Guarantee	31
10.3	Indemnity	32
10.4	Nature of guarantee	32
10.5	Acknowledgment	32
10.6	Rights of the Landlord are protected	32
10.7	No merger	33
10.8	Guarantor's rights are suspended	34
10.9	Reinstatement of rights	34
10.10	Extent of Guarantor's obligations	34
10.11	Costs	35
10.12	Obligation to pay interest	35
10.13	Rate of interest	35
10.14	Compounding	35
10.15	Payments	35
10.16	Each signatory bound	35
10.17	Reference to "the relevant Portfolio Lease"	36
11	Dealings	36
11.1	Landlord transfer	36
11.2	Tenant assignment	36
12	Exercise of option and refresh	36
12.1	Exercise of option	36
12.2	Refresh	36
13	Committee	37
13.1	Establishment of Committee	37
13.2	Role of Committee	37
13.3	Representatives	37
13.4	Meetings	37
14	GST	37
14.1	Definitions and interpretation	37
14.2	GST exclusive	37
14.3	Payment of GST	37
14.4	Adjustment events	38
14.5	Reimbursements	38
14.6	Survival	38
15	Confidentiality	38
15.1	Disclosure of Confidential Information	38

15.2	Announcements and press releases	39
16	Dispute Resolution	39
16.1	Legal proceedings conditional	39
16.2	Notice of Dispute	39
16.3	Referral of Dispute	39
16.4	Instructions	39
16.5	Assistance	40
16.6	Final and binding	40
16.7	Costs	40
17	Trustee limitation of liability	40
18	Notices and other communications	41
18.1	Form	41
18.2	Delivery	41
18.3	When effective	41
18.4	When taken to be received	41
18.5	Receipt outside business hours	42
18.6	Joint notices	42
19	General	42
19.1	Costs	42
19.2	Approvals and consents	42
19.3	Variation and waiver	42
19.4	Prompt performance	42
19.5	Further assurances	43
19.6	No merger	43
19.7	Serving documents	43
19.8	Counterparts	43
19.9	Rules of construction	43
19.10	Provisions prohibited by law	43
19.11	Severability	43
19.12	Governing law	44
Schedule 1	Portfolio Leases	45
Schedule 2	Pools	48
Schedule 3	Floor Prices	49
Schedule 4	Initial Capex Projects	50
Schedule 5	Pro forma rent adjustments	51
	Signing page	52
	Annexure A – Master Lease Terms	53

Details

Parties	Relevant Landlord, Tenant and Guarantor	
Relevant Landlord	Name	Each of the persons listed in Schedule 1
	Address	[#insert address]
	Attention	[#insert position]
Tenant	Name	Healthscope Limited
	ABN	65 144 840 639
	Address	[#insert address]
	Attention	[#insert position]
Guarantor	Name	Healthscope Operations Pty Limited
	ABN	85 006 405 152
	Address	[#insert address]
	Attention	[#insert position]
Governing law	New South Wales	
Date of this document	See Signing page	

Portfolio Leases Umbrella Deed

General terms

1 Interpretation

1.1 Definitions

These meanings apply unless the contrary intention appears.

Acceptable Business Case Criteria means that the Tenant has provided the following to the Relevant Landlord in respect of a proposed Brownfield Development or Initial Capex Project (as are relevant to the particular development or project):

- (b) preliminary plans and specifications;
- (c) estimated costings in relation to the proposed project or development;
- (d) (in respect to a Brownfield Development only) evidence of the expected market value of the Portfolio Lease Premises on completion of the proposed Brownfield Development;
- (e) an indicative project timetable for commencement and completion of the proposed project or development;
- (f) an operating budget which includes the projected Post Ramp Up Period; and
- (g) such other information as may be reasonably necessary for the Relevant Landlord to make an informed decision in respect of the proposed project or development,

which are satisfactory to the Relevant Landlord (acting reasonably).

Acceptable Substitute Premises means premises:

- (a) situated on freehold or, (in the case of premises situated in the Australian Capital Territory) Crown leasehold, land;
- (b) which are not within the vicinity of, and are not in direct competition with, a hospital property which is owned by the Landlord or a Landlord Group Member and operated by a Competitor; and
- (c) which are suitable for a permitted use under the Replaced Lease (including in respect to the improvements erected on the premises and in respect to the availability of the authorisations necessary to be held by the Tenant for the proposed use),

and includes each Portfolio Lease Premises.

Affected Associated Entity means, in the context of a proposed Change of Control Event, the Associated Entity which has issued the Relevant Interest the subject of the proposed disposal or dealing which (if completed) will cause the Change of Control Event to occur.

Associated Entity is defined in the definition of Prescribed Rights.

Australian Commonwealth Bond Rate means Commonwealth Government 10-year bond yield published by the Reserve Bank of Australia or other reputable or replacement publisher of such information.

Authorised Officer means:

- (a) in the case of the Relevant Landlord a 'chief executive officer' or 'executive vice president' of the Relevant Landlord, a director or secretary of the Relevant Landlord, or any other person specified by the Relevant Landlord to act as an Authorised Officer for the purposes of this document by a notice to the Tenant and the Guarantor; and
- (b) in the case of the Tenant, a director or secretary of the Tenant or any other person specified by the Tenant as an Authorised Officer for the purposes of this document by a notice to the Relevant Landlord; and
- (c) in the case of the Guarantor, a director or secretary of the Guarantor or any other person specified by the Guarantor as an Authorised Officer for the purposes of this document by a notice to the Relevant Landlord.

Available Brownfield Funding means the amount of the Brownfield Funding Commitment at the time the Tenant provides the Relevant Landlord with a Brownfield Proposal, taking into account the operation of clause 3.2.

Brownfield Development means development involving significant capital works to be carried out on a Portfolio Lease Premises.

Brownfield Funding Commitment means the amount of \$500,000,000, as reduced in accordance with clause 3.

Brownfield Funding Commitment Period means the period of 10 years beginning on the Effective Date.

Brownfield Funding Yield means:

- (a) for the first 24 months after the Commencement Date, 6%; and
- (b) for any period thereafter, 300 basis points above the Australian Commonwealth Bond Rate,

per annum.

Brownfield Proposal is defined in clause 3.3.

Building means the buildings and all other improvements (other than the Tenant's Property) on the Land excluding, where the Land is part of a Shared Scheme, any part of buildings and other improvements located on other lots or units not comprising the Land or which are located on the common property of the Shared Scheme or which are the responsibility of the Governing Body.

Business Day means:

- (a) where the relevant act is in connection with only a particular Portfolio Lease Premises (or Land in connection with those premises), a day on which banks are open for general banking business in the capital city of the State or Territory in which the Portfolio Lease Premises is situated (not being a Saturday, Sunday or public holiday in that place); or
- (b) otherwise, a day on which banks are open for general banking business in Melbourne, Victoria and Sydney, NSW (not being a Saturday, Sunday or public holiday in that place).

Change of Control Event means where a person or group of persons that is beneficially entitled to the Prescribed Rights transfers, disposes or ceases to be beneficially entitled to the Prescribed Rights.

Change of Control Premises is defined in the definition of Portfolio Only Change of Control Event.

Commencement Date means, for a Portfolio Lease, the date stated as the 'Commencement Date' in the Reference Schedule for that Portfolio Lease.

Competitor means any person or third party involved in or who owns or operates a business involved in the provision of health or medical services similar to the Permitted Use (in whole or part) (**Similar Business**), except where such person or third party:

- (a) is only involved in a Similar Business as a result of being an equity investor in a vehicle that owns or operates a Similar Business; or
- (b) is an institutional investor who has invested (whether directly or indirectly) in a Similar Business but whose primary business activities does not involve a Similar Business,

(the exceptions in paragraphs (a) and (b) being the **Investor Exceptions**), provided that the Investor Exceptions do not apply where the investor controls directly or indirectly the management or policies (whether through the ownership of voting securities or otherwise) of the vehicle owning or operating the Similar Business.

Confidential Information means all information (regardless of form) disclosed or otherwise made available by a party (**Disclosing Party**) to another party (**Recipient**) in connection with this document, including:

- (a) information which, either orally or in writing, is designated or indicated as being the proprietary or confidential information of the Disclosing Party or any of its Related Bodies Corporate;
- (b) proprietary or confidential information of a third party to whom the Disclosing Party or any of its Related Bodies Corporate owe an obligation of confidentiality;
- (c) information derived or produced partly or wholly from such information, including any calculation, conclusion, summary or computer modelling; and
- (d) information which is capable of protection at law or equity as confidential information or is otherwise confidential in nature,

whether the information was:

- (e) disclosed orally, in writing or in electronic or machine readable form; or
- (f) disclosed or created before, on or after the date of this document; or
- (g) disclosed as a result of discussions between the parties concerning or arising out of this document,

but excluding the Excluded Information.

Controller has the meaning it has in the Corporations Act.

Corporations Act means the *Corporations Act 2001* (Cth).

Costs includes costs, charges and expenses, including those incurred in connection with advisers.

CPI means the Consumer Price Index - All Groups weighted average of eight capital cities.

Details means the section of this document headed 'Details'.

Disclosing Party is defined in the definition of 'Confidential Information'.

EBITDAR means earnings before interest, taxes, depreciation, amortization and rent costs adjusted for any non-recurring items and as determined in accordance with generally accepted accounting principles.

Effective Date means **[insert]**

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Excluded Information means Confidential Information:

- (a) which is in or becomes part of the public domain otherwise than through a breach of this document or other obligation of confidentiality owed to the Disclosing Party, its Related Bodies Corporate or a third party; or
- (b) which the Recipient can prove by contemporaneous written documentation was already known to it at the time it was disclosed, or otherwise made available, by the Disclosing Party or its Related Bodies Corporate (unless such knowledge arose from disclosure of information in breach of an obligation owed to or by a third party); or
- (c) which the Recipient acquires from a third party entitled to disclose it.

Expiry Date means, for a Portfolio Lease, the date stated as the 'Expiry Date' in the Reference Schedule for that Portfolio Lease.

FIRB means the Foreign Investment Review Board.

Floor Price means in respect to each of the Portfolio Lease Premises the aggregate of:

- (a) the amount set out in Schedule 3 (excluding GST) for the relevant Portfolio Lease Premises as reduced in accordance with clause 7, or where the relevant Portfolio Lease Premises have been acquired by the Landlord after the Commencement Date the purchase price for those premises;
- (b) all reasonable Costs directly incurred and specifically attributable to the acquisition of the relevant Portfolio Lease Premises, including stamp duty and registration fees, legal and other consultants' fees (and where a Cost relates to the acquisition of more than one Portfolio Lease Premises the amount allocated to the acquisition of the relevant Portfolio Lease Premises must be determined on a reasonable basis); and
- (c) any amount of the Brownfield Funding Commitment or the Initial Capex Commitment expended by the Relevant Landlord on the relevant Portfolio Lease Premises,

in each case excluding GST.

Governing Body means each entity which manages or administers any Shared Scheme of which the Portfolio Lease Premises are part.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the meaning given to that term in the GST Act.

Holding Trust is defined in the definition of Prescribed Rights in this clause 1.1.

Initial Capex Commitment means \$50,000,000.

Initial Capex Commitment Period means the period of 3 years beginning on the Effective Date.

Initial Capex Funding Yield means 6% per annum.

Initial Capex Project means a capital works project to be carried out on a Portfolio Lease Premises.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Relevant Landlord);
- (d) an application or order has been made (and, in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Relevant Landlord reasonably deduces it is so subject);
- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction,

and **Insolvency** means that a person is Insolvent.

Land means the land described in the Reference Schedule for a Portfolio Lease.

Landlord means all of the Relevant Landlords.

Landlord Group Member means:

- (a) each Related Body Corporate of the Landlord;
- (b) NorthWest Healthcare Properties REIT and its subsidiaries;
- (c) a company, fund or trust:
 - (i) controlled directly or indirectly by NorthWest Healthcare Properties REIT or its Related Bodies Corporate; or
 - (ii) directly or indirectly under the common control of NorthWest Healthcare Properties REIT or its Related Bodies Corporate and another person or persons,

and a fund advised or managed directly or indirectly by a person will also be deemed to be controlled by such person;

- (d) the Related Bodies Corporate of the entities listed above; and
- (e) any other person acting in its capacity as trustee, manager, or custodian of any person listed above,

and the term "body corporate" when used in the definition of Related Body Corporate must be read to include entities, trusts and funds.

Landlord's Property means, in respect to a Portfolio Lease Premises, all plant, equipment, fixtures, fittings, and machinery permanently affixed to or incorporated into the Portfolio Lease Premises in situ as at the Commencement Date or paid for at the Relevant Landlord's expense during the Term of that Portfolio Lease Premises.

Lease Year means each full 12 month period starting on the Effective Date.

Master Lease Terms means the terms included at Annexure A.

Minimum Pool Value means, for a Pool (and subject to clauses 7 and 8), an amount equal to 80% of the aggregate rent payable under the Portfolio Leases comprised in that Pool on the Effective Date, provided that where there is a Substitution in accordance with clause 6 the rent payable under the lease for the premises added to the relevant Pool is to be included in the calculation of the Minimum Pool Value for the Pool in replacement of the rent under the lease of the premises which is removed from the Pool.

Minimum Value Criteria means for premises which the Tenant proposes that the Relevant Landlord acquires for the purposes of a Substitution:

- (a) the EBITDAR from the operations of the Proposed Substitute Premises will be at least 2.2x the rent to be paid under the lease of those premises;
- (b) the rent will be not less than the passing rent of the Replaced Premises;
- (c) the capitalisation rate applicable to the Proposed Substitute Premises is not higher than the capitalisation rate applicable to the Replaced Premises (as determined by reference to the Floor Price of the Replaced Premises and the annual passing rent under the Replaced Lease at the time of the Substitution); and

- (d) the Tenant demonstrates to the Relevant Landlord acting reasonably that the purchase price for the Proposed Substitute Premises will not be higher than the market value for the Proposed Substitute Premises (with the market value to be assessed without regard to the criteria in paragraphs (a) – (c) of this definition).

Party Trust is defined in the definition of Prescribed Rights in this clause 1.1.

Permitted Dealing means any of:

- (a) the:
 - (i) surrender of a Portfolio Lease and the grant by the Relevant Landlord to the Tenant of a lease over Acceptable Substitute Premises; or
 - (ii) substitution of a Portfolio Lease Premises in a Pool with another Portfolio Lease Premises,(each being a **Substitution**);
- (b) the purchase of a Portfolio Lease Premises by the Tenant or a Related Body Corporate of the Tenant (being a **Repurchase**); or
- (c) a Third Party Assignment.

Permitted Use means, for a Portfolio Lease Premises, the 'Permitted Use' stated in the Reference Schedule for the Portfolio Lease.

Pool means (as applicable):

- (a) Pool A;
- (b) Pool B; or
- (c) Pool C.

Pool A means the pool of Portfolio Lease Premises described as such in Schedule 2, as may be varied from time to time in accordance with this document.

Pool B means the pool of Portfolio Lease Premises described as such in Schedule 2, as may be varied from time to time in accordance with this document.

Pool C means the pool of Portfolio Lease Premises described as such in Schedule 2, as may be varied from time to time in accordance with this document.

Portfolio Lease means each lease which incorporates the Master Lease Terms (with or without amendment) and which states in the Reference Schedule for the lease that the Umbrella Deed is 'Applicable' (or which is otherwise a Portfolio Lease in accordance with this document). As at the date of this document, the Portfolio Leases are described in Schedule 1.

Portfolio Lease Premises means the 'Premises' the subject of a Portfolio Lease as described in the Reference Schedule for the Portfolio Lease.

Portfolio Only Change of Control Event means a Change of Control Event where, following the Change of Control Event, the only material real estate assets:

- (a) comprised in any Party Trust or Holding Trust; and
- (b) otherwise in which the Landlords and the Affected Associated Entity will have a direct or indirect interest,

will be one or more of the Portfolio Lease Premises (those Portfolio Lease Premises being the **Change of Control Premises**).

Post Ramp Up Period means the 36 month period commencing on the completion (including any necessary commissioning of works) of a Brownfield Development or an Initial Capex Project (as applicable) to allow for the integration of the Brownfield Development or Initial Capex Project (as applicable) into the Tenant's Business and for the generation of any predicted EBITDAR from that development or project.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Prescribed Rights means:

- (a) more than 50% of the voting rights in the Relevant Landlord or the Tenant (as applicable); or
- (b) more than 50% of the voting rights in any trust, fund, partnership or company which beneficially holds or controls or otherwise effectively controls 50% or more of the voting rights in the Relevant Landlord or the Tenant (as applicable); or
- (c) where the Relevant Landlord or Tenant (as applicable) is the trustee of a unit trust (**Party Trust**), more than 50% of the units in the Party Trust; or
- (d) where the holder of the units in the Party Trust is itself the trustee of a unit trust (**Holding Trust**) more than 50% of the units in the Holding Trust.

Each of paragraphs (a) to (d) of this definition operate independently and are not to be read down by reference to any other paragraph in this definition. The interest (including a share, unit or partnership interest) which confers on their holder voting rights, and units in a Party Trust or Holding Trust, is a **Relevant Interest**, and the entity which has issued the Relevant Interest is the **Associated Entity**.

Pro forma EBITDAR Rent Adjustment Amount means in respect of a Portfolio Lease Premises, the amount identified as such for the Portfolio Lease Premises in the table included at Schedule 5.

Proposed Substitute Premises is defined in clause 6.2.

Recipient is defined in the definition of 'Confidential Information'.

Reference Schedule means the Reference Schedule to a Portfolio Lease which incorporates the Master Lease Terms (including by reference to provisions filed in the office of the relevant land titles office or by annexing those lease terms).

Related Body Corporate has the meaning set out in section 50 of the *Corporations Act 2001* (Cth).

Relevant Interest is defined in the definition of Prescribed Rights.

Relevant Interest Holder means a person holding a Relevant Interest.

Relevant Landlord means in respect of a Portfolio Lease, the party identified as the landlord for that Portfolio Lease in the table included at Schedule 1.

Rent means the rent payable by the Tenant under a Portfolio Lease (exclusive of GST).

Replaced Lease is defined in clause 6.2(a)(i)(A).

Replaced Premises is defined in clause 6.2(a)(i)(A).

Repurchase is defined in the definition of Permitted Dealing.

Shared Scheme means each scheme or plan regulated by a Shared Scheme law that affects the Portfolio Lease Premises. Examples of properties that are often part of a shared scheme are strata title units and properties in integrated developments.

Shared Scheme law means any legislation that provides for the:

- (a) subdivision and development of land with shared property;
- (b) subdivision of buildings;
- (c) management of land that is subdivided and has shared property; or
- (d) management of subdivided buildings.

Substitution is defined in the definition of Permitted Dealing.

Tenant's Business means the business carried on by the Tenant from the Portfolio Lease Premises, and includes the business carried on from the Premises by any Tenant Subtenant who is a Tenant Group Member.

Tenant Group Member means:

- (a) each Related Body Corporate of the Tenant;
- (b) where the Tenant is not Healthscope Limited ACN 144 840 639, Healthscope Limited ACN 144 840 639 and its subsidiaries;
- (c) a company, fund or trust:
 - (i) controlled directly or indirectly by Healthscope Limited ACN 144 840 639 or its Related Bodies Corporate; or
 - (ii) directly or indirectly under the common control of Healthscope Limited ACN 144 840 639 or its Related Bodies Corporate and another person or persons;
- (d) the Related Bodies Corporate of the entities listed above; and
- (e) any other person acting in its capacity as trustee or custodian of any person listed above,

and the term 'body corporate' when used in the definition of Related Body Corporate must be read to include entities, trusts and funds.

Tenant's Property means all property on the Portfolio Lease Premises which is not Landlord's Property, and includes all improvements made to the Portfolio Lease Premises which the Tenant or the Tenant's Subtenant has made at its Cost, and all machinery, furniture and equipment including computers, trade

fixtures, inventory, supplies and other personal property owned or leased by the Tenant or the Tenant's Subtenant and used in the operation and/or maintenance of the Portfolio Lease Premises and all proprietary operating systems of the Tenant or the Tenant's Subtenant.

Tenant's Subtenant means any person (not being the Tenant) entitled to occupy the relevant Portfolio Lease Premises during the Term (or any extension of it or holding over under it), regardless of whether they are in occupation.

Term means:

- (a) the period referred to in the Reference Schedule for a Portfolio Lease, from and including the Commencement Date to and including the Expiry Date of that Portfolio Lease;
- (b) the term of each New lease the Relevant Landlord is obliged to grant to the Tenant under the Portfolio Lease pursuant to clause 18 of the Master Lease Terms; and
- (c) each period that the Tenant holds over under the Portfolio Lease pursuant to clause 15 of the Master Lease Terms.

Third Party Assignment means the assignment of a Portfolio Lease by the Tenant to a third party pursuant to clause 12.2 of the Master Lease Terms (excluding an assignment to which clause 12.4 of the Master Lease Terms applies).

1.2 References to certain general terms

Unless the contrary intention appears, in this document:

- (a) labels used for definitions are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (d) a reference to a document also includes any variation, replacement or novation of it;
- (e) a reference to "**this document**" also includes any renewal of it;
- (f) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (g) a reference to "**person**" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (h) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) a reference to a time of day is a reference to time in the State or Territory in which the Land is situated;
- (j) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;

- (k) a reference to “law” includes common law, principles of equity and legislation (including regulations);
- (l) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (m) a reference to “**regulations**” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (n) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;
- (o) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;
- (p) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (q) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (r) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (s) if a party must do something under this document on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day;
- (t) if the day on which a party must do something under this document is not a Business Day, then except for making payments (which must be made on the preceding Business Day), the party must do it on the next Business Day;
- (u) a reference to a professional association or institute, or other industry body, includes a succeeding body serving similar objects or that takes its place;
- (v) a reference to accounting standards is a reference to accounting standards, principles and practices generally accepted in the relevant place, consistently applied;
- (w) a reference to an accounting term in an accounting context is a reference to that term as it is used in relevant accounting standards;
- (x) a reference to a dealing with the Land by the Landlord includes a dealing by the Landlord with the Building or the Premises; and
- (y) a capitalised term used but not defined in this document has the meaning given to that term in the Master Lease Terms.

1.3 Headings

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect the interpretation of this document.

1.4 Construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on this document or any part of it.

1.5 Inconsistency

If a provision of this document is inconsistent with a provision of the Master Lease Terms, the provisions of this document prevail to the extent of the inconsistency.

1.6 Effective Date

This document applies on and from (but not prior to) the Effective Date.

2 Consideration

Each party acknowledges entering into this document and incurring obligations and giving rights under this document for valuable consideration received from each other party.

3 Brownfield capital expenditure and other Landlord committed capital

3.1 Available funding

During the Brownfield Funding Commitment Period, the Landlord agrees to make available the Brownfield Funding Commitment in respect of Brownfield Development of Portfolio Lease Premises on the terms of this clause 3.

3.2 Reduction in commitment

The Brownfield Funding Commitment reduces:

- (a) as, and by the amount, applied to fund a Brownfield Development; and
- (b) at the end of each Lease Year after the fourth anniversary of the Effective Date, by an amount which, when added to the amount of the reduction during the relevant Lease Year in accordance with clause 3.2(a), results in a reduction of the Brownfield Funding Commitment at the end of the Lease Year of \$50,000,000 (or any lesser amount of the Brownfield Funding Commitment then remaining). For the avoidance of doubt where the reduction under clause 3.2(a) in a Lease Year is \$50,000,000 or more, there is no further reduction in the Brownfield Funding Commitment under this clause 3.2(b) for that Lease Year.

3.3 Brownfield proposal

- (a) The Tenant may at any time during the Brownfield Funding Commitment Period submit to the Relevant Landlord a proposed Brownfield Development on the Portfolio Lease Premises where it seeks the Relevant Landlord to fund the Brownfield Development or for the Relevant Landlord to undertake the Brownfield Development at its Cost (**Brownfield Proposal**). Where:
 - (i) the Tenant can satisfy the Relevant Landlord (acting reasonably) a reasonable forecast EBITDAR (Post Ramp Up Period) from

the operations from all of the Portfolio Lease Premises of at least 2.2x aggregate Rent under the Portfolio Leases;

- (ii) the Brownfield Proposal includes a business case for the Brownfield Development which satisfies the Acceptable Business Case Criteria;
- (iii) the amount of requested funding does not exceed the Available Brownfield Funding; and
- (iv) the unexpired Term of the Portfolio Lease is at least 15 years,

then:

- (v) in respect of any Brownfield Proposal submitted before the date that is 24 months after the Effective Date, the Relevant Landlord must fund the relevant Brownfield Development or undertake the Brownfield Development at its Cost; or
 - (vi) in respect of any Brownfield Proposal submitted after the date that is 24 months after the Effective Date, the Relevant Landlord may (if requested to do so by the Tenant) at its discretion elect to fund or undertake the Brownfield Development at its Cost.
- (b) Where the Relevant Landlord is not obliged to fund or undertake the Brownfield Development (or elects not fund or undertake the Brownfield Development) the Relevant Landlord agrees that the Tenant may undertake the Brownfield Development at its own Cost.
 - (c) The Relevant Landlord acknowledges that for the first 24 months after the Effective Date the Tenant must not submit any proposal for a Brownfield Development which has an estimated cost of greater than the lesser of:
 - (i) \$10,000,000 (as adjusted annually for movements in CPI from the Effective Date); and
 - (ii) the amount equal to 30% of EBITDAR for the Tenant's Business from the operations at the relevant Portfolio Lease Premises,

to a person other than the Relevant Landlord, and that following the expiry of the first 24 months after the Effective Date the Tenant is not obliged to submit a Brownfield Development to the Relevant Landlord. Nothing in this clause 3.3(c) prevents the Tenant submitting a Brownfield Development to another person in the first 24 months after the Effective Date where, following submission to the Relevant Landlord in accordance with clause 3.3(a), the criteria in clause 3.3(a)(i) – (iv) are not satisfied and the Landlord elects not to fund or undertake the Brownfield Development.

3.4 Rent increase – Brownfield Development

Where the Relevant Landlord funds or undertakes a Brownfield Development, then with effect from the day which is 6 months after the date that the Post Ramp Up Period commences, the annual passing Rent under the relevant Portfolio Lease will increase by the amount equal to the Brownfield Funding Yield multiplied by the amount of the Brownfield Funding Commitment applied to the relevant Brownfield Development (being the **Applied Brownfield Funding Commitment**).

3.5 Initial Capex Commitment

In addition to the Brownfield Funding Commitment the Landlord agrees to make available the Initial Capex Commitment.

3.6 Initial Capex Projects

At the request of the Tenant (which can be made from time to time during the Initial Capex Commitment Period) the Relevant Landlord agrees to undertake at its Cost or fund to the extent of the Initial Capex Commitment an Initial Capex Project subject to the Tenant submitting a business case for the Initial Capex Project to the Relevant Landlord which satisfies the Acceptable Business Case Criteria. The Relevant Landlord agrees that (without limitation) the proposed Initial Capex Projects identified in Schedule 4 are in principle acceptable Initial Capex Projects, subject to expenditure on medical equipment not comprising a significant portion (more than 30%) of the Initial Capex Commitment.

3.7 Reduction in commitment

The Initial Capex Commitment reduces as, and by the amount, applied to fund or undertake (as relevant) an Initial Capex Project.

3.8 Rent Increase – Initial Capex Project

Where the Relevant Landlord funds or undertakes an Initial Capex Project, then with effect from the day which is 6 months after the date that the Post Ramp Up Period commences, the annual passing Rent under the relevant Portfolio Lease will increase by the amount equal to the Initial Capex Funding Yield multiplied by the amount of the Initial Capex Commitment applied to the relevant Initial Capex Project (being the **Applied Initial Capex Commitment**).

3.9 Progressive funding

Where the Relevant Landlord is obliged or otherwise agrees to fund a Brownfield Development or Initial Capex Project:

- (a) the Tenant may submit to the Relevant Landlord a claim for reimbursement or payment of any Costs incurred in connection with the development or project not more frequently than at monthly intervals (each a **Progress Claim**), which must include reasonable details substantiating the amount claimed; and
- (b) the Relevant Landlord agrees to pay the amount claimed as soon as reasonably practicable and in any event within 10 Business Days after receipt of a Progress Claim which complies with clause 3.9(a), provided that:
 - (i) in the case of a Brownfield Development the Relevant Landlord is not obliged to pay or reimburse a Cost to the extent that the payment or reimbursement would exceed the Brownfield Funding Commitment as at the date the Relevant Landlord would otherwise be obliged to pay or reimburse the Cost; and
 - (ii) in the case of an Initial Capex Project the Relevant Landlord is not obliged to pay or reimburse a Cost to the extent that the payment or reimbursement would exceed the Initial Capex Commitment as at the date the Relevant Landlord would otherwise be obliged to pay or reimburse the Cost.

3.10 Interest on progress claim amounts

- (a) Interest accrues on the amount of each Progress Claim paid by the Relevant Landlord in respect to an Initial Capex Project from the date of the payment of the claim until the date the Rent increase takes effect pursuant to clause 3.8, calculated at a rate per annum equal to the Initial Capex Funding Yield. For the purposes of calculating the increase in the Rent under clause 3.8 the amount of the accrued interest is added to the Applied Initial Capex Commitment under clause 3.8 (and is not otherwise payable by the Tenant).
- (b) Interest accrues on the amount of each Progress Claim paid by the Relevant Landlord in respect to a Brownfield Development from the date of the payment of the claim until the date the Rent increase takes effect pursuant to clause 3.4, calculated at a rate per annum equal to the applicable Brownfield Funding Yield. For the purposes of calculating the increase in the Rent under clause 3.4 the amount of the accrued interest is added to the Applied Brownfield Funding Commitment under clause 3.4 (and is not otherwise payable by the Tenant).

4 Right of first offer – sale or transfer by Landlord or Portfolio Only Change of Control Event

4.1 Right of first offer

The Landlord must:

- (a) not enter into a binding agreement to sell or otherwise transfer the Land to a third party or to hold the benefit of the Land for a third party (**Land Dealing**); and
- (b) ensure that no Portfolio Only Change of Control Event occurs (other than a Portfolio Only Change of Control Event caused by a circumstance described in clause 13.6(b)(i) – (iii) of the Master Lease Terms),

without first complying, and procuring compliance by the Relevant Interest Holders, with the requirements of this clause 4.

4.2 First Offer Notice

If the Relevant Landlord wishes to effect a Land Dealing or if there is a proposed Portfolio Only Change of Control Event, (each a **Relevant Disposal Event**) the Relevant Landlord must:

- (a) give notice to the Tenant of the Relevant Disposal Event (**Relevant Disposal Notice**); and
- (b) include with the Relevant Disposal Notice:
 - (i) where the Relevant Disposal Event is a Land Dealing a contract of sale for the Land (with only the details of the price and the buyer not completed), which must be on fair and reasonable terms (including by providing as a condition precedent to completion, or to the contract for sale if required by law, the buyer obtaining (on conditions acceptable to it acting reasonably) all regulatory and other approvals required for it to complete the purchase and a reasonable period of time for those approvals to be obtained) (**Land Contract Terms**); or

- (ii) where the Relevant Disposal Event is a Portfolio Only Change of Control Event:
 - (A) a contract for sale of the Relevant Interest which is proposed to be disposed or dealt with (with only the details of the price and the buyer not completed), which must be on fair and reasonable terms (including by providing as a condition precedent to completion, or to the contract for sale if required by law, the buyer obtaining (on conditions acceptable to it acting reasonably) all regulatory and other approvals required for it to complete the purchase and a reasonable period of time for those approvals to be obtained) (**Equity Contract Terms**); and
 - (B) Land Contract Terms for the Change of Control Premises, with each Relevant Landlord of the Change of Control Premises being a party to the Land Contract Terms as a seller,

(providing an opportunity for the Tenant to make an offer to acquire either the Change of Control Premises themselves or the Relevant Interest).

4.3 Portfolio land disposal

Where the Land Dealing includes the transfer of more than one Portfolio Lease Premises to a third party (or more than one Portfolio Lease Premises being held for a third party) (that transaction being a **Portfolio Deal** and the relevant Land being the **Portfolio Land**), the Land the subject of the Land Contract Terms delivered to the Tenant must be for all of the Portfolio Land and each Landlord of Portfolio Land must be a party to the Land Contract Terms as a seller.

4.4 First Offer Period

- (a) Within 30 Business Days from the date the Tenant receives the Relevant Disposal Notice (**First Offer Period**):
 - (i) where the Relevant Disposal Event is a Land Dealing, the Tenant (or a nominee of the Tenant) may make an offer to each Relevant Landlord to purchase the Land by completing, signing and delivering to the Relevant Landlord the Land Contract Terms in duplicate with the details of the buyer and price completed; or
 - (ii) where the Relevant Disposal Event is a Portfolio Only Change of Control Event the Tenant (or a nominee of the Tenant) may make an offer either:
 - (A) to each Relevant Landlord to purchase the Change of Control Premises by completing, signing and delivering to the Relevant Landlord the Land Contract Terms in duplicate with the details of the buyer and price completed; or
 - (B) to the Relevant Landlord (on behalf of the Relevant Interest Holders) to purchase the Relevant Interest which is proposed to be disposed or dealt with by completing, signing and delivering to the Relevant Landlord the Equity Contract Terms in duplicate with the details of the buyer and price completed.

Each price included in Land Contract Terms or Equity Contract Terms is an **Offered Price**. Where the Relevant Disposal Event is a Portfolio Deal or is an offer made by pursuant to clause 4.4(a)(ii)(A) and involves more than one Change of Control Premises, the Offered Price must be apportioned to each of the applicable Portfolio Lease Premises.

- (b) At any time during the First Offer Period, the Tenant may notify the Relevant Landlord that it does not wish to purchase the Land, the Change of Control Premises or the Relevant Interest as applicable. If no notice is given by the Tenant in the First Offer Period it is taken to have given the Landlord a notice that it does not wish to purchase the Land, the Change of Control Premises or the Relevant Interest as applicable.
- (c) The Relevant Landlord may accept (including on behalf of the Relevant Interest Holders as applicable) an offer made by the Tenant or its nominee pursuant to clause 4.4(a) by, within 15 Business Days after receipt of the completed and signed Land Contract Terms or Equity Contract Terms (as applicable), signing (and in the case of a Portfolio Only Change of Control Event by procuring all of the Relevant Interest Holders to sign) the Land Contract Terms or Equity Contract Terms (as applicable), and providing an original counterpart of the fully executed Land Contract Terms or Equity Contract Terms (as applicable) to the Tenant.

4.5 Failure or refusal

If:

- (a) the Tenant notifies (or is taken to have notified) the Relevant Landlord under clause 4.4(b) that it does not wish to purchase the Land, the Change of Control Premises or the Relevant Interest; or
- (b) the offer is not accepted in accordance with clause 4.4(c),

(the date that the first of the circumstances in clause 4.5(a) or clause 4.5(b) occurs being the **Refusal Date** (and in the case of the Tenant being taken to have notified the Relevant Landlord, the Refusal Date is the day after the expiry of the First Offer Period)):

- (c) the Relevant Landlord or the Relevant Interest Holders (as applicable) may, (subject to clause 4.6) within 9 months after the Refusal Date (but not before the Refusal Date), enter into:
 - (i) in respect to a Land Dealing, an agreement to transfer the whole of the Land to a third party on terms which are not (when taken as a whole) more materially favourable than the Land Contract Terms included with the Relevant Disposal Notice, and at a price at not less than 95% of any Offered Price; or
 - (ii) in respect to a Portfolio Only Change of Control Event, an agreement to transfer the Relevant Interest to a third party on terms which are not (when taken as a whole) more materially favourable than the Equity Contract Terms included with the Relevant Disposal Notice, and:
 - (A) where the Tenant delivered signed and completed Equity Contract Terms in accordance with clause 4.4(a)(ii)(B), at a price at not less than 95% of the Offered Price; or

- (B) where the Tenant delivered signed and completed Land Contract Terms in accordance with clause 4.4(a)(ii)(A), the consideration payable to the Relevant Interest Holders must attribute not less than 95% of the Offered Price to the Change of Control Premises,

(each being an **Allowed Dealing**). The Relevant Landlord must promptly notify the Tenant if the Relevant Landlord enters into any agreement to transfer the Land or where a Portfolio Only Change of Control Event proceeds. The Relevant Landlord must, in the case of a Portfolio Only Change of Control Event and at the request of the Tenant, demonstrate to the reasonable satisfaction of the Tenant the basis on which the consideration payable to Relevant Interest Holders was allocated to the assets of the Affected Associated Entity, which must be a fair and reasonable allocation; and

- (d) the Tenant, for a period of 9 months after the Refusal Date will, subject to complying with clause 12.2 of the Master Lease Terms, be permitted to assign its interest under any of the Portfolio Leases affected by the Relevant Disposal Event without the restrictions in clause 6 applying to any such assignment.

The Relevant Landlord may not sell the Land (or part) and must procure a Portfolio Only Change of Control Event does not occur other than by an Allowed Dealing without again complying with this clause 4.

4.6 No effect on other obligations

- (a) Nothing in this clause 4 affects the obligations of the Landlord under clause 13.5 of the Master Lease Terms.
- (b) The Landlord must procure that a Portfolio Only Change of Control Event does not occur (other than a Portfolio Only Change of Control Event caused by a circumstance in clause 13.6(b)(i)– (iii) of the Master Lease Terms) which would result in the Landlord being controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by:
 - (i) a Competitor;
 - (ii) a person named, or controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a person who is named, on a sanctions list or who is a 'politically exposed person' for the purposes of anti-money laundering or counter-terrorism financing (or equivalent) laws or guidelines; or
 - (iii) a person who is incapable of performing (or procuring the performance of) the monetary obligations of the Landlord under this document and the Portfolio Leases.
- (c) The Tenant agrees that the mere change of trustee, responsible entity, custodian or manager is not sufficient of itself to comprise a Portfolio Only Change of Control Event, provided that the Landlord must ensure that the replacement trustee, responsible entity, custodian or manager is not a Competitor or a person described in clause 4.6(b)(ii) or (iii).
- (d) The rights granted to the Tenant in this clause 4 are intended to run with the Land, and (without limiting clause 9) the Landlord must obtain a covenant from any assignee or transferee of its interest in the Land in the

document referred to in clause 13.5(b) of the Master Lease Terms to be bound by this clause 4.

4.7 Where clause does not apply

This clause 4 does not apply to a Portfolio Only Change of Control Event where one or more Landlord Group Members retain, after the Portfolio Only Change of Control Event, the Prescribed Rights in the Landlord, and provided that after the Change of Control Event the Landlord will not be controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a Competitor or a person described in clause 4.6(b)(ii) or (iii).

5 Right of first offer – Landlord Change of Control Event

- (a) A Change of Control Event for the purposes of this clause 5 means a Change of Control Event other than a Portfolio Only Change of Control Event.
- (b) The Landlord must ensure that no Change of Control Event occurs with respect to or affecting the Landlord (other than a Change of Control Event caused by a circumstance described in clause 13.6(b)(i) – (iii) of the Master Lease Terms) without providing to the Tenant at least 40 Business Days prior written notice of the Change of Control Event (**Change of Control Notice**). The Change of Control Notice must specify:
 - (i) the Relevant Landlord (**Impacted Landlord**); and
 - (ii) the respective Portfolio Lease Premises (**Impacted Land**),to which the Change of Control Event applies or affects.
- (c) If the Tenant receives a Change of Control Notice, then for a period of 30 Business Days from the date the Tenant receives the Change of Control Notice (**Change of Control Offer Period**) and at the Tenant's request, each Impacted Landlord must meet with the Tenant (or, at the Tenant's request, a nominee of the Tenant) to negotiate in good faith and act reasonably to agree terms on which the Impacted Landlord will sell the Impacted Land to the Tenant (or a nominee of the Tenant as relevant). For that purpose the Tenant must propose a price at which the Tenant (or nominee as applicable) will purchase the Impacted Land from the Impacted Landlord (**Impacted Offered Price**). The Impacted Offered Price and the other terms on which the Tenant (or its nominee as applicable) offers to purchase the Impacted Land are the **Tenant Offered Terms**. The Tenant (or nominee as applicable) must not make an offer to purchase less than all of the Impacted Land.
- (d) At any time during the Change of Control Offer Period, the Tenant may notify the Impacted Landlord that it does not wish to purchase the Impacted Land. If no notice is given by the Tenant in the Change of Control Offer Period it is taken to have given the Landlord a notice that it does not wish to purchase the Impacted Land.
- (e) Where the Impacted Landlord accepts the Tenant Offered Terms the Impacted Landlord and the Tenant (or a nominee of the Tenant as applicable) must enter into a contract for the sale and purchase of the Impacted Land on the Tenant Offered Terms and otherwise on fair and reasonable terms.

- (f) If:
- (i) the Tenant notifies (or is taken to have notified) the Impacted Landlord under clause 5(d) that it does not wish to purchase the Impacted Land; or
 - (ii) the Tenant (or, at the Tenant's request under clause 5(c) a nominee of the Tenant) and the Impacted Landlord fail to agree terms on which the Impacted Landlord will sell the Impacted Land to the Tenant or a nominee of the Tenant (as relevant) during the Change of Control Offer Period,

(the date that the first of the circumstances in clause 5(f)(i) or clause 5(f)(ii) occurs being the **Relevant Refusal Date** (and in the case of the Tenant being taken to have notified the Impacted Landlord, the Relevant Refusal Date is the day after the expiry of the Change of Control Offer Period)), then:

- (iii) the Impacted Landlord may within 9 months after the Relevant Refusal Date proceed with the Change of Control Event provided that:
 - (A) the consideration payable to the Relevant Interest Holders of the Relevant Interest which is proposed to be disposed or dealt with which is attributable to the value of the Impacted Land is at least 95% of the Impacted Offered Price (and the Impacted Landlord must at the request of the Tenant demonstrate to the reasonable satisfaction of the Tenant the basis on which the consideration payable to the Relevant Interest Holders was allocated to the assets of the Affected Associated Entity, which must be a fair and reasonable allocation); and
 - (B) the Impacted Landlord must procure that a Change of Control Event does not occur (other than a Change of Control Event caused by a circumstance described in clause 13.6(b)(i) – (iii) of the Master Lease Terms) which would result in an Impacted Landlord being controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by:
 - (aa) a Competitor;
 - (ab) a person named, or controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a person who is named, on a sanctions list, or who is a 'politically exposed person' for the purposes of anti-money laundering or counter-terrorism financing (or equivalent) laws or guidelines; or
 - (ac) a person who is incapable of performing (or procuring the performance of) the monetary obligations of the Landlord under this document and the Portfolio Leases; and
- (iv) the Tenant, for a period of 9 months after the Relevant Refusal Date will, subject to complying with clause 12.2 of the Master Lease Terms, be permitted to assign its interest under each Portfolio Lease of the Impacted Land without the restrictions in clause 6 applying to any such assignment.

- (g) The Landlord must promptly notify the Tenant where a Change of Control Event proceeds.
- (h) The Tenant agrees that the mere change of trustee, responsible entity, custodian or manager is not sufficient of itself to comprise a Change of Control Event for the purposes of this clause 5, provided that the Landlord must ensure that the replacement trustee, responsible entity, custodian or manager is not a Competitor or a person described in clause 5(f)(iii)(B)(ab) or (ac).
- (i) The rights granted to the Tenant in this clause 5 are intended to run with the Land, and (without limiting clause 9) the Landlord must obtain a covenant from any assignee or transferee of its interest in the Land in the document referred to in clause 13.5 of the Master Lease Terms to be bound by this clause 5.
- (j) This clause 5 does not apply to a Change of Control Event where one or more Landlord Group Members retain, after the Change of Control Event, the Prescribed Rights in the Landlord, and provided that after the Change of Control Event the Landlord will not be controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a Competitor or a person described in clause 5(f)(iii)(B)(ab) or (ac).

6 Dealing Rights and Restrictions

6.1 Tenant may undertake permitted dealings

Subject to clauses 6.2 to 6.5 and to clause 8.6, the Landlord agrees that the Tenant may undertake a Permitted Dealing where the Tenant wishes to deal with an asset which in its opinion (acting reasonably and in good faith) is underperforming or over-rented.

6.2 Substitution

- (a) Where the Tenant wants to undertake a Substitution:
 - (i) the Tenant must give the Relevant Landlord a notice (**Substitution Notice**) which states the intention of the Tenant to effect a Substitution and which identifies:
 - (A) the Portfolio Lease Premises to be removed from the Pool (**Replaced Premises** and the Portfolio Lease over those premises being the **Replaced Lease**); and
 - (B) the proposed substitute premises (**Proposed Substitute Premises**).
- (b) If the Proposed Substitute Premises are Acceptable Substitute Premises and which satisfy the Minimum Value Criteria then (subject to clause 6.4) the Relevant Landlord must accept the Substitution.
- (c) In order to effect the Substitution, where the Proposed Substitute Premises are to be acquired by the Relevant Landlord:
 - (i) it must promptly after receipt of the Substitution Notice acquire the Proposed Substitute Premises and grant a lease over the Proposed Substitute Premises to the Tenant:

- (A) which commences on the day after the date the Relevant Landlord completes the acquisition of the Proposed Substitute Premises for the unexpired term of the Surrendered Lease;
 - (B) at a rent determined so as to meet the Minimum Value Criteria; and
 - (C) otherwise on the terms of the Replaced Lease; and
- (ii) the Relevant Landlord and the Tenant must surrender the Replaced Lease on the date of the commencement of the lease of the Proposed Substitute Premises, and must enter into all necessary documents to effect that surrender.
- (d) Following the Substitution:
 - (i) the description of the premises comprised in each Pool is taken to be varied to reflect the Substitution; and
 - (ii) this document ceases to apply to the Replaced Lease and the Replaced Premises (without affecting accrued rights and obligations).

6.3 Repurchase

- (a) Where the Tenant wants to effect a Repurchase the Tenant must give the Relevant Landlord a notice (**Repurchase Notice**) which states the intention of the Tenant to effect a Repurchase and which includes:
 - (i) details of the Portfolio Lease Premises to be acquired (**Relevant Portfolio Premises**);
 - (ii) a copy of a recent market valuation by a valuer (who is a full member of at least 10 years' standing of the Australian Property Institute and has at least 10 years' experience, and is actively engaged, in valuing hospitals and/or medical facilities), done on the Relevant Portfolio Premises, showing the then current market value of that land (and which must assume that the Portfolio Lease over the Relevant Portfolio Premises will not be surrendered); and
 - (iii) a copy of the proposed contract of sale with the following terms:
 - (A) the price will be the higher of:
 - (aa) the then current market value of the land as determined by the valuer in the valuation provided pursuant to clause 6.3(a)(ii); and
 - (ab) the Floor Price for the Relevant Portfolio Premises;
 - (B) the deposit will be 10% payable on the day of sale;
 - (C) the settlement period will be 20 Business Days subject to satisfaction of any FIRB condition precedent to completion or to the contract,

and the contract must otherwise be on fair and reasonable terms.

- (b) The Relevant Landlord must execute the contract of sale included in the Repurchase Notice and provide this back to the Tenant. The Tenant must within 5 Business Days upon receipt of the executed contract of sale from the Relevant Landlord, execute the contract of sale and provide an original counterpart of the fully executed contract of sale to the Relevant Landlord. The Tenant agrees that subject to the Relevant Landlord complying with its obligations under this clause 6.3(b), the contract of sale binds the Tenant with effect from the last day of that 5 Business Day period even if the Tenant fails to execute the contract of sale and provide an original counterpart of the fully executed contract of sale to the Relevant Landlord.
- (c) The Relevant Landlord and the Tenant must effect the surrender of the Portfolio Lease over the Relevant Portfolio Premises with effect from 11.59pm on the date that the purchase of the Relevant Portfolio Premises is completed, and must enter into all necessary documents to effect that surrender. On the date that the purchase of the Relevant Portfolio Premises is completed:
 - (i) the description of the premises comprised in each Pool is taken to be varied by deleting (from the relevant Pool) the Relevant Portfolio Premises; and
 - (ii) this document ceases to apply to the Relevant Portfolio Premises and the corresponding Portfolio Lease (without affecting accrued rights and obligations).
- (d) The Relevant Landlord agrees that the rights conferred on the Tenant under this clause 6 constitute the grant by the Relevant Landlord of an option to purchase the Relevant Portfolio Premises in favour of the Tenant.
- (e) Any stamp duty payable on the grant and exercise of the right to Repurchase and on the subsequent transfer of the Relevant Portfolio Premises is for the account of the Tenant.

6.4 Minimum Pool Value

Notwithstanding anything to the contrary the Tenant may not without the consent of the Relevant Landlord (which may be withheld in the absolute discretion of the Relevant Landlord) undertake or effect:

- (a) a Repurchase; or
- (b) a Third Party Assignment,

where following the completion of that dealing the aggregate Rent payable under the Portfolio Leases comprised in the affected Pool would be less than the Minimum Pool Value for that Pool

6.5 Clause does not affect other rights

Nothing in this clause affects or limits the Tenant's rights under clause 4 or clause 5 of this deed.

7 Rent Adjustment

7.1 Tenant may adjust rent

The Tenant may by notice to the Relevant Landlord given at any time in the 12 month period after the Effective Date reduce the Rent under a Portfolio Lease in accordance with this clause 7. The Tenant may give one or more notices under this clause 7 (but may only give one notice in respect to each of the Portfolio Leases).

7.2 Form of notice

A notice under clause 7.1 (**Rent Adjustment Notice**) must:

- (a) identify the Portfolio Lease to which the Rent adjustment is to apply (**Rent Affected Lease**);
- (b) be addressed to the Relevant Landlord under the Rent Affected Lease; and
- (c) state the amount of the annual Rent decrease to apply to the Rent Affected Lease, which may not be greater than the Pro forma EBITDAR Rent Adjustment Amount for the Rent Affected Lease (the amount stated in the notice being the **Rent Reduction Amount** and the commencing Rent under the Rent Affected Lease after deducting the Rent Reduction Amount being the **Resulting Rent**).

7.3 Purchase price adjustment

The Tenant:

- (a) acknowledges that as a consequence of giving a Rent Adjustment Notice the purchase price paid by the Relevant Landlord under the contract of sale to acquire the relevant Portfolio Lease Premises (**Contract for Sale**) is subject to an adjustment in favour of the Relevant Landlord calculated (subject to clause 7.5) in accordance with the following formula (being the **Purchase Price Adjustment Amount**):

$$\frac{\text{Rent Reduction Amount}}{0.05}$$

- (b) agrees to pay the Relevant Landlord the Purchase Price Adjustment on behalf of the seller under the Contract for Sale on the date the Tenant gives the Relevant Landlord the Rent Adjustment Notice.

7.4 Variation of Rent Affected Lease

With effect from the later of:

- (a) the date that the Tenant gives the Relevant Landlord a Rent Adjustment Notice in accordance with this clause 7; and
- (b) the date that the Tenant pays the Relevant Landlord the Purchase Price Adjustment Amount,

the Rent under the Rent Affected Lease is reduced to the Resulting Rent, provided that where the Rent Adjustment Notice is given to the Relevant Landlord after 1 January 2020 the Resulting Rent is increased by 2.5%. The parties must promptly enter into a deed of variation to record the variation to the Rent under

the Rent Affected Lease and, where the Rent Affected Lease is registered, register that variation.

7.5 Reimbursement of stamp duty difference

- (a) Where Rent under a Portfolio Lease is reduced in accordance with this clause 7, the Tenant must pay to the Relevant Landlord an amount equal to the difference between the Original Stamp Duty Amount and the Recalculated Stamp Duty Amount (that amount being the **Stamp Duty Difference**). The Tenant agrees that the Stamp Duty Difference is a further adjustment to the purchase price paid by the Relevant Landlord under the Contract for Sale and that it pays the Stamp Duty Difference to the Relevant Landlord on behalf of the seller under the Contract for Sale.
- (b) In this clause 7.5:
 - (i) **Original Stamp Duty Amount** means:
 - (A) where the stamp duty imposed on the purchase of the relevant Portfolio Lease Premises by the Relevant Landlord was calculated on an aggregated basis (the Portfolio Lease Premises' the subject of that aggregation being the **Aggregated Premises**), an amount equal to that proportion of the total stamp duty payable on the purchase of the Aggregated Premises on the date of purchase (calculated on their respective Floor Prices) that the Floor Price of the relevant Portfolio Lease Premises bears to the aggregate Floor Prices of the Aggregated Premises; or
 - (B) where the stamp duty imposed on the purchase of the relevant Portfolio Lease Premises by the Relevant Landlord was not calculated on an aggregated basis, the stamp duty payable on the purchase of the relevant Portfolio Lease Premises by the Relevant Landlord on the date of purchase; and
 - (ii) **Recalculated Stamp Duty Amount** means the amount determined by recalculating the Original Stamp Duty Amount (under clauses 7.5(b)(i)(A) or (B), as applicable) on the basis that the Floor Price of the relevant Portfolio Lease Premises is equal to the Floor Price less the Purchase Price Adjustment.
 - (iii) References to 'Floor Price' in this clause 7.5(b) means the amount of the Floor Price stated in Schedule 3, disregarding any reduction to that amount pursuant to this cause 7.

7.6 Consequential floor price adjustment

Where Rent under a Portfolio Lease is reduced in accordance with this clause 7:

- (a) the Floor Price for the relevant Portfolio Lease Premises is taken to be reduced by the Purchase Price Adjustment Amount on the same date that the Rent under the Rent Affected Lease is reduced under clause 7.4; and
- (b) the Minimum Pool Value for the Pool containing the relevant Portfolio Lease Premises is to be recalculated to take into account the rent payable under Rent Affected Lease following the reduction of Rent.

8 Rent reallocation

8.1 Acknowledgement

The Landlord acknowledges that:

- (a) the Rent under the Portfolio Leases has been determined based on predicted EBITDAR in respect to the operations at the Portfolio Lease Premises, and on the basis that EBITDAR from the operations at the Portfolio Lease Premises will be at least 2.2x the aggregate Rent to be paid under the Portfolio Leases (the 2.2x EBITDAR coverage principle being the **EBITDAR Coverage Principle**);
- (b) the Portfolio Lease Premises comprised in Pool A represent approximately 70% of the value of the Portfolio Lease Premises (**Pooling Principle**);
- (c) during the period of 12 months after the Effective Date the Tenant will be able to assess the extent to which the predicted EBITDAR in respect to the operations at the Portfolio Lease Premises is accurate; and
- (d) the Tenant will have the right in accordance with this clause 8 to reallocate Rent between the Portfolio Leases with the goal of better reflecting the EBITDAR Coverage Principle between individual Portfolio Leases and within each Pool.

8.2 Reallocation notice

The Tenant may by notice to the Relevant Landlords given at any time in the 12 month period after the Effective Date reallocate the Rents between two or more Portfolio Leases in accordance with this clause 8. The Tenant may not give more than one notice pursuant to this clause 8.2.

8.3 Form of notice

A notice under clause 8.2 (**Rent Reallocation Notice**) must:

- (a) identify the Portfolio Leases to which the Rent reallocation is to apply (each a **Rent Reallocation Lease**);
- (b) be addressed to the Relevant Landlords of the Portfolio Lease Premises the subject of the Rent Reallocation Leases; and
- (c) (the Tenant acting in good faith and having regard to the EBITDAR Coverage Principle and the Pooling Principle):
 - (i) state the amount of the annual Rent to apply under each of the Rent Reallocation Leases, provided that the aggregate Rent payable under the Rent Reallocation Leases must not be less than the aggregate Rent payable under those leases prior to the date that the Tenant gives the Relevant Landlords the Rent Reallocation Notice; and
 - (ii) where any Portfolio Lease Premises are to be reallocated to a different Pool, detail that reallocation.

8.4 Variation of Rent Reallocation Leases

With effect from the date that the Tenant gives the Relevant Landlords a Rent Reallocation Notice in accordance with this clause 8 the Rent under each of the

Rent Reallocation Leases is varied in accordance with the Rent Reallocation Notice. The parties must promptly enter into a deed of variation to record the variation to the Rent under each Rent Reallocation Lease, and where a Rent Reallocation Lease is registered, register that variation.

8.5 Consequential changes

Where Rent under Portfolio Leases is reallocated in accordance with this clause 8:

- (a) the Minimum Pool Value for each Pool is to be recalculated to take into account the rent payable under the Portfolio Leases comprised in each Pool following that reallocation (including as a consequence of any reallocation of Portfolio Lease Premises to different Pools); and
- (b) Schedule 2 is taken to be amended to reflect any reallocation of Portfolio Lease Premises to different Pools.

8.6 Limit on clause 6 rights

The Tenant may not effect a Permitted Dealing with a Rent Reallocation Lease or the Portfolio Lease Premises the subject of a Rent Reallocation Lease for the period of 24 months following the date on which the Rent under the Rent Reallocation Lease is varied in accordance with this clause 8.

9 Cross-termination right

The Tenant agrees that if a Portfolio Lease (**Relevant Lease**) is terminated by the Relevant Landlord pursuant to clause 17.1(a) of the Master Lease Terms, the other Relevant Landlords may terminate each other Portfolio Lease by giving written notice to the Tenant at the same time as it terminates the Relevant Lease.

10 Guarantee and indemnity

10.1 Consideration

The Guarantor acknowledges that the Relevant Landlord:

- (a) enters into each of the Portfolio Leases at the request of the Guarantor; and
- (b) is acting in reliance on the Guarantor incurring obligations and giving rights under this Guarantee.

10.2 Guarantee

- (a) The Guarantor unconditionally and irrevocably guarantees to the Relevant Landlord the Tenant's compliance with the Tenant's obligations in connection with:
 - (i) its Portfolio Lease; and
 - (ii) its occupation of the Portfolio Lease Premises,including each obligation to pay money.
- (b) If the Tenant does not comply with those obligations on time and in accordance with its Portfolio Lease, or if an Ipso Facto Event occurs,

then the Guarantor agrees to comply with those obligations on demand from the Relevant Landlord. A demand may be made whether or not the Relevant Landlord has made demand on the Tenant. An **Ipsso Facto Event** means the Tenant is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, or administration as described in section 415D(1), 434J(1) or 451E(1) of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

10.3 Indemnity

- (a) The Guarantor indemnifies and must keep indemnified the Relevant Landlord against any liability or loss arising, and any Costs it incurs, if
 - (i) the Tenant does not, or is unable to, perform an obligation it has (including an obligation to pay money) in connection with its Portfolio Lease;
 - (ii) an obligation the Tenant would otherwise have under its Portfolio Lease (including an obligation to pay money) is found to be void, voidable or unenforceable;
 - (iii) an obligation the Guarantor would otherwise have under clause 10.2 ("Guarantee") is found to be void, voidable or unenforceable;
 - (iv) a liquidator disclaims the relevant Portfolio Lease; or
 - (v) the Tenant becomes Insolvent.
- (b) The Guarantor agrees to pay amounts due under this indemnity on demand from the Relevant Landlord.

10.4 Nature of guarantee

Each of the guarantees in clause 10.2 ("Guarantee") and the indemnity in clause 10.3 ("Indemnity") is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Tenant's obligations in connection with its Portfolio Lease. The Guarantor waives any right it has of first requiring the Relevant Landlord to make demand, commence proceedings or enforce any other right against the Tenant or any other person before claiming from the Guarantor under this Guarantee.

10.5 Acknowledgment

The Guarantor acknowledges that before signing this document, and incurring obligations and giving rights under this Guarantee, it:

- (a) was given a copy of each Portfolio Lease and had full opportunity to consider each of their provisions; and
- (b) made itself aware of the financial position of each Tenant and any other person who guarantees any of the Tenant's obligations in connection with its Portfolio Lease.

10.6 Rights of the Landlord are protected

Rights given to the Relevant Landlord under this Guarantee, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which

might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 10.2 ("Guarantee") are expressed to be owing;
 - (ii) releasing the Tenant or giving the Tenant a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Tenant's obligations;
 - (iv) by which a person becomes a Guarantor after the date of the relevant Portfolio Lease;
 - (v) by which the obligations of any person who guarantees any of the Tenant's obligations (including under this Guarantee) may become unenforceable;
 - (vi) by which any person who was intended to guarantee any of the Tenant's obligations does not do so, or does not do so effectively; or
 - (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with the relevant Portfolio Lease (including this Guarantee) including the termination, surrender or expiry of, or any assignment, subletting, licensing, extension or renewal or any reduction or conversion of the Term;
- (c) any transfer of a right of the Relevant Landlord;
- (d) the death, mental or physical disability, or Insolvency of any person including the Guarantor or the Tenant;
- (e) changes in the membership, name or business of any person;
- (f) acquiescence or delay by the Relevant Landlord or any other person;
- (g) any change in the Tenant's occupation of its Portfolio Lease Premises; or
- (h) a liquidator disclaiming the relevant Portfolio Lease.

10.7 No merger

- (a) This Guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:
 - (i) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Relevant Landlord is entitled; or
 - (ii) a judgment which the Relevant Landlord obtains against the Guarantor, the Tenant or any other person in connection with the relevant Portfolio Lease.

- (b) The Relevant Landlord may still exercise its rights under this Guarantee as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

10.8 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with the relevant Portfolio Lease or the Tenant's occupation of its Portfolio Lease Premises, the Guarantor may not, without the Relevant Landlord's consent:

- (a) reduce its liability under this Guarantee by claiming that it or the Tenant or any other person has a right of set-off or counterclaim against the Relevant Landlord;
- (b) claim, or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity (or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with the relevant Portfolio Lease or any other amount payable under this Guarantee;
- (c) claim an amount from the Tenant, or another guarantor (including a person who has signed the relevant Portfolio Lease as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the Insolvency of the Tenant or of another guarantor of any of the Tenant's obligations (including a person who has signed the relevant Portfolio Lease as a "Guarantor").

This clause 10.8 continues after this Guarantee ends.

10.9 Reinstatement of rights

Under law relating to Insolvency, a person may claim that a transaction (including a payment) in connection with the relevant Portfolio Lease (including this Guarantee) is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Relevant Landlord is promptly entitled as against the Guarantor to the rights in connection with the relevant Portfolio Lease (including this Guarantee) to which it was entitled promptly before the transaction; and
- (b) on request from the Relevant Landlord, the Guarantor agrees to do anything (including signing any document) to restore to the Relevant Landlord any Encumbrance (including this Guarantee) held by it from the Guarantor promptly before the transaction.

The Guarantor's obligations under this clause 10.9 are continuing obligations, independent of the Guarantor's other obligations under this Guarantee and continue after this Guarantee ends.

10.10 Extent of Guarantor's obligations

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this Guarantee both individually and jointly with any one or more other persons named as "Guarantor".

10.11 Costs

- (a) The Guarantor agrees, within 5 Business Days of demand, to pay or reimburse the Relevant Landlord's Costs of exercising, enforcing or preserving rights, powers or remedies in connection with this Guarantee.
- (b) The Guarantor agrees to pay for anything that it agrees to do under this Guarantee.

10.12 Obligation to pay interest

- (a) The Guarantor agrees to pay interest on any amount under this Guarantee which:
 - (i) is not paid on the due date for payment; and
 - (ii) is not otherwise incurring interest.
- (b) The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.
- (c) The Guarantor agrees to pay interest under this clause 10.12 on demand from the Relevant Landlord.

10.13 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

10.14 Compounding

Interest accrued but which has not been paid under clause 10.12 is added to the overdue amount at the end of each period of 30 days (or any other period the Relevant Landlord reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is payable on the increased overdue amount at the rate set out in clause 10.13 and in the manner set out in clause 10.12.

10.15 Payments

The Guarantor agrees to make payments under this Guarantee to the Relevant Landlord (or to a person nominated by the Relevant Landlord in a notice to the Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in promptly available funds.

10.16 Each signatory bound

This Guarantee binds each person who signs this document as Guarantor even if another person who was intended to sign as Guarantor does not sign it or is not bound by it.

10.17 Reference to “the relevant Portfolio Lease”

In this Guarantee, a reference to a “relevant Portfolio Lease” includes the relevant Portfolio Lease even if the Portfolio Lease is not registered, or is found not to be a lease, or is found to be a lease for a term less than the Term.

11 Dealings

11.1 Landlord transfer

Without limiting any other obligation of the Relevant Landlord under this document or a Portfolio Lease, the Relevant Landlord must not:

- (a) sell or transfer all or part of its interest in any Portfolio Lease Premises or this document; or
- (b) grant any interest superior to or concurrent with any Portfolio Lease,

without procuring the relevant third party to enter into a deed with the Tenant in a form reasonably required by the Tenant under which the third party accedes to this document and agrees to perform all of the obligations of the Relevant Landlord under this document.

11.2 Tenant assignment

- (a) Where the Tenant assigns a Portfolio Lease pursuant to a Third Party Assignment (the Portfolio Lease being assigned being the **Assigned Lease** and the Portfolio Lease Premises the subject of that Assigned Lease being the **Assigned Premises**), this document ceases to apply to the Assigned Lease and the Assigned Premises from the date of the assignment (without affecting accrued rights and obligations).
- (b) Where the Tenant assigns a Portfolio Lease pursuant to clause 12.4 of the Master Lease Terms, then without limiting the obligation of the Tenant under clause 12.4(b)(ii) of the Master Lease Terms, the Tenant must procure that the assignee enters into a deed with the Relevant Landlord in a form reasonably required by the Relevant Landlord under which the assignee accedes to this document and agrees to perform all of the obligations of the Tenant under this document.

12 Exercise of option and refresh

12.1 Exercise of option

Where the Tenant exercises an option for a New lease pursuant to clause 18 of its Portfolio Lease the parties agree that the terms of this document apply during the term of the New lease.

12.2 Refresh

The Landlord agrees to grant to the Tenant within 6 months of the commencement of each of the 20th, 40th, 60th and 80th years of the Term of each Portfolio Lease the rights in clauses 3, 4, 5 and 6 of this document, and the Landlord and the Tenant must enter into a deed of renewal in respect to those provisions of this document.

13 Committee

13.1 Establishment of Committee

Promptly after the Effective Date the Landlord and the Tenant must establish a committee comprised of representatives of the Landlord and the Tenant (**Committee**).

13.2 Role of Committee

- (a) The role of the Committee is to be a forum to discuss matters concerning the Portfolio Lease Premises and the parties' rights and obligations under the Portfolio Leases and this document.
- (b) In no circumstances will the Committee have the power or authority to make decision on behalf of the parties.

13.3 Representatives

The Landlord and the Tenant must appoint and at all times maintain at least 2 representatives on the Committee, and may replace its representatives at any time by notice to the other of them.

13.4 Meetings

The representatives of the Landlord and the Tenant must convene a Committee meeting at least once each Lease Year unless otherwise agreed in writing by the parties.

14 GST

14.1 Definitions and interpretation

For the purposes of this clause 14:

- (a) words and phrases which have a defined meaning in the GST Law have the same meaning when used in this clause 14, unless the contrary intention appears; and
- (b) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.

14.2 GST exclusive

Unless this document expressly states otherwise, all consideration to be provided under this document is exclusive of GST

14.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this document, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply (**GST Amount**).
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.

- (c) This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

14.4 Adjustment events

If an adjustment event arises for a supply made under or in connection with this document, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

14.5 Reimbursements

Any payment, reimbursement, indemnity or similar payment that is required to be made under this document which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 14.2 will apply to the reduced payment.

14.6 Survival

This clause will continue to apply after expiration or termination of this document.

15 Confidentiality

15.1 Disclosure of Confidential Information

Subject to clause 15.2 ("Announcements and press releases"), no Confidential Information relating to this document may be disclosed by any party to any person except:

- (a) to officers and employees of the party and the Related Bodies Corporate and other group members of the party requiring the information for the purposes of this document; or
- (b) to any person in connection with an exercise of rights or a dealing, or proposed dealing, with rights or obligations in connection with this document; or
- (c) to professional advisers and financiers of the party requiring the information for the purposes of this document (if the relevant person has entered into a confidentiality undertaking in favour of the other parties in the form of this clause with necessary changes); or
- (d) for the purpose of making any application to any authority or third party for any approval, consent or non-objection to the transactions contemplated by this document; or
- (e) with the consent of the party who supplied the information; or
- (f) if the party is required to do so by law or by a stock exchange; or
- (g) for the purposes of a capital or debt raising by the party; or
- (h) if the party is required to do so in connection with legal proceedings relating to this document.

15.2 Announcements and press releases

A party may not make press or other announcements or releases relating to this document or the transactions the subject of this document without the approval of the other parties as to the form and manner of the announcement or release (not to be unreasonably withheld) unless, and to the extent that, the announcement or release is required to be made by the party by law or by a stock exchange, in which case the party giving the announcement or release must first notify (including with reasonable details of the proposed announcement or release) the other parties a reasonable time (having regard to the time within which the announcement must be made), and must take into account (and reflect in the announcement or release to the extent it considers appropriate acting reasonably) any reasonable comments received from the other parties, before the announcement or release is made.

16 Dispute Resolution

16.1 Legal proceedings conditional

A party may not begin legal proceedings in connection with a dispute under this document unless that dispute has first been decided by a person to whom it has been referred under this clause 16. This clause does not prevent a party from seeking urgent or equitable relief.

16.2 Notice of Dispute

If this clause 16 applies, either party may give the other a notice requiring the dispute to be decided under this clause 16.

16.3 Referral of Dispute

This dispute must be referred to a person agreed on by the parties but if the parties do not agree on a person within 7 days after the notice is given, then to a person appropriately qualified to deal with the dispute nominated by the Chair of Resolution Institute (or his or her nominee) at the request of either the Landlord or the Tenant. The parties agree that the appointed person must have at least 10 years current and continuous standing in the person's profession at the date of the appointment and must be:

- (a) in the case of a legal matter, a practising barrister;
 - (b) in the case of a financial or accountancy matter, a practising chartered accountant; or
 - (c) in any other case, a qualified person,
- (and being the **Expert**).

16.4 Instructions

The parties must instruct the Expert that they:

- (a) act as an expert and not as an arbitrator;
- (b) may decide on rules of conduct and enquire into the dispute as they think fit including hearing representations and taking advice from people the Expert considers appropriate; and
- (c) must give a written decision including reasons.

16.5 Assistance

The parties may make submissions and must give every assistance the Expert requires, including providing copies of relevant documents.

16.6 Final and binding

The Expert's decision is final and binding on the parties, unless:

- (a) there is an obvious error in the Expert's decision;
- (b) the dispute relates to a matter of law; or
- (c) the dispute relates to a monetary claim that is in excess of \$500,000 (as adjusted annually for movements in the CPI from the Effective Date).

16.7 Costs

Unless the Expert decides otherwise:

- (a) each party must pay its own Costs in connection with the dispute; and
- (b) the Costs of referring the dispute to the Expert and the Expert's Costs, and the Cost of enquiries, must be shared equally.

17 Trustee limitation of liability

- (a) The Landlord enters into, and incurs obligations under, this document only in its capacity as trustee of the Trust and in no other capacity.
- (b) Subject to paragraph (f), the Landlord:
 - (i) will not be liable to pay or satisfy any obligation or liability under this document out of any assets held by it personally or in its capacity as trustee or responsible entity of any other trust or managed investment scheme, other than the Trust; and
 - (ii) will only be liable to pay or satisfy any of its obligations or liabilities under this document to the extent to which these obligations or liabilities can be satisfied out of property of the Trust out of which the Landlord is actually indemnified for that liability.
- (c) Subject to paragraph (f), each other party to this document may only enforce any rights it has under or in connection with this document against the Landlord in the Landlord's capacity as trustee of the Trust (and not in its personal capacity or any other capacity), and the remedies of each other party to this document are limited to the right of that party to be subrogated to the Landlord's right of indemnity against the assets of the Trust. Without limiting the generality of this paragraph (c), the other party must not take any action for the winding up, liquidation, administration, receivership or similar of the Landlord itself or seek recourse against the beneficiaries or members of the Trust.
- (d) Each other party to this document agrees that neither it nor any receiver or attorney that it appoints may incur any liability on behalf of or for the account of the Landlord unless that liability is subject to the limitation contained in this clause.

- (e) The provisions of this clause are paramount and apply to this document regardless of any other provision of this document or any other document or instrument, even a provision which seeks to apply regardless of any other provision.
- (f) The provisions of paragraphs (a) to (c) shall not apply to any obligation or liability of the Landlord to the extent that it is not satisfied because, under the trust deed of the Trust or by operation of law, there is a reduction in the extent of the Landlord's indemnity out of the assets of the Trust as a result of the Landlord's own fraud, negligence or breach of trust. In such a case, the Landlord's liability is limited to an amount equal to the value of the assets held on trust by the Landlord for the Trust.
- (g) This clause operates in respect to each Landlord who is a trustee on the basis that the references to 'Landlord' in this clause means the Landlord who is the trustee of a Trust as notified to the Tenant.

18 Notices and other communications

18.1 Form

Unless expressly stated otherwise in this document, all notices, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing, signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

18.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details; or
- (b) sent by regular ordinary post (airmail, if appropriate) to the address referred to in the Details; or
- (c) sent by email to the address referred to in the Details; or
- (d) given in any other way permitted by law.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

18.3 When effective

Communications take effect from the time they are received or taken to be received under clause 18.4 (whichever happens first) unless a later time is specified.

18.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, six Business Days after posting (or ten Business Days after posting if sent from one country to another);
- (b) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

18.5 Receipt outside business hours

Despite clauses 18.3 and 18.4, if communications are received or taken to be received under clause 18.4 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause 18.5, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

18.6 Joint notices

Notwithstanding anything to the contrary, the parties agree and acknowledge that where a notice is to be given by all Relevant Landlords or more than one Relevant Landlord, the notice may be given by a single Relevant Landlord on behalf of all Relevant Landlord or more than one Relevant Landlord and a notice to be given to all Relevant Landlords or more than one Relevant Landlord may be given to one Relevant Landlord on behalf of all Relevant Landlords or more than one Relevant Landlord provided that in all cases, the notice is addressed to or by the appropriate entities comprising the Relevant Landlord or Relevant Landlords.

19 General

19.1 Costs

The parties agree to pay their own Costs in connection with the preparation, negotiation, execution and completion of this document.

19.2 Approvals and consents

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the approval or consent.

19.3 Variation and waiver

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

19.4 Prompt performance

Each party agrees to perform its obligations under this document promptly, unless a specific time for performance is expressly stated in this document.

19.5 Further assurances

Each party agrees to (on request by any other party from time to time) do everything reasonably necessary to give effect to this document and the transactions contemplated by it.

19.6 No merger

The representations, warranties and undertakings in this document do not merge on expiry of the Term or termination of this document.

19.7 Serving documents

Without preventing any other method of service, any document in a court action may be served on a party by being delivered to or left at that party's address for service of notices under clause 18 ("Notices and other communications").

19.8 Counterparts

- (a) This document may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document.
- (b) A party that has signed a copy of this document may exchange it with another party by emailing or faxing the executed copy to that other party (or its solicitors) and, if requested by that other party, will promptly deliver the original copy by express post or courier. Failure to make that delivery will not affect the validity or enforceability of this document.

19.9 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this document or any part of it.

19.10 Provisions prohibited by law

If any provision of this document, or any obligation, right, power or remedy created by a provision:

- (a) is prohibited by a law;
- (b) does not comply with a law; or
- (c) is made unenforceable by a law,

the provision is to be interpreted so that to the extent the law permits, the provision, and any obligation, right power or remedy created by it, is not prohibited, complies with the law and is enforceable.

19.11 Severability

If the whole or any part of a provision of this document is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this document has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this document or is contrary to public policy.

19.12 Governing law

This document is governed by the law in force in the place specified in the Details and the parties submit to the non-exclusive jurisdiction of the courts of that place.

EXECUTED as a deed.

Portfolio Leases Umbrella Deed

Schedule 1 Portfolio Leases

Hospital	Premises details (Subject to variation on registration of any subdivision or consolidation affecting the land)	Tenant	Guarantor	Landlord	Commencing Rent (A\$) (subject to clause 7)	Initial Term	Subtenant
Norwest Private Hospital	9 Norbrik Drive and 11 Norbrik Drive, Bella Vista, New South Wales, Australia (being comprised in New South Wales folio identifiers 35/SP82294, 5/270592, 57/SP90088, 58/SP90088, 64 to 67 (inclusive)/SP90088 and 200/1222375)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	16,851,376	20 years	Healthscope Operations Pty Ltd ACN 006 405 152
The Hills Private Hospital	493, 495, 497-499 and 501 Windsor Road, Baulkham Hills, New South Wales, Australia (being comprised in New South Wales folio identifiers 20/1075051, 21/1075051, 11/1003058, 2/SP60520, 6/SP60520, 8 to 12 (inclusive)/SP60520, 13 to 17 (inclusive)/SP60520 and 18 to 19 (inclusive)/SP70247)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	3,540,307	19 years	Healthscope Operations Pty Ltd ACN 006 405 152
Darwin Private Hospital	19 Florey Avenue, Tiwi, Northern Territory, Australia (being comprised in Certificate of title volume 822 folio 958)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	2,664,527	21 years	Darwin Private Hospital Pty Ltd ACN 009 653 712

Hospital	Premises details (Subject to variation on registration of any subdivision or consolidation affecting the land)	Tenant	Guarantor	Landlord	Commencing Rent (A\$) (subject to clause 7)	Initial Term	Subtenant
Griffith Rehabilitation Hospital	16 Crombie Street and 13 Dunrobin Road, Hove, South Australia, Australia (being comprised in certificates of title volume 5196 folio 379, volume 5196 folio 384, volume 5165 folio 481, volume 5196 folio 380, volume 5196 folio 381, volume 5196 folio 382, volume 5196 folio 383, volume 5196 folio 385, volume 5196 folio 386, volume 5196 folio 387)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	2,254,511	21 years	Healthscope Operations Pty Ltd ACN 006 405 152
The Melbourne Clinic	130 Church Street, Richmond, Victoria, Australia (being comprised in certificates of title volume 09999 folios 248 and 249, volume 09994 folios 141 to 146 (inclusive), volume 09994 folio 150, volume 9994 folios 203 to 219 (inclusive) and volume 09994 folios 229 to 231 (inclusive))	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	7,152,726	20 years	Healthscope Operations Pty Ltd ACN 006 405 152
John Fawkner Private Hospital	275 Moreland Road and 21 Jessie Street, Coburg, Victoria, Australia (being comprised in certificates of title volume 11847 folios 619-629 (inclusive))	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	5,364,141	21 years	Healthscope Operations Pty Ltd ACN 006 405 152
The Sydney Clinic	22-26 Murray Street, Bronte, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1110649, 1/567684, 1/74847, 271/520414 and 441/997865)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	1,979,315	19 years	Healthscope Operations Pty Ltd ACN 006 405 152

Hospital	Premises details (Subject to variation on registration of any subdivision or consolidation affecting the land)	Tenant	Guarantor	Landlord	Commencing Rent (A\$) (subject to clause 7)	Initial Term	Subtenant
Lady Davidson Private Hospital	434 Bobbin Head Road, North Turramurra, New South Wales, Australia (being comprised in New South Wales folio identifier 211/1012228)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	3,505,925	19 years	Australian Hospital Care (Lady Davidson) Pty Ltd ACN 079 309 550
Hunter Valley Rehabilitation Centre	20 Mawson Street, Shortland, New South Wales, Australia (being comprised in New South Wales folio identifiers 1/1147809 and 8 to 10 (inclusive)/17058)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	3,690,525	20 years	The Hunter Valley Private Hospital Pty Ltd ACN 002 830 300
Brisbane Private Hospital	255 Wickham Terrace, Spring Hill, Queensland, Australia (being comprised in title reference 18364150 (Lot 49 on RP231249))	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	8,233,238	20 years	Brisbane Private Hospital Pty Ltd ACN 103 119 384
Newcastle Private Hospital	14 Lookout Road and 20 Lookout Road, New Lambton Heights, New South Wales, Australia (being comprised in New South Wales folio identifiers 2/1080386, 5/SP60845, 7/SP60845, 10/SP60845 and 402/1197237)	Healthscope Limited ACN 144 840 639	Healthscope Operations Pty Ltd ACN 006 405 152	[] ABN []	7,669,184	20 years	Newcastle Private Hospital Pty Ltd ACN 003 041 978

Portfolio Leases Umbrella Deed

Schedule 2 Pools

Pool A

#	Hospital	Term (years)	Rent (\$)	Options
1	Norwest Private Hospital	20	16,851,376	8 × 10 years
2	The Melbourne Clinic	20	7,152,726	8 × 10 years
3	Brisbane Private Hospital	20	8,233,238	8 × 10 years
4	Newcastle Private Hospital	20	7,669,184	8 × 10 years
5	Hunter Valley Rehabilitation Centre	20	3,690,525	8 × 10 years

Pool B

#	Hospital	Term (years)	Rent (\$)	Options
1	John Fawcner Private Hospital	21	5,364,141	8 × 10 years
2	Darwin Private Hospital	21	2,664,527	8 × 10 years
3	Griffith Rehabilitation Hospital	21	2,254,511	8 × 10 years

Pool C

#	Hospital	Term (years)	Rent (\$)	Options
1	Lady Davidson Private Hospital	19	3,505,925	8 × 10 years
2	The Hills Private Hospital	19	3,540,307	8 × 10 years
3	The Sydney Clinic	19	1,979,315	8 × 10 years

Schedule 3 – Floor Prices

Hospital	Price (A\$)
Norwest Private Hospital	337,027,515
The Hills Private Hospital	70,806,149
Darwin Private Hospital	53,290,549
Griffith Rehabilitation Hospital	45,090,228
The Melbourne Clinic	143,054,523
John Fawkner Private Hospital	107,282,824
The Sydney Clinic	39,586,294
Lady Davidson Private Hospital	70,118,508
Hunter Valley Rehabilitation Centre	73,810,503
Brisbane Private Hospital	164,664,758
Newcastle Private Hospital	153,383,673

Schedule 4 – Initial Capex Projects

- Refurbishments – converting double/triple rooms into single rooms, modernising the entrances and reception areas, and refurbishing amenities and kitchens.
- Defects identified that need to be repaired such as roof replacements, window replacements, brick cavity ties, and facades
- CSSD upgrades (central sterilization)
- Certain long-useful-life medical equipment
- Replacement of Mechanical equipment such as: air handling and conditioning units, lifts, chillers, cooling towers, boilers and piping
- Replacement of electrical equipment such as: switch boards and distribution boards, uninterrupted power supplies, RCD and Cardiac Body protection, back up Diesel generators, emergency lighting upgrades

Schedule 5 – Pro forma rent adjustments

Portfolio Lease Premises	Pro Forma EBITDAR Rent Adjustment Amount (\$)
Norwest Private Hospital	0
The Hills Private Hospital	0
Darwin Private Hospital	0
Griffith Rehabilitation Hospital	0
The Melbourne Clinic	1,593,252
John Fawcner Private Hospital	1,872,713
The Sydney Clinic	0
Lady Davidson Private Hospital	0
Hunter Valley Rehabilitation Centre	0
Brisbane Private Hospital	678,843
Newcastle Private Hospital	205,336

Portfolio Leases Umbrella Deed

Signing page

[#insert appropriate execution blocks]

Annexure A – Master Lease Terms

Reference Schedule – [#insert name of] Hospital

The Landlord and the Tenant agree that the provisions of this Lease (including the Master Lease Terms set out in the attached annexure) are covenants.

Landlord

[#] ABN [#]

Address: [#]

Fax: [#]

Email: [#]

Attention: [#]

Tenant

Healthscope Limited ABN 65 144 840 639

Address: [#]

Fax: [#]

Email: [#]

Attention: [#]

Premises

[#insert name of] Hospital, being the Land, and includes the Building.

Land

[#] **[Where the premises are part of a Shared Scheme the 'Land' will be the lot(s) in the Shared Scheme owned by the landlord which are to be leased to the Tenant]**

Term

[#]

Commencement Date

[#]

Expiry Date

[#]

Rent (clause 3 ("Rent"))

\$[#] per annum (exclusive of GST)

Umbrella Deed

Applicable

Public Liability Insurance Amount (clause 7 ("Insurances"))

\$20 million

Permitted Use (clause 9 ("Use and access hours"))

- (a) hospital and other uses associated with a healthcare precinct (including the provision of hospital, medical or health care services, consulting suites, education, laboratories, research and training facilities, car parking, ancillary retail (such as a chemist or supermarket), medical centres and any other services which a health care services provider may choose to provide on either an inpatient or out-patient basis (including pathology and diagnostic imaging services)), skilled nursing and other post-acute housing options; and
- (b) **[#to include any other current use on the Commencement Date]**.

Existing Leases (clause 24.10 ("Concurrent and existing leases"))

All leases granted over any part of the Premises prior to the Commencement Date, including **[#to include any specific leases]**

Implied Statutory Provisions (clause 24.1 ("Exclusion of statutory provisions"))

[#if Premises are in New South Wales]

- (a) the covenants, powers and provisions implied in leases by sections 84, 84A, 85 and 86 of the *Conveyancing Act 1919* (NSW) do not apply; and
- (b) words used in any of the forms of words in the first column of part 2 of schedule 4 to the *Conveyancing Act 1919* (NSW) do not imply a covenant under section 86 of that Act.

[#if Premises are in Northern Territory]

the conditions and covenants implied in leases by sections 117 and 119 of the *Law of Property Act 2000* (NT) do not apply.

[#if Premises are in Queensland]

the covenants, powers and provisions implied in leases by sections 105, 107 and 109 of the *Property Law Act 1974* (Qld) do not apply.

[#if Premises are in South Australia]

- (a) the covenants, powers and provisions implied in leases by sections 124 and 125 of the *Real Property Act 1886* (SA) do not apply; and
- (b) words used in any of the forms of words in schedule 16 to the *Real Property Act*

1886 (SA) do not imply a covenant under section 265 of that Act.

[#if Premises are in Victoria]

- (a) the covenants, powers and provisions implied in leases by section 67 of the *Transfer of Land Act 1958* (Vic) do not apply; and
- (b) to the extent the law permits, the proviso implied in leases by section 144 of the *Property Law Act 1958* (Vic) does not apply.

[#if Premises are in Western Australia]

- (a) sections 80 and 82 of the *Property Law Act 1969* (WA) and the covenants, powers and provisions implied in leases by sections 92, 93 and 94 of the *Transfer of Land Act 1893* (WA) do not apply; and
- (b) words used in any of the form of words in column one of the twelfth schedule of the *Transfer of Land Act 1893* (WA) do not imply a covenant under section 94 of that Act.

Particulars of new lease (clause 18 (“Option for a new lease”))

First new lease

term:	10 years
commencement date:	[#]
expiry date	[#]
rent review dates:	Fixed Increase Dates and percentage
	On each 1 January 2.5% during the term

Second new lease

term:	10 years
commencement date:	[#]
expiry date:	[#]
rent review dates:	Fixed Increase Dates and percentage
	On each 1 January 2.5% during the term

Third new lease

term:	10 years
commencement date:	[#]
expiry date:	[#]
rent review dates:	Fixed Increase Dates and percentage
	On each 1 January 2.5% during the term

Fourth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Fifth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Sixth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Seventh new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates: **Fixed Increase Dates and percentage**

On each 1 January 2.5%
during the term

Eighth new lease

term: 10 years

commencement date: [#]

expiry date: [#]

rent review dates:

Fixed Increase Dates and percentage

On each 1 January 2.5%
during the term

Master Lease Terms

King & Wood Mallesons

Level 61
Governor Phillip Tower
1 Farrer Place
Sydney NSW 2000
Australia
T +61 2 9296 2000
F +61 2 9296 3999
DX 113 Sydney
www.kwm.com

Master Lease Terms

Contents

Contents	2
1 Definitions and interpretation	6
1.1 Definitions	6
1.2 General interpretation	13
1.3 No partnership, agency or joint venture	14
1.4 Enforceability of powers etc	14
1.5 Relationship between this document and the Reference Schedule	14
1.6 Effect of execution	14
1.7 Umbrella Deed	15
2 Grant of Lease	15
3 Rent	15
3.1 Instalments of Rent	15
3.2 Broken periods	15
4 Fixed increases in Rent	15
5 Outgoings and other payments by the Tenant	15
5.1 Tenant to pay Outgoings	15
5.2 Separately metered Services	16
5.3 Shared Scheme levies	17
5.4 Challenges to Premises Valuations	17
5.5 Future Taxes on Premises or Building	18
5.6 Adjustments and errors	18
5.7 Landlord insurance	18
6 Payments	18
6.1 Manner of payment	18
6.2 Adjustment of payments	18
6.3 No demand necessary	19
6.4 Payment when no next Rent Day	19
6.5 Obligations not affected	19
6.6 Interest on overdue amounts	19
6.7 Rate of interest	19
7 Insurances	19
7.1 Tenant to take out insurances	19
7.2 The policy	20
7.3 Evidence	20
7.4 Obligations relating to cover	20
7.5 Notifications relating to claims	20
7.6 Use of claim proceeds	21
7.7 Payment of deductible	21

8	Indemnities and releases	21
8.1	Indemnity	21
8.2	Right to recover	21
8.3	Risk	21
8.4	Release	21
8.5	Condition of Premises	21
9	Use and access hours	22
9.1	Permitted Use	22
9.2	Access hours	23
10	Tenant's additional obligations	23
10.1	General obligations	23
10.2	Prohibited acts	23
10.3	Environmental Notices	23
10.4	Evidence of Compliance	23
10.5	Reporting	24
10.6	Indemnity	24
10.7	Tenant's Associates to comply	25
11	Repair and Tenant's works	25
11.1	Repair and replacement	25
11.2	Services	25
11.3	Where approval for works is not required	26
11.4	Landlord's approval – Major Works	26
11.5	Landlord to sign	26
11.6	Naming and signage	27
11.7	Occupational health and safety	27
12	Transfer and other dealings	27
12.1	Prohibited dealings	27
12.2	Transfer conditions	28
12.3	Sublease	29
12.4	Transfer to a Tenant Group Member	30
12.5	Change in control of Tenant	30
12.6	Consent	30
12.7	Guarantor	30
12.8	Encumbrances	31
12.9	Provisions which are varied on assignment	31
13	Landlord's additional obligations and rights	31
13.1	Quiet enjoyment and non-derogation	31
13.2	Consents	31
13.3	To enter	32
13.4	Shared Scheme	32
13.5	Sale of Landlord's interest	33
13.6	Landlord Change in Control	33
13.7	Landlord may rectify	34
13.8	Agents	35
13.9	Landlord Encumbrances	35
13.10	Subdivision	35
13.11	Notices	35
13.12	Landlord's Associates	35

14	Expiry or ending of lease	35
14.1	Tenant to vacate	35
14.2	No exercise	36
14.3	No removal of certain items	36
14.4	Removal of Tenant's Property	36
14.5	Conditions applying to removal	36
14.6	Landlord may treat Tenant's Property as abandoned	36
14.7	Tenant's Property at Tenant's risk	36
14.8	No make good obligations	37
14.9	Tenant to give Landlord keys	37
15	Holding over	37
15.1	Monthly tenancy	37
15.2	Terms of monthly tenancy	37
16	Damage to Building or Premises and resumption	37
16.1	Damage and destruction	37
16.2	Damage caused by Landlord	37
16.3	Reconstruction	38
16.4	Resumption	39
17	Default	39
17.1	Landlord's right to terminate	39
17.2	Compensation for breach	39
17.3	Mitigate loss	40
17.4	Indemnity for termination	40
17.5	No other right to terminate	40
18	Option for a New lease	40
18.1	Grant of New lease	40
18.2	Terms of New lease	40
19	GST	41
19.1	Definitions and interpretation	41
19.2	GST exclusive	41
19.3	Payment of GST	41
19.4	Adjustment events	42
19.5	Reimbursements	42
19.6	Survival	42
20	Personal Property Securities Act	42
20.1	PPSA further steps	42
20.2	Exclusion of PPSA provisions	42
20.3	No notice required unless mandatory	43
20.4	PPSA registration information	43
20.5	PPSA confidentiality	43
21	Notices and other communications	43
21.1	Form	43
21.2	Delivery	44
21.3	When effective	44
21.4	When taken to be received	44
21.5	Receipt outside business hours	44

22	Dispute Resolution	45
22.1	Legal proceedings conditional	45
22.2	Notice of Dispute	45
22.3	Referral of Dispute	45
22.4	Instructions	45
22.5	Assistance	45
22.6	Final and binding	45
22.7	Costs	46
23	Trustee Limitation of Liability	46
24	General	47
24.1	Exclusion of statutory provisions	47
24.2	Costs and stamp duty	47
24.3	Variation and waiver	47
24.4	Prompt performance	47
24.5	Inconsistent law	47
24.6	Supervening law	47
24.7	Rules of construction	47
24.8	Counterparts	48
24.9	Severability	48
24.10	Concurrent lease and existing licences	48
25	Governing law	49
25.1	Governing law and jurisdiction	49
25.2	Serving documents	49
Schedule 1	Guarantee provisions	50
Schedule 2	Right of first offer	55

Master Lease Terms

1 Definitions and interpretation

1.1 Definitions

The following definitions, together with those in the Reference Schedule, apply unless the contrary intention appears:

Authorised Officer means:

- (a) in the case of the Landlord any person who purports to be a 'chief executive officer' or 'executive vice president' of the Landlord, a director or secretary of the Landlord, or any other person specified by the Landlord to act as an Authorised Officer for the purposes of this Lease by a notice to the Tenant and the Guarantor; and
- (b) in the case of the Tenant, a director or secretary of the Tenant or any other person specified by the Tenant as an Authorised Officer for the purposes of this Lease by a notice to the Landlord; and
- (c) in the case of the Guarantor, a director or secretary of the Guarantor or any other person specified by the Guarantor as an Authorised Officer for the purposes of this Lease by a notice to the Landlord.

Building means the buildings and all other improvements (other than the Tenant's Property) on the Land excluding, where the Land is part of a Shared Scheme, any part of buildings and other improvements located on other lots or units not comprising the Land or which are located on the common property of the Shared Scheme or which are the responsibility of the Governing Body.

Business Day means a day on which banks are open for general banking business in the capital city of the State or Territory in which the Land is situated (not being a Saturday, Sunday or public holiday in that place).

Change of Control Event means where a person or group of persons that is beneficially entitled to the Prescribed Rights transfers, disposes or ceases to be beneficially entitled to the Prescribed Rights.

Commencement Date means the 'Commencement Date' of this Lease as stated in the Reference Schedule.

Competitor means any person or third party involved in or who owns or operates a business involved in the provision of health or medical services similar to the Permitted Use (in whole or part) (**Similar Business**), except where such person or third party:

- (a) is only involved in a Similar Business as a result of being an equity investor in a vehicle that owns or operates a Similar Business; or
- (b) is an institutional investor who has invested (whether directly or indirectly) in a Similar Business but whose primary business activities does not involve a Similar Business,

(the exceptions in paragraphs (a) and (b) being the **Investor Exceptions**), provided that the Investor Exceptions do not apply where the investor controls directly or indirectly the management or policies (whether through the ownership of voting securities or otherwise) of the vehicle owning or operating the Similar Business.

Contamination means the presence in, on, under or above any land of a substance at a concentration above the concentration at which the substance is

normally present in, on, under or above land in the same locality being a presence which presents a risk of harm to human health or any other aspect of the Environment, and **Contaminant**, **Contaminants** and **Contaminate** each have a corresponding meaning.

Controller has the meaning it has in the Corporations Act.

Core Hospital Operations means the provision of medical treatment or health care services as a hospital, including wards, theatres and nursing stations.

Corporations Act means the *Corporations Act 2001* (Cth).

Costs includes costs, charges and expenses, including those incurred in connection with advisers.

CPI means the Consumer Price Index - All Groups weighted average of eight capital cities.

EBITDAR means earnings before interest, taxes, depreciation, amortization and rent costs adjusted for any non-recurring items and as determined in accordance with generally accepted accounting principles.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the PPSA, or any agreement to create any of them or allow them to exist.

Environment includes:

- (a) ecosystems and their constituent parts, including people and communities;
- (b) natural and physical resources;
- (c) the qualities and characteristics of locations, places and areas;
- (d) heritage values of places; and
- (e) the social, economic and cultural aspects of any of the things described in paragraphs (a) to (d).

Environmental Notice means any direction, order, demand or other requirement to take any action or refrain from taking any action in respect of the Premises or its use:

- (a) from any authority; and
- (b) in connection with any law relating to Contamination, occupational health and safety, or which has as one of its purposes or effects the protection of the Environment.

Essential Term means:

- (a) the Tenant's obligation to comply with clause 12.1(a); and
- (b) the Tenant's obligation to comply with clause 10.1(a) in respect to those laws and requirements which, if breached, would have a material adverse effect on the Premises, the Tenant or the Landlord.

Existing Leases means the leases (if any) identified as 'Existing Leases' in the Reference Schedule.

Expiry Date means the date stated as the 'Expiry Date' in the Reference Schedule.

Fixed Increase Date means each 1 January during the Term.

Governing Body means each entity which manages or administers any Shared Scheme of which the Premises are part.

GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law has the meaning given to that term in the GST Act.

Guarantee means:

- (a) where the Umbrella Deed applies, the guarantee and indemnity in clause 10 of the Umbrella Deed; or
- (b) any guarantee and indemnity entered into pursuant to clause 12.

Guarantor means:

- (a) where the Umbrella Deed applies, the person identified as the 'Guarantor' in the Umbrella Deed; or
- (b) each person providing a guarantee and indemnity pursuant to clause 12.

Implied Statutory Provisions means all covenants, powers or other provisions implied in leases by statute or law, including any identified in the Reference Schedule.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a Controller appointed to its property;
- (c) it is subject to any arrangement (including a deed of company arrangement or scheme of arrangement), assignment, moratorium, compromise or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the Landlord);
- (d) an application or order has been made (and, in the case of an application which is disputed by the person, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of the things described in any of the above paragraphs;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the Landlord reasonably deduces it is so subject);

- (g) it is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to any of the things described in the above paragraphs happens in connection with that person under the law of any jurisdiction,

and **Insolvency** means that a person is Insolvent.

Land means the land described in the Reference Schedule.

Landlord means the person identified as the 'Landlord' in the Reference Schedule.

Landlord Act or Omission means any negligent or wilful act or omission on the part of the Landlord or the Landlord's Associates or a default on the part of the Landlord.

Landlord Group Member means:

- (a) each Related Body Corporate of the Landlord;
- (b) NorthWest Healthcare Properties REIT and its subsidiaries;
- (c) a company, fund or trust:
 - (i) controlled directly or indirectly by NorthWest Healthcare Properties REIT or its Related Bodies Corporate; or
 - (ii) directly or indirectly under the common control of NorthWest Healthcare Properties REIT or its Related Bodies Corporate and another person or persons,

and a fund advised or managed directly or indirectly by a person will also be deemed to be controlled by such person;
- (d) the Related Bodies Corporate of the entities listed above; and
- (e) any other person acting in its capacity as trustee, manager or custodian of any person listed above,

and the term "body corporate" when used in the definition of Related Body Corporate must be read to include entities, trusts and funds.

Landlord's Associates means each of the Landlord's employees, officers, agents, contractors, suppliers and consultants.

Landlord's Property means all plant, equipment, fixtures, fittings, and machinery permanently affixed to or incorporated into the Premises in situ as at the Commencement Date or paid for at the Landlord's expense during the Term.

Lease means:

- (a) these lease terms (as varied by the Reference Schedule); and
- (b) the Reference Schedule and the land registry form.

Major Works means:

- (a) structural alterations, additions, or improvements to the Premises including works comprising one or more new buildings, or one or more

additional structures or the material remodelling, rebuilding or expansion of existing Buildings; or

- (b) the replacement of major plant and equipment,

where the relevant works will cost more than the lesser of:

- (c) \$10,000,000; and
- (d) the amount equal to 30% of EBITDAR for the Tenant's Business for the immediately prior financial year.

The dollar amount set out in paragraph (c) of this definition:

- (e) shall be adjusted annually for movements in CPI from the Commencement Date; and
- (f) excludes GST.

New lease means the particulars of each new lease set out in the Reference Schedule.

Occupancy Costs means Rent, Outgoings and all other money payable by the Tenant pursuant to the terms of this Lease.

OH&S Law means any occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises or the Land.

Outgoings means the out of pocket fees, costs and expenses paid or payable by the Landlord in connection with the Land, Premises or the Building including:

- (a) Rates and Taxes, and usage and other charges imposed by any authority and levies and charges imposed under a Shared Scheme law; and
- (b) subject to clause 5.7, insurance which the Landlord acting reasonably considers is appropriate and which the Landlord has taken out (including for loss of rent and outgoings).

However, the amount of Outgoings:

- (c) will be reduced by the amount of any credit or refund of GST to which the Landlord is entitled as a result of incurring Outgoings; and
- (d) for the avoidance of doubt, excludes:
 - (i) the Landlord's income tax and capital gains tax or other similar tax which may after the Commencement Date apply to the income of the Landlord derived in connection with the Land or Premises or Building, or which may after the Commencement Date apply to any proceeds derived in connection with any dealing with the Land or Premises or Building by the Landlord, without limiting the obligations of the Tenant to comply with clause 19;
 - (ii) payment of interest, fees and charges on amounts borrowed or raised by the Landlord; and
 - (iii) internal and overhead Costs and internal management Costs.

Permitted Use means the 'Permitted Use' stated in the Reference Schedule.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Premises means the premises identified as the 'Premises' in the Reference Schedule.

Prescribed Rights means:

- (a) more than 50% of the voting rights in the Landlord or the Tenant (as applicable); or
- (b) more than 50% of the voting rights in any trust, fund, partnership or company which beneficially holds or controls or otherwise effectively controls 50% or more of the voting rights in the Landlord or the Tenant (as applicable); or
- (c) where the Landlord or Tenant (as applicable) is the trustee of a unit trust (**Party Trust**), more than 50% of the units in the Party Trust; or
- (d) where the holder of the units in the Party Trust is itself the trustee of a unit trust (**Holding Trust**) more than 50% of the units in the Holding Trust.

Each of paragraphs (a) to (d) of this definition operate independently and are not to be read down by reference to any other paragraph in this definition.

Public Liability Insurance Amount means the amount stated as such in the Reference Schedule.

Rates includes council rates, water rates, sewerage rates, and all other rates, charges, assessments, levies and other fees (having regard to any discounts available to the Landlord or the Tenant).

Receiver includes a receiver or receiver and manager.

Reference Schedule means the Reference Schedule which incorporates the lease terms in this document (including by reference to provisions filed in the office of the relevant land titles office or by annexing these lease terms).

Related Body Corporate has the meaning set out in section 50 of the *Corporations Act 2001* (Cth).

Rent means the yearly amount stated in the Reference Schedule, as varied under this Lease.

Rent Commencement Date means the Commencement Date or such other date agreed between the Landlord and the Tenant.

Rent Day means the Rent Commencement Date and, for each month in the Term, the first day of each month.

Responsible Rates Payer is defined in clause 5.1(d).

Services means the services (such as water, sewerage, drainage, gas, electricity, communications, fire fighting, air conditioning, lifts and escalators) to or of the Building or any premises in it or the Land, provided by authorities, the Landlord or any person authorised by the Landlord, and includes all plant and equipment in connection with those services.

Shared Scheme means each scheme or plan regulated by a Shared Scheme law that affects the Premises. Examples of properties that are often part of a shared scheme are strata title units and properties in integrated developments.

Shared Scheme law means any legislation that provides for the:

- (a) subdivision and development of land with shared property;
- (b) subdivision of buildings;
- (c) management of land that is subdivided and has shared property; or
- (d) management of subdivided buildings.

Taxes includes the Landlord's land tax and any other property tax assessed on the Premises, but excludes the Landlord's income tax and capital gains tax.

Tenant means the person identified as the 'Tenant' in the Reference Schedule.

Tenant's Associates means each of the Tenant's Subtenants and each of the Tenant's and a Tenant's Subtenant's respective employees, officers, agents, contractors, suppliers, consultants and other persons who enter the Premises, the Building or the Land with the consent (express or implied) or at the invitation of the Tenant or a Tenant's Subtenant, and includes patients.

Tenant Group Member means:

- (a) each Related Body Corporate of the Tenant;
- (b) where the Tenant is not Healthscope Limited ACN 144 840 639, Healthscope Limited ACN 144 840 639 and its subsidiaries;
- (c) a company, fund or trust:
 - (i) controlled directly or indirectly by Healthscope Limited ACN 144 840 639 or its Related Bodies Corporate; or
 - (ii) directly or indirectly under the common control of Healthscope Limited ACN 144 840 639 or its Related Bodies Corporate and another person or persons;
- (d) the Related Bodies Corporate of the entities listed above; and
- (e) any other person acting in its capacity as trustee or custodian of any person listed above,

and the term "body corporate" when used in the definition of Related Body Corporate must be read to include entities, trusts and funds.

Tenant's Business means the business carried on by the Tenant from the Premises, and includes the business carried on from the Premises by any Tenant Subtenant who is a Tenant Group Member.

Tenant's Property means all property on the Premises which is not Landlord's Property, and includes all improvements made to the Premises which the Tenant or the Tenant's Subtenant has made at its Cost, and all machinery, furniture and equipment including computers, trade fixtures, inventory, supplies and other personal property owned or leased by the Tenant or the Tenant's Subtenant and used in the operation and/or maintenance of the Premises and all proprietary operating systems of the Tenant or the Tenant's Subtenant.

Tenant's Subtenant means any person (not being the Tenant) entitled to occupy the Premises during the Term (or any extension of it or holding over under it), regardless of whether they are in occupation.

Term means the period referred to in the Reference Schedule from and including the Commencement Date to and including the Expiry Date.

Umbrella Deed means the 'Portfolio Leases Umbrella Deed' dated on or about the Commencement Date between the Tenant, the Landlord and others.

1.2 General interpretation

Headings (including those in brackets at the beginning of paragraphs) are for convenience only and do not affect interpretation. Item numbers referred to are those in the Details. Unless the contrary intention appears, in this Lease:

- (a) labels used for definitions are for convenience only and do not affect interpretation;
- (b) the singular includes the plural and vice versa;
- (c) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (d) a reference to a document also includes any variation, replacement or novation of it;
- (e) a reference to "**this Lease**" also includes any renewal or extension of it or holding over under it;
- (f) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (g) a reference to "**person**" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (h) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (i) a reference to a time of day is a reference to time in the State or Territory in which the Land is situated;
- (j) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (k) a reference to "**law**" includes common law, principles of equity and legislation (including regulations);
- (l) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (m) a reference to "**regulations**" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (n) an agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and each of them individually;
- (o) an agreement, representation or warranty by 2 or more persons binds them jointly and each of them individually;

- (p) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (q) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (r) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (s) if a party must do something under this Lease on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day;
- (t) if the day on which a party must do something under this Lease is not a Business Day, then except for making payments (which must be made on the preceding Business Day), the party must do it on the next Business Day;
- (u) a reference to a professional association or institute, or other industry body, includes a succeeding body serving similar objects or that takes its place;
- (v) a reference to accounting standards is a reference to accounting standards, principles and practices generally accepted in the relevant place, consistently applied;
- (w) a reference to an accounting term in an accounting context is a reference to that term as it is used in relevant accounting standards; and
- (x) a reference to any dealing with the Land by the Landlord includes a dealing by the Landlord with the Building or the Premises.

1.3 No partnership, agency or joint venture

Nothing in this Lease creates the relationship of partners, principal and agent or joint venturers between the Landlord and the Tenant.

1.4 Enforceability of powers etc

Any law which prejudicially affects any party's powers, discretions, remedies, rights or obligations (**Power**) is excluded to the extent lawfully permissible. If any Power cannot be given full effect, that Power must be severed or read down to maintain (as far as possible) all other provisions of this Lease.

1.5 Relationship between this document and the Reference Schedule

- (a) To the extent there is any inconsistency between this document and the Reference Schedule, the terms of the Reference Schedule prevail.
- (b) Unless otherwise agreed in writing, the parties agree that an amendment or variation to this document does not affect the terms of a Lease whose Commencement Date falls prior to the effective date of that amendment or Lease variation and the terms of this document (as they were prior to that amendment or variation) will continue to apply to any such Lease.

1.6 Effect of execution

- (a) The Tenant and the Landlord are bound by this Lease even though this Lease may not have been registered or may never be registered and despite any obligation the Landlord may have to register it.
- (b) This Lease is a deed, even if it is not registered.

1.7 Umbrella Deed

- (a) References in this Lease that the Umbrella Deed 'applies' means (subject to clause 1.7(d)) that the Reference Schedule states that the Umbrella Deed is 'Applicable'.
- (b) Where the Umbrella Deed applies this Lease is a 'Portfolio Lease' and the Premises are 'Portfolio Lease Premises' for the purposes of the Umbrella Deed.
- (c) Where the Umbrella Deed applies each party must comply with their respective obligations under and in connection with the Umbrella Deed.
- (d) Notwithstanding anything to the contrary the Umbrella Deed does not apply to this Lease prior to the Rent Commencement Date.

2 Grant of Lease

The Landlord leases the Premises to the Tenant on the conditions in this Lease.

3 Rent

3.1 Instalments of Rent

The Tenant agrees to pay the Rent by equal monthly instalments in advance on each Rent Day.

3.2 Broken periods

If an instalment is for a period of less than one month, then that instalment is that proportion of one twelfth of the Rent which the number of days in the period bears to the number of days in the month in which that period begins.

4 Fixed increases in Rent

The Rent from and including each Fixed Increase Date is the amount payable immediately before the Fixed Increase Date increased by 2.5%, provided that the Rent increase on 1 January 2020 will be an increase of that proportion of 2.5% that the number of days in the Term from the Commencement Date to 1 January 2020 bears to 365.

5 Outgoings and other payments by the Tenant

5.1 Tenant to pay Outgoings

- (a) The Tenant must pay all Outgoings without set off or deduction on or before the due date for payment, provided that, where the relevant Outgoing is charged directly to the Landlord, the Landlord provides reasonable notice (and being not less than 15 Business Days' notice) of due date for payment to the Tenant.
- (b) Where the Landlord does not comply with clause 5.1(a) and the Tenant becomes liable to pay a penalty or interest charge in connection with late payment of an Outgoing then (without otherwise limiting the rights of the Tenant) the Landlord must pay that penalty or interest charge.

- (c) The Landlord must provide all reasonable information required by the Tenant in connection with Outgoings, including providing original copies of invoices, notices, correspondence, or other details to allow the Tenant to substantiate the source and quantity of Outgoings.
- (d) The Landlord and the Tenant must use all reasonable endeavours to have (to the extent permitted by law) the Tenant nominated as the person responsible to pay the Rates and Taxes which are charged or levied on the Premises (**Responsible Rates Payer**).
- (e) The Landlord must make available to the Tenant any discounts available to the Landlord on the amount of Rates and Taxes payable in respect to the Premises.
- (f) If the Tenant becomes the Responsible Rates Payer then it may, at its own Cost and in its own name, object to, appeal, or institute such other proceedings as the Tenant may deem appropriate to effect a reduction of Rates and Taxes.
- (g) If the Tenant exercises its rights under clause 5.1(f):
 - (i) the Tenant does so at its own Cost and risk and indemnifies and must keep indemnified the Landlord against all liability, loss, claim or Costs suffered or incurred by the Landlord as a result of the Tenant's objection;
 - (ii) the Tenant must not reach any compromise agreement with the relevant authority without the prior consent of the Landlord (which consent must not be unreasonably withheld or delayed); and
 - (iii) the Landlord must reasonably co-operate with the Tenant in such objection, appeal, or other action but at no Cost to the Landlord.
- (h) Rates and Taxes imposed or assessed in respect of the period during which the Term ends with respect to the Premises shall be adjusted and pro-rated between the Landlord and the Tenant with respect to the Premises, whether or not such Rate or Tax is imposed or assessed before or after this Lease ends, and the Tenant's obligation to pay its pro-rated share shall survive the ending of this Lease.

5.2 Separately metered Services

- (a) Without limiting clause 5.1, the Tenant must pay all assessments for all Services relating to the Premises or the Building to the relevant assessing authority on or before the due date provided that, where the relevant Services are in the name of the Landlord, the Landlord provides reasonable notice (and being not less than 15 Business Days' notice) of the due dates for payment to the Tenant. Where the Landlord does not comply with this clause 5.2 and the Tenant becomes liable to pay a penalty or interest charge in connection with the late payment of a Services assessment then (without otherwise limiting the rights of the Tenant) the Landlord must pay that penalty or interest charge.
- (b) The Tenant and the Landlord must use all reasonable endeavours to arrange (to the extent permitted by law) for Services to be in the name of the Tenant and/or billed directly to the Tenant.

5.3 Shared Scheme levies

If the Premises are part of a Shared Scheme the Tenant agrees to pay on demand all levies and charges for the lot or lots which comprise the Premises (or a proportion of those levies and charges based on the lettable area of the Premises as a proportion of the lettable area of the lot or lots to which those levies and charges apply if the Premises comprise more or less than the whole of a lot).

5.4 Challenges to Premises Valuations

- (a) If the Tenant is not the Responsible Rates Payer as contemplated under clause 5.1(d), then this clause 5.4 will apply.
- (b) The Landlord must notify the Tenant of each assessed Rate and Tax and provide to the Tenant the notice of assessment and all accompanying material received by the Landlord in connection with the Rate or Tax (including the assessed value of the Premises for the purposes of the assessment) (**Rates Notice**) within 5 Business Days following receipt of the Rates Notice by the Landlord.
- (c) The Landlord must also advise the Tenant within a reasonable time after receipt of the Rates Notice (but no later than 5 Business Days after it notifies the Tenant of the Rates Notice) if the Landlord is objecting to the Rates Notice. If the Landlord does not advise the Tenant of its objection within 5 Business Days, then it will be deemed to have given notice that it is not objecting to the Rates Notice.
- (d) If the Landlord advises the Tenant that the Landlord will object to a Rates Notice, the Landlord must:
 - (i) act in accordance with the reasonable directions of the Tenant in respect of the objection (including submitting notices, objections, correspondence and other documentation in a timely manner as required by Tenant);
 - (ii) the Tenant indemnifies and must keep indemnified the Landlord against all liability, loss, claim or Costs suffered or incurred by the Landlord as a result of acting in accordance with the directions of the Tenant; and
 - (iii) the Tenant must not reach any compromise agreement with the relevant authority without the prior consent of the Landlord (which consent must not be unreasonably withheld or delayed).
- (e) If the Landlord has advised the Tenant that it is not objecting or has failed within the required time to advise the Tenant whether it will or will not object to a Rates Notice, the Landlord must permit the Tenant, at the Tenant's Cost to object to that Rates Notice or to otherwise appeal, or institute such other proceedings as the Tenant may deem appropriate to effect a reduction of Rates or Taxes, and for that purpose use the Landlord's name.
- (f) If the Tenant exercises its rights under clause 5.4(e):
 - (i) the Tenant does so at its own Cost and risk and indemnifies and must keep indemnified the Landlord against all liability, loss, claim or costs suffered or incurred by the Landlord as a result of the Tenant's objection; and

- (ii) the Tenant must not reach any compromise agreement with the authority without the prior consent of the Landlord (which consent must not be unreasonably withheld or delayed).

5.5 Future Taxes on Premises or Building

Without limiting clause 5.1, the Tenant must pay and discharge all Rates, Taxes, charges, assessments, outgoing and impositions which may at any time during the Term be:

- (a) assessed, charged or imposed upon or in respect of the Land, the Premises or the Building; or
- (b) the use and occupation of the Land, the Premises or the Building,

assessed directly against the Tenant. The payment must be made to the relevant assessing authority not later than the due date for the payment.

5.6 Adjustments and errors

- (a) If the Landlord or the Tenant has to calculate the money the Tenant or the Landlord (as applicable) owes by using a time period, and this Lease starts or ends during that time period, the Landlord or the Tenant (as applicable) must make the necessary proportional adjustment. The adjustment must be based on the proportion that the number of days that the Tenant is the tenant bears to the number of days during the time period.
- (b) If either the Tenant or the Landlord proves an error in any calculation, the Landlord or the Tenant (as applicable) must correct it and any necessary adjusting payment or credit must be made as soon as possible.

5.7 Landlord insurance

The Landlord agrees that provided the Tenant effects a business interruption insurance policy which is on terms a prudent tenant would effect, the Landlord will not seek to recover the Costs of any insurance policy for loss of rent and outgoing, and provided the Tenant otherwise effects the insurance the Tenant is obliged to effect in accordance with clause 7.1 the Landlord will not seek to recover the Costs of any insurance policy for other similar loss which the Landlord elects to effect. Where Rent abates in accordance with clause 16.2 the Tenant must claim on and pay to the Landlord any amount it recovers under its business interruption insurance policy in respect of the relevant damage or destruction event to meet rent obligations up to the amount of the abatement.

6 Payments

6.1 Manner of payment

The Tenant agrees to make payments under this Lease to the Landlord (or to a person nominated by the Landlord in a notice to the Tenant) by the method the Landlord reasonably requires without set-off or counterclaim and without deduction.

6.2 Adjustment of payments

If the Tenant pays an amount which is found later to be incorrect, then even if the Landlord has given the Tenant a receipt, the Tenant agrees to pay the Landlord (or the Landlord agrees to pay the Tenant) the difference between what the

Tenant has paid and what the Tenant should have paid, within 7 days after either the Landlord or the Tenant gives the other a notice about the mistake.

6.3 No demand necessary

The Landlord need not make demand for any amount payable by the Tenant unless this Lease says that demand must be made.

6.4 Payment when no next Rent Day

If the Tenant has agreed to pay the Landlord an amount on the next Rent Day and there is no next Rent Day, then the Tenant agrees to pay that amount within 7 days after the Landlord demands it.

6.5 Obligations not affected

The expiry or ending of this Lease does not affect the Tenant's obligations to make payments under this Lease for periods before then.

6.6 Interest on overdue amounts

The Tenant agrees to pay interest on any amount under this Lease which is not paid on the due date for payment by the Tenant. Interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

The Tenant agrees to pay interest under this clause 6.6 on demand from the Landlord.

6.7 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

7 Insurances

7.1 Tenant to take out insurances

The Tenant agrees to:

- (a) maintain public and products liability insurance in respect of the Premises for at least the Public Liability Insurance Amount for any one event and in the aggregate (as varied by notice from the Landlord to the Tenant, from time to time, having regard to prudent practise for a hospital of a similar size and nature);
- (b) maintain business interruption insurance which a prudent tenant would take out;
- (c) maintain other insurances which are required by law or which a prudent tenant would take out, including those in connection with Tenant's works on the Premises; and
- (d) procure in the name of the Landlord and the Tenant for their respective rights and interests industrial special risk insurance for the Premises on a

full reinstatement basis and on terms that are consistent with generally accepted industry terms for a hospital of a similar size and nature as the Premises and ensure that the policy of insurance contains a waiver of subrogation rights provision,

other than where the relevant policy must be effected by or for the benefit of a Governing Body.

7.2 The policy

Each policy under clause 7.1 must (other than in respect to workers compensation insurance and business interruption insurance or where otherwise not applicable):

- (a) subject to the requirements of clause 7.1(d), be in the names of or note the Tenant, the Landlord and any other person nominated by the Landlord for their respective rights and interests;
- (b) to the extent practicable, designate the Tenant and the Landlord as loss payee;
- (c) be on terms and for an amount satisfactory to the Landlord acting reasonably; and
- (d) be with a reputable insurance company which has a financial security rating with Standard & Poors' of at least A- or the equivalent rating with another reputable rating agency.

7.3 Evidence

- (a) The Tenant agrees to produce evidence satisfactory to the Landlord of current insurance cover (including a certified copy of each policy) whenever the Landlord asks, but not more than once every 6 months.
- (b) With respect to the insurance required to be procured under clause 7.1(d), the Tenant must, at intervals not greater than 3 years, provide to the Landlord updated valuations or assessments of the replacement value of the Premises prepared by a licensed valuer and must effect insurance in accordance with that valuation or assessment.

7.4 Obligations relating to cover

The Tenant:

- (a) may not do anything that causes the insurance cover to be reduced or cancelled (and the Tenant agrees to notify the Landlord if it is); or
- (b) must notify the Landlord if an insurer denies or disputes a claim.

7.5 Notifications relating to claims

The Tenant agrees to notify the Landlord if:

- (a) an insurance policy required under clause 7.1 is cancelled;
- (b) an event occurs which gives rise to an insurance claim where the claim is for an amount of \$500,000 or more (excluding GST); or
- (c) an insurance claim is refused either in part or in full where the event giving rise to the claim will have a material adverse effect on the Tenant's Business.

Nothing in this clause 7.5 obliges the Tenant to disclose information which it is prohibited by law from disclosing, or which may give rise to a loss of legal professional privilege if disclosed. The amount in clause 7.5(b) shall be adjusted annually for movements in CPI from the Commencement Date.

7.6 Use of claim proceeds

Subject to clause 16.3(c), the Tenant agrees to apply the proceeds of any industrial special risk insurance claim which the insurer does not require to be used for replacement or reinstatement to replace or reinstate the insured item.

7.7 Payment of deductible

The Tenant agrees that it is liable to pay or bear any deductible or excess in connection with a claim it makes under an insurance policy which it effects under this clause 7.

8 Indemnities and releases

8.1 Indemnity

The Tenant indemnifies and must keep indemnified the Landlord against any liability, loss, claim or Costs suffered or incurred in connection with:

- (a) the Tenant not complying with any of its obligations under this Lease;
- (b) the use of the Premises not being permitted by law;
- (c) the Tenant's use and occupation of the Premises; or
- (d) damage, loss, injury or death to any person or anything,

except to the extent it is caused by a Landlord Act or Omission. The Tenant agrees that neither the Tenant's obligation to effect insurance pursuant to clause 7 nor any shortfall in any insurance proceeds available to the Tenant limits the Tenant's obligations under this clause 8.1.

8.2 Right to recover

Where this Lease provides an indemnity in favour of one party to another, the party obtaining the benefit of the indemnity does not need to incur any Cost or make any payment before enforcing rights under that indemnity.

8.3 Risk

The Tenant occupies the Premises and uses the Premises, the Building and the Land at its own risk.

8.4 Release

The Tenant releases the Landlord from, and agrees that the Landlord is not liable for, any liability, loss or Costs in connection with the Tenant's or the Tenant's Associates use or occupation of the Premises, the Building or the Land, (including damage, loss, injury or death to any person or anything), except to the extent caused by a Landlord Act or Omission.

8.5 Condition of Premises

- (a) The Landlord does not expressly or impliedly agree or warrant:

- (i) the condition of the Premises (including with respect to any Contamination which may or may not exist on the Premises, the Building or the Land); or
- (ii) that the design, shape, size or finishes of the Land, the Building or the Premises are or will be suitable or adequate for the Tenant's purpose or the Tenant's Business,

and the Tenant must satisfy itself in this regard and in regard to all facts, matters and circumstances relating to or affecting the Building, the Premises or the Land. To the fullest extent permitted by law, all warranties by the Landlord as to the suitability of the Land, the Building and the Premises and as to the adequacy of the Premises implied by law are expressly negated.

- (b) The Tenant accepts the condition of the Land, the Building and the Premises in an "as is where is" condition.
- (c) Notwithstanding the Building or the Premises (or any part) is damaged or destroyed before the Commencement Date, the Tenant must pay Rent from the Rent Commencement Date and Occupancy Costs.
- (d) Clause 16 applies notwithstanding that any damage or destruction of the Premises occurred before the Commencement Date.

9 Use and access hours

9.1 Permitted Use

- (a) The Tenant agrees to use the Premises only for the Permitted Use.
- (b) The Tenant may at any time, by at least 10 Business Days prior notice to the Landlord, alter the Permitted Use of the Premises or an area within the Premises provided that:
 - (i) the altered or additional use is permitted by law;
 - (ii) the altered or additional use does not result in any:
 - (A) additional material regulatory requirements for the Landlord; or
 - (B) additional material requirements in order for the Landlord to comply with any additional laws,

provided that the altered or additional use cannot be objected to by the Landlord under this paragraph where the Cost of any such additional material requirements will be met by the Tenant; and
 - (iii) the predominant use of the Premises remains as a hospital and uses associated with and complementary to a healthcare precinct.
- (c) The Landlord does not expressly or impliedly warrant that the Premises are suitable for the Permitted Use or for any other purpose.
- (d) The Tenant acknowledges that the Tenant has relied on the Tenant's own skill and judgment and has made its own enquiries in determining the suitability of the Premises for the Permitted Use and the Tenant's Business

9.2 Access hours

The Tenant may have access to and use the Premises 24 hours a day on each day of the Term subject to the Landlord's rights under this Lease.

10 Tenant's additional obligations

10.1 General obligations

The Tenant agrees to:

- (a) comply on time with all laws and the requirements of authorities in connection with the Premises (including obtaining all permits), including laws and requirements in connection with Contamination and health and safety;
- (b) observe the maximum load weights throughout the Building;
- (c) keep the Premises clean, tidy and free of vermin;
- (d) except as required by law, maintain the Tenant's Business in continuance operation, without closure, during the Term (subject to clause 16); and
- (e) if this Lease is a sublease, comply with the terms of any headlease so far as they affect the Premises.

10.2 Prohibited acts

The Tenant may not:

- (a) remove the Landlord's Property from the Premises (except as otherwise permitted by the terms of this Lease);
- (b) store or use inflammable, volatile or explosive substances or any Contaminants on the Premises unless they are required for the Permitted Use (and the Tenant must comply with the provisions of all laws and the requirements of all authorities relating to the handling and storage of such substances or Contaminant);
- (c) do anything to Contaminate the Premises or the Environment; or
- (d) if this Lease is a sublease, do anything which may cause the Landlord to be in breach of any headlease.

10.3 Environmental Notices

The Tenant must promptly comply with any Environmental Notice made during or before the Term including if it relates to a period before the Commencement Date.

10.4 Evidence of Compliance

The Tenant must give the following to the Landlord:

- (a) a copy of any Environmental Notice received by the Tenant, no later than 10 Business Days after receipt by the Tenant;
- (b) copies of all reports, invoices and other documents relating to the Environmental Notice or the Tenant's compliance with the Environmental Notice; and

- (c) copies of any notices or orders received by the Tenant from an authority which relate to the Building, the Premises or the Land where the notice or order asserts a breach of a material law or requirement by the Tenant with respect to the Building, the Premises or the Land, no later than 10 Business Days after receipt by the Tenant.

10.5 Reporting

Without limiting or being limited by clause 7.5 or clause 10.4, no later than 20 Business Days after the end of each calendar year, the Tenant must provide the Landlord the following information relevant to the Premises:

- (a) the last annual audited financial accounts and statements for the Guarantor and the Tenant which have been prepared;
- (b) EBITDAR for the Tenant's Business for the last 12 months in the form and in the reasonable detail agreed by the Landlord and the Tenant from time to time, each acting reasonably;
- (c) capital expenditure spent in the last 12 months in respect of each item of expenditure exceeding \$1,000,000 (excluding GST);
- (d) details of any correspondence with authorities in relation to the Building's compliance with laws and Environmental compliance with laws where a failure to comply would have a material adverse effect on the ability of the Tenant to conduct the Tenant's Business;
- (e) details of any insurance claims:
 - (i) in excess of \$500,000 (excluding GST); and
 - (ii) which involve the Landlord,which have been made in relation to any insurances the Tenant is required to maintain and which the Landlord is named as an insured or noted as an interested party;
- (f) details of the replacement of any plant items or Landlord's Property which has been replaced due to it reaching the end of its economic life and which has a replacement cost in excess of \$500,000 (excluding GST); and
- (g) updated Landlord's Property fixed asset register for items which have been replaced for the purposes of maintaining a fixed asset register.

Each of the dollar amounts set out in this clause 10.5 shall be adjusted annually for movements in CPI from the Commencement Date.

10.6 Indemnity

The Tenant indemnifies and must keep indemnified the Landlord against any loss, claim, liability, or Cost suffered or incurred by the Landlord in respect of:

- (a) any Contamination of the Premises, except to the extent that any such loss, claim, liability or Cost arises from any Contamination caused by the Landlord or the Landlord's Associates; and
- (b) any remediation of the Premises (whether or not required by an Environmental Notice) carried out by the Landlord in relation to any Contamination not caused by the Landlord or the Landlord's Associates.

10.7 Tenant's Associates to comply

The Tenant must ensure that the Tenant's Associates do not do anything, or omit to do anything, which if done or omitted to be done by the Tenant would be a breach of the Tenant's obligations under this Lease.

11 Repair and Tenant's works

11.1 Repair and replacement

The Tenant agrees:

- (a) to keep the Premises and the Tenant's Property in good repair (having regard to:
 - (i) the age and condition of the Premises at the Commencement Date; or
 - (ii) in respect to any part of the Premises on which a 'Brownfield Development' under the Umbrella Deed (where it applies) has been undertaken, the condition of that part of the Premises following completion of that development,fair wear and tear excepted unless otherwise expressly provided for in this Lease or the Umbrella Deed (where it applies);
- (b) to keep the Premises to a standard appropriate for the Permitted Use;
- (c) it is responsible for the repair, maintenance and when the relevant element reaches the end of its useful life or otherwise requires replacement, capital replacement of the Building structure (including the roof, rainwater installations, external walls and any improvements or fixtures to the external walls, hardstand areas, car parks and windows and redecoration of external and internal fabric and finishes), and all Services;
- (d) it is responsible to effect at the Tenant's own Cost any necessary structural works or structural repairs to ensure that the Building is structurally sound and watertight during the Term; and
- (e) without limiting clause 10, it is responsible for the remediation of any Contamination on the Premises except to the extent that the Contamination is caused by the Landlord or the Landlord's Associates (which Contamination the Landlord must remediate at its Cost).

11.2 Services

- (a) The Tenant agrees that the Landlord shall have no responsibility for the repair or maintenance or capital replacement of the Services, nor for ensuring the Services are available to the Premises.
- (b) If the Services fail to function or to function properly for any reason:
 - (i) the Tenant will not by reason of any such failure be entitled to terminate this Lease;
 - (ii) the Tenant or any person claiming through or under the Tenant will not have any claim in respect of any such failure for compensation or damages against the Landlord unless such failure is as a result of any Landlord Act or Omission; and

- (iii) the Tenant will not have any right to abatement of Occupancy Costs as a result of any such failure.
- (c) The Tenant must enter into and keep current adequate maintenance service contracts in respect of the Services.

11.3 Where approval for works is not required

- (a) The Tenant may undertake works, alterations, additions or decorations within the Premises without the Landlord's prior consent unless the works are Major Works.
- (b) The Tenant must ensure that works under this clause 11.3 are done:
 - (i) in a proper and workmanlike manner;
 - (ii) in accordance with all laws and the requirements of authorities;
 - (iii) by licensed contractors holding appropriate insurances; and
 - (iv) on terms which do not purport to grant to any contractor undertaking the works security over the Land or any Landlord's Property for the obligations of the Tenant under the contract,

and, once the works are completed, the Tenant must provide the Landlord with copies of all approvals to occupy and use the relevant works.

11.4 Landlord's approval – Major Works

- (a) The Tenant must not carry out Major Works to the Premises without the Landlord's prior consent. The Landlord must not unreasonably withhold or delay its consent if the Tenant has established to the Landlord's reasonable satisfaction that:
 - (i) the works will be carried out by appropriately qualified and insured contractors;
 - (ii) all materials, plant and equipment being used are suitable and of appropriate quality;
 - (iii) the works will be architecturally consistent with, or complementary to, the Building;
 - (iv) the works will not connect any part of the Premises to improvements on land that is not a part of the Premises; and
 - (v) the works will be otherwise in accordance with all laws and requirements of authorities.
- (b) The Tenant must ensure that the Major Works are otherwise carried out in accordance with the requirements of clause 11.3(b).

11.5 Landlord to sign

Subject to the Tenant complying with clauses 11.3 and 11.4, the Landlord consents to the Tenant lodging any forms required by any authority in respect to any works being undertaken by the Tenant (provided that in the case of Major Works the works have been approved by the Landlord) and must:

- (a) on request by the Tenant, promptly sign any forms required by any authority in respect to any works; and
- (b) not obstruct the Tenant in any way from seeking all necessary approvals to any works.

11.6 Naming and signage

The Tenant may, without the Landlord's consent:

- (a) name the Premises;
- (b) affix or display any advertisement, logo, notice, sign or other device to or in the Premises; and
- (c) use the name of or any picture or likeness of the Premises for any advertisement or purpose.

For the avoidance of doubt, the Tenant has all signage and naming rights in respect to the Premises. The Landlord agrees that the Tenant owns those rights and that the Landlord does not obtain any interest in such rights.

11.7 Occupational health and safety

- (a) If the Tenant (including if acting as agent for the Landlord) carries out on the Premises, the Building or the Land, or procures to be carried out on the Premises, the Building or the Land, works to which an OH&S Law applies:
 - (i) the Landlord will appoint the Tenant or, if requested by the Tenant, will appoint the Tenant's contractor, to any position under the OH&S Law necessary for the parties to comply with the law (and the Tenant must accept, or procure that its contractor accepts, that appointment);
 - (ii) the Landlord authorises the Tenant or the Tenant's contractor (as applicable) to exercise whatever authority is necessary to discharge the responsibilities of the appointment under clause 11.7(a)(i);
 - (iii) the Tenant must comply with, or must procure that its contractor complies with, and must ensure that the works are carried out in accordance with, the OH&S Law; and
 - (iv) the Tenant or the Tenant's contractor (as applicable) is responsible for the works at all times until they are completed.
- (b) The Tenant's (or Tenant's contractor's) appointment under clause 11.7(a)(i), and the Tenant's (or Tenant's contractor's) authority under clause 11.7(a)(ii), starts when the works are commenced and ends when the works are completed.

12 Transfer and other dealings

12.1 Prohibited dealings

The Tenant may only:

- (a) transfer or assign this Lease in accordance with clause 12.2 ("Transfer conditions") or clause 12.4 ("Transfer to a Tenant Group Member"), and

(where the Umbrella Deed applies) in accordance with the Umbrella Deed; or

- (b) sublet or licence the Premises (or any part) in accordance with clause 12.3 ("Sublease") or clause 12.4 ("Transfer to a Tenant Group Member").

12.2 Transfer conditions

- (a) The Tenant may only transfer or assign the whole of this Lease if, before it transfers or assigns:
 - (i) it obtains the consent of the Landlord;
 - (ii) where there is a Guarantor, the Tenant procures either:
 - (A) a replacement guarantor who is respectable; or
 - (B) a bank guarantee in favour of the Landlord in substitution for a replacement guarantor of an amount equal to the sum of six months' Rent and Rates and Taxes; and
 - (iii) the proposed new tenant and any new guarantor enter into a deed with the Landlord in a form reasonably required by the Landlord under which the proposed new tenant agrees to perform all of the obligations of the Tenant in this Lease and the new guarantor (where applicable) guarantees and indemnifies the Landlord against any failure of the new tenant to perform all of the obligations of the Tenant under this Lease on the terms included at Schedule 1; and
- (b) The Landlord may not withhold or delay its consent to an assignment or transfer of this Lease where the Tenant satisfies the Landlord (acting reasonably) that:
 - (i) where there is a replacement guarantor, the new tenant and the new guarantor (taken as a whole) have the operational and financial capability to meet the obligations of the Tenant under this Lease (having regard to the standard at which the hospital operations at the Premises are required to be operated and maintained); or
 - (ii) where a bank guarantee is provided instead of a replacement guarantor, the new tenant has the operational and financial capability to meet the obligations of the Tenant under this Lease (having regard to the provision of the bank guarantee and the standard at which the hospital operations at the Premises are required to be operated and maintained).
- (c) Where the Landlord consents to the assignment or transfer of this Lease in accordance with clause 12.2(a), the Tenant and any existing Guarantor are released from their respective obligations under this Lease (and where it applies, the Umbrella Deed in respect of this Lease) and at the same time as the new tenant and any new guarantor enter into the deed referred to in clause 12.2(a)(iii) the Landlord, Tenant and Guarantor must enter into a deed under which the release of the Tenant and the Guarantor is recorded.

12.3 Sublease

- (a) The Tenant may sublet, license or grant concessions to any person to occupy or use any area or areas within the Premises without the Landlord's consent provided that:
 - (i) the term of any sublease, licence or concession does not extend beyond the expiry date of the current Term for the Premises;
 - (ii) the terms of any sublease, licence or concession are consistent with the terms of this Lease;
 - (iii) with respect to a sublease or licence only, the sublet or licensed area does not comprise that part of the Premises on which Core Hospital Operations are undertaken (except where the sublease or licence is for an area 200m² or less), unless Landlord consent is obtained to the sublease or licence (such consent not to be unreasonably withheld or delayed); and
 - (iv) with respect to any sublease, licence or concession for an area greater than 200m², before granting the sublease, licence or concession, the Tenant gives to the Landlord (at least 10 Business Days before the proposed dealing):
 - (A) notice of the sublease, licence or concession; and
 - (B) a copy of the terms of the sublease, licence or concession.
- (b) Where the area the subject of a sublease, licence or concession is 200m² or less the Tenant must give the Landlord promptly after the dealing is entered into:
 - (A) notice of the sublease, licence or concession; and
 - (B) a copy of the terms of the sublease, licence or concession.
- (c) The Tenant may:
 - (i) vary the terms of any sublease or licence or concession, subject to the varied terms remaining consistent with the requirements in clause 12.3(a);
 - (ii) terminate or surrender any sublease or licence or concession; or
 - (iii) agree to transfer of assign or otherwise deal with any sublease or licence,without obtaining the Landlord's consent, but the Tenant must provide the Landlord with notice of any such action within 10 Business Days after such action occurring.
- (d) Where the Tenant enters into a sublease, licence or concession the Tenant may satisfy its obligations under this Lease with respect to that part of the Premises to which the sublease, licence or concession relates by procuring that the sublessee, licensee or concessionaire (as applicable) complies with those obligations.

12.4 Transfer to a Tenant Group Member

- (a) Despite clauses 12.2 ("Transfer conditions") and 12.3 ("Sublease"), the consent of the Landlord is not required to any assignment or transfer of the whole or any part of this Lease, or to the sub-letting or licence of the whole or any part of the Premises, to any Tenant Group Member.
- (b) If the Tenant assigns this Lease as permitted by clause 12.4(a):
 - (i) it must give at least 10 Business Days prior notice of the assignment to the Landlord;
 - (ii) without limiting the obligations of the Tenant under the Umbrella Deed (where it applies), it must ensure that the assignee enters into the deed with the Landlord in a form reasonably required by the Landlord under which the assignee agrees to perform all of the obligations of the Tenant in this Lease;
 - (iii) the Tenant is released from its obligations under this Lease (and the Landlord and Tenant must enter into a deed under which the release of the Tenant is recorded); and
 - (iv) any Guarantor will not be released from its obligations under this Lease or (where it applies), the Umbrella Deed.

12.5 Change in control of Tenant

- (a) The Tenant must not permit a Change of Control Event in respect to the Tenant unless it obtains the Landlord's prior consent (which consent must not be unreasonably withheld or delayed).
- (b) Clause 12.5(a) does not apply to, and the Tenant will not be required to obtain the Landlord's prior consent to, a Change of Control Event or otherwise comply with the requirements of this clause 12.5:
 - (i) where the Tenant is listed on any stock exchange; and/or
 - (ii) the ultimate holding company of the Tenant is listed on any stock exchange and the Tenant will remain a subsidiary of the same ultimate holding company both before and after the Change of Control Event; and/or
 - (iii) where the Prescribed Rights remain held directly or indirectly by a Tenant Group Member; and/or
 - (iv) in the case of an initial quotation on a recognised stock exchange of the securities of the Tenant or its holding company.

12.6 Consent

Where the consent of the Landlord is required to a Change of Control Event in accordance with clause 12.5 ("Change in control of Tenant") the Landlord may not withhold or delay that consent where the Tenant satisfies the Landlord (acting reasonably) that the person or group of persons who will hold or control the Prescribed Rights is (or are) respectable and have the financial capability to perform (or procure the performance of) the Tenant's obligations under this Lease.

12.7 Guarantor

Where:

- (a) a Change of Control Event of the Tenant is permitted in accordance with this Lease; and
- (b) a replacement guarantee is provided by a respectable person who has the financial capacity to guarantee the performance by the Tenant of its obligations under this Lease (as demonstrated by the Tenant to the Landlord and approved by the Landlord (acting reasonably)),

the Guarantor is released from its obligations under this Lease and (where it applies) the Umbrella Deed in respect of this Lease (and the Landlord must enter into a deed on reasonable terms to record that release).

12.8 Encumbrances

- (a) Subject to the parties agreeing and entering into the form of deed referred to in clause 12.8(b), the Tenant may create or allow an Encumbrance over the Tenant's interest in this Lease (and where it applies the Umbrella Deed) or the Tenant's Property in favour of the Tenant's financier (or a security trustee acting on their behalf) without the consent of the Landlord.
- (b) Where reasonably required by the Tenant or the Landlord (or their respective financiers, or a security trustee acting on their behalf), the Landlord and Tenant agree to enter into a tripartite deed with the Tenant's financier (on terms required or accepted by the Landlord, acting reasonably) in respect of the exercise of rights under the Encumbrance by the Tenant's financier.

12.9 Provisions which are varied on assignment

Where this Lease is assigned as permitted by clause 12.2, the following provisions of this Lease are varied as follows:

- (a) the Reference Schedule will state that the Umbrella Deed is 'Not Applicable';
- (b) the clause included at Schedule 2 ('Right of First Offer') will be included in this Lease; and
- (c) the definition of 'Tenant Group Member' will be varied by replacing the name of the entity in paragraphs (b) and (c) of that definition with the ultimate parent entity of the assignee.

13 Landlord's additional obligations and rights

13.1 Quiet enjoyment and non-derogation

- (a) Subject to the Landlord's rights, the Tenant may occupy the Premises during the Term without interference by the Landlord or any person lawfully claiming through the Landlord.
- (b) The Landlord must not derogate from the grant of this Lease.

13.2 Consents

If the Landlord has agreed to obtain a person's consent in connection with this Lease, then the Landlord agrees to do everything reasonably necessary to obtain that consent.

13.3 To enter

- (a) The Landlord may enter the Premises at reasonable times on reasonable notice to see if the Tenant is complying with its obligations under this Lease or to do anything the Landlord must or may do under this Lease.
- (b) In exercising its rights under clause 13.3(a), the Landlord must:
 - (i) not cause any undue interference to the occupation, use or enjoyment of the Premises by the Tenant;
 - (ii) be accompanied by a nominee of the Tenant (if required by the Tenant);
 - (iii) use its best endeavours to avoid damage to the Premises or the Tenant;
 - (iv) immediately make good any damage caused to the Premises or the Tenant by the exercise of those rights; and
 - (v) give the Tenant the names of those persons who are to enter the Premises and other identifying details reasonably required by the Tenant. The Landlord acknowledges that the security requirements of the Tenant may prevent the Landlord from accessing certain parts of the Premises at particular times.

13.4 Shared Scheme

If the Premises are part of a Shared Scheme:

- (a) the Tenant agrees to give the Landlord copies of any notices issued by the Governing Body after the Tenant receives them;
- (b) the Tenant agrees to comply with the rules and by-laws of the Shared Scheme;
- (c) if certain obligations of the Landlord under this Lease may only be performed by the Governing Body:
 - (i) without limiting clause 13.4(g) the Landlord agrees to use reasonable endeavours to cause the Governing Body to comply with those obligations; and
 - (ii) despite the other provisions of this Lease, the Landlord is not otherwise obliged to perform those obligations;
- (d) if certain obligations of the Tenant under this Lease may only be performed by the Governing Body:
 - (i) the Landlord agrees to use reasonable endeavours to cause the Governing Body to comply with those obligations; and
 - (ii) despite the other provisions of this Lease, the Tenant is not otherwise obliged to perform those obligations;
- (e) the Tenant is entitled to use the common property of the Shared Scheme;
- (f) the Tenant agrees to consent (and agrees to procure that any person claiming through the Tenant consents) to any alteration to the plan relating to the Shared Scheme and to any rules and by-laws of the

Shared Scheme, if those alterations do not adversely affect the Tenant's rights under this Lease; and

- (g) the Landlord appoints the Tenant as its proxy or authorised representative to attend meetings and vote at any meeting of the Governing Body.

13.5 Sale of Landlord's interest

- (a) The Landlord must not:
 - (i) sell or transfer all or part of its interest in the Premises or this Lease; or
 - (ii) grant any interest superior to or concurrent with this Lease,
(Landlord Dealing) to:
 - (iii) any third party which is a Competitor; or
 - (iv) any other third party without first obtaining the prior consent of the Tenant, such consent not to be withheld where the Landlord satisfies the Tenant (acting reasonably) that the third party:
 - (A) is a respectable person (including that the person is not a person named, or controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a person who is named, on a sanctions list, or who is a 'politically exposed person' for the purposes of anti-money laundering or counter-terrorism financing (or equivalent) laws or guidelines); and
 - (B) has the financial capacity to perform (or procure the performance of) any obligations of the Landlord under the Umbrella Deed (where it applies) and this Lease that have not been performed or otherwise discharged at the date of the relevant Landlord Dealing.
- (b) Without limiting the obligations of the Landlord under the Umbrella Deed (where it applies), before any Landlord Dealing, the Landlord must procure the relevant third party to enter into a deed with the Tenant in a form reasonably required by the Tenant under which the third party agrees to perform all of the obligations of the Landlord under this Lease and the Tenant agrees to perform all of the obligations of the Tenant under this Lease in favour of the third party.

13.6 Landlord Change in Control

- (a) Without limiting its obligations under the Umbrella Deed (where it applies), if there is a proposed Change of Control Event in respect to or affecting the Landlord, then the Landlord must not permit that Change of Control Event unless it obtains the Tenant's prior consent (which consent must not be unreasonably withheld or delayed).
- (b) Clause 13.6(a) does not apply to, and the Landlord will not be required to obtain the Tenant's prior consent to, a Change of Control Event or otherwise comply with the requirements of clause 13.6(a):
 - (i) where the Landlord is listed on any recognised stock exchange (and the Change of Control Event arises because of a dealing in the shares of the Landlord on that stock exchange); or

- (ii) where the trust, fund, partnership or company which holds the Prescribed Rights in the Landlord is listed on any recognised stock exchange, the Change of Control Event arises because of a dealing in the shares or other interests of the trust, fund, partnership or company on that stock exchange and the Prescribed Rights will remain held by that trust, fund, partnership or company; or
- (iii) in the case of a Change of Control Event caused by an initial quotation on any recognised stock exchange of the securities of the Landlord or its holding company; or
- (iv) where, after the Change of Control Event, the Landlord will not be controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by:
 - (A) a Competitor;
 - (B) a person named, or controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a person who is named, on a sanctions list, or who is a 'politically exposed person' for the purposes of anti-money laundering or counter-terrorism financing (or equivalent) laws or guidelines; or
 - (C) a person who is incapable of performing (or procuring the performance of) the monetary obligations of the Landlord under the Umbrella Deed (where it applies) and this Lease; or
- (v) where one or more Landlord Group Members retain, after the Change of Control Event, the Prescribed Rights in the Landlord, and provided that after the Change of Control Event the Landlord will not be controlled directly or indirectly (whether through the ownership of voting securities or otherwise) by a Competitor or a person described in clause 13.6(b)(iv)(B) or (C).
- (c) The Tenant agrees that the mere change of trustee, responsible entity, custodian or manager is not sufficient of itself to comprise a 'Change of Control Event', provided that the Landlord must ensure that the replacement trustee, responsible entity, custodian or manager is not a Competitor or a person described in clause 13.6(b)(iv)(B) or (C).

The Landlord must promptly notify the Tenant of any proposed Change of Control Event where it believes the Change of Control Event will not require the consent of the Tenant pursuant to clause 13.6(b)(iv) or (v), and must provide to the Tenant with that notice reasonable details to support its belief.

13.7 Landlord may rectify

After giving the Tenant at least 7 days' notice (except in the case of an emergency, which does not require notice), the Landlord may:

- (a) do anything which the Tenant should have done under this Lease but which it has not done; and
- (b) recover the Costs incurred by the Landlord as a debt payable on demand.

The Landlord may exercise its rights under this clause 13.7 even though this Lease has expired or has been ended.

13.8 Agents

The Landlord may appoint agents or others to exercise any of its rights or perform any of its duties under this Lease. Communications from the Landlord override those from the agents or others if they are inconsistent.

13.9 Landlord Encumbrances

- (a) The Landlord may create or allow an Encumbrance over the Land or the Premises and this Lease without the consent of the Tenant. The Tenant must reasonably co-operate with the granting by the Landlord of any such Encumbrance, including by entering into a non-disturbance deed or tripartite deed with the Landlord's financier and the Landlord where reasonably required by the Landlord's financier.
- (b) The Landlord must, at its Cost obtain the unconditional written consent to this Lease (and where it applies, the Umbrella Deed) from every mortgagee of the Land, and any other holder of an Encumbrance whose interests would otherwise have priority over this Lease, prior to the Commencement Date.

13.10 Subdivision

The Landlord must not subdivide the Land, grant any easements over the Land or alter any rights or benefits attached to the Land without the consent of the Tenant (and where an easement is required at law to be created for the benefit of an authority the Tenant must consent to that easement).

13.11 Notices

The Landlord must:

- (a) provide to the Tenant any notices received by the Landlord in respect of the Premises or any part from an authority or any other person which may affect the Tenant's use or occupation of the Premises; and
- (b) not object, or assist in or encourage any objection, to any application by or on behalf of the Tenant for a development application or a planning permit or amendments to a development application or a planning permit for development or use of the Premises or any part of it where the development the subject of the development application or planning permit is permitted under this Lease.

13.12 Landlord's Associates

The Landlord agrees to ensure that the Landlord's Associates do not do anything, or omit to do anything, which if done or omitted to be done by the Landlord would be a breach of the Landlord's obligations under this Lease.

14 Expiry or ending of lease

14.1 Tenant to vacate

The Tenant agrees to vacate the Premises on the earlier of the Expiry Date and the date this Lease is ended and, subject to clause 14.3, deliver back possession of the Premises to the Landlord clean and free from rubbish.

14.2 No exercise

At the expiry or earlier termination of this Lease, the Tenant must use reasonable endeavours to, at the Landlord's Cost, facilitate the transfer, as directed by the Landlord, of any approvals, consents and licences attaching to, or required to operate, the Core Hospital Operations conducted in or on the Premises. For the avoidance of doubt, this clause 14.2 does not oblige the Tenant to actually procure or otherwise obtain the approval or consent of any authority or other third party.

14.3 No removal of certain items

The Tenant may not remove Tenant's Property which are improvements and which, if removed, would prevent the Premises from continuing to be capable of operating as a hospital (including improvements which if removed would prevent the provision from the Premises of those Core Hospital Operations that are being provided prior to the expiration of this Lease).

14.4 Removal of Tenant's Property

- (a) Subject to clauses 14.3 and 14.4(b), the Tenant may at any time prior to the expiration of this Lease remove all the Tenant's Property (and must remove any such items that are not affixed to the Premises) from the Premises.
- (b) Prior to removing any of the Tenant's Property which is affixed to the Premises, the Tenant must provide the Landlord with a schedule of works which it proposes to undertake in removing the Tenant's Property (including a list of those items of the Tenant's Property which the Tenant proposes to remove from the Premises). Upon receipt of the schedule of works, the Landlord and the Tenant must meet and, in good faith, discuss the proposed schedule of works, including the items of the Tenant's Property which the Tenant proposes to remove from the Premises.

14.5 Conditions applying to removal

When removing any Tenant's Property from the Premises, the Tenant must:

- (a) make good any damage caused by such removal; and
- (b) remove all rubbish and leave the parts of the Premises used in removing the Tenant's Property clean.

14.6 Landlord may treat Tenant's Property as abandoned

- (a) The Landlord may treat the Tenant's Property as abandoned and deal with it in any way it sees fit at the Tenant's expense if the Tenant does not remove the Tenant's Property in accordance with this clause 14.
- (b) The parties agree that clause 14.6(a) operates in place of any legislation that might otherwise apply to goods remaining on the Premises.
- (c) The Tenant agrees to ensure that no Encumbrance in any abandoned Tenant's Property exists at the time the Landlord exercises its rights under clause 14.6(a).

14.7 Tenant's Property at Tenant's risk

Without limiting any other provision of this Lease, the Tenant's Property is at the Tenant's risk at all times.

14.8 No make good obligations

Nothing in this clause 14 imposes any obligation on the Tenant to make good or redecorate the Premises on the expiration or sooner termination of this Lease.

14.9 Tenant to give Landlord keys

On the day the Tenant must vacate the Premises, the Tenant agrees to give the Landlord the keys, access cards and similar devices for the Building and the Premises held by the Tenant, the Tenant's Associates and any other person they have given them to.

15 Holding over

15.1 Monthly tenancy

If the Tenant continues to occupy the Premises after the Expiry Date with the Landlord's approval, it does so under a monthly tenancy:

- (a) which may be ended by either the Landlord or the Tenant on one month's notice expiring on any day; and
- (b) at a rent equal to one twelfth of the annual Rent applying on the Expiry Date increased by 2.5% percent, with such Rent increasing on each anniversary of the Expiry Date by 2.5%.

15.2 Terms of monthly tenancy

The monthly tenancy is otherwise on the same terms as this Lease except for those changes which:

- (a) are necessary to make this Lease appropriate for a monthly tenancy; or
- (b) the Landlord requires as a condition of giving its approval to the holding over.

16 Damage to Building or Premises and resumption

16.1 Damage and destruction

Subject to clause 16.2 ("Damage caused by Landlord"), if the Premises is wholly or partially destroyed or damaged then:

- (a) the Tenant will not be entitled to terminate this Lease or to any abatement of Occupancy Costs; and
- (b) the Tenant may (in its absolute discretion) elect to reinstate the Premises unless the Tenant (or the Tenant's Associates) caused the damage or destruction (in which case it must reinstate the Premises).

16.2 Damage caused by Landlord

- (a) If:
 - (i) the Premises is wholly or partially destroyed or damaged by a Landlord Act or Omission; and

- (ii) the damage or destruction has rendered the Premises unfit for the Permitted Use (in whole or in part),

then:

- (iii) the Tenant may reduce its payments of Occupancy Costs under this Lease for the period from and including the date the damage occurs to and including the date:

- (A) this Lease is ended; or

- (B) to but excluding the date the Premises are made fit for the Tenant's use,

whichever happens first. Any reduction must be proportionate to the loss of amenity caused by the damage; and

- (iv) the Landlord indemnifies and must keep indemnified the Tenant against any liability or loss arising from, and any Costs incurred in connection with the damage or destruction.

- (b) On the first Rent Day after the proportion is agreed or decided, the Tenant agrees to pay the Landlord (or the Landlord agrees to credit the Tenant with) any difference between what the Tenant has paid under this Lease and what the Tenant should have paid for the period from and including the date the damage occurs to but excluding that Rent Day.

16.3 Reconstruction

- (a) Within 60 Business Days of the damage or destruction occurring (except in circumstances where the damage or destruction is caused by the Tenant or the Tenant's Associates), the Tenant must provide the Landlord with a notice advising the Landlord whether it elects to reinstate the Premises. If a notice is not given within that 60 Business Day period the Tenant is taken to have elected not to reinstate the Premises.
- (b) If the Tenant elects to reinstate the Premises or the Tenant is required to reinstate the Premises, the Tenant must:
 - (i) consult with the Landlord on the appropriate highest and best use for a reinstatement of the Premises. The parties must consult as to the highest and best use before the Tenant commences any works to reinstate the Premises;
 - (ii) except to the extent the parties agree otherwise under clause 16.3(b)(i), at its sole Cost diligently and in a timely manner (taking into account the nature and extent of the required tasks and matters which are outside the control of the Tenant):
 - (A) reinstate the Premises to a similar size, amenity and trading potential to that previously enjoyed by the Premises prior to the damage or destruction; and
 - (B) obtain the licences, consents, approvals, permits and registrations required to carry on the Permitted Use from the reinstated Premises; and
 - (iii) apply any proceeds received or payable under any insurance policy for the purpose of reinstating the Premises.

- (c) If the Tenant elects not to, or is taken to have elected not to, reinstate the Premises, it must:
 - (i) pay (or cause its insurer to pay) the amount required to reinstate the Premises to the Landlord, and allow such access to the Premises (or the relevant part) in order for the Landlord to effect the reinstatement; and
 - (ii) continue to pay all Occupancy Costs until expiration or earlier termination of this Lease.

16.4 Resumption

If a competent authority resumes or compulsory acquires the whole or any part of the Premises such that the Tenant can no longer operate the Tenant's Business or a material part from the Premises either the Landlord or the Tenant may end this Lease on any day by giving at least six (6) months' prior notice to the other following the date the acquiring authority takes possession of the whole or part of the Premises.

17 Default

17.1 Landlord's right to terminate

Subject to determination of any matter which has been referred for determination under clause 22 ("Dispute Resolution") the Landlord may end this Lease (and the Tenant acknowledges that the Landlord may re-enter the Premises after this Lease has been validly terminated) by giving the Tenant written notice if:

- (a) any money payable by the Tenant or the Guarantor to the Landlord under this Lease, or Guaranteed Lease Money, of (in each case) an aggregate amount exceeding the amount equal to one month's Rent, has not been paid within 20 Business Days after the due date and the Landlord has issued to the Tenant or the Guarantor (as applicable) notice demanding payment and the Tenant or the Guarantor (as applicable) has not complied with such notice within 10 Business Days after receipt of such notice; or
- (b) the Tenant is in breach of an Essential Term and, where the breach is capable of remedy, such breach remains unrectified for a reasonable time having regard to the consequences of the breach (being a period of not less than 20 Business Days) after the Landlord has issued to the Tenant notice of the breach.

For the purposes of this clause 17.1 **Guaranteed Lease Money** means money payable by the Tenant under this Lease the payment of which is guaranteed by the Guarantor under the Umbrella Deed (where it applies).

17.2 Compensation for breach

For the purposes of clause 17.1(b) a breach of this Lease that cannot be remedied, but for which:

- (a) the Landlord can be compensated; and
 - (b) the Tenant pays the Landlord reasonable compensation for the breach,
- will be taken to be a breach which can be, and which has been by virtue of the compensation paid, remedied.

17.3 Mitigate loss

The Landlord acknowledges that it has a general duty to mitigate its loss in the event of termination of a Lease under clause 17.1 ("Landlord's right to terminate").

17.4 Indemnity for termination

The Tenant indemnifies and must keep indemnified the Landlord against any liability or loss arising from, and any Costs incurred in connection with the Landlord exercising its right of termination under clause 17.1 ("Landlord's right to terminate") including the loss to the Landlord of the benefit of this Lease, provided that this indemnity in this clause 17.4 shall not extend to any liability or loss or Costs to the extent it is caused or contributed to by a Landlord Act or Omission.

17.5 No other right to terminate

It is expressly agreed between the Landlord and the Tenant that the Landlord shall not be entitled to re-enter the Premises, forfeit, or terminate or determine this Lease except strictly in accordance with clause 17.1 ("Landlord's right to terminate").

18 Option for a New lease

18.1 Grant of New lease

The Landlord agrees to grant a New lease under this clause 18 on the Expiry Date to commence on the next day, but only if:

- (a) the Tenant gives the Landlord a notice stating that it wants a New lease of the Premises for the term first specified in the Reference Schedule;
- (b) the Landlord receives that notice between 36 months and 18 months before the Expiry Date;
- (c) at the time the Tenant gives that notice the Tenant is not in subsisting breach of an obligation to pay money or an Essential Term of this Lease of which notice has been given by the Landlord to the Tenant prior to the Tenant giving the Landlord a notice pursuant to clause 18.1(a); and
- (d) the Tenant delivers to the Landlord before the Expiry Date a guarantee of, or a guarantee of and an indemnity in connection with, the Tenant's obligations under the New lease by the same Guarantor, or another person who the Tenant can demonstrate to the Landlord (acting reasonably) has the financial capacity to guarantee the obligations of the Tenant under the New lease, on the same terms as any given in connection with the Tenant's obligations under this Lease.

18.2 Terms of New lease

The New lease is to be identical with this Lease except that:

- (a) if particulars of more than one New lease are specified in the Reference Schedule, the particulars of the New lease first specified are deleted from the Reference Schedule;
- (b) if particulars of only one New lease are specified in the Reference Schedule, this clause 18 and the relevant item in the Reference Schedule are deleted;

- (c) the term, the commencement date, the expiry date, and the rent review dates are to be those first specified in the Reference Schedule;
- (d) the Rent Commencement Date will be the commencement date of the New lease;
- (e) the rent from the commencement date of the New lease is to be the amount equal to the Rent payable under this Lease immediately prior to the commencement date of the New lease (except where the commencement date of the New lease is also a Fixed Increase Date, in which case the rent from the commencement date of the New lease is to be the amount equal to the Rent payable under this Lease immediately prior to the commencement date of the New lease, increased by 2.5%);
- (f) the New lease must reflect any variations to this Lease, whether registered or not, which become effective during the Term; and
- (g) where the first rent review date under the New lease (**First New Lease Rent Review Date**) is less than 12 months since the last rent review date under this Lease (**Last Lease Rent Review Date**), then the rent increase on the First New Lease Rent Review Date will be an increase of that proportion of 2.5% that the number of days from (but excluding) the Last Lease Rent Review Date to (and including) the First New Lease Rent Review Date bears to 365.

19 GST

19.1 Definitions and interpretation

For the purposes of this clause 19:

- (a) words and phrases which have a defined meaning in the GST Law have the same meaning when used in this clause 19, unless the contrary intention appears; and
- (b) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies is to be treated as if it were a separate supply.

19.2 GST exclusive

Unless this Lease expressly states otherwise, all consideration to be provided under this Lease is exclusive of GST.

19.3 Payment of GST

- (a) If GST is payable, or notionally payable, on a supply made under or in connection with this Lease, the party providing the consideration for the supply must pay to the supplier an additional amount equal to the amount of GST payable on that supply ("**GST Amount**").
- (b) Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- (c) This clause 19.3 does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.

19.4 Adjustment events

If an adjustment event arises for a supply made under or in connection with this Lease, the GST Amount must be recalculated to reflect that adjustment, the supplier or the recipient (as the case may be) must make any payments necessary to reflect the adjustment and the supplier must issue an adjustment note.

19.5 Reimbursements

Any payment, indemnity, reimbursement or similar payment that is required to be made under this Lease which is calculated by reference to an amount paid by another party shall be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 19.3 ("Payment of GST") will apply to the reduced payment.

19.6 Survival

This clause will continue to apply after expiration or termination of this Lease.

20 Personal Property Securities Act

20.1 PPSA further steps

If the Landlord determines that this Lease (or a transaction in connection with it) is or contains a security interest for the purposes of the PPSA, the Tenant agrees to do anything the Landlord reasonably asks (such as obtaining consents, signing and producing documents and getting documents completed and signed) to enable the Landlord to apply for any registration, or give any notification, in connection with the security interest so that the security interest has the priority required by the Landlord.

20.2 Exclusion of PPSA provisions

To the extent the law permits:

- (a) for the purposes of sections 115(1) and 115(7) of the PPSA:
 - (i) the Landlord need not comply with sections 95, 118, 121(4), 125, 130, 132(3)(d) or 132(4); and
 - (ii) sections 142 and 143 are excluded;
- (b) for the purposes of section 115(7) of the PPSA, the Landlord need not comply with sections 132 and 137(3);
- (c) if the PPSA is amended after the date of this Lease to permit the Tenant and the Landlord to agree to not comply with or to exclude other provisions of the PPSA, the Landlord may notify the Tenant that any of these provisions is excluded, or that the Landlord need not comply with any of these provisions as notified to the Tenant by the Landlord; and
- (d) the Tenant agrees not to exercise its rights to make any request of the Landlord under section 275 of the PPSA, to authorise the disclosure of any information under that section or to waive any duty of confidence that would otherwise permit non-disclosure under that section.

20.3 No notice required unless mandatory

To the extent the law permits, the Tenant waives:

- (a) its rights to receive any notice that is required by:
 - (i) any provision of the PPSA (including a notice of a verification statement); or
 - (ii) any other law before a secured party or Receiver exercises a right, power or remedy; and
- (b) any time period that must otherwise lapse under any law before a secured party or Receiver exercises a right, power or remedy.

If the law which requires a period of notice or a lapse of time cannot be excluded, but the law provides that the period of notice or lapse of time may be agreed, that period or lapse is one day or the minimum period the law allows to be agreed (whichever is the longer).

However, nothing in this clause 20.3 prohibits the Landlord or any Receiver from giving a notice under the PPSA or any other law.

20.4 PPSA registration information

The Tenant agrees to notify the Landlord:

- (a) at least 14 days before the Tenant does any of the following:
 - (i) if the Tenant does not have an ACN or ARBN (or if the Tenant is the trustee of a trust and the trust does not have an ABN or ARSN), the Tenant changes its name;
 - (ii) the Tenant becomes trustee of a trust with an ABN or ARSN, or a partner in a partnership with an ABN, other than a trust or partnership referred to in this Lease; and
 - (iii) if the Tenant is a trustee of a trust without an ABN or ARSN, or a partner in a partnership without an ABN, the trust or partnership acquires such a number; and
- (b) if the Tenant has an ACN or ARBN (or is the trustee of a trust that has an ABN or ARSN or is a partner in a partnership has an ABN), as soon as possible after the Tenant becomes aware that the number will change or cease to apply.

Any notice given under this clause 20.4 must state that it is given under this clause.

20.5 PPSA confidentiality

Each party agrees not to disclose any information in connection with this Lease under section 275(4) of the PPSA unless section 275(7) of the PPSA applies.

21 Notices and other communications

21.1 Form

Unless this Lease expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this

Lease must be in writing and signed by the sender (if an individual) or an Authorised Officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

21.2 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details;
- (c) sent by fax to the fax number referred to in the Details;
- (d) sent by email to the address referred to in the Details; or
- (e) given in any other way permitted by law.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

21.3 When effective

Communications take effect from the time they are received or taken to be received under clause 21.4 ("When taken to be received") (whichever happens first) unless a later time is specified in the communication.

21.4 When taken to be received

Communications are taken to be received:

- (a) if sent by post, 6 Business Days after posting (or 10 Business Days after posting if sent from one country to another);
- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed,

whichever happens first.

21.5 Receipt outside business hours

Despite anything else in this clause 21, if communications are received or taken to be received under clause 21.4 ("When taken to be received") after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at

9.00am on the next Business Day. For the purposes of this clause 21.5, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

22 Dispute Resolution

22.1 Legal proceedings conditional

A party may not begin legal proceedings in connection with a dispute under this Lease (other than a dispute as to non-payment of Rent) unless that dispute has first been decided by a person to whom it has been referred under this clause 22. This clause does not prevent a party from seeking urgent or equitable relief.

22.2 Notice of Dispute

If this clause 22 applies, either party may give the other a notice requiring the dispute to be decided under this clause 22.

22.3 Referral of Dispute

This dispute must be referred to a person agreed on by the parties but if the parties do not agree on a person within 7 days after the notice is given, then to a person appropriately qualified to deal with the dispute nominated by the Chair of Resolution Institute (or his or her nominee) at the request of either the Landlord or the Tenant. The parties agree that the appointed person must have at least 10 years current and continuous standing in the person's profession at the date of the appointment and must be:

- (a) in the case of a legal matter, a practising barrister;
- (b) in the case of a financial or accountancy matter, a practising chartered accountant; or
- (c) in any other case, a qualified person,

(and being the **Expert**).

22.4 Instructions

The parties must instruct the Expert that they:

- (a) act as an expert and not as an arbitrator;
- (b) may decide on rules of conduct and enquire into the dispute as they think fit including hearing representations and taking advice from people the Expert considers appropriate; and
- (c) must give a written decision including reasons.

22.5 Assistance

The parties may make submissions and must give every assistance the Expert requires, including providing copies of relevant documents.

22.6 Final and binding

The Expert's decision is final and binding on the parties, unless:

- (a) there is an obvious error in the Expert's decision;
- (b) the dispute relates to a matter of law; or
- (c) the dispute relates to a monetary claim that is in excess of \$500,000 (as adjusted annually for movements in the CPI from the Commencement Date).

22.7 Costs

Unless the Expert decides otherwise:

- (a) each party must pay its own Costs in connection with the dispute; and
- (b) the Costs of referring the dispute to the Expert and the Expert's Costs, and the Cost of enquiries, must be shared equally.

23 Trustee Limitation of Liability

- (a) The Landlord enters into, and incurs obligations under, this Lease only in its capacity as trustee of the Trust and in no other capacity.
- (b) Subject to paragraph (f), the Landlord:
 - (i) will not be liable to pay or satisfy any obligation or liability under this Lease out of any assets held by it personally or in its capacity as trustee or responsible entity of any other trust or managed investment scheme, other than the Trust; and
 - (ii) will only be liable to pay or satisfy any of its obligations or liabilities under this Lease to the extent to which these obligations or liabilities can be satisfied out of property of the Trust out of which the Landlord is actually indemnified for that liability.
- (c) Subject to paragraph (f), each other party to this Lease may only enforce any rights it has under or in connection with this Lease against the Landlord in the Landlord's capacity as trustee of the Trust (and not in its personal capacity or any other capacity), and the remedies of each other party to this Lease are limited to the right of that party to be subrogated to the Landlord's right of indemnity against the assets of the Trust. Without limiting the generality of this paragraph (c), the other party must not take any action for the winding up, liquidation, administration, receivership or similar of the Landlord itself or seek recourse against the beneficiaries or members of the Trust.
- (d) Each other party to this Lease agrees that neither it nor any receiver or attorney that it appoints may incur any liability on behalf of or for the account of the Landlord unless that liability is subject to the limitation contained in this clause.
- (e) The provisions of this clause are paramount and apply to this Lease regardless of any other provision of this Lease or any other document or instrument, even a provision which seeks to apply regardless of any other provision.
- (f) The provisions of paragraphs (a) to (c) shall not apply to any obligation or liability of the Landlord to the extent that it is not satisfied because, under the trust deed of the Trust or by operation of law, there is a reduction in the extent of the Landlord's indemnity out of the assets of the Trust as a

result of the Landlord's own fraud, negligence or breach of trust. In such a case, the Landlord's liability is limited to an amount equal to the value of the assets held on trust by the Landlord for the Trust.

- (g) In this clause the term "Trust" means any trust in respect of which the Landlord is trustee from time to time, and which has been notified to the Tenant.

24 General

24.1 Exclusion of statutory provisions

In this Lease the Implied Statutory Provisions are excluded to the extent permitted by law.

24.2 Costs and stamp duty

- (a) The Tenant must pay all registration fees and stamp duty properly assessed on this Lease.
- (b) Each party must pay its own Costs for preparing, negotiating, and executing this Lease or any renewal of it.
- (c) Each defaulting party must pay the other party's Costs incurred as a result of or in connection with the defaulting party's breach of this Lease.
- (d) The Tenant must pay the Landlord's reasonable legal Costs in considering proposed dealings by the Tenant under clause 12 and giving, considering and obtaining consents and approvals under this Lease.

24.3 Variation and waiver

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

24.4 Prompt performance

Each party agrees to perform its obligations under this Lease promptly, unless a specific time for performance is expressly stated in this Lease.

24.5 Inconsistent law

To the extent the law permits, this Lease prevails to the extent it is inconsistent with any law.

24.6 Supervening law

Any present or future law which operates to vary the obligations of a party in connection with this Lease with the result that the party's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

24.7 Rules of construction

No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of, or seeks to rely on, this Lease or any part of it.

24.8 Counterparts

- (a) This Lease may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document.
- (b) A party that has signed a copy of this Lease may exchange it with another party by emailing or faxing the executed copy to that other party (or its solicitors) and, if requested by that other party, will promptly deliver the original copy by express post or courier. Failure to make that delivery will not affect the validity or enforceability of this Lease.

24.9 Severability

If the whole or any part of a provision of this Lease is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Lease has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this Lease or is contrary to public policy.

24.10 Concurrent lease and existing licences

- (a) This Lease is concurrent with the Existing Leases.
- (b) The Tenant must perform the obligations of the Landlord which arise during or before the Term in connection with the Existing Leases in favour of the tenants under the Existing Leases.
- (c) The Tenant may enforce all rights, powers and remedies of the Landlord under the Existing Leases to the exclusion of the Landlord.
- (d) The Tenant is entitled to all rent and other money paid or payable to the Landlord under the Existing Leases during the Term.
- (e) The Tenant is solely responsible during the Term for:
 - (i) all acts, omissions and defaults of the tenants under the Existing Leases; and
 - (ii) all matters or circumstances arising from the Existing Leases being in place prior to and after the Commencement Date.
- (f) The Tenant indemnifies and must keep indemnified the Landlord against any liability or loss arising from, and any Costs incurred in connection with the Existing Leases during the Term, including:
 - (i) as a result of the Existing Leases being in place prior to the Commencement Date;
 - (ii) as a result of the Tenant failing to do any thing, or exercise any right, under an Existing Lease; and
 - (iii) in respect of any claims brought by, or against, the tenants under the Existing Leases (regardless of whether such claim or grounds for claim arose prior to or after the Commencement Date),

provided that this indemnity shall not extend to any liability or loss or Cost to the extent it is caused by a Landlord Act or Omission.

- (g) Where prior to the Commencement Date the Tenant has granted any licence or concession in respect to any part of the Premises:
 - (i) the Landlord consents to such licence or concession;
 - (ii) the Landlord agrees that it does not obtain any right or interest in such licence or concession;
 - (iii) the Tenant is entitled to all licence fees and other consideration payable by the licensee or concessionaire under the licence or concession; and
 - (iv) the Tenant acknowledges that the licensee or concessionaire is a Tenant Associate.

25 Governing law

25.1 Governing law and jurisdiction

The law in force in the State or Territory in which the Premises are situated governs this Lease and, to the extent the law permits, all matters in connection with this Lease including any non-contractual matters. The parties submit to the non-exclusive jurisdiction of the courts of that place. To the extent the law permits, the law of the Commonwealth as it applies in that jurisdiction governs a security interest arising under this Lease.

25.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this Lease may be served on a party by being delivered or left at that party's address for service of notices under clause 21.2 ("Delivery").

Schedule 1 Guarantee provisions

1 **Guarantee and indemnity**

1.1 **Consideration**

The Guarantor acknowledges that the Landlord:

- (a) enters into this Lease at the request of the Guarantor; and
- (b) is acting in reliance on the Guarantor incurring obligations and giving rights under this Guarantee.

1.2 **Guarantee**

- (a) The Guarantor unconditionally and irrevocably guarantees to the Landlord the Tenant's compliance with the Tenant's obligations in connection with:
 - (i) this Lease; and
 - (ii) its occupation of the Premises,including each obligation to pay money.
- (b) If the Tenant does not comply with those obligations on time and in accordance with this Lease or if an **Ipsso Facto Event** occurs, then the Guarantor agrees to comply with those obligations on demand from the Landlord. A demand may be made whether or not the Landlord has made demand on the Tenant. An **Ipsso Facto Event** means the Tenant is the subject of an announcement, application, compromise, arrangement, the appointment of a managing controller, or administration as described in section 415D(1), 434J(1) or 451E(1) of the Corporations Act or any process which under any law with a similar purpose may give rise to a stay on, or prevention of, the exercise of contractual rights.

1.3 **Indemnity**

The Guarantor indemnifies and must keep indemnified the Landlord against any liability or loss arising, and any Costs it incurs, if:

- (a) the Tenant does not, or is unable to, perform an obligation it has (including an obligation to pay money) in connection with this Lease;
- (b) an obligation the Tenant would otherwise have under this Lease (including an obligation to pay money) is found to be void, voidable or unenforceable;
- (c) an obligation the Guarantor would otherwise have under clause 1.2 of this schedule 1 is found to be void, voidable or unenforceable;

- (d) a liquidator disclaims this Lease; or
- (e) the Tenant becomes Insolvent.

The Guarantor agrees to pay amounts due under this indemnity on demand from the Landlord.

1.4 Nature of guarantee

Each of the guarantee in clause 1.2 of this schedule 1 and the indemnity in clause 1.3 of this schedule 1 is a continuing obligation despite any intervening payment, settlement or other thing and extends to all of the Tenant's obligations in connection with this Lease. The Guarantor waives any right it has of first requiring the Landlord to make demand, commence proceedings or enforce any other right against the Tenant or any other person before claiming from the Guarantor under this Guarantee.

1.5 Acknowledgment

The Guarantor acknowledges that before signing this Lease, and incurring obligations and giving rights under this Guarantee, it:

- (a) was given a copy of this Lease and had full opportunity to consider their provisions; and
- (b) made itself aware of the financial position of the Tenant and any other person who guarantees any of the Tenant's obligations in connection with this Lease.

1.6 Rights of the Landlord are protected

Rights given to the Landlord under this Guarantee, and the Guarantor's liabilities under it, are not affected by any act or omission or any other thing which might otherwise affect them under law or otherwise. For example, those rights and liabilities are not affected by:

- (a) any act or omission:
 - (i) varying or replacing in any way and for any reason any agreement or arrangement under which the obligations guaranteed under clause 1.2 of this schedule 1 are expressed to be owing;
 - (ii) releasing the Tenant or giving the Tenant a concession (such as more time to pay);
 - (iii) releasing any person who gives a guarantee or indemnity in connection with any of the Tenant's obligations;
 - (iv) by which a person becomes a Guarantor after the date of this Lease;
 - (v) by which the obligations of any person who guarantees any of the Tenant's obligations (including under this Guarantee) may become unenforceable;
 - (vi) by which any person who was intended to guarantee any of the Tenant's obligations does not do so, or does not do so effectively; or

- (vii) by which a person who is co-surety or co-indemnifier is discharged under an agreement or by operation of law;
- (b) a person dealing in any way with this Lease (including this Guarantee) including the termination, surrender or expiry of, or any assignment, subletting, licensing, extension or renewal or any reduction or conversion of the Term;
- (c) any transfer of a right of the Landlord;
- (d) the death, mental or physical disability, or Insolvency of any person including the Guarantor or the Tenant;
- (e) changes in the membership, name or business of any person;
- (f) acquiescence or delay by the Landlord or any other person;
- (g) any change in the Tenant's occupation of the Premises; or
- (h) a liquidator disclaiming this Lease.

1.7 No merger

This Guarantee does not merge with or adversely affect, and is not adversely affected by, any of the following:

- (a) any other guarantee, indemnity, Encumbrance or other right, power or remedy to which the Landlord is entitled; or
- (b) a judgment which the Landlord obtains against the Guarantor, the Tenant or any other person in connection with this Lease.

The Landlord may still exercise its rights under this Guarantee as well as under the judgment, guarantee, indemnity, Encumbrance or the right, power or remedy.

1.8 Guarantor's rights are suspended

As long as any obligation is required, or may be required, to be complied with in connection with this Lease or the Tenant's occupation of the Premises, the Guarantor may not, without the Landlord's consent:

- (a) reduce its liability under this Guarantee by claiming that it or the Tenant or any other person has a right of set-off or counterclaim against the Landlord;
- (b) claim, or exercise any right to claim, to be entitled (whether by way of subrogation or otherwise) to the benefit of another guarantee, indemnity (or another assurance against loss similar to a guarantee or indemnity) or Encumbrance given in connection with this Lease or any other amount payable under this Guarantee;
- (c) claim an amount from the Tenant, or another guarantor (including a person who has signed this Lease as a "Guarantor"), under a right of indemnity or contribution; or
- (d) claim an amount in the Insolvency of the Tenant or of another guarantor of any of the Tenant's obligations (including a person who has signed this Lease as a "Guarantor").

This clause 1.8 of this schedule 1 continues after this Guarantee ends.

1.9 Reinstatement of rights

Under law relating to Insolvency, a person may claim that a transaction (including a payment) in connection with this Lease (including this Guarantee) is void or voidable. If a claim is made and upheld, conceded or compromised, then:

- (a) the Landlord is promptly entitled as against the Guarantor to the rights in connection with this Lease (including this Guarantee) to which it was entitled promptly before the transaction; and
- (b) on request from the Landlord, the Guarantor agrees to do anything (including signing any document) to restore to the Landlord any Encumbrance (including this Guarantee) held by it from the Guarantor promptly before the transaction.

The Guarantor's obligations under this clause 1.9 of this schedule 1 are continuing obligations, independent of the Guarantor's other obligations under this Guarantee and continue after this Guarantee ends.

1.10 Extent of Guarantor's obligations

If more than one person is named as "Guarantor", each of them is liable for all the obligations under this Guarantee both individually and jointly with any one or more other persons named as "Guarantor".

1.11 Costs

- (a) The Guarantor agrees, within 5 Business Days of demand, to pay or reimburse the Landlord's Costs of exercising, enforcing or preserving rights, powers or remedies in connection with this Guarantee.
- (b) The Guarantor agrees to pay for anything that it agrees to do under this Guarantee.

1.12 Obligation to pay interest

The Guarantor agrees to pay interest on any amount under this Guarantee which:

- (a) is not paid on the due date for payment; and
- (b) is not otherwise incurring interest.

The interest accrues daily from (and including) the due date to (but excluding) the date of actual payment and is calculated on actual days elapsed and a year of 365 days.

The Guarantor agrees to pay interest under this clause 1.12 of this schedule 1 on demand from the Landlord.

1.13 Rate of interest

The rate of interest applying to each daily balance is 5% higher than the average bid rate for 30 day bills of exchange accepted by a leading Australian bank as displayed on the "BBSY" page of the Reuters Monitor System at about 10.30am on the first day of the month in which the amount is due, or if no rate is displayed for that day, the rate displayed for the day most closely preceding the first day of that month.

1.14 Payments

The Guarantor agrees to make payments under this Guarantee to the Landlord (or to a person nominated by the Landlord in a notice to the Guarantor):

- (a) in full without set-off or counterclaim, and without any deduction; and
- (b) in the currency in which the payment is due, and otherwise in Australian dollars, in promptly available funds.

1.15 Compounding

Interest accrued but which has not been paid under clause 1.12 of this schedule 1 is added to the overdue amount at the end of each period of 30 days (or any other period the Landlord reasonably chooses). The first period begins on (and includes) the date for payment of the overdue amount. Interest is payable on the increased overdue amount at the rate set out in clause 1.13 of this schedule 1 and in the manner set out in clause 1.12 of this schedule 1

1.16 Each signatory bound

This Guarantee binds each person who signs this Lease as Guarantor even if another person who was intended to sign as Guarantor does not sign it or is not bound by it.

1.17 References to “this Lease”

In this Guarantee, a reference to “this Lease” includes this Lease even if this Lease is not registered, or is found not to be a lease, or is found to be a lease for a term less than the Term.

Schedule 2 Right of first offer

1 Right of first offer – sale or transfer by Landlord

1.1 Right of first offer

The Landlord must not enter into a binding agreement to sell or otherwise transfer the Land to a third party or to hold the benefit of the Land for a third party (**Land Dealing**) without first complying with the requirements of this clause 1 of this schedule 2.

1.2 First Offer Notice

If the Landlord wishes to effect a Land Dealing the Landlord must:

- (a) give notice to the Tenant of the proposed Land Dealing (**Relevant Disposal Notice**); and
- (b) include with the Relevant Disposal Notice a contract of sale for the Land (with only the details of the price and the buyer not completed), which must be on fair and reasonable terms (including by providing as a condition precedent to completion or the contract for sale (as applicable) the buyer obtaining (on conditions acceptable to it acting reasonably) all regulatory and other approvals required for it to complete the purchase and a reasonable period of time for those approvals to be obtained) (**Land Contract Terms**).

1.3 First Offer Period

- (a) Within 30 Business Days from the date the Tenant receives the Relevant Disposal Notice (**First Offer Period**) the Tenant (or a nominee of the Tenant) may make an offer to the Landlord to purchase the Land by completing, signing and delivering to the Landlord the Land Contract Terms in duplicate with the details of the buyer and price completed.

The price included in Land Contract Terms is the **Offered Price**.

- (b) At any time during the First Offer Period, the Tenant may notify the Landlord that it does not wish to purchase the Land.
- (c) The Landlord may accept an offer made by the Tenant or its nominee pursuant to clause 1.3(a) of this schedule 2 by, within 15 Business Days after receipt of the completed and signed Land Contract Terms, signing the Land Contract Terms and providing an original counterpart of the fully executed Land Contract Terms to the Tenant.

1.4 Failure or refusal

If:

- (a) the Tenant notifies the Landlord under clause 1.3(b) of this schedule 2 that it does not wish to purchase the Land or fails to notify the Landlord; or

- (b) the offer is not accepted in accordance with clause 1.3(c) of this schedule 2;

(the date that the first of the circumstances in clause 1.4(a) or 1.4(b) of this schedule 2 occurs being the **Refusal Date** (and in the case of the Tenant failing to notify the Landlord, the Refusal Date is the day after the expiry of the First Offer Period)):

- (c) the Landlord may, (subject to clause 1.5 of this schedule 2) within 9 months after the Refusal Date (but not before the Refusal Date), enter into an agreement to transfer the Land to a third party on terms which are not (when taken as a whole) more materially favourable than the Land Contract Terms included with the Relevant Disposal Notice, and at a price at not less than 95% of any Offered Price (being a **Permitted Dealing**). The Landlord must promptly notify the Tenant where it enters into any agreement to sell or transfer the Land or to hold the Land for the benefit of a third party; and
- (d) The Landlord may not sell the Land or otherwise transfer the Land to a third party or hold the benefit of the Land for a third party without again complying with this clause 1 of this schedule 2.

1.5 No effect on other obligations

- (a) Nothing in this clause 1 of this schedule 2 affects the obligations of the Landlord under clause 13.5 of this Lease.
- (b) The rights granted to the Tenant in this clause 1 of this schedule 2 are intended to run with the Land, and the Landlord must obtain a covenant from any assignee or transferee of its interest in the Land in the document referred to in clause 13.5 of this Lease to be bound by this clause 1 of this schedule 2.

Commitment Deed

Annexure “E” – Plans

Norwest Private Hospital, 9 Norbrik Drive and 11
Norbrik Drive, Bella Vista, New South Wales,
Australia

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 1 of 4 sheet(s)

Office Use Only Registered: Title System: Purpose:	Office Use Only
PLAN OF SUBDIVISION OF LOT 102 IN DP1139109 AND LOT 200 IN DP 1222375	LGA: THE HILLS SHIRE Locality: BELLA VISTA Parish: CASTLE HILL County: CUMBERLAND
Crown Lands NSW/Western Lands Office Approval I, ... (Authorised Officer) in approving this plan certify that all necessary approvals in regard to the allocation of the land shown herein have been given. Signature: Date: File Number: Office:	Survey Certificate I, MATTHEW GRAHAM SMITH of LTS LOCKLEY, LOCKED BAG 5, GORDON NSW 2072 a surveyor registered under the <i>Surveying and Spatial Information Act 2002</i>, certify that: ~~*(a) The land shown in the plan was surveyed in accordance with the Surveying and Spatial Information Regulation 2012, is accurate and the survey was completed on~~ *(b) The part of the land shown in the plan (~~being~~ excluding ^ PART LOTS 305 & 306 SHOWN AS (BY DED'N)) was surveyed in accordance with the <i>Surveying and Spatial Information Regulation 2012</i>, is accurate and the survey was completed on 15-05-16, the part not surveyed was compiled in accordance with that Regulation. ~~*(c) The land shown in this plan was compiled in accordance with the Surveying and Spatial Information Regulation 2012.~~ Signature: Dated: Surveyor ID: 8650 Datum Line: 'A' – 'B' Type: *Urban/*~~Rural~~ The terrain is *Level-Undulating / ~~*Steep-Mountainous~~. *Strike through if inapplicable. ^Specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey.
Subdivision Certificate I, ... *Authorised Person/*General Manager/*Accredited Certifier, certify that the provisions of s.109J of the <i>Environmental Planning and Assessment Act 1979</i> have been satisfied in relation to the proposed subdivision, new road or reserve set out herein. Signature: Accreditation number: Consent Authority: Date of endorsement: Subdivision Certificate number: File number: *Strike through if inapplicable.	Plans used in the preparation of survey/compilation. DP1116021 DP1039109 DP1222374 DP1222375 If space is insufficient continue on PLAN FORM 6A
Signatures, Seals and Section 88B Statements should appear on PLAN FORM 6A	Surveyor's Reference:30552-43566DP [PPN DP1222376]

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 2 of 4 sheet(s)

Office Use Only

Office Use Only

Registered:

**PLAN OF SUBDIVISION OF LOT 102 IN
DP1139109 AND LOT 200 IN DP 1222375**

Subdivision Certificate number:

Date of Endorsement:

This sheet is for the provision of the following information as required:

- A schedule of lots and addresses - See 60(c) *SSI Regulation 2012*
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals- see 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT, 1919, IT IS INTENDED TO CREATE:

1. EASEMENT FOR SUPPORT AND SHELTER (WHOLE OF LOTS)
2. EASEMENT FOR SERVICES (WHOLE OF LOTS)
3. EASEMENT FOR EMERGENCY EGRESS (WHOLE OF LOTS)
4. RIGHT OF CARRIAGEWAY 5.4 AND 5.695 WIDE LIMITED IN STRATUM (EE1)

LOT	STREET NUMBER	STREET NAME	STREET TYPE	LOCALITY
305	7	NORBRIK	DRIVE	BELLA VISTA
306	11	NORBRIK	DRIVE	BELLA VISTA

If space is insufficient use additional annexure sheet

Surveyor's Reference: 30552-43566DP [PPN DP1222376]

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 3 of 4 sheet(s)

Office Use Only

Office Use Only

Registered:

**PLAN OF SUBDIVISION OF LOT 102 IN
DP1139109 AND LOT 200 IN DP 1222375**

This sheet is for the provision of the following information as required:

- A schedule of lots and addresses - See 60(c) *SSI Regulation 2012*
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals- see 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

Subdivision Certificate number:

Date of Endorsement:

EXECUTED by)
HEALTHSCOPE OPERATIONS PTY LTD)
ACN 006 405 152)
 in accordance with Section 127)
 of the Corporations Act)

.....
Signature of Director.....
Signature of Director/secretary.....
NAME (please print).....
NAME (please print)

If space is insufficient use additional annexure sheet

Surveyor's Reference: 30552-43566DP [PPN DP1222376]

DEPOSITED PLAN ADMINISTRATION SHEET

Sheet 4 of 4 sheet(s)

Office Use Only

Office Use Only

Registered:

**PLAN OF SUBDIVISION OF LOT 102 IN
DP1139109 AND LOT 200 IN DP 1222375**

Subdivision Certificate number:

Date of Endorsement:

This sheet is for the provision of the following information as required:

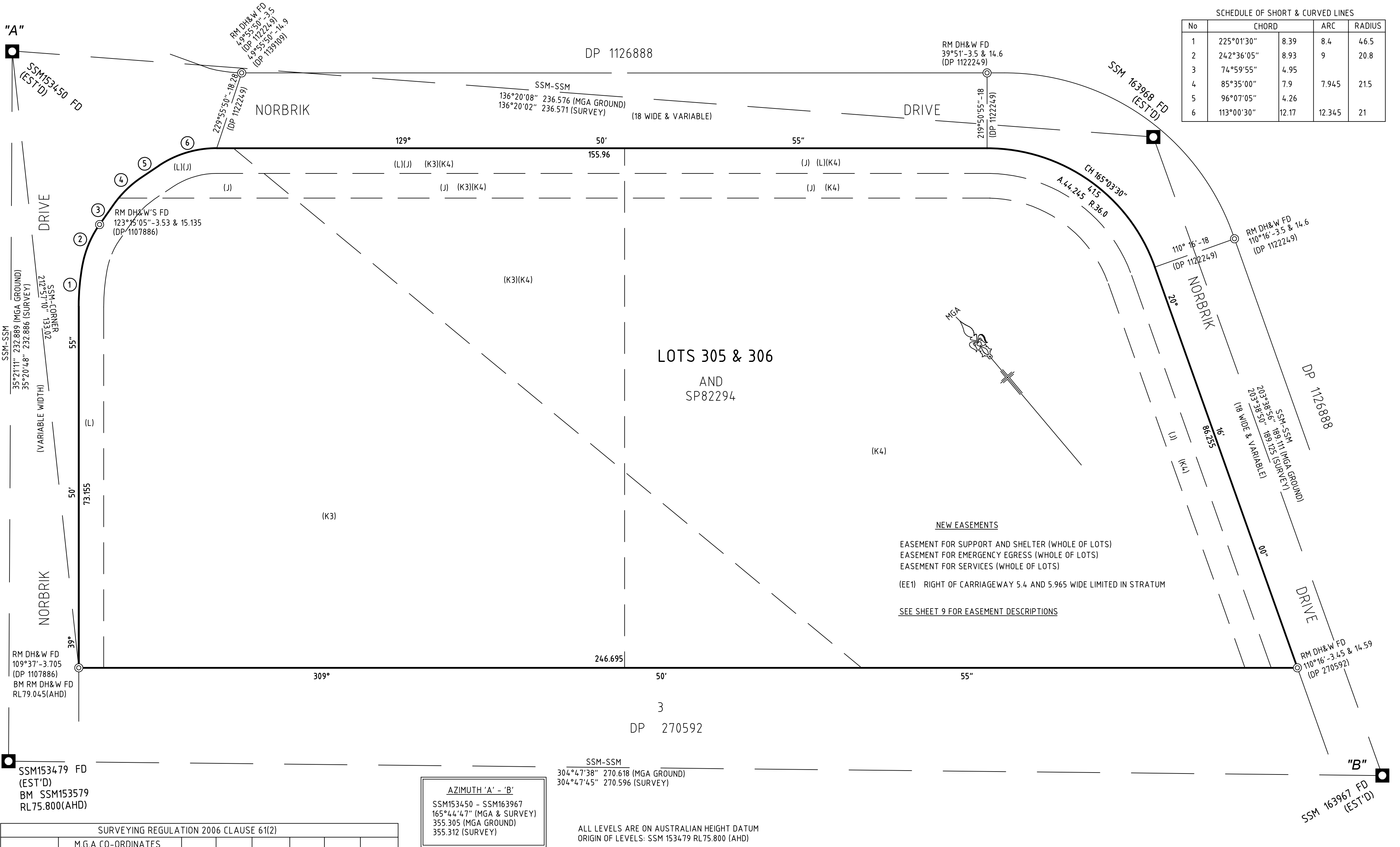
- A schedule of lots and addresses - See 60(c) *SSI Regulation 2012*
- Statements of intention to create and release affecting interests in accordance with section 88B *Conveyancing Act 1919*
- Signatures and seals- see 195D *Conveyancing Act 1919*
- Any information which cannot fit in the appropriate panel of sheet 1 of the administration sheets.

EXECUTED by)
PORTNORDICA LIMITED)
ACN 109 872 228)
 in accordance with Section 127)
 of the Corporations Act)

.....
Signature of Director.....
Signature of Director/secretary.....
NAME (please print).....
NAME (please print)

If space is insufficient use additional annexure sheet

Surveyor's Reference: 30552-43566DP [PPN DP1222376]



SCHEDULE OF SHORT & CURVED LINES				
No	CHORD	ARC	RADIUS	
1	225°01'30"	8.39	8.4	46.5
2	242°36'05"	8.93	9	20.8
3	74°59'55"	4.95	21.5	
4	85°35'00"	7.9		
5	96°07'05"	4.26		
6	113°00'30"	12.17	12.345	21

SURVEYING REGULATION 2006 CLAUSE 61(2)								
MARK	M.G.A CO-ORDINATES		ZONE	CLASS	ORDER	RL	CLASS	ORDER
	EASTING	NORTHING						
SSM 153450	310 435.572	6264 368.217	56	C	3	83.97	D	4
SSM 153479	310 300.816	6264 178.267	56	C	3	75.800	C	3
SSM 163967	310 523 .056	6264 023.841	56	C	3	80	U	U
SSM 163968	310 598.916	6264 197.075	56	C	3	80	U	U
SOURCE: S.C.I.M.S. 29-06-2016 C.S.F. 1.000026								

AZIMUTH 'A' - 'B'
SSM153450 - SSM163967
165°44'47" (MGA & SURVEY)
355.305 (MGA GROUND)
355.312 (SURVEY)

Surveyor: MATTHEW GRAHAM SMITH
Date: 15-05-2016
Surveyor's Ref: 30552-43566DP
[PPN DP1222376]

PLAN OF SUBDIVISION OF LOT 102 IN DP1139109
AND LOT 200 IN DP1222375

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:1000

Registered:

DP

SCHEDULE OF SHORT & CURVED LINES									
No	CHORD		ARC	RADIUS	No	CHORD		ARC	RADIUS
1	225°01'30"	8.39	8.4	46.5	NORBRIK	11	309°50'55"	2.4	B
2	242°36'05"	8.93	9	20.8		12	39°50'55"	2.94	
3	74°59'55"	4.95				13	309°50'55"	4.875	
4	85°35'00"	7.9	7.945	21.5		14	219°50'55"	2.9	
5	96°07'05"	4.26				15	309°50'55"	2.26	
6	113°00'30"	12.17	12.345	21		18	309°50'55"	2.805	
7	232°17'20"	1.515	1.515	20.8		19	219°50'55"	1.74	
8	310°15'40"	0.515	0.515	36					
9	345°28'05"	41.09	43.725	36					
10	244°41'05"	7.445	7.485	20.8					

SCHEDULE OF BEARINGS	
No	BEARING
16	39°50'55"
17	129°50'55"

BASEMENT LEVEL & BELOW

SEE SHEET 9 FOR EASEMENT DESCRIPTIONS

LOTS 200 & 201 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

- L1

LIMITED IN HEIGHT TO RL80.97 & UNLIMITED IN DEPTH
- L2

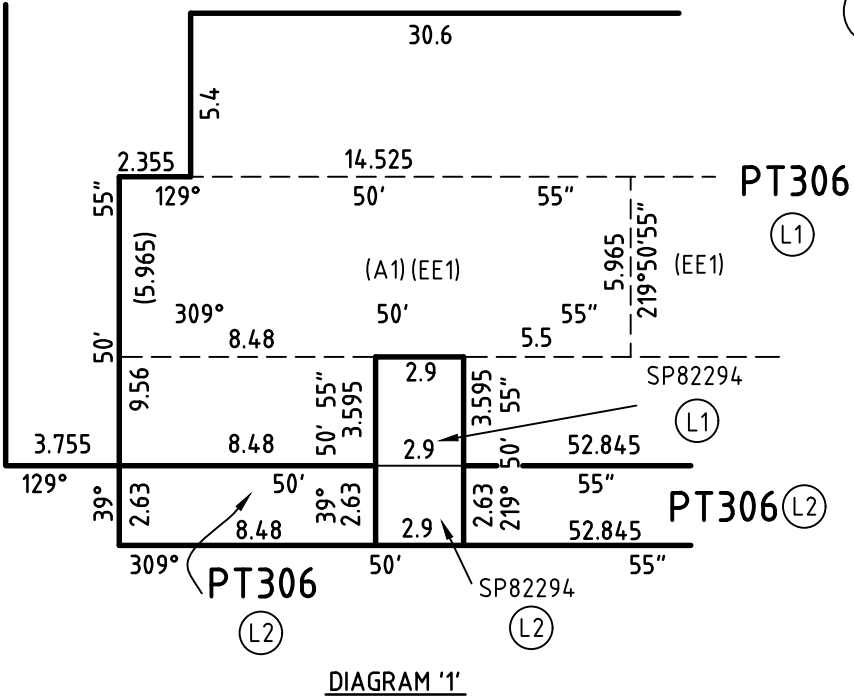
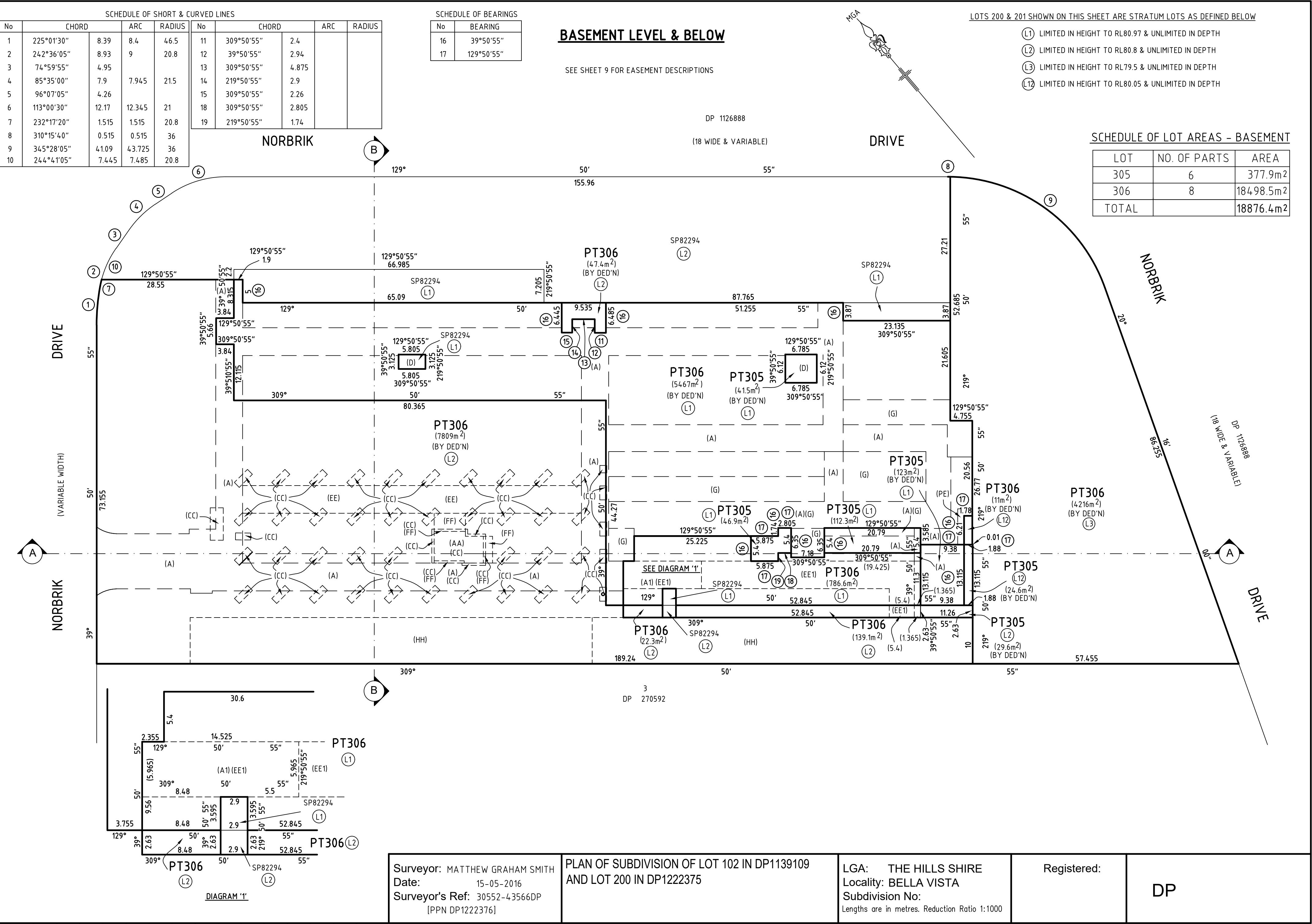
LIMITED IN HEIGHT TO RL80.8 & UNLIMITED IN DEPTH
- L3

LIMITED IN HEIGHT TO RL79.5 & UNLIMITED IN DEPTH
- L12

LIMITED IN HEIGHT TO RL80.05 & UNLIMITED IN DEPTH

SCHEDULE OF LOT AREAS - BASEMENT

LOT	NO. OF PARTS	AREA
305	6	377.9m ²
306	8	18498.5m ²
TOTAL		18876.4m ²



Surveyor: MATTHEW GRAHAM SMITH Date: 15-05-2016 Surveyor's Ref: 30552-43566DP [PPN DP1222376]	PLAN OF SUBDIVISION OF LOT 102 IN DP1139109 AND LOT 200 IN DP122375	LGA: THE HILLS SHIRE Locality: BELLA VISTA Subdivision No: Lengths are in metres. Reduction Ratio 1:1000	Registered: DP

LOTS 200 AND 201 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

- L4

LIMITED IN HEIGHT TO RL84.74 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 1
- L5

LIMITED IN HEIGHT TO RL85.14 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 1

GROUND LEVEL

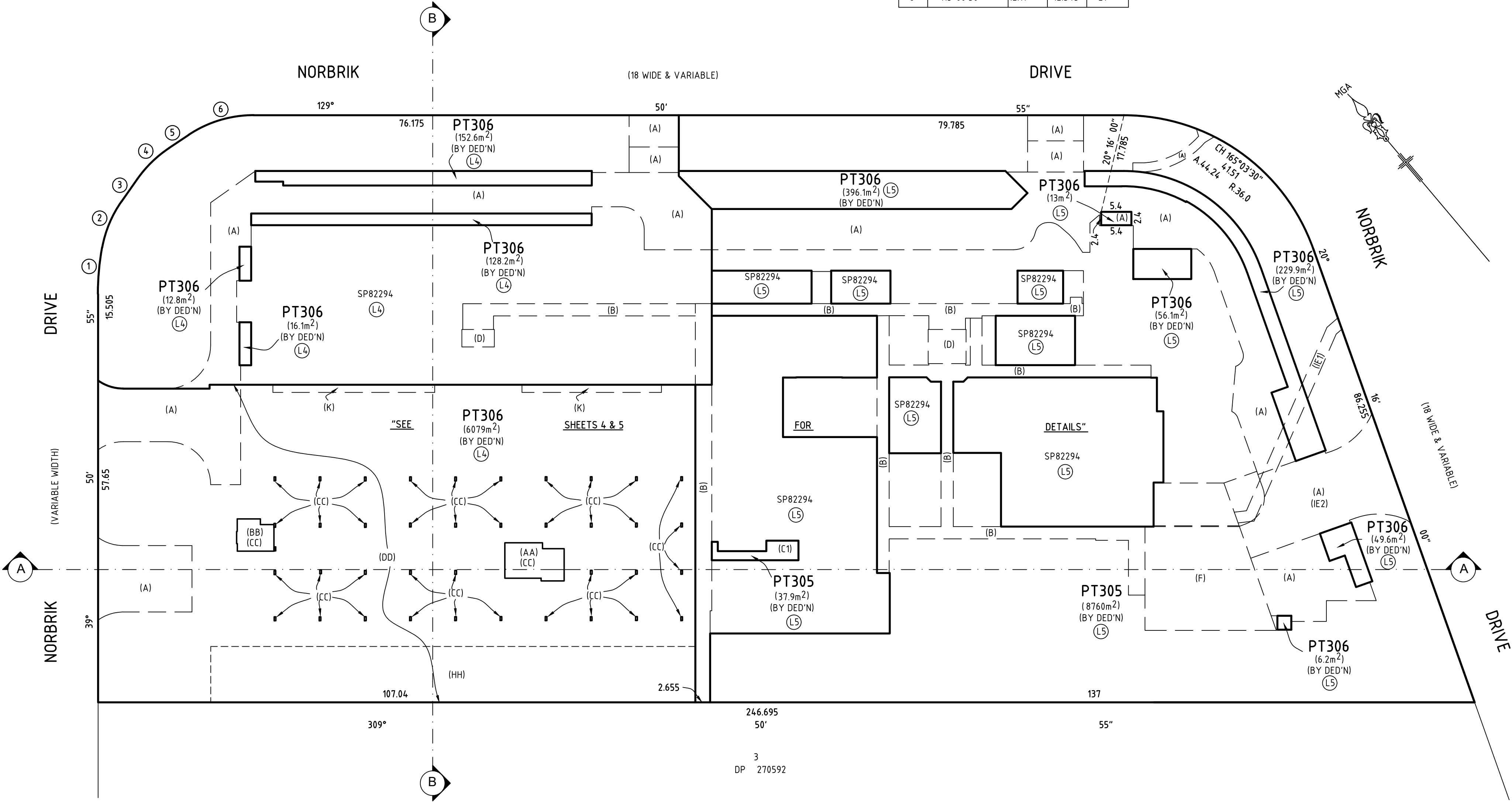
SEE SHEET 9 FOR EASEMENT DESCRIPTIONS

SCHEDULE OF SHORT & CURVED LINES

No	CHORD	ARC	RADIUS
1	225°01'30"	8.39	8.4
2	242°36'05"	8.93	9
3	74°59'55"	4.95	
4	85°35'00"	7.9	7.945
5	96°07'05"	4.26	
6	113°00'30"	12.17	12.345

SCHEDULE OF LOT AREAS - GROUND LEVEL

LOT	NO. OF PARTS	AREA
305	2	8797.9m ²
306	11	7139.6m ²
TOTAL		15937.5m ²



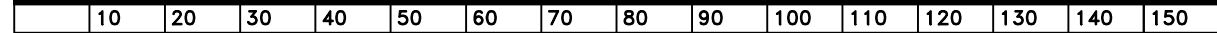
Surveyor: MATTHEW GRAHAM SMITH
Date: 15-05-2016
Surveyor's Ref: 30552-43566DP
[PPN DP1222376]

PLAN OF SUBDIVISION OF LOT 102 IN DP1139109
AND LOT 200 IN DP1222375

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:1000

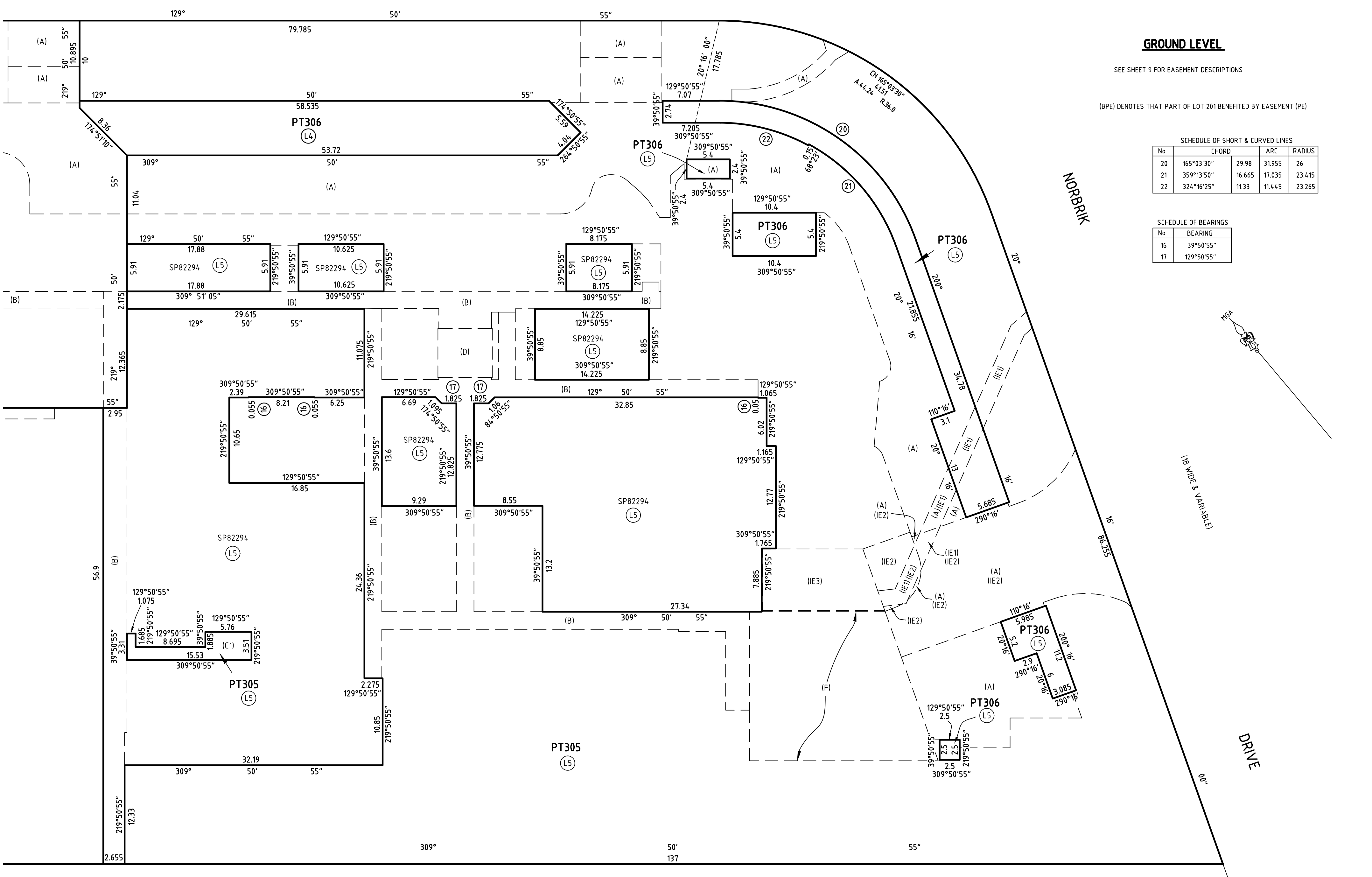
Registered:

DP



SCHEDULE OF BEARINGS	
No	BEARING
16	39°50'55"

DP



GROUND LEVEL

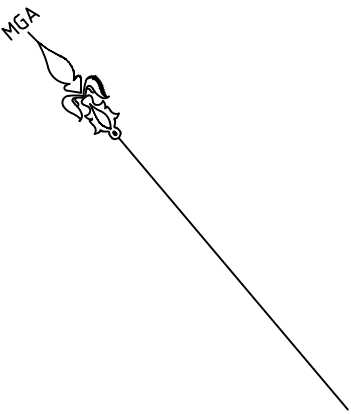
SEE SHEET 9 FOR EASEMENT DESCRIPTIONS

(BPE) DENOTES THAT PART OF LOT 201 BENEFITED BY EASEMENT (PE)

SCHEDULE OF SHORT & CURVED LINES				
No	CHORD	ARC	RADIUS	
20	165°03'30"	29.98	31.955	26
21	359°13'50"	16.665	17.035	23.415
22	324°16'25"	11.33	11.445	23.265

SCHEDULE OF BEARINGS

No	BEARING
16	39°50'55"
17	129°50'55"



(18 WIDE & VARIABLE)

DRIVE

Surveyor: MATTHEW GRAHAM SMITH
Date: 15-05-2016
Surveyor's Ref: 30552-43566DP
[PPN DP1222376]

PLAN OF SUBDIVISION OF LOT 102 IN DP1139109
AND LOT 200 IN DP1222375

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:500

Registered:

DP

LEVEL 1

SEE SHEET 9 FOR EASEMENT DESCRIPTIONS

LOTS 200 AND 201 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

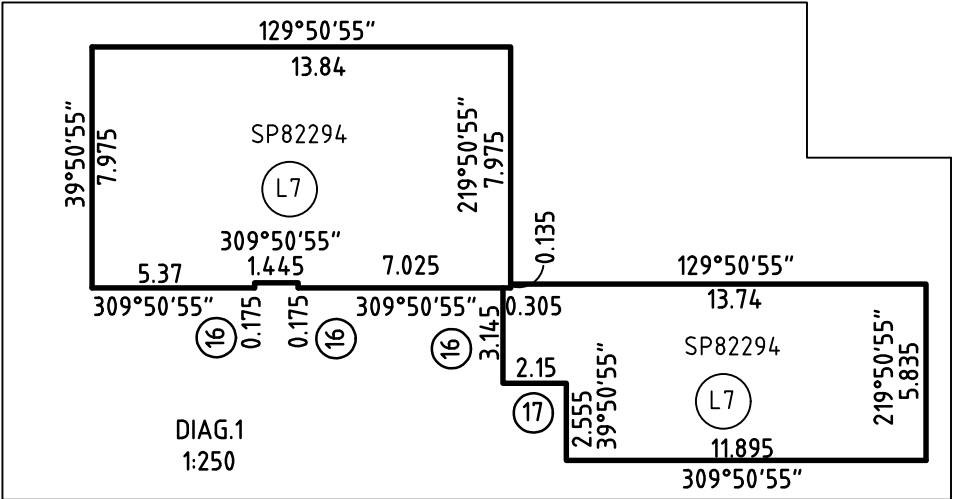
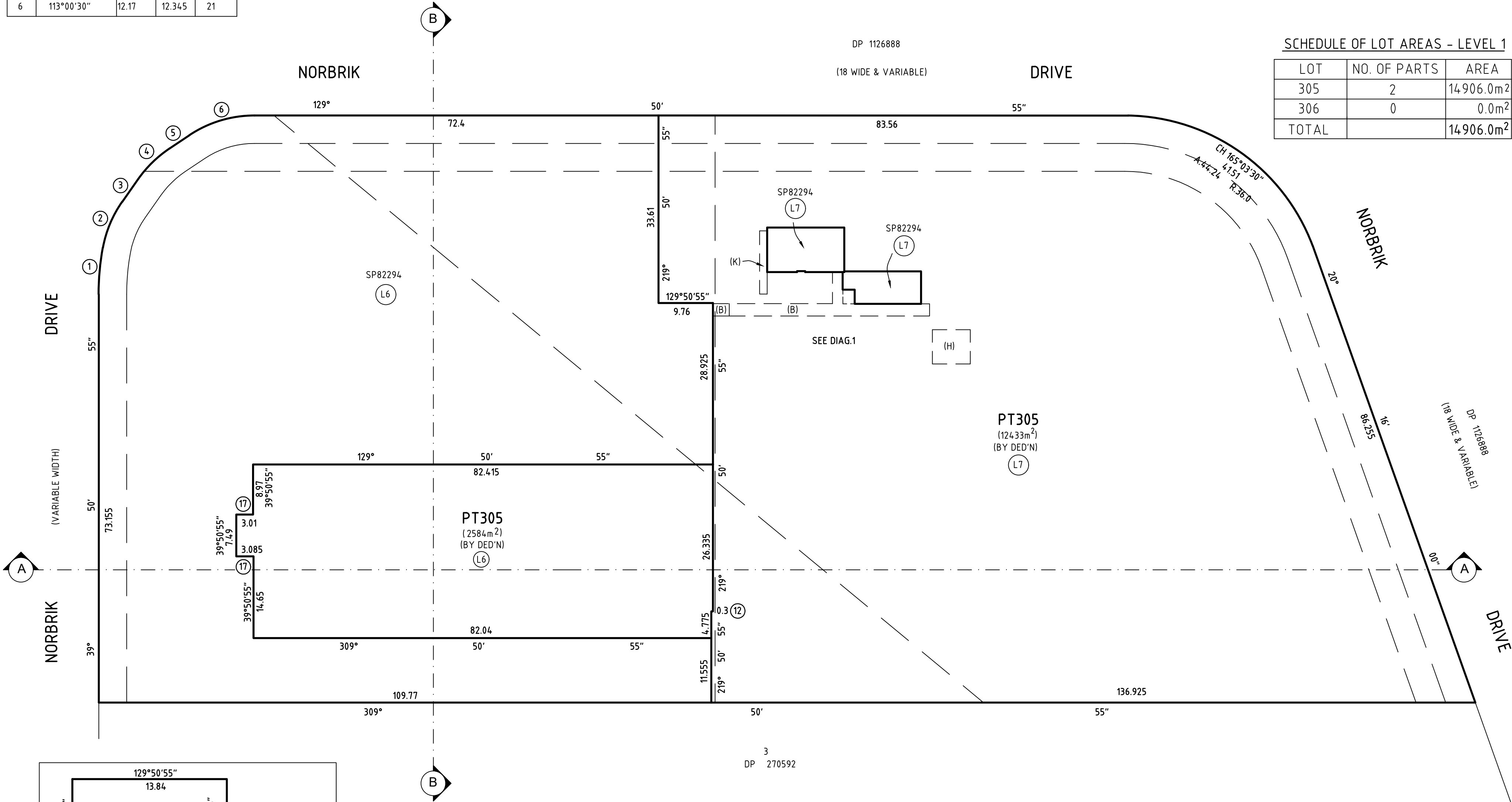
- (L6) LIMITED IN HEIGHT TO RL88.54 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 2
- (L7) LIMITED IN HEIGHT TO RL89.34 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 2

SCHEDULE OF SHORT & CURVED LINES				
No	CHORD	ARC	RADIUS	
1	225°01'30"	8.39	46.5	
2	242°36'05"	8.93	20.8	
3	74°59'55"	4.95		
4	85°35'00"	7.9	21.5	
5	96°07'05"	4.26		
6	113°00'30"	12.17	21	

SCHEDULE OF BEARINGS	
No	BEARING
16	39°50'55"
17	129°50'55"

SCHEDULE OF LOT AREAS - LEVEL 1

LOT	NO. OF PARTS	AREA
305	2	14 906.0m ²
306	0	0.0m ²
TOTAL		14 906.0m ²



Surveyor: MATTHEW GRAHAM SMITH
Date: 15-05-2016
Surveyor's Ref: 30552-43566DP
[PPN DP1222376]

PLAN OF SUBDIVISION OF LOT 102 IN DP1139109
AND LOT 200 IN DP1222375

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:1000

Registered:

DP

LEVEL 2

SEE SHEET 9 FOR EASEMENT DESCRIPTIONS

LOTS 100 AND 101 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

- L8

LIMITED IN HEIGHT TO RL93.12 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 8
- L9

LIMITED IN HEIGHT TO RL93.14 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 8

SCHEDULE OF LOT AREAS - LEVEL 2

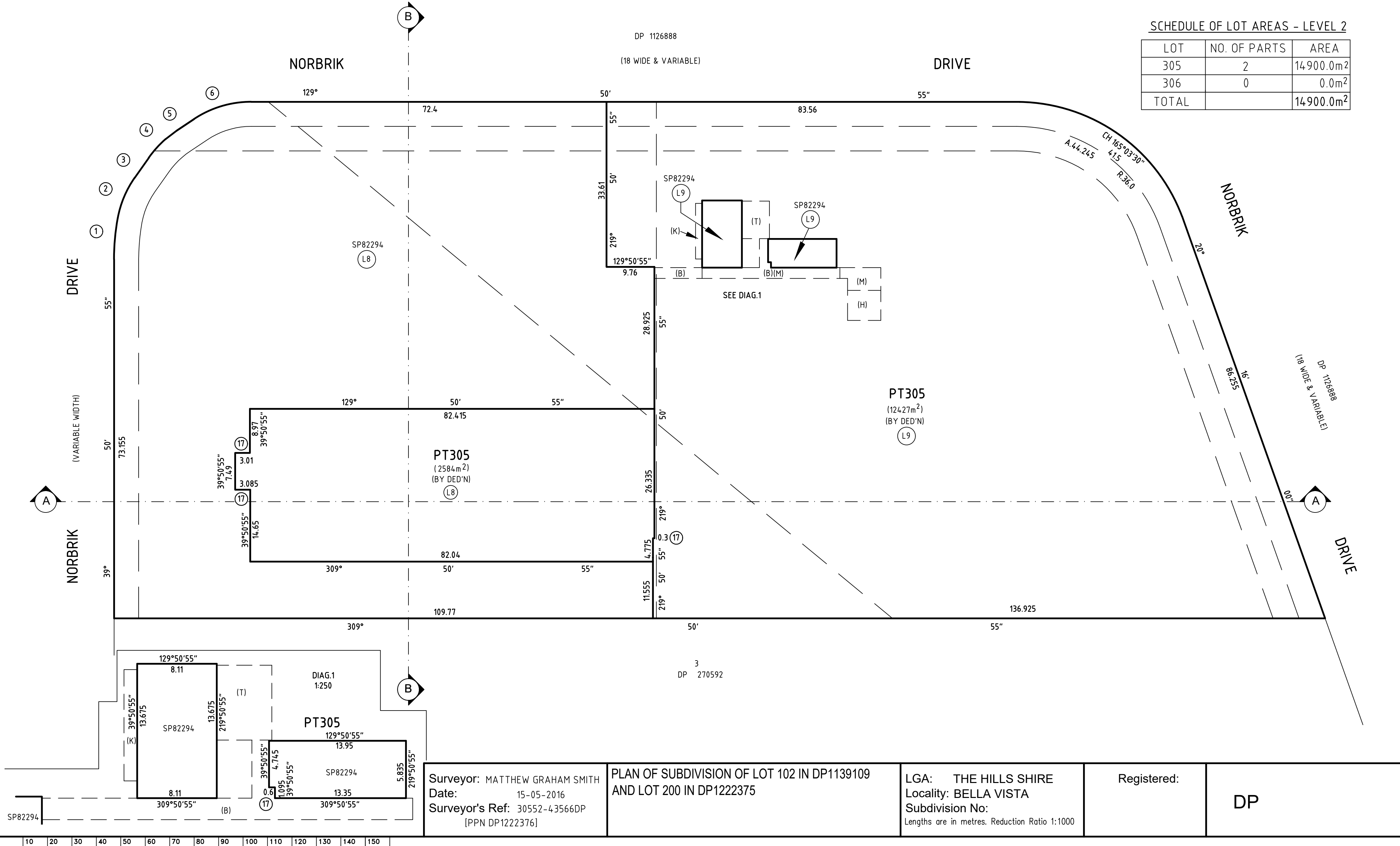
LOT	NO. OF PARTS	AREA
305	2	14 900.0m ²
306	0	0.0m ²
TOTAL		14 900.0m ²

NORBRIK

DRIVE

NORBRIK

DRIVE



Surveyor: MATTHEW GRAHAM SMITH
Date: 15-05-2016
Surveyor's Ref: 30552-43566DP
[PPN DP1222376]

PLAN OF SUBDIVISION OF LOT 102 IN DP1139109
AND LOT 200 IN DP1222375

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:1000

Registered:

DP

SCHEDULE OF SHORT & CURVED LINES				
No	CHORD	ARC	RADIUS	
1	225°01'30"	8.39	8.4	46.5
2	242°36'05"	8.93	9	20.8
3	74°59'55"	4.95		
4	85°35'00"	7.9	7.945	21.5
5	96°07'05"	4.26		
6	113°00'30"	12.17	12.345	21

SCHEDULE OF BEARINGS	
No	BEARING
17	129°50'55"

LEVEL 3 AND ABOVE

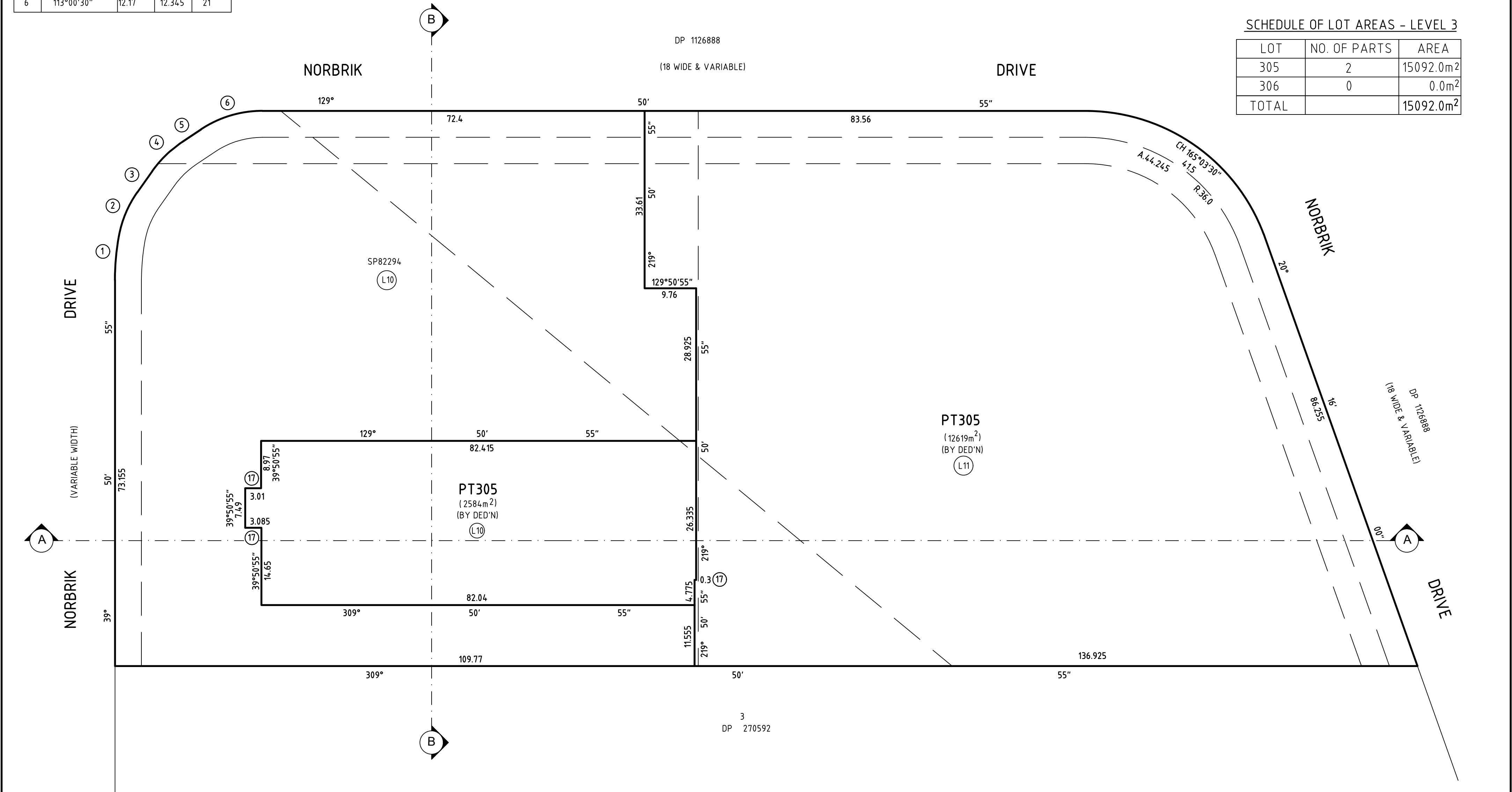
SEE SHEET 9 FOR EASEMENT DESCRIPTIONS

LOTS 100 AND 101 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

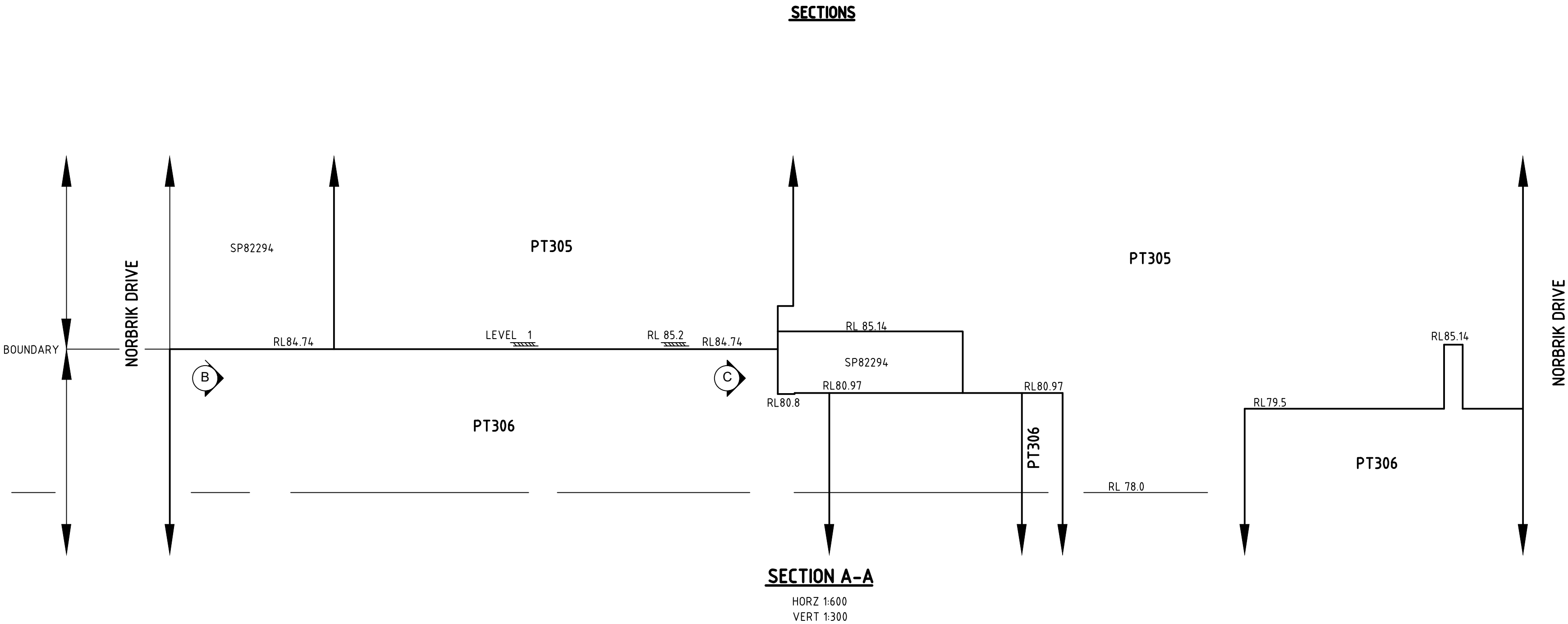
- (L10) UNLIMITED IN HEIGHT & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 9.
- (L11) UNLIMITED IN HEIGHT & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEETS 9.

SCHEDULE OF LOT AREAS - LEVEL 3

LOT	NO. OF PARTS	AREA
305	2	15092.0m ²
306	0	0.0m ²
TOTAL		15092.0m ²

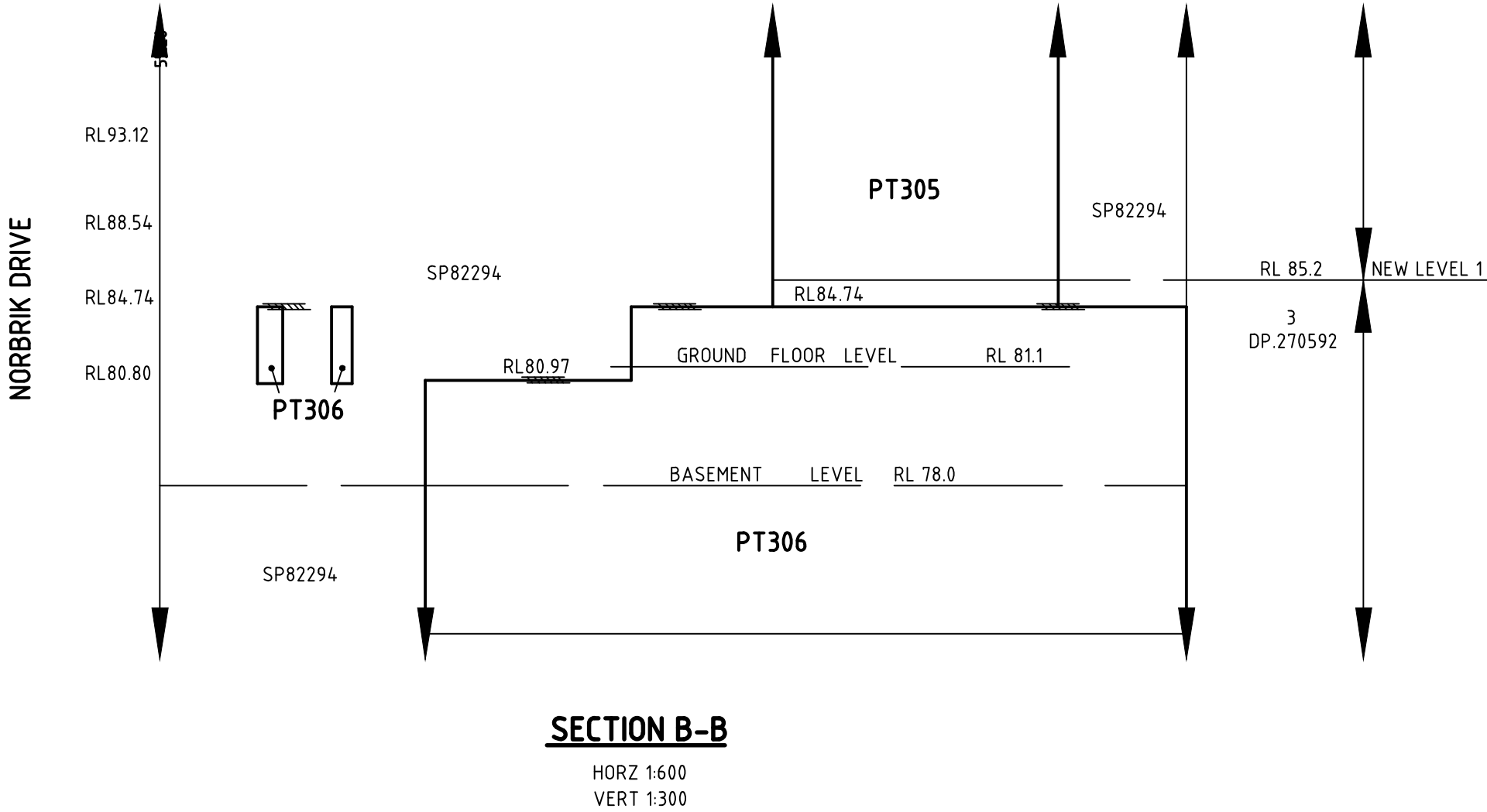


Surveyor: MATTHEW GRAHAM SMITH Date: 15-05-2016 Surveyor's Ref: 30552-43566DP [PPN DP1222376]	PLAN OF SUBDIVISION OF LOT 102 IN DP1139109 AND LOT 200 IN DP1222375	LGA: THE HILLS SHIRE Locality: BELLA VISTA Subdivision No: Lengths are in metres. Reduction Ratio 1:1000	Registered:	DP



EXISTING EASEMENTS & RESTRICTIONS

- (K3) RESTRICTION ON THE USE OF LAND (DP1116021)
(K4) RESTRICTION ON THE USE OF LAND (DP1116021)
(J) EASEMENT FOR BATTER 10 WIDE (DP1116021)
(L) EASEMENT FOR LANDSCAPING & MAINTENANCE (DP1116021)
- (A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH LIMITED IN STRATUM (DP1139109)
(B) RIGHT OF FOOTWAY 2.175, 2.2 WIDE AND VARIABLE WIDTH LIMITED IN STRATUM (DP1139109)
(D) EASEMENT TO USE LIFT LIMITED IN STRATUM (DP1139109)
(F) EASEMENT TO USE LOADING DOCK LIMITED IN STRATUM (DP1139109)
(G) EASEMENT FOR CAR PARKING LIMITED IN STRATUM (DP1139109)
(IE1) EASEMENT FOR UNDERGROUND CABLES 2 WIDE (DP1139109)
(IE2) RIGHT OF ACCESS LIMITED IN STRATUM (DP1139109)
(IE3) EASEMENT FOR INDOOR SUBSTATION LIMITED IN STRATUM (DP1139109)
(K) EASEMENT FOR SUNSHADE STRUCTURE LIMITED IN STRATUM (DP1139109)
(PE) EASEMENT FOR PLANT AND EQUIPMENT LIMITED IN STRATUM (DP1139109)
- (H) EASEMENT TO USE LIFT LIMITED IN STRATUM (DP1161083)
(M) RIGHT OF FOOTWAY 2.2 WIDE AND 4.635 WIDE LIMITED IN STRATUM (DP1161083)
- (AA) EASEMENT FOR ACCESS AND EQUIPMENT 4.12, 6.75 AND 10.625 WIDE LIMITED IN STRATUM (DP1222374)
(BB) EASEMENT FOR ACCESS 2.2, 4.75 AND 5.77 WIDE LIMITED IN STRATUM (DP1222374)
(CC) EASEMENT FOR SUPPORT VARIABLE WIDTH LIMITED IN STRATUM (DP1222374)
(DD) EASEMENT FOR SERVICES 56.2 AND 56.9 WIDE AND VARIABLE WIDTH LIMITED IN STRATUM (DP1222374)
(EE) RIGHT OF CARRIAGEWAY 6 WIDE LIMITED IN STRATUM (DP1222374)
(FF) RIGHT OF FOOTWAY 0.5, 2 & 6.75 WIDE LIMITED IN STRATUM (DP1222374)
(HH) EASEMENT FOR CAR PARKING 10 WIDE LIMITED IN STRATUM (DP1222374)
- (A1) RIGHT OF CARRIAGEWAY 5.965 WIDE LIMITED IN STRATUM (DP1222375)
- NEW EASEMENTS**
- EASEMENT FOR SUPPORT AND SHELTER (WHOLE OF LOTS)
EASEMENT FOR EMERGENCY EGRESS (WHOLE OF LOTS)
EASEMENT FOR SERVICES (WHOLE OF LOTS)
- (EE1) RIGHT OF CARRIAGEWAY 5.4 AND 5.965 WIDE LIMITED IN DEPTH TO RL75.04 AND IN HEIGHT TO 2.3 ABOVE



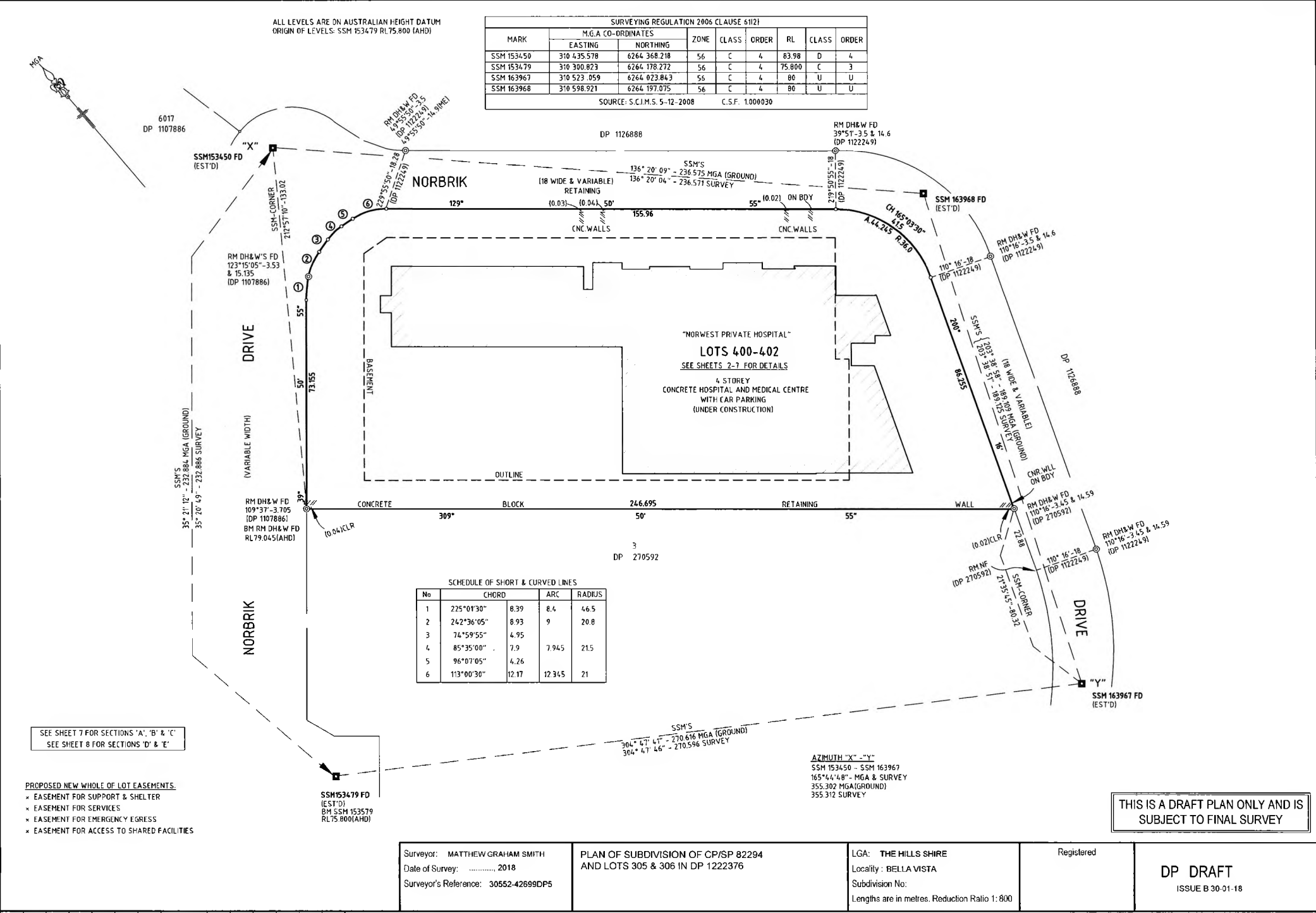
Surveyor: MATTHEW GRAHAM SMITH
Date: 15-05-2016
Surveyor's Ref: 30552-43566DP
[PPN DP1222376]

PLAN OF SUBDIVISION OF LOT 102 IN DP1139109
AND LOT 200 IN DP1222375

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:500

Registered:

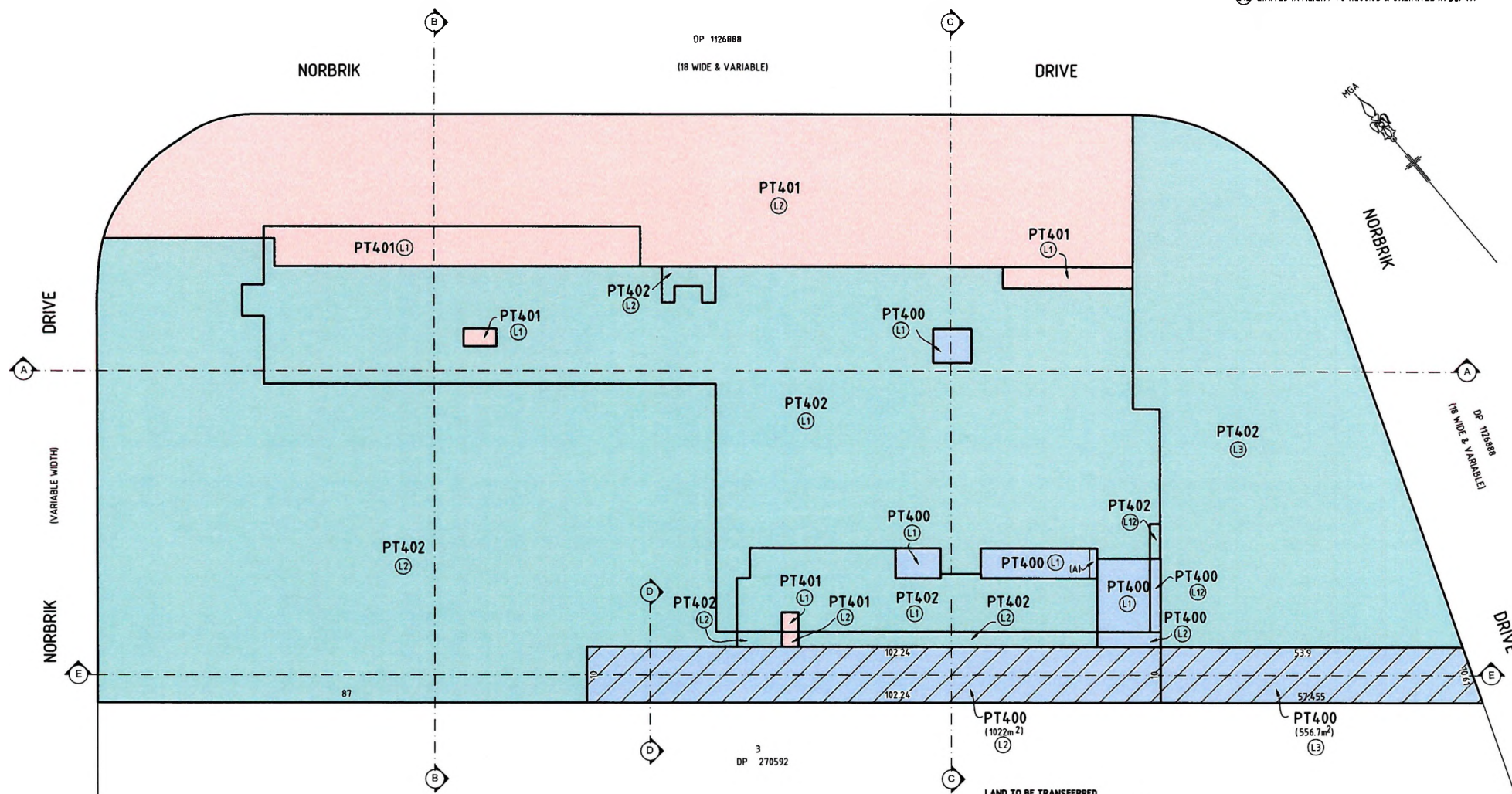
DP



LOT 400 - HOSPITAL
LOT 401 - MEDICAL CENTRE
LOT 402 - CARPARK

LOTS 400, 401 AND 402 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

- (L1) LIMITED IN HEIGHT TO RL 80.97 & UNLIMITED IN DEPTH
- (L2) LIMITED IN HEIGHT TO RL 80.8 & UNLIMITED IN DEPTH
- (L3) LIMITED IN HEIGHT TO RL 79.5 & UNLIMITED IN DEPTH
- (L12) LIMITED IN HEIGHT TO RL 80.05 & UNLIMITED IN DEPTH



PROPOSED NEW WHOLE OF LOT EASEMENTS:

- PROPOSED NEW TYPES OF EASEMENTS:**
- ✦ EASEMENT FOR SUPPORT & SHELTER
 - ✦ EASEMENT FOR SERVICES
 - ✦ EASEMENT FOR EMERGENCY EGRESS
 - ✦ EASEMENT FOR ACCESS TO SHARED FACILITIES

SEE SHEET 7 FOR SECTIONS 'A', 'B' & 'C'
SEE SHEET 8 FOR SECTIONS 'D' & 'E'
SEE SHEET 8 FOR EASEMENT DESCRIPTIONS

LAND TO BE TRANSFERRED

- LAND TO BE TRANSFERRED TO LOT 400
(NEW HOSPITAL LOT) FROM CARPARK

LAND TO BE TRANSFERRED AT THIS LEVEL

LOT 400	1578.7m ²

THIS IS A DRAFT PLAN ONLY AND IS
SUBJECT TO FINAL SURVEY

Surveyor: MATTHEW GRAHAM SMITH
Date of Survey:, 2018
Surveyor's Reference: 30552-42699DP5

PLAN OF SUBDIVISION OF CP/SP 82294
AND LOTS 305 & 306 IN DP 1222376

LGA: THE HILLS SHIRE
Locality : BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1: 500

Registered

DP DRAFT
ISSUE B 30-01-18

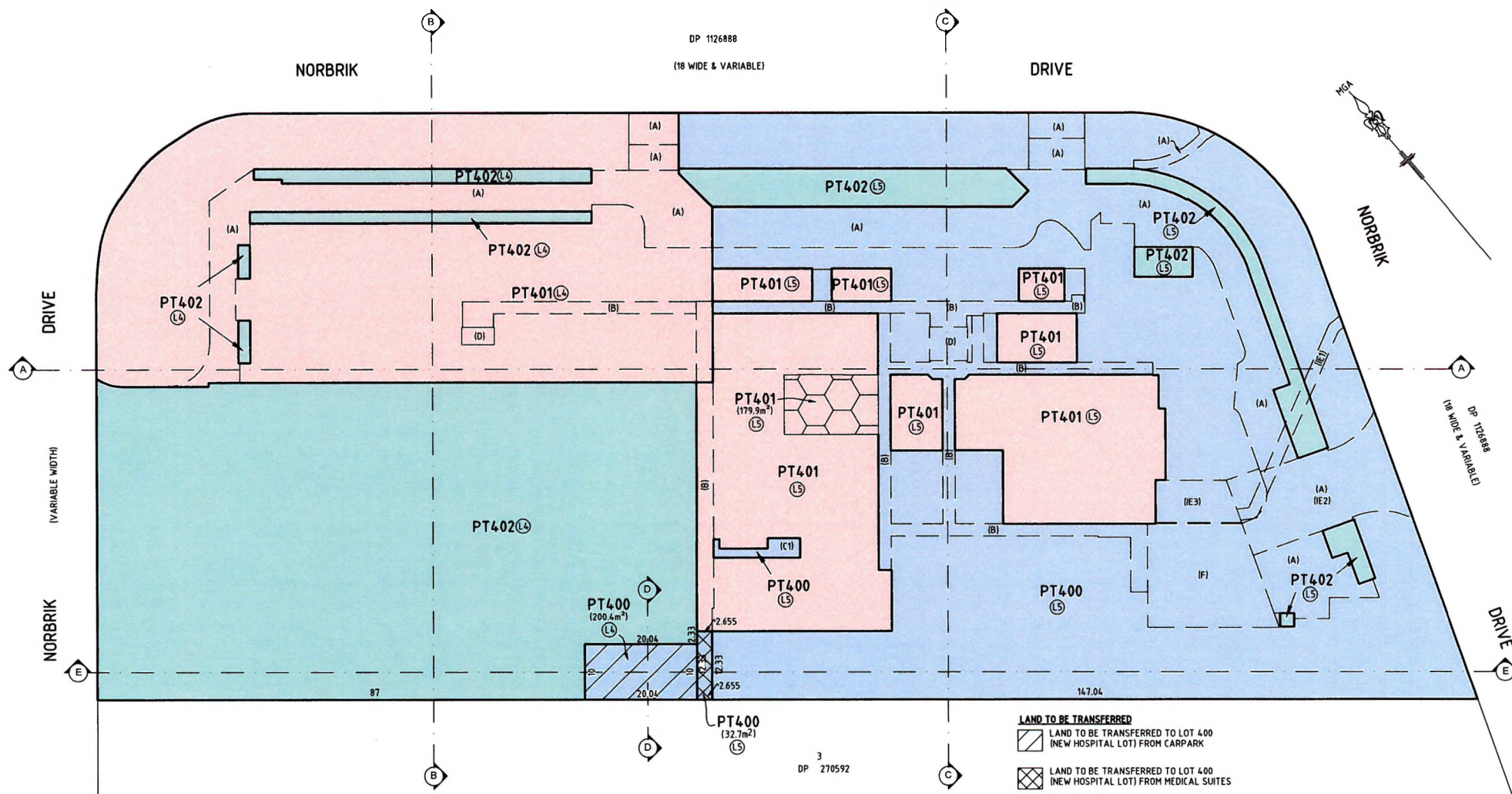


LOTS 400, 401 AND 402 SHOWN ON THIS SHEET AND SHEETS 5 & 6 ARE STRATUM LOTS AS DEFINED BELOW

- (L4) LIMITED IN HEIGHT TO RL.84.74 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 2
 (L5) LIMITED IN HEIGHT TO RL.85.14 & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 2

GROUND LEVEL

LOT 400 - HOSPITAL
 LOT 401 - MEDICAL CENTRE
 LOT 402 - CARPARK



PROPOSED NEW WHOLE OF LOT EASEMENTS:

- * EASEMENT FOR SUPPORT & SHELTER
- * EASEMENT FOR SERVICES
- * EASEMENT FOR EMERGENCY EGRESS
- * EASEMENT FOR ACCESS TO SHARED FACILITIES

SEE SHEET 7 FOR SECTIONS 'A', 'B' & 'C'
 SEE SHEET 8 FOR SECTIONS 'D' & 'E'
 SEE SHEET 8 FOR EASEMENT DESCRIPTIONS

LAND TO BE TRANSFERRED

- LAND TO BE TRANSFERRED TO LOT 400 (NEW HOSPITAL LOT) FROM CARPARK
- LAND TO BE TRANSFERRED TO LOT 400 (NEW HOSPITAL LOT) FROM MEDICAL SUITES
- LAND TO BE TRANSFERRED TO LOT 401 (MEDICAL SUITES) FROM LOT 400 (HOSPITAL)

LAND TO BE TRANSFERRED AT THIS LEVEL

LOT 400	233.1m ²
LOT 401	179.9m ²

THIS IS A DRAFT PLAN ONLY AND IS
 SUBJECT TO FINAL SURVEY

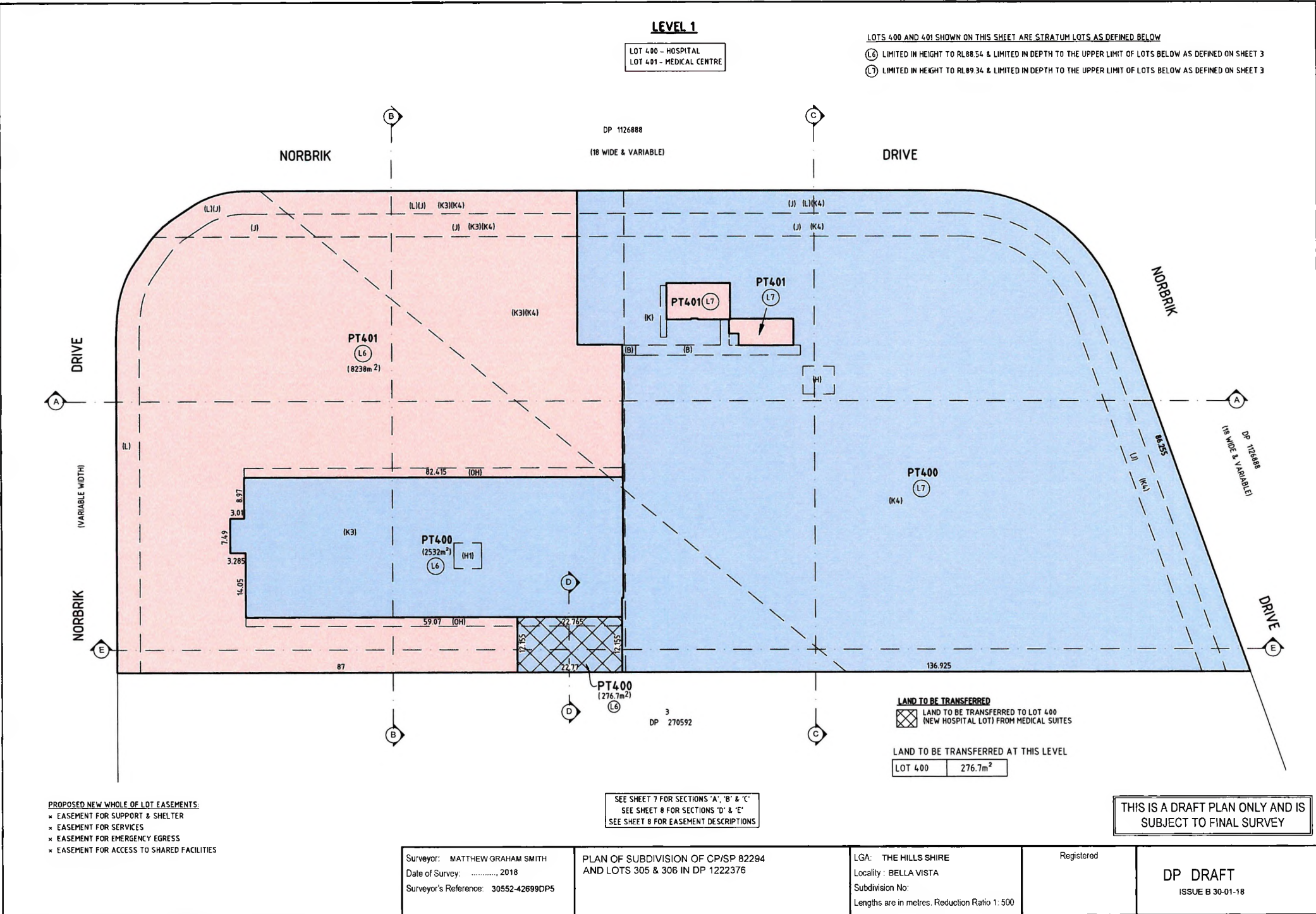
Surveyor: MATTHEW GRAHAM SMITH
 Date of Survey: 2018
 Surveyor's Reference: 30552-42699DP5

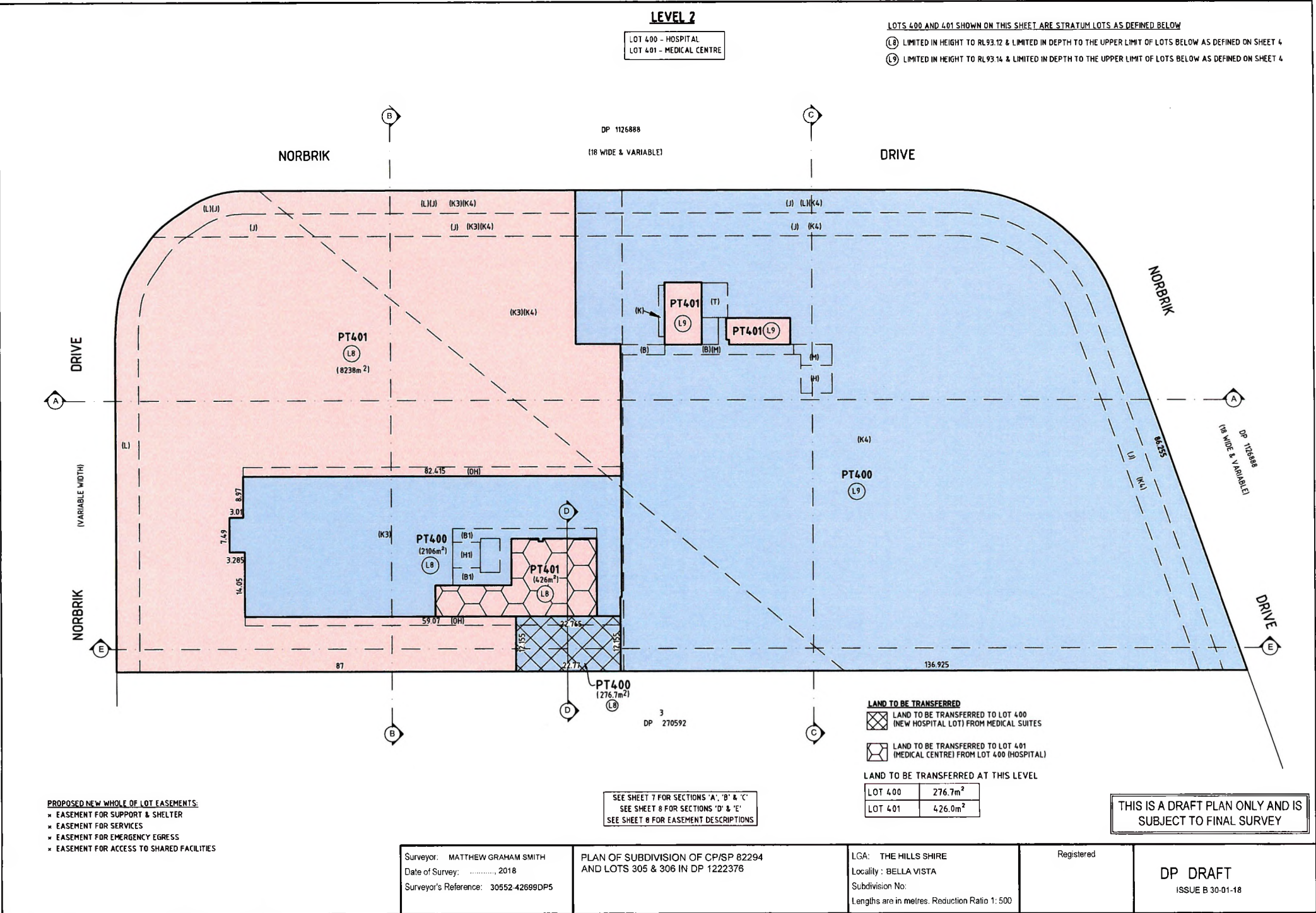
PLAN OF SUBDIVISION OF CP/SP 82294
 AND LOTS 305 & 306 IN DP 1222376

LGA: THE HILLS SHIRE
 Locality: BELLA VISTA
 Subdivision No:
 Lengths are in metres. Reduction Ratio 1:500

Registered

DP DRAFT
 ISSUE B 30-01-18



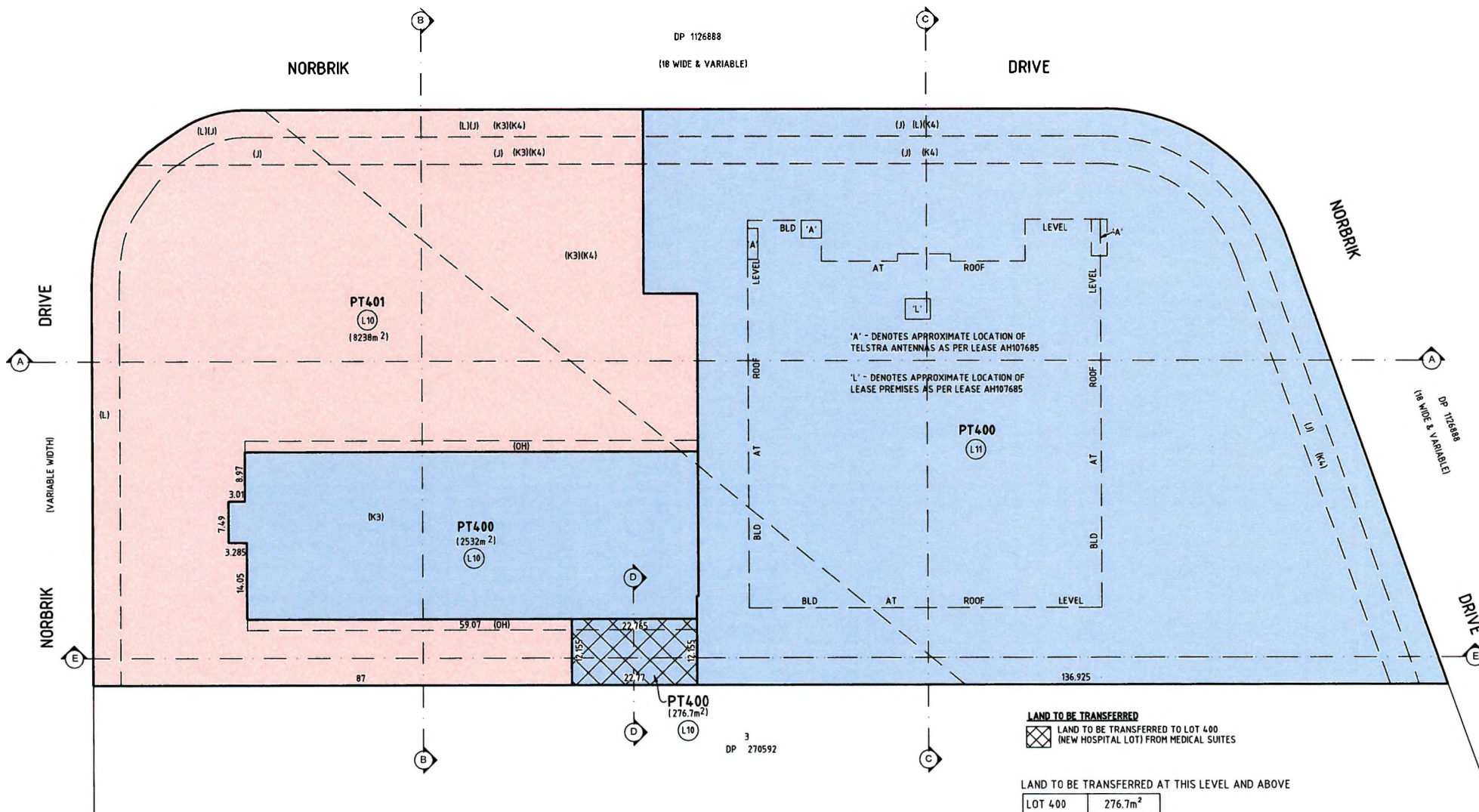


LEVEL 3 AND ABOVE

LOT 400 - HOSPITAL
LOT 401 - MEDICAL CENTRE

LOTS 400 AND 401 SHOWN ON THIS SHEET ARE STRATUM LOTS AS DEFINED BELOW

- (L10) UNLIMITED IN HEIGHT & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEET 5
(L11) UNLIMITED IN HEIGHT & LIMITED IN DEPTH TO THE UPPER LIMIT OF LOTS BELOW AS DEFINED ON SHEETS 5

**PROPOSED NEW WHOLE OF LOT EASEMENTS:**

- * EASEMENT FOR SUPPORT & SHELTER
- * EASEMENT FOR SERVICES
- * EASEMENT FOR EMERGENCY EGRESS
- * EASEMENT FOR ACCESS TO SHARED FACILITIES

SEE SHEET 7 FOR SECTIONS 'A', 'B' & 'C'
SEE SHEET 8 FOR SECTIONS 'D' & 'E'
SEE SHEET 8 FOR EASEMENT DESCRIPTIONS

THIS IS A DRAFT PLAN ONLY AND IS
SUBJECT TO FINAL SURVEY

Surveyor: MATTHEW GRAHAM SMITH
Date of Survey: 2018
Surveyor's Reference: 30552-42699DP5

PLAN OF SUBDIVISION OF CP/SP 82294
AND LOTS 305 & 306 IN DP 1222376

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:500

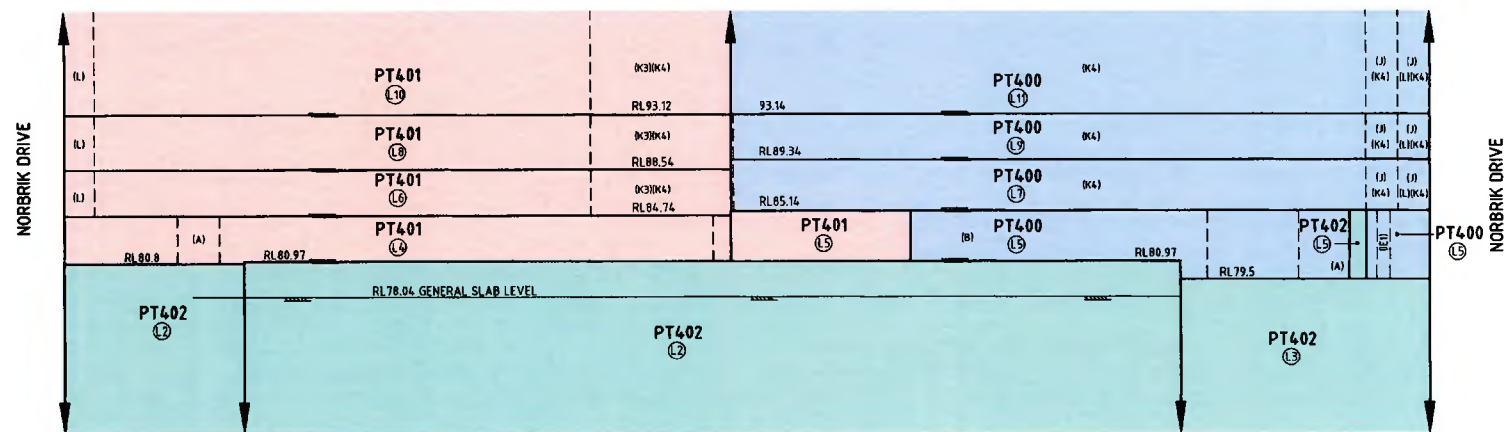
Registered

DP DRAFT
ISSUE B 30-01-18

PROPOSED NEW WHOLE OF LOT EASEMENTS:

- * EASEMENT FOR SUPPORT & SHELTER
- * EASEMENT FOR SERVICES
- * EASEMENT FOR EMERGENCY EGRESS
- * EASEMENT FOR ACCESS TO SHARED FACILITIES

SEE SHEET 8 FOR EASEMENT DESCRIPTIONS

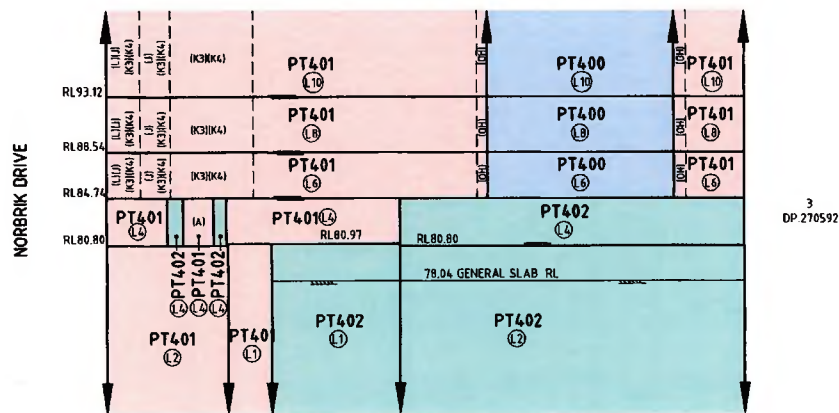


SECTION A-A

HORZ 1:600
VERT 1:300

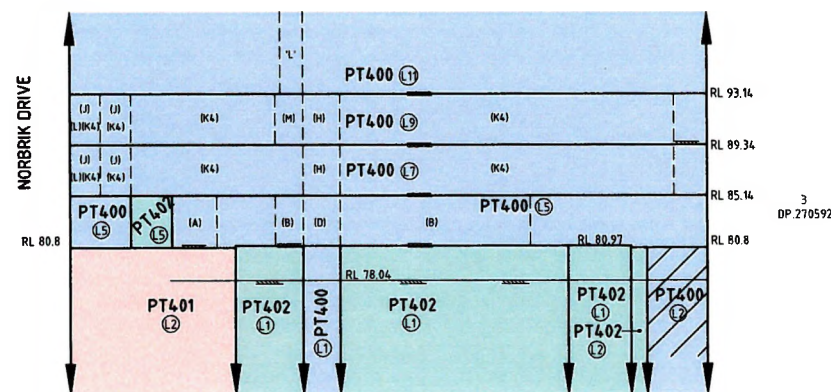
LAND TO BE TRANSFERRED

LAND TO BE TRANSFERRED TO LOT 400
(NEW HOSPITAL LOT) FROM CARPARK



SECTION B-B

HORZ 1:600
VERT 1:300



SECTION C-C

HORZ 1:600
VERT 1:300

THIS IS A DRAFT PLAN ONLY AND IS
SUBJECT TO FINAL SURVEY

Surveyor: MATTHEW GRAHAM SMITH
Date of Survey: 2018
Surveyor's Reference: 30552-42699DP5

PLAN OF SUBDIVISION OF CP/SP 82294
AND LOTS 305 & 306 IN DP 1222376

LGA: THE HILLS SHIRE
Locality: BELLA VISTA
Subdivision No:
Lengths are in metres. Reduction Ratio 1:600

Registered

DP DRAFT
ISSUE B 30-01-18

EASEMENT DESCRIPTIONS**EXISTING EASEMENTS & RESTRICTIONS**

- (K3) RESTRICTION ON THE USE OF LAND (DP116021)
 (K4) RESTRICTION ON THE USE OF LAND (DP116021)
 (J) EASEMENT FOR BATTER 10 WIDE (DP116021)
 (L) EASEMENT FOR LANDSCAPING & MAINTENANCE (DP116021)

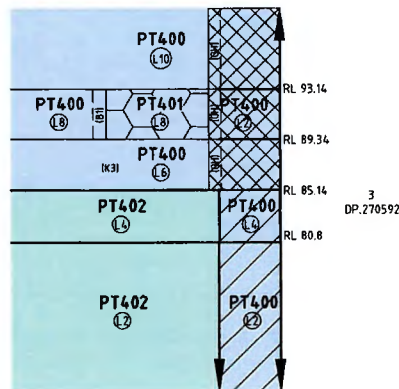
- (A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH LIMITED IN STRATUM (DP1139109)
 (B) RIGHT OF FOOTWAY 2.175, 2.2 WIDE AND VARIABLE WIDTH LIMITED IN STRATUM (DP1139109)
 (B1) RIGHT OF FOOTWAY LIMITED IN STRATUM
 (D) EASEMENT TO USE LIFT LIMITED IN STRATUM (DP1139109)
 (F) EASEMENT TO USE LOADING DOCK LIMITED IN STRATUM (DP1139109)
 (G) EASEMENT FOR CAR PARKING LIMITED IN STRATUM (DP1139109)
 (H1) EASEMENT TO USE LIFTS LIMITED IN STRATUM
 (IE1) EASEMENT FOR UNDERGROUND CABLES 2 WIDE (DP1139109)
 (IE2) RIGHT OF ACCESS LIMITED IN STRATUM (DP1139109)
 (IE3) EASEMENT FOR INDOOR SUBSTATION LIMITED IN STRATUM (DP1139109)
 (K) EASEMENT FOR SUNSHADE STRUCTURE LIMITED IN STRATUM (DP1139109)
 (PE) EASEMENT FOR PLANT AND EQUIPMENT LIMITED IN STRATUM (DP1139109)
 (H) EASEMENT TO USE LIFT LIMITED IN STRATUM (DP1161083)
 (M) RIGHT OF FOOTWAY 2.2 WIDE AND 4.635 WIDE LIMITED IN STRATUM (DP1161083)
 (AA) EASEMENT FOR ACCESS AND EQUIPMENT 4.12, 6.75 AND 10.625 WIDE LIMITED IN STRATUM (DP122374)
 (BB) EASEMENT FOR ACCESS 2.2, 4.75 AND 5.77 WIDE LIMITED IN STRATUM (DP122374)
 (CC) EASEMENT FOR SUPPORT VARIABLE WIDTH LIMITED IN STRATUM (DP122374)
 (DD) EASEMENT FOR SERVICES 56.2 AND 56.9 WIDE AND VARIABLE WIDTH LIMITED IN STRATUM (DP122374)
 (EE) RIGHT OF CARRIAGEWAY 6 WIDE LIMITED IN STRATUM (DP122374)
 (FF) RIGHT OF FOOTWAY 0.5, 2 & 6.75 WIDE LIMITED IN STRATUM (DP122374)
 (HH) EASEMENT FOR CAR PARKING 10 WIDE LIMITED IN STRATUM (DP122374)
 (A1) RIGHT OF CARRIAGEWAY 5.965 WIDE LIMITED IN STRATUM (DP122375)
 (OH) EASEMENT FOR OVERHANGING STRUCTURE LIMITED IN STRATUM (DP 122375)
 (EE1) RIGHT OF CARRIAGEWAY 5.4 AND 5.965 WIDE LIMITED IN STRATUM (DP 122376)

NEW EASEMENTS

- (B1) EASEMENT FOR ACCESS LIMITED IN STRATUM
 (H) EASEMENT TO USE LIFT LIMITED IN STRATUM

PROPOSED NEW WHOLE OF LOT EASEMENTS:

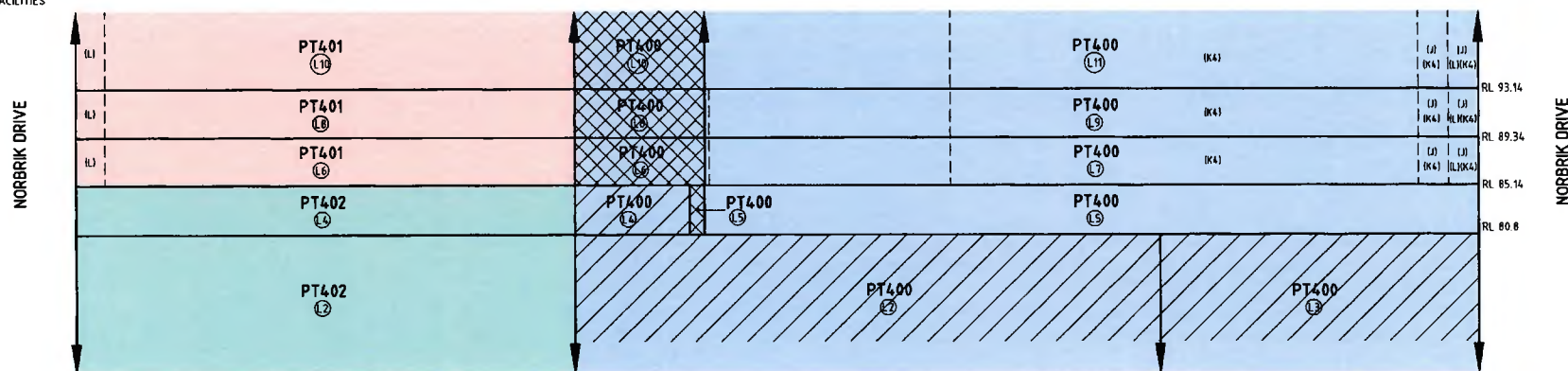
- * EASEMENT FOR SUPPORT & SHELTER
- * EASEMENT FOR SERVICES
- * EASEMENT FOR EMERGENCY EGRESS
- * EASEMENT FOR ACCESS TO SHARED FACILITIES

**SECTION D-D**

HORZ 1:600
VERT 1:300

LAND TO BE TRANSFERRED

- LAND TO BE TRANSFERRED TO LOT 400 (NEW HOSPITAL LOT) FROM CARPARK
 LAND TO BE TRANSFERRED TO LOT 400 (NEW HOSPITAL LOT) FROM MEDICAL SUITES
 LAND TO BE TRANSFERRED TO LOT 401 (MEDICAL SUITES) FROM LOT 400 (HOSPITAL)

**SECTION E-E**

HORZ 1:600
VERT 1:300

THIS IS A DRAFT PLAN ONLY AND IS
SUBJECT TO FINAL SURVEY

Surveyor: MATTHEW GRAHAM SMITH
 Date of Survey: 2018
 Surveyor's Reference: 30552-42699DP5

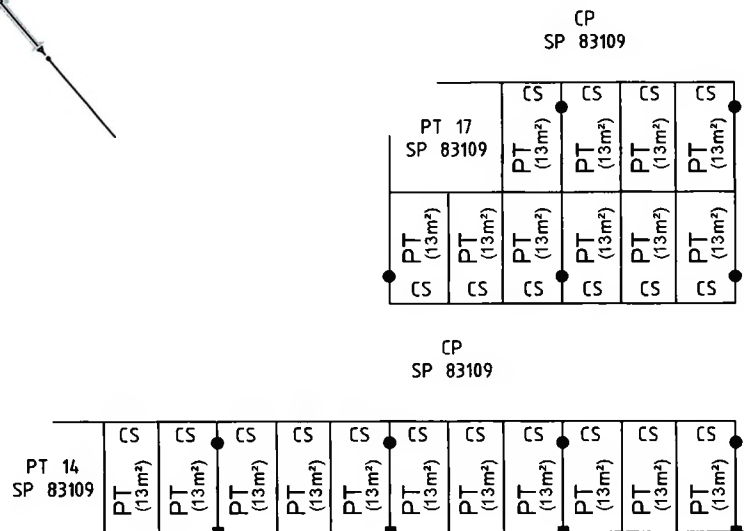
PLAN OF SUBDIVISION OF CP/SP 82294
 AND LOTS 305 & 306 IN DP 1222376

LGA: THE HILLS SHIRE
 Locality: BELLA VISTA
 Subdivision No:
 Lengths are in metres. Reduction Ratio 1:600

Registered

DP DRAFT
 ISSUE B 30-01-18

THIS IS A DRAFT PLAN ONLY AND IS
SUBJECT TO FINAL SURVEY



BASEMENT LEVEL 1

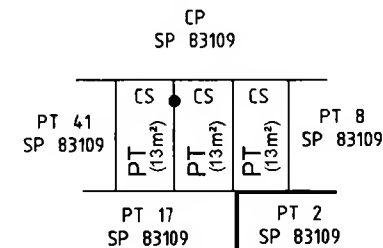
NOTES:

CP ~ COMMON PROPERTY
CS ~ CAR SPACE (TO BE ALLOCATED)

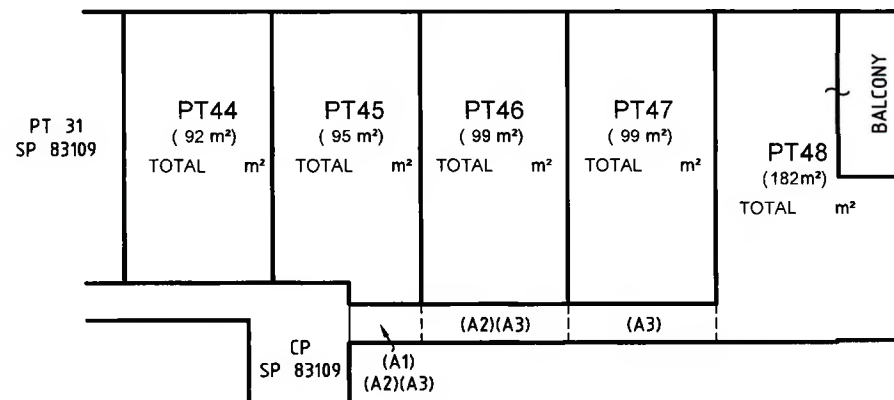
FOR CLARITY NOT ALL COMMON PROPERTY COLUMNS AND DUCTS HAVE BEEN SHOWN

THE STRATUM OF THE BALCONY IS LIMITED IN HEIGHT TO 2.5 ABOVE ITS
RESPECTIVE UPPER HARDSTAND SURFACE UNLESS COVERED WITHIN THIS LIMIT

"THIS IS A DRAFT STRATA PLAN PREPARED FOR CONTRACT PURPOSES ONLY.
FINAL DIMENSIONS, AREAS AND LAYOUTS ARE SUBJECT TO SURVEY".



GROUND LEVEL



LEVEL 3

(A1) EASEMENT FOR ACCESS
(A2) EASEMENT FOR ACCESS
(A3) EASEMENT FOR ACCESS

Lot	Unit	External	Parking	Store
44	92	0		
45	95	0		
46	99	0		
47	99	0		
48	154	28		

SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date: DRAFT ONLY

Surveyor's Reference: 50424 001SP

PLAN OF SUBDIVISION OF LOT 30 IN SP 83109

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: 250

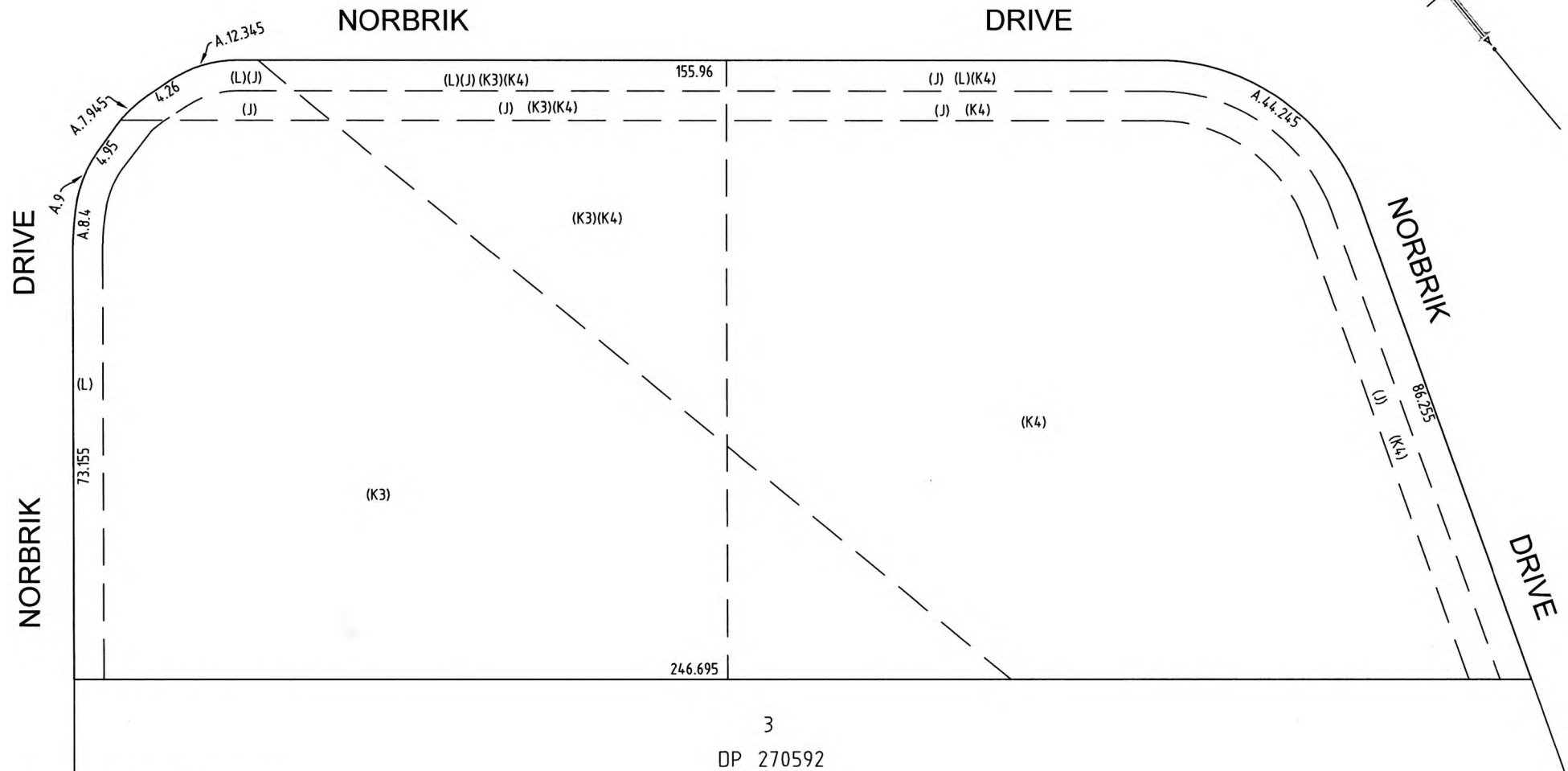
Lengths are in metres.

Registered



SP DRAFT

ISSUE FOR REVIEW: 08-08-2018

SITE PLAN

(K3) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (K4) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (J) EASEMENT FOR BATTER 10° WIDE (DP 1116021)
 (L) EASEMENT FOR LANDSCAPING & MAINTENANCE (DP 1116021)

EASEMENT FOR SUPPORT AND SHELTER (WHOLE OF LOTS) (DP _____)
 EASEMENT FOR EMERGENCY EGRESS (WHOLE OF LOTS) (DP _____)
 EASEMENT FOR SERVICES (WHOLE OF LOTS) (DP _____)

SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date:, 2018

Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: ???

Lengths are in metres.

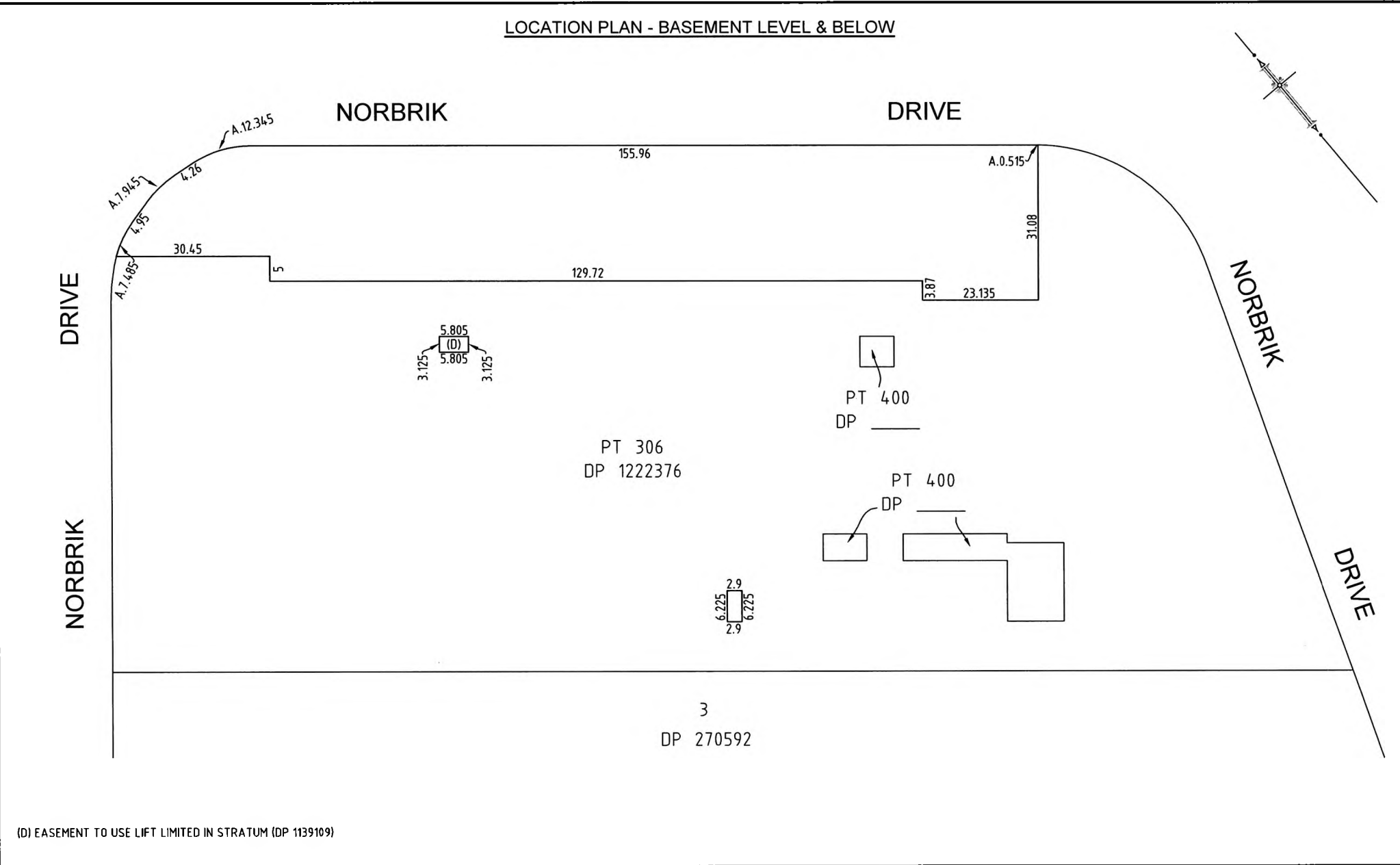
Registered



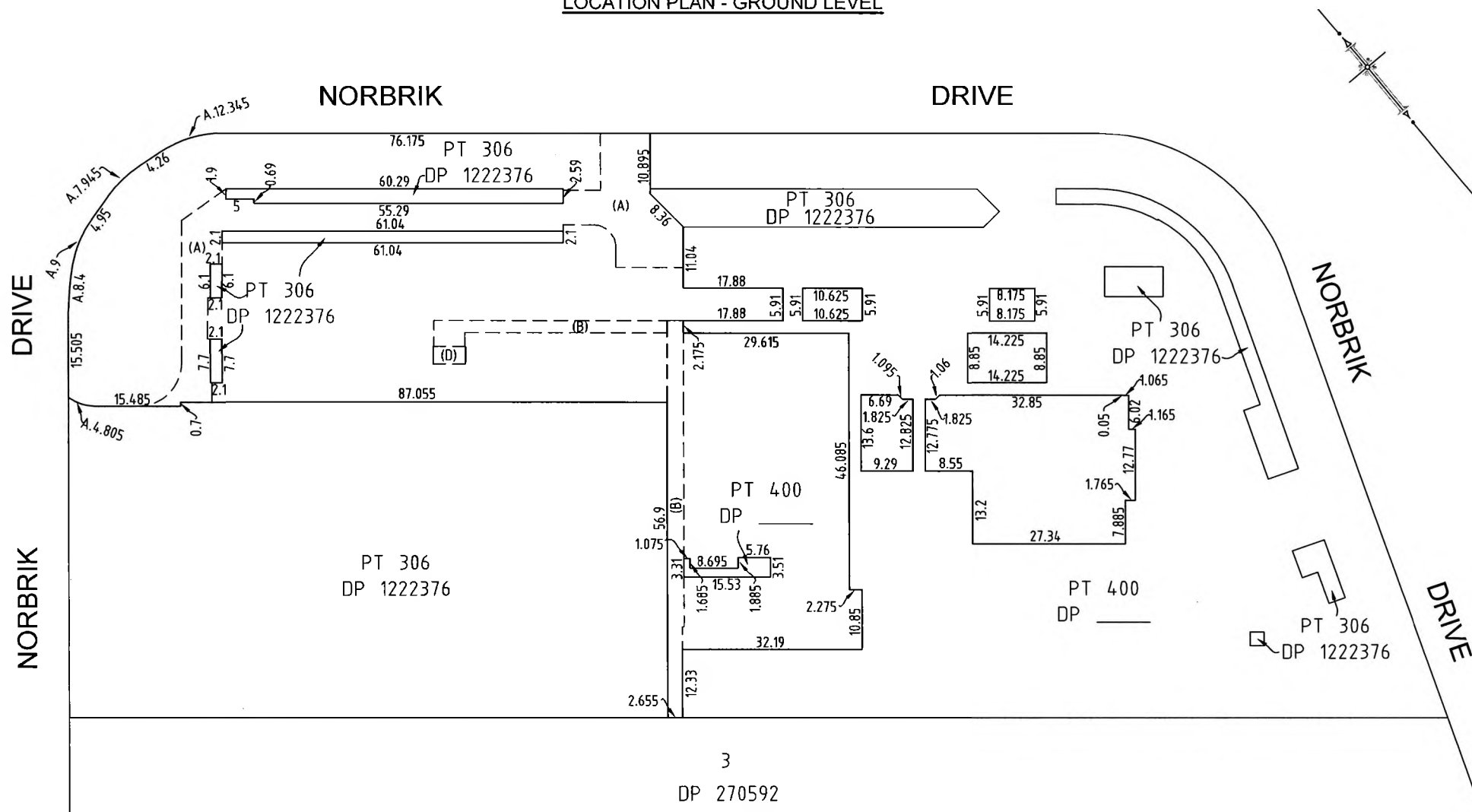
SP

ISSUE FOR REVIEW : 28-08-18

LOCATION PLAN - BASEMENT LEVEL & BELOW



SURVEYOR Name: MATTHEW GRAHAM SMITH Date:, 2018 Surveyor's Reference: 44608SP	STRATA PLAN OF SUBDIVISION OF COMMON PROPERTY IN SP 82294	LGA: THE HILLS SHIRE Locality: BELLA VISTA Reduction Ratio 1: ??? Lengths are in metres.	Registered  Registered Surveyors NSW www.ltsl.com.au	SP ISSUE FOR REVIEW : 28-08-18

LOCATION PLAN - GROUND LEVEL

(A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH LIMITED IN STRATUM (DP 1139109)
 (B) RIGHT OF FOOTWAY 2.175, 2.2 WIDE AND VARIABLE WIDTH LIMITED IN STRATUM (DP 1139109)
 (D) EASEMENT TO USE LIFT LIMITED IN STRATUM (DP 1139109)

SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date:, 2018

Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: ???

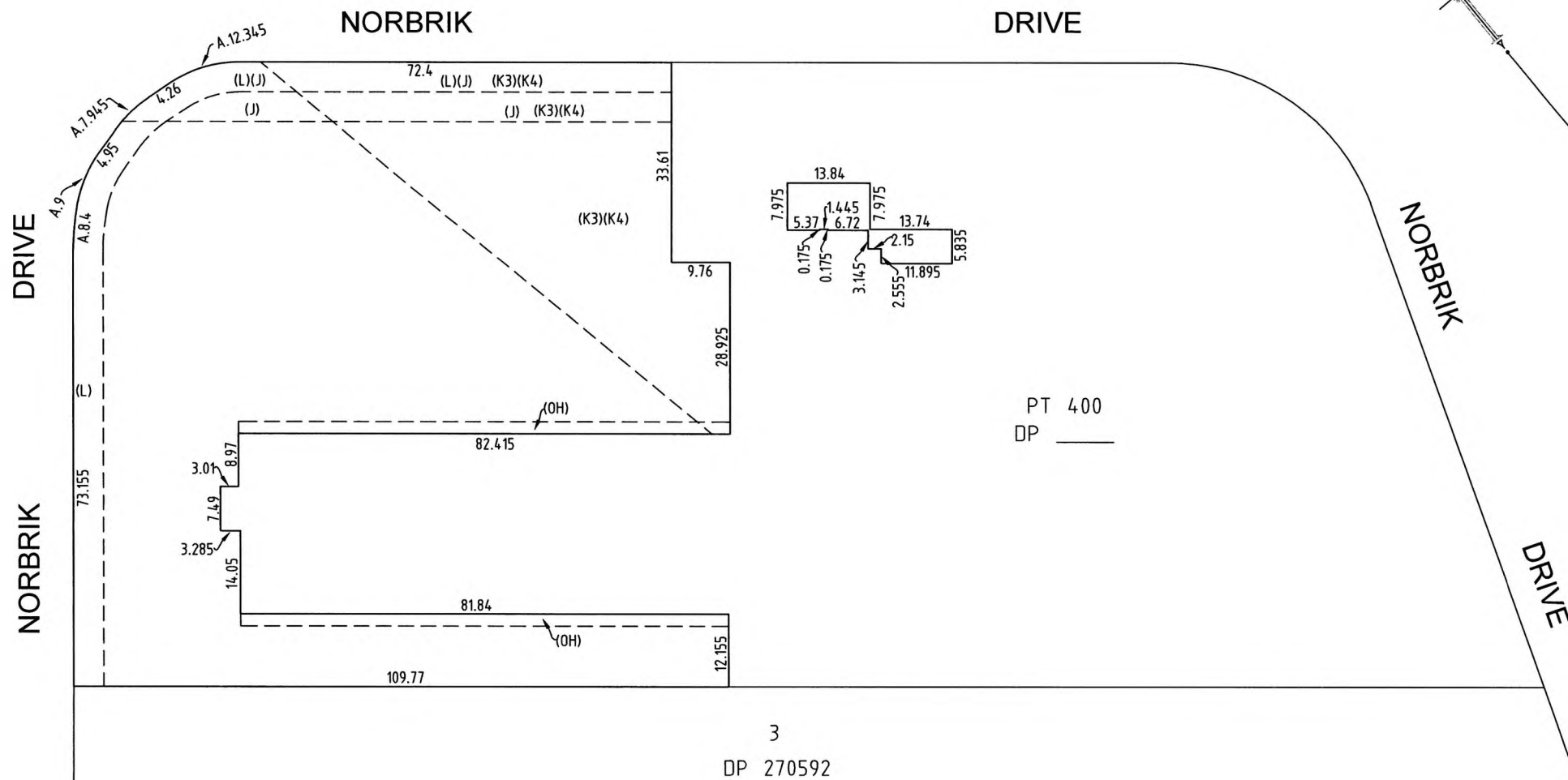
Lengths are in metres.

Registered

LTS
 LOCKLEY
 Registered Surveyors NSW
 www.lts.com.au

SP

ISSUE FOR REVIEW : 28-08-18

LOCATION PLAN - LEVEL 1

(K3) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (K4) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (J) EASEMENT FOR BATTER 10 WIDE (DP 1116021)
 (L) EASEMENT FOR LANDSCAPING & MAINTENANCE (DP 1116021)
 (OH) EASEMENT FOR OVERHANGING STRUCTURE LIMITED IN STRATUM (DP ____)

SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date: _____, 2018

Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: ???

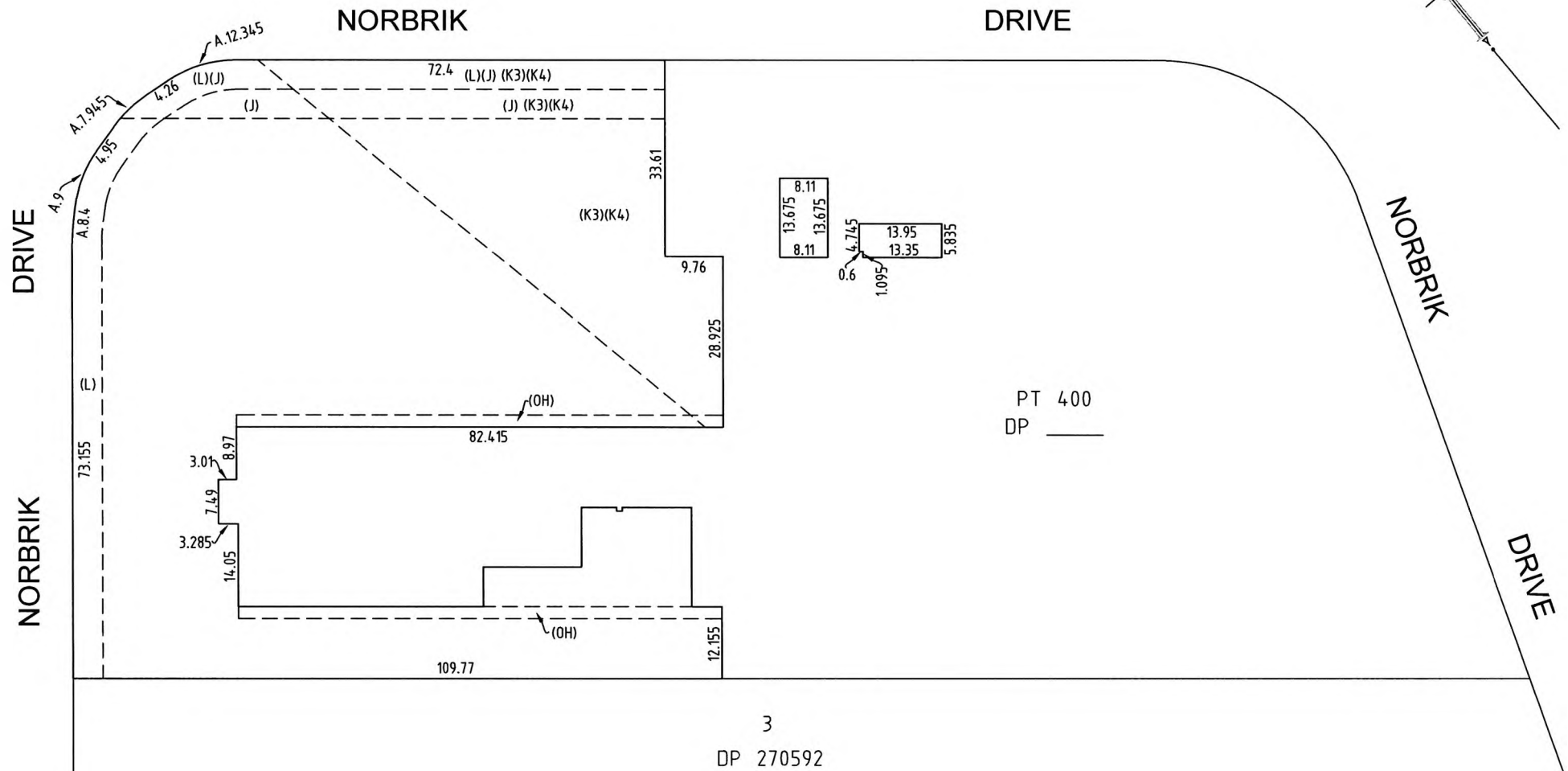
Lengths are in metres.

Registered



SP

ISSUE FOR REVIEW : 28-08-18

LOCATION PLAN - LEVEL 2

(K3) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (K4) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (J) EASEMENT FOR BATTER 10 WIDE (DP 1116021)
 (L) EASEMENT FOR LANDSCAPING & MAINTENANCE (DP 1116021)
 (OH) EASEMENT FOR OVERHANGING STRUCTURE LIMITED IN STRATUM (DP _____)

SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date: _____, 2018

Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: ???

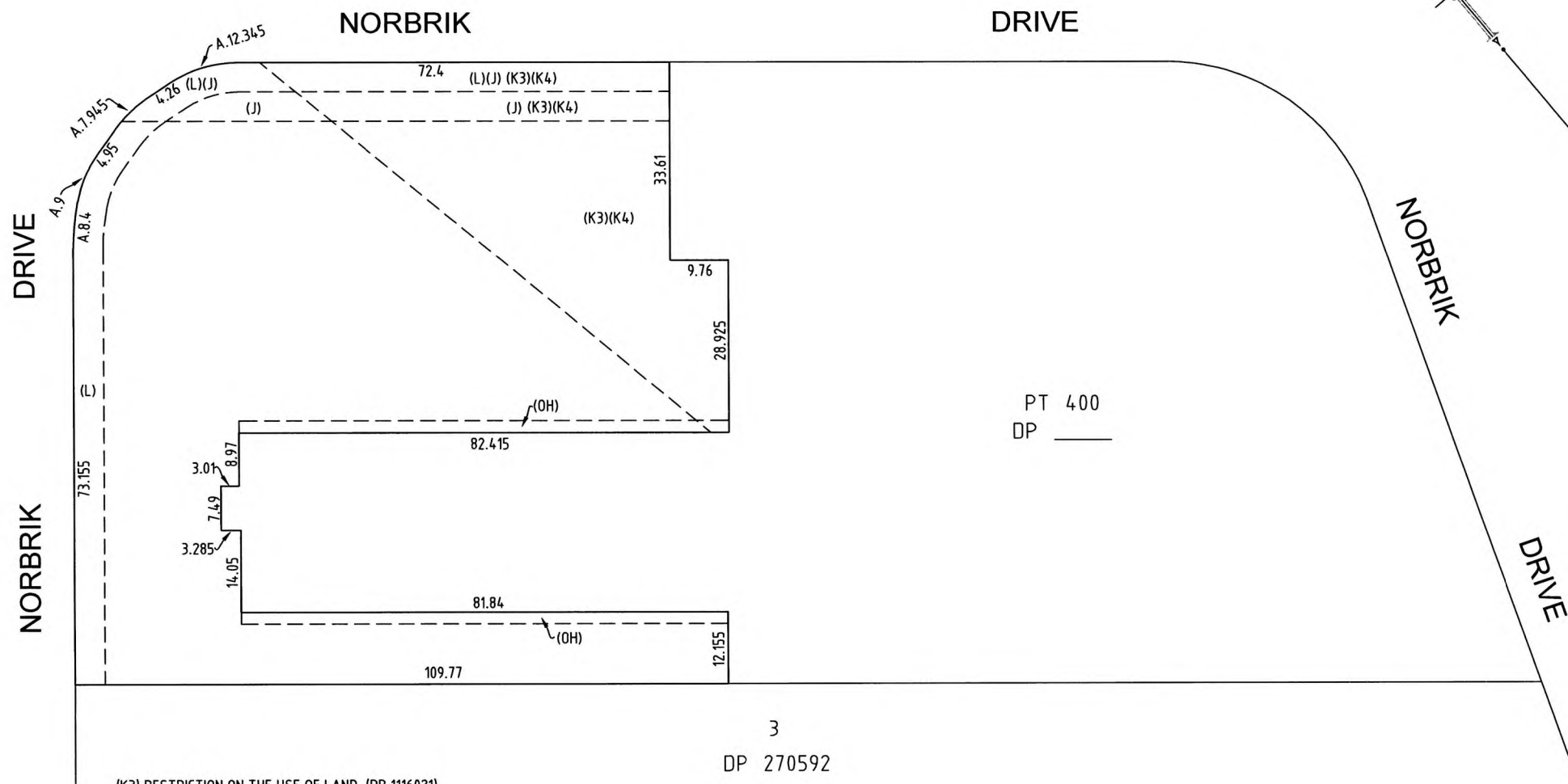
Lengths are in metres.

Registered



SP

ISSUE FOR REVIEW : 28-08-18

LOCATION PLAN - LEVEL 3 & ABOVE

(K3) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (K4) RESTRICTION ON THE USE OF LAND (DP 1116021)
 (J) EASEMENT FOR BATTER 10 WIDE (DP 1116021)
 (L) EASEMENT FOR LANDSCAPING & MAINTENANCE (DP 1116021)
 (OH) EASEMENT FOR OVERHANGING STRUCTURE LIMITED IN STRATUM (DP _____)

SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date:, 2018

Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: ???

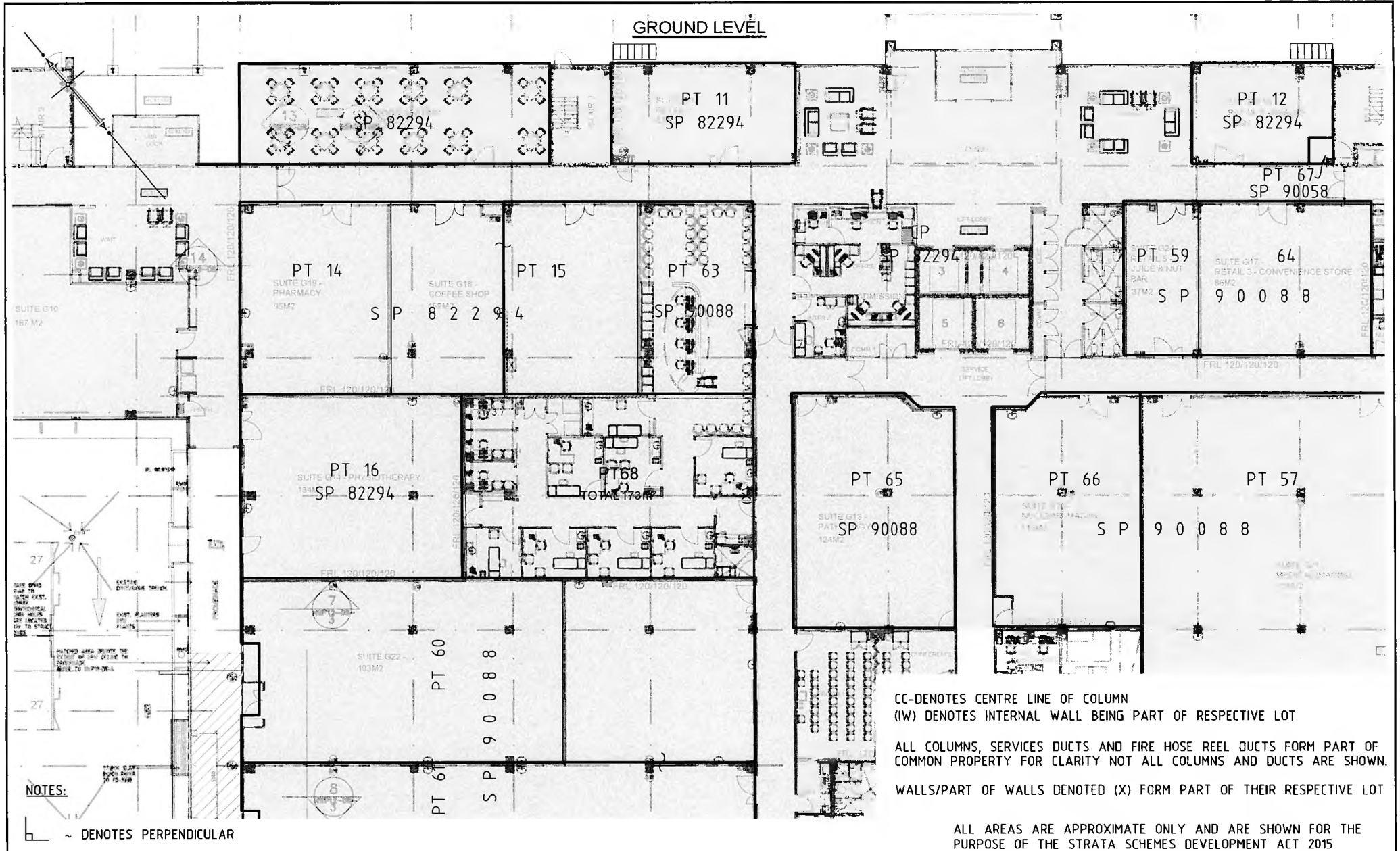
Lengths are in metres.

Registered



SP

ISSUE FOR REVIEW : 28-08-18



SURVEYOR

Name: MATTHEW GRAHAM SMITH

Date:, 2018

Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE

Locality: BELLA VISTA

Reduction Ratio 1: 200

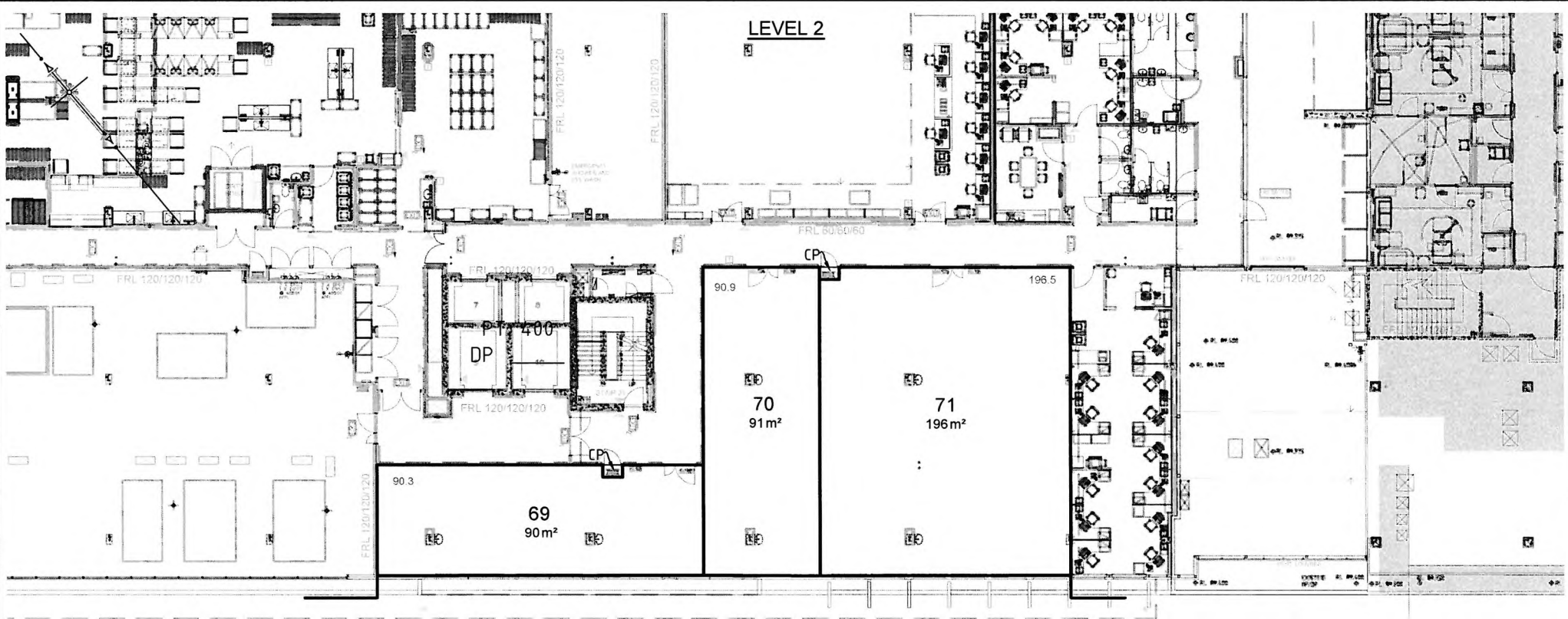
Lengths are in metres.

Registered

LTS
LOCKLEY
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SP

ISSUE FOR REVIEW : 28-08-18



NOTES:
DARY LINE
CP ~ COMMON PROPERTY

ALL AREAS ARE APPROXIMATE ONLY AND ARE SHOWN FOR THE
PURPOSE OF THE STRATA SCHEMES DEVELOPMENT ACT 2015

SURVEYOR
Name: MATTHEW GRAHAM SMITH
Date:, 2018
Surveyor's Reference: 44608SP

STRATA PLAN OF SUBDIVISION OF COMMON
PROPERTY IN SP 82294

LGA: THE HILLS SHIRE
Locality : BELLA VISTA
Reduction Ratio 1: 200
Lengths are in metres.

Registered
LTS
LOCKLEY
Registered Surveyors NSW
www.lts.com.au

SP

ISSUE FOR REVIEW : 28-08-18

Newcastle Private Hospital, 14 Lookout Road and
20 Lookout Road, New Lambton Heights, New
South Wales, Australia

MGA NORTH



THIS SHEET ILLUSTRATES SURVEY INFORMATION AND THE PARCEL BOUNDARY.
THE FOLLOWING SHEETS DEFINE THE LOTS.

SURVEYING AND SPATIAL INFORMATION REGULATION 2012 CLAUSE 61 (2) & 35 (1)(B)										
M.G.A. CO-ORDINATES					ATTRIBUTES					
MARK	EASTING	NORTHING	ZONE	CLASS	ORDER	AHD	AHD CLASS	AHD ORDER	METHOD	ORIGIN
PM 18215	378 605.564	6 356 585.125	56	B	2	89.116	LB	L2		SCIMS
PM 23271	378 163.225	6 356 294.246	56	B	2	97.623	LB	L2		SCIMS
SSM 139998	378 469.680	6 356 504.107	56	A	1	95.683	LD	L4		SCIMS
BM 1 - DH	378 346.6	6 356 599.4	56	U	N/A	91.93	B	N/A	TRAVERSE AND LEVELLING	PLACED
COMBINED SEA LEVEL AND SCALE FACTOR 0.999764										
SOURCE M.G.A. CO-ORDINATES ADOPTED FROM S.C.I.M.S. AS AT 28 MARCH 2017										

401
DP 1197237

401
DP 1197237

LOT AREA SCHEDULE	
LOT	AREA
1	6806m ²
2	4000m ²
3	2667m ²
4	1390m ²

NOTE: AREAS SHOWN IN SCHEDULE
ARE CALCULATED FROM EACH LOT'S
OVERALL FOOTPRINT.

NOTE: EASEMENT FOR SERVICES AFFECTING THE WHOLE OF LOTS 1 TO 4 INCLUSIVE

- (A) RIGHT OF WAY VARIABLE WIDTH (DP 1065634)
 (F) RIGHT OF ACCESS 6 WIDE AND VARIABLE (DP 1080386)
 (N) EASEMENT FOR UNDERGROUND ELECTRICITY CABLES AND ACCESS 2 WIDE (DP 1080386)
 (P) RIGHT OF ACCESS 6.2 WIDE AND LIMITED IN HEIGHT AND DEPTH (DP 1080386)
 (Q) EASEMENT FOR PARKING 5.5 WIDE AND LIMITED IN HEIGHT AND DEPTH (DP 1080386)
 (R) EASEMENT FOR ELECTRICITY SUBSTATION AND ACCESS VARIABLE WIDTH AND LIMITED IN HEIGHT (DP 1080386)
 (U) EASEMENT FOR GAS PIPELINE OVER EXISTING LINE OF PIPE (APPROXIMATE POSITION) (DP 876245)
 (X) EASEMENT TO DRAIN WATER 2 WIDE (DP 1080386)
 (QQ) RIGHT OF CARRIAGE WAY 11 WIDE (DP 1197237)
 (ZZ) EASEMENT TO DRAIN WATER 2 WIDE (DP 1197237)

SURVEYOR
 Name: CRAIG WILLIAMSON
 LE MOTTEE GROUP PTY LTD
 PO BOX 363, RAYMOND TERRACE 2324
 Date: 29/8/2017
 Reference: 6607 DP-V1 REPORT

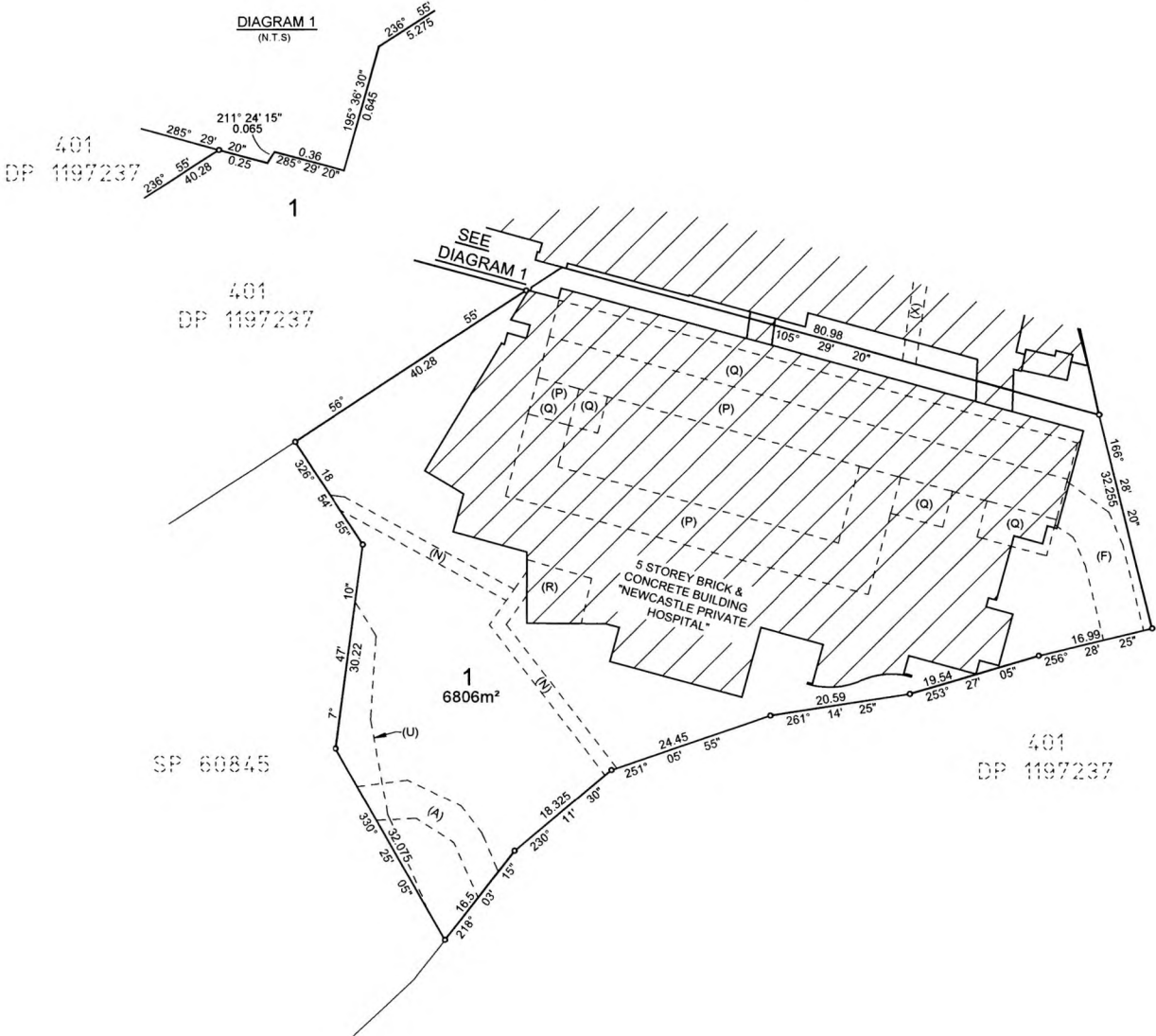
PLAN OF SUBDIVISION OF LOT 2 DP 1080386 &
 LOT 402 DP 1197237.

LGA: NEWCASTLE
 Locality: NEW LAMBTON HEIGHTS
 Reduction Ratio: 1:500
 Lengths are in metres

REGISTERED

DP

THIS SHEET ILLUSTRATES THE BOUNDARIES OF LOT 1.
LOT 1 IS UNLIMITED IN HEIGHT AND DEPTH.



- (A) RIGHT OF WAY VARIABLE WIDTH (VIDE DP 1065634).
- (F) RIGHT OF ACCESS 6 WIDE AND VARIABLE (VIDE DP 1080386).
- (N) EASEMENT FOR UNDERGROUND ELECTRICITY CABLES AND ACCESS 2 WIDE (VIDE DP 1080386).
- (P) RIGHT OF ACCESS 5.2 WIDE AND LIMITED IN HEIGHT AND DEPTH (VIDE DP 1080386).
- (Q) EASEMENT FOR PARKING 5.5 WIDE AND LIMITED IN HEIGHT AND DEPTH (VIDE DP 1080386).
- (R) EASEMENT FOR ELECTRICITY SUBSTATION AND ACCESS VARIABLE WIDTH AND LIMITED IN HEIGHT (DP 1080386).
- (U) EASEMENT FOR GAS PIPELINE OVER EXISTING LINE OF PIPE (APPROXIMATE POSITION) (VIDE DP 876245).
- (X) EASEMENT TO DRAIN WATER 2 WIDE (VIDE DP 1080386).

SURVEYOR
Name : CRAIG WILLIAMSON
LE MOTTEE GROUP PTY LTD
PO BOX 363, RAYMOND TERRACE 2324
Date : 29/8/2017
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PLAN OF SUBDIVISION OF LOT 2 DP 1080386 &
LOT 402 DP 1197237.

LGA: NEWCASTLE
Locality : NEW LAMBTON HEIGHTS.
Reduction Ratio: 1:500
Lengths are in metres

REGISTERED

DP

BASEMENT LEVEL B3

THIS SHEET ILLUSTRATES THE BOUNDARIES OF LOTS LYING BETWEEN HORIZONTAL PLANES AT RL 89.15 & RL 93.65 AUSTRALIAN HEIGHT DATUM.
REFER TO SHEET 7 FOR AN OVERVIEW OF STRATUMS.

HORIZONTAL & INCLINED PLANES ARE CONTAINED WHOLLY WITHIN THE CONCRETE SLABS.

MGA NORTH



DIAGRAM 2
(N.T.S)

DIAGRAM 4
(N.T.S)

DIAGRAM 3
(N.T.S)

SHORT LINE TABLE			
NUMBER	BEARING	DISTANCE	COMMENT
1	168°55'10"	0.17	
2	233°25'30"	1.345	
3	242°22'15"	1.47	
4	261°33'15"	1.655	
5	105°33'30"	0.825	FACE OF RENDERED WALL
6	15°33'30"	3.91	FACE OF RENDERED WALL
7	104°43'	0.3	FACE OF RENDERED WALL
8	194°43'	0.28	FACE OF RENDERED WALL
9	195°00'15"	1.04	
10	195°00'15"	3.175	INSIDE FACE OF CONC. WALL
11	105°26'20"	4.51	INSIDE FACE OF CONC. WALL
12	15°30'45"	3.175	INSIDE FACE OF CONC. WALL
13	15°30'45"	0.7	
14	192°26'	2.985	CENTRE LINE OF CONC. WALL 0.25 WIDE
15	195°26'25"	0.2	
16	237°28'35"	0.175	
17	282°33'35"	3.905	CENTRE LINE OF CONC. WALL 0.25 WIDE
18	192°21'45"	0.525	CENTRE LINE OF CONC. WALL 0.25 WIDE
19	282°36'30"	2.62	
20	192°22'25"	4.55	
21	192°22'25"	1.51	
22	102°29'05"	6.52	FACE OF CONC. WALL
23	12°23'35"	0.78	CENTRE LINE OF CONC. WALL 0.25 WIDE
24	195°42'	2.565	CENTRE LINE OF CONC. WALL 0.2 WIDE
25	285°24'20"	14.25	FACE OF CONC. WALL
26	15°12'20"	1.94	FACE OF CONC. WALL
27	285°12'20"	5.47	FACE OF CONC. WALL
28	15°12'20"	0.31	FACE OF CONC. WALL

- (B) RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM).
 B1 - THAT PART OF THE RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'B1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
 B2 - THAT PART OF THE RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'B2' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 93.65 AUSTRALIAN HEIGHT DATUM.
 (C) RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM).
 C1 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 89.15 & RL 103.9 AUSTRALIAN HEIGHT DATUM.
 C2 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C2' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 93.65 AUSTRALIAN HEIGHT DATUM.
 C3 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C3' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 99.8 AUSTRALIAN HEIGHT DATUM.

CC = CENTRE LINE OF CONC. WALL
 FC = FACE OF CONC. WALL
 FP = FACE OF METAL PANELS
 FR = FACE OF RENDERED WALL

SURVEYOR
 Name : CRAIG WILLIAMSON
 LE MOTTEE GROUP PTY LTD
 PO BOX 363, RAYMOND TERRACE 2324
 Date : 29/8/2017
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PLAN OF SUBDIVISION OF LOT 2 DP 1080386 & LOT 402 DP 1197237.

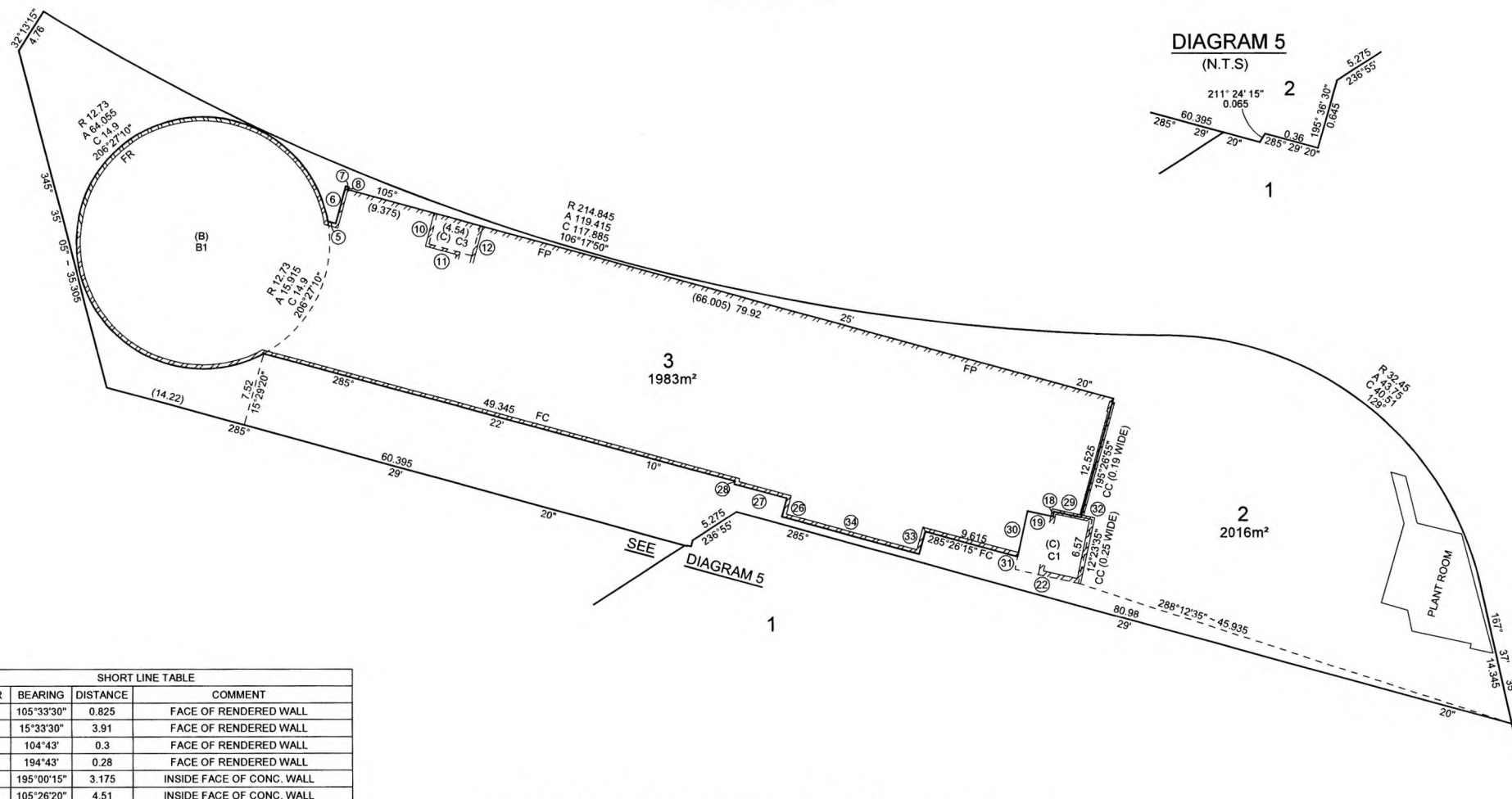
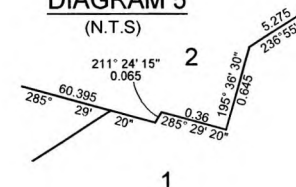
LGA: NEWCASTLE
 Locality : NEW LAMBTON HEIGHTS
 Reduction Ratio: 1:300
 Lengths are in metres

REGISTERED

DP

MGA NORTH

DIAGRAM 5
(N.T.S.)



SHORT LINE TABLE			
NUMBER	BEARING	DISTANCE	COMMENT
5	105°33'30"	0.825	FACE OF RENDERED WALL
6	15°33'30"	3.91	FACE OF RENDERED WALL
7	104°43'	0.3	FACE OF RENDERED WALL
8	194°43'	0.28	FACE OF RENDERED WALL
10	195°00'15"	3.175	INSIDE FACE OF CONC. WALL
11	105°26'20"	4.51	INSIDE FACE OF CONC. WALL
12	15°30'45"	3.175	INSIDE FACE OF CONC. WALL
18	192°21'45"	0.525	CENTRE LINE OF CONC. WALL 0.25 WIDE
19	282°36'30"	2.62	
22	102°29'05"	6.52	FACE OF CONC. WALL
26	15°12'20"	1.94	FACE OF CONC. WALL
27	285°12'20"	5.47	FACE OF CONC. WALL
28	15°12'20"	0.31	FACE OF CONC. WALL
29	282°33'35"	2.775	CENTRE LINE OF CONC. WALL 0.25 WIDE
30	192°22'25"	4.75	
31	192°22'25"	1.31	
32	282°33'35"	1.13	CENTRE LINE OF CONC. WALL 0.25 WIDE
33	195°42'	2.38	FACE OF CONC. WALL
34	285°24'20"	14.35	FACE OF CONC. WALL

- (B) RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM).
B1 - THAT PART OF THE RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'B1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
- (C) RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM).
C1 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 89.15 & RL 103.9 AUSTRALIAN HEIGHT DATUM.
C3 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C3' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 99.8 AUSTRALIAN HEIGHT DATUM.

CC = CENTRE LINE OF CONC. WALL
FC = FACE OF CONC. WALL
FP = FACE OF METAL PANELS
FR = FACE OF RENDERED WALL

SURVEYOR
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PLAN OF SUBDIVISION OF LOT 2 DP 1080386 &
LOT 402 DP 1197237.

LGA: NEWCASTLE
Locality : NEW LAMBTON HEIGHTS
Reduction Ratio: 1:300
Lengths are in metres

REGISTERED

DP

BASEMENT LEVEL B1

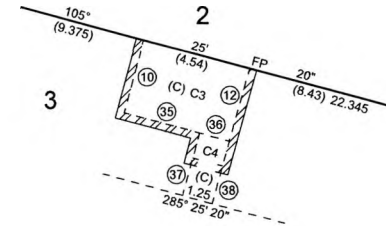
THIS SHEET ILLUSTRATES THE BOUNDARIES OF LOTS LYING BETWEEN HORIZONTAL PLANES AT RL 96.55 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
REFER TO SHEET 7 FOR AN OVERVIEW OF STRATUMS.

HORIZONTAL PLANES ARE CONTAINED WHOLLY WITHIN THE CONCRETE SLAB.

MGA NORTH



DIAGRAM 9
(N.T.S)



SHORT LINE TABLE			
NUMBER	BEARING	DISTANCE	COMMENT
5	105°33'30"	0.825	FACE OF RENDERED WALL
6	15°33'30"	3.91	FACE OF RENDERED WALL
7	104°43'	0.3	FACE OF RENDERED WALL
8	194°43'	0.28	FACE OF RENDERED WALL
10	195°00'15"	3.175	INSIDE FACE OF CONC. WALL
12	15°30'45"	3.175	INSIDE FACE OF CONC. WALL
17	282°33'35"	3.905	CENTRE LINE OF CONC. WALL 0.25 WIDE
18	192°21'45"	0.525	CENTRE LINE OF CONC. WALL 0.25 WIDE
19	282°36'30"	2.62	FACE OF CONC. WALL
22	102°29'05"	6.52	FACE OF CONC. WALL
23	12°23'35"	0.78	CENTRE LINE OF CONC. WALL 0.25 WIDE
30	192°22'25"	4.75	FACE OF CONC. WALL
31	192°22'25"	1.31	FACE OF CONC. WALL
35	105°26'20"	3.245	INSIDE FACE OF CONC. WALL
36	105°26'20"	1.265	INSIDE FACE OF CONC. WALL
37	195°11'20"	2.685	INSIDE FACE OF CONC. WALL
38	15°30'45"	2.685	INSIDE FACE OF CONC. WALL
39	195°25'20"	5.86	CENTRE LINE OF CONC. COLUMNS 0.3 WIDE
40	15°25'20"	5.86	CENTRE LINE OF CONC. COLUMNS 0.3 WIDE
41	165°21'35"	4.965	FACE OF RENDERED WALL
42	195°28'15"	0.36	CENTRE LINE OF BLOCK WALL 0.19 WIDE
43	282°27'50"	1.665	CENTRE LINE OF BLOCK WALL 0.19 WIDE
44	195°20'15"	3.845	CENTRE LINE OF BLOCK WALL 0.19 WIDE
45	165°32'30"	7.47	CENTRE LINE OF BLOCK WALL 0.19 WIDE
46	102°33'10"	9.13	CENTRE LINE OF CONC. WALL 0.25 WIDE
47	282°29'05"	10.65	FACE OF CONC. WALL
48	195°26'25"	0.2	FACE OF CONC. WALL
49	285°26'25"	1.095	FACE OF CONC. WALL
50	183°01'10"	3.06	FACE OF CONC. WALL
51	3°25'10"	3.05	FACE OF CONC. WALL
52	12°22'25"	1.055	FACE OF CONC. WALL
53	195°28'40"	2.39	FACE OF CONC. SLAB
54	285°28'40"	4.795	FACE OF CONC. SLAB
55	195°28'40"	0.735	FACE OF CONC. SLAB
56	285°29'40"	4.095	FACE OF CONC. SLAB
57	195°36'30"	3.955	FACE OF RENDERED WALL
58	15°31'45"	7.61	FACE OF RENDERED WALL
59	15°25'20"	5.945	FACE OF RENDERED WALL
60	195°25'20"	5.79	FACE OF RENDERED WALL

DIAGRAM 6
(N.T.S)

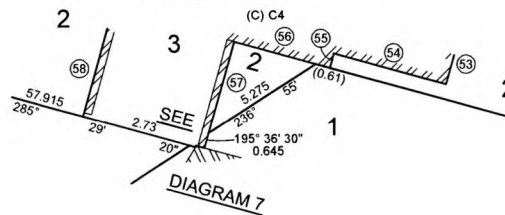


DIAGRAM 7
(N.T.S)

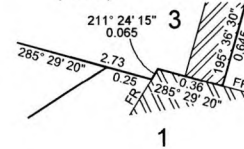
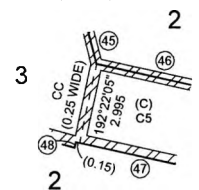


DIAGRAM 8
(N.T.S)



- (B) RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM).
B1 - THAT PART OF THE RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'B1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
B3 - THAT PART OF THE RIGHT OF CARRIAGE WAY 6.4 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'B3' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 96.55 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
(C) RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM).
C1 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 89.15 & RL 103.9 AUSTRALIAN HEIGHT DATUM.
C3 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C3' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 90.65 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
C4 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C4' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 96.55 & RL 99.8 AUSTRALIAN HEIGHT DATUM.
C5 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C5' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 96.55 & RL 103.9 AUSTRALIAN HEIGHT DATUM.

CURVED LINE TABLE				
NUMBER	BEARING	CHORD	ARC	RADIUS
61	46°21'	6.985	7.075	12.73
62	15°51'50"	6.4	6.47	12.73
63	355°58'	2.365	2.37	12.73

SURVEYOR
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Date : 29/8/2017
Reference: 6607 DP-V1 REPORT

PLAN OF SUBDIVISION OF LOT 2 DP 1080386 & LOT 402 DP 1197237.

LGA: NEWCASTLE
Locality : NEW LAMBTON HEIGHTS
Reduction Ratio: 1:300
Lengths are in metres

REGISTERED

DP

CC = CENTRE LINE OF CONC. WALL
FC = FACE OF CONC. WALL
FP = FACE OF METAL PANELS
FR = FACE OF RENDERED WALL
FS = EDGE OF CONC. SLAB

GROUND LEVEL

THIS SHEET ILLUSTRATES THE BOUNDARIES OF LOTS LYING BETWEEN HORIZONTAL PLANES AT RL 99.8 & RL 103.9 AUSTRALIAN HEIGHT DATUM. REFER TO SHEET 7 FOR AN OVERVIEW OF STRATUMS.

HORIZONTAL PLANES ARE CONTAINED WHOLLY WITHIN THE CONCRETE SLAB.

MGA NORTH

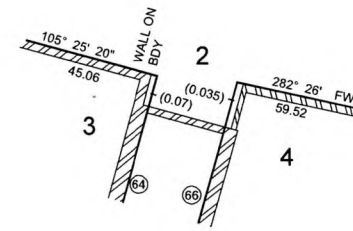


DIAGRAM 12
(N.T.S)

CC = CENTRE LINE OF CONC. WALL
FC = FACE OF CONC. WALL
FR = FACE OF RENDERED WALL
FW = FACE OF WINDOW

SHORT LINE TABLE			
NUMBER	BEARING	DISTANCE	COMMENT
5	105°33'30"	0.825	FACE OF RENDERED WALL
6	15°33'30"	3.91	FACE OF RENDERED WALL
7	104°43'	0.3	FACE OF RENDERED WALL
8	194°43'	0.28	FACE OF RENDERED WALL
17	282°33'35"	3.905	CENTRE LINE OF CONC. WALL 0.25 WIDE
64	195°21'35"	7.575	FACE OF RENDERED WALL
65	105°31'15"	3.42	FACE OF RENDERED WALL
66	15°25'15"	8.21	FACE OF RENDERED WALL
67	165°21'35"	2.93	FACE OF RENDERED WALL
68	102°12'55"	3.08	FACE OF WINDOW FRAME
69	192°23'50"	6.315	FACE OF CLAD WALL
70	282°32'35"	0.365	CENTRE LINE OF CONC. WALL 0.35 WIDE
71	192°23'50"	2.65	CENTRE LINE OF CONC. WALL 0.35 WIDE
72	165°37'30"	8.48	CENTRE LINE OF CONC. WALL 0.35 WIDE
73	282°33'10"	2.15	CENTRE LINE OF CONC. WALL 0.25 WIDE
74	192°22'05"	0.62	CENTRE LINE OF CONC. WALL 0.25 WIDE
75	192°22'05"	2.375	CENTRE LINE OF CONC. WALL 0.25 WIDE
76	102°29'05"	6.525	FACE OF CONC. WALL
77	192°26'	2.985	CENTRE LINE OF CONC. WALL 0.25 WIDE
78	282°33'10"	4.38	CENTRE LINE OF CONC. WALL 0.25 WIDE
79	12°23'35"	4.985	CENTRE LINE OF CONC. WALL 0.25 WIDE
80	192°21'45"	5.405	CENTRE LINE OF CONC. WALL 0.25 WIDE
81	192°21'45"	1.175	CENTRE LINE OF CONC. WALL 0.25 WIDE
82	102°29'05"	3.9	FACE OF CONC. WALL
83	12°23'35"	1.585	CENTRE LINE OF CONC. WALL 0.25 WIDE
84	284°53'45"	1.22	CENTRE LINE OF CONC. WALL 0.3 WIDE
85	284°53'45"	1.875	CENTRE LINE OF CONC. WALL 0.3 WIDE
86	194°34'40"	2.545	CENTRE LINE OF CONC. WALL 0.3 WIDE
87	285°07'30"	2.305	CENTRE LINE OF CONC. WALL 0.3 WIDE
88	195°35'45"	4.08	CENTRE LINE OF CONC. WALL 0.3 WIDE
89	195°35'45"	1.785	
90	285°16'05"	2	
91	15°35'45"	1.79	

DIAGRAM 10
(N.T.S)

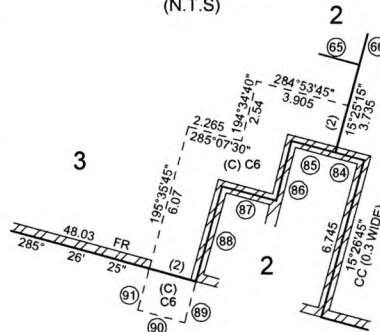
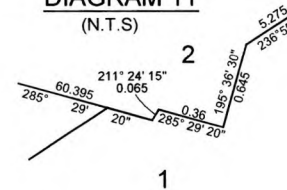


DIAGRAM 11
(N.T.S)



- (C) RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM).
- C1 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C1' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 99.55 & RL 103.9 AUSTRALIAN HEIGHT DATUM.
- C5 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C5' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 96.55 & RL 103.9 AUSTRALIAN HEIGHT DATUM.
- C6 - THAT PART OF THE RIGHT OF FOOT WAY 2 WIDE, 2.03 WIDE, 4.51 WIDE, 6.52 WIDE & VARIABLE (LIMITED IN STRATUM) DENOTED 'C6' IS THE STRATUM LYING BETWEEN HORIZONTAL PLANES AT RL 99.8 & RL 103.9 AUSTRALIAN HEIGHT DATUM.

SURVEYOR
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Date : 29/8/2017
Reference: 6607 DP-V1 REPORT

PLAN OF SUBDIVISION OF LOT 2 DP 1080386 & LOT 402 DP 1197237.

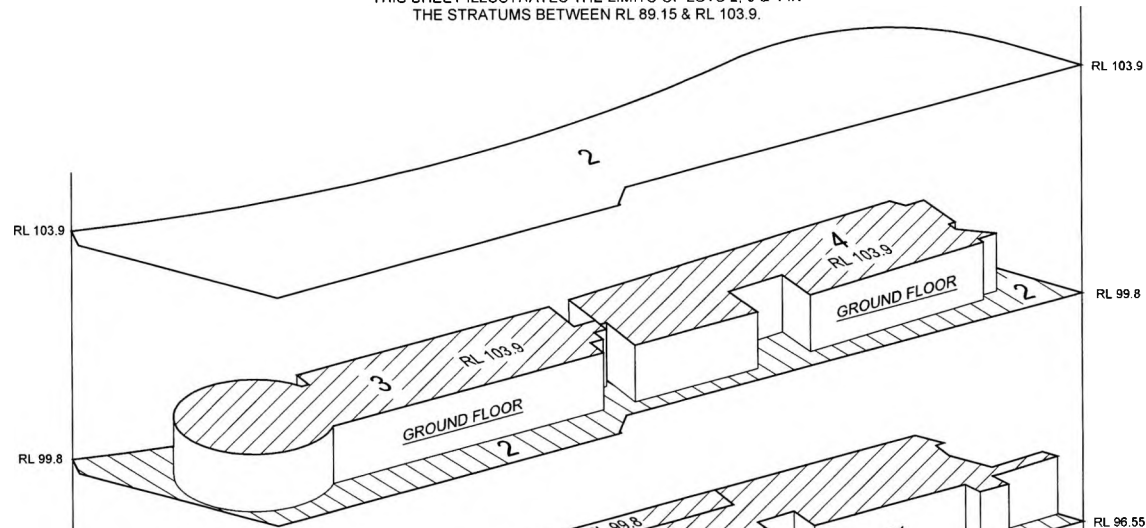
LGA: NEWCASTLE
Locality : NEW LAMBTON HEIGHTS
Reduction Ratio: 1:300
Lengths are in metres

REGISTERED

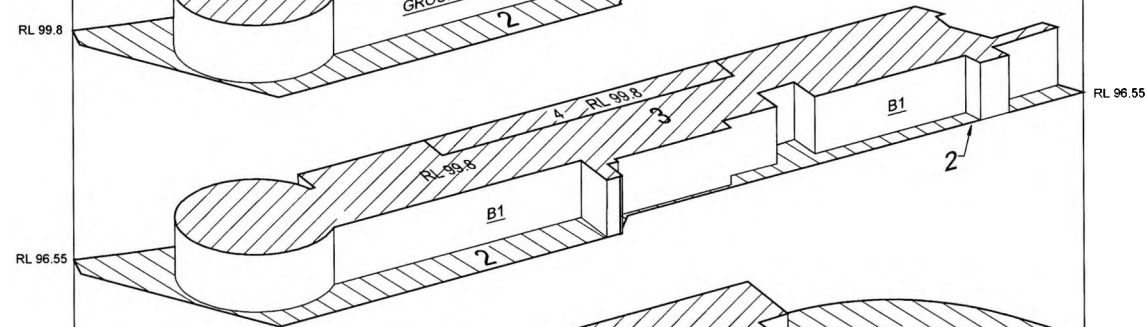
DP

ISOMETRIC MODEL OF LOTS 2, 3 & 4

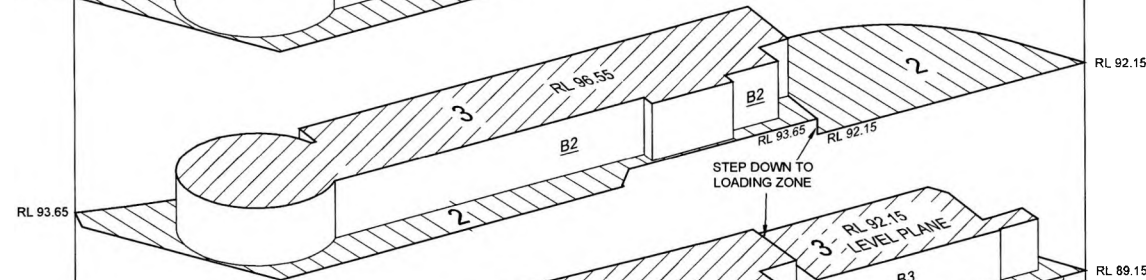
THIS SHEET ILLUSTRATES THE LIMITS OF LOTS 2, 3 & 4 IN
THE STRATUMS BETWEEN RL 89.15 & RL 103.9.

GROUND FLOOR LEVEL

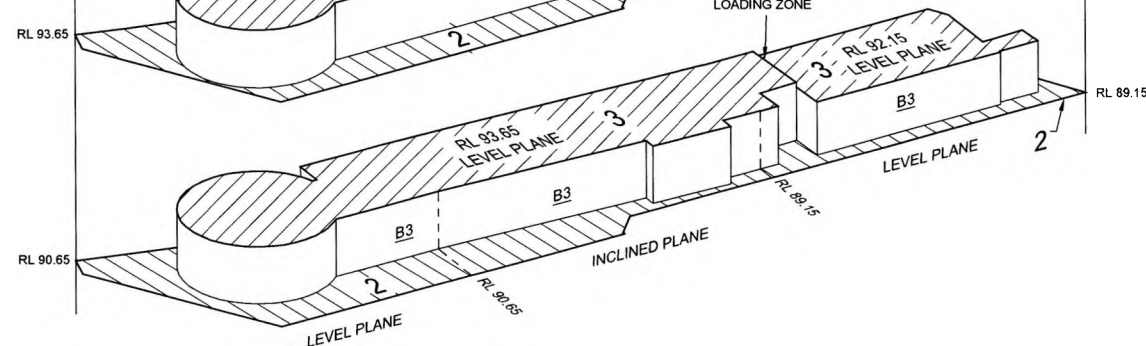
IN RESPECT TO GROUND FLOOR LEVEL:
LOT 3 & 4 ARE LIMITED IN HEIGHT TO THE LEVEL PLANE RL 103.9.
LOT 3 & 4 ARE LIMITED IN DEPTH TO THE LEVEL PLANE RL 99.8.
LOT 3 & 4 ARE LIMITED BY THE BOUNDARIES AS DEFINED ON SHEET 5.

BASEMENT LEVEL B1

IN RESPECT TO BASEMENT LEVEL B1:
LOT 3 & 4 ARE LIMITED IN HEIGHT TO THE LEVEL PLANE RL 99.8.
LOT 3 & 4 ARE LIMITED IN DEPTH TO THE LEVEL PLANE RL 96.55.
LOT 3 & 4 ARE LIMITED BY THE BOUNDARIES AS DEFINED ON SHEET 5.

BASEMENT LEVEL B2

IN RESPECT TO BASEMENT LEVEL B2:
LOT 3 IS LIMITED IN HEIGHT TO THE LEVEL PLANE RL 96.55.
LOT 3 IS LIMITED IN DEPTH TO THE LEVEL PLANE RL 93.65.
LOT 3 IS LIMITED BY THE BOUNDARIES AS DEFINED ON SHEET 4.

BASEMENT LEVEL B3

IN RESPECT TO BASEMENT LEVEL B3:
LOT 3 IS LIMITED IN HEIGHT TO THE LEVEL PLANE RL 93.65 & RL 92.15.
LOT 3 IS LIMITED IN DEPTH TO THE LEVEL PLANE RL 90.65, THE
INCLINED PLANE FROM RL 90.65 & RL 89.15 & THE LEVEL PLANE RL 89.15.
LOT 3 IS LIMITED BY THE BOUNDARIES AS DEFINED ON SHEET 3.

LOT 2 IS UNLIMITED IN HEIGHT ABOVE THE GROUND FLOOR LEVEL
DEFINED BY THE LEVEL PLANE RL 103.9.
LOT 2 IS UNLIMITED IN DEPTH BELOW THE LEVEL PLANE AT RL 90.65, THE
INCLINED PLANE FROM RL 90.65 TO RL 89.15 & THE LEVEL PLANE RL 89.15.
LOT 2 COMPRISES ALL OF THE CUBIC SPACE BETWEEN RL 89.15 & RL
103.9 EXCEPT FOR THE CUBIC SPACE COMPRISED IN LOTS 3 & 4.

SURVEYOR
Name : CRAIG WILLIAMSON
LE MOTTEE GROUP PTY LTD
PO BOX 363, RAYMOND TERRACE 2324
Date : 29/8/2017
Reference: 6607 DP-V1 REPORT

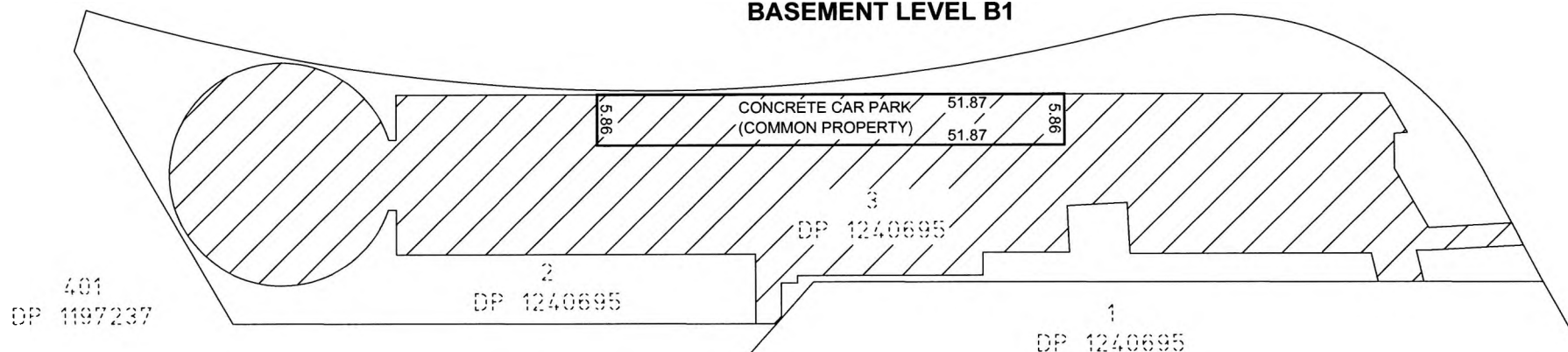
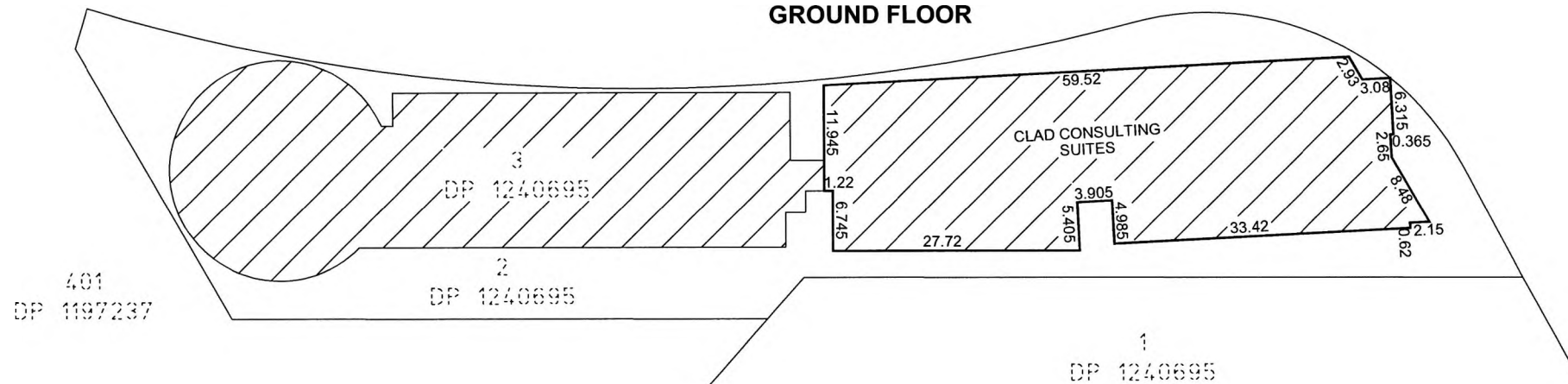
PLAN OF SUBDIVISION OF LOT 2 DP 1080386 &
LOT 402 DP 1197237.

LGA: NEWCASTLE
Locality : NEW LAMBTON HEIGHTS
Reduction Ratio: 500
Lengths are in metres

REGISTERED

DP

LOT BOUNDARIES ARE COINCIDENT WITH PARCEL BOUNDARY.

LOCATION PLAN**BASEMENT LEVEL B1****GROUND FLOOR**

SURVEYOR : ADAM JOHN McCAULL

Name : LE MOTTEE GROUP PTY LTD
PO BOX 363,
RAYMOND TERRACE 2324

Date : 29th AUGUST 2017

Reference : 6607 SP-V1

PLAN OF SUBDIVISION OF LOT 4 DP 1240695

LGA: NEWCASTLE

Locality : NEW LAMBTON HEIGHTS

Reduction Ratio: 1: 500

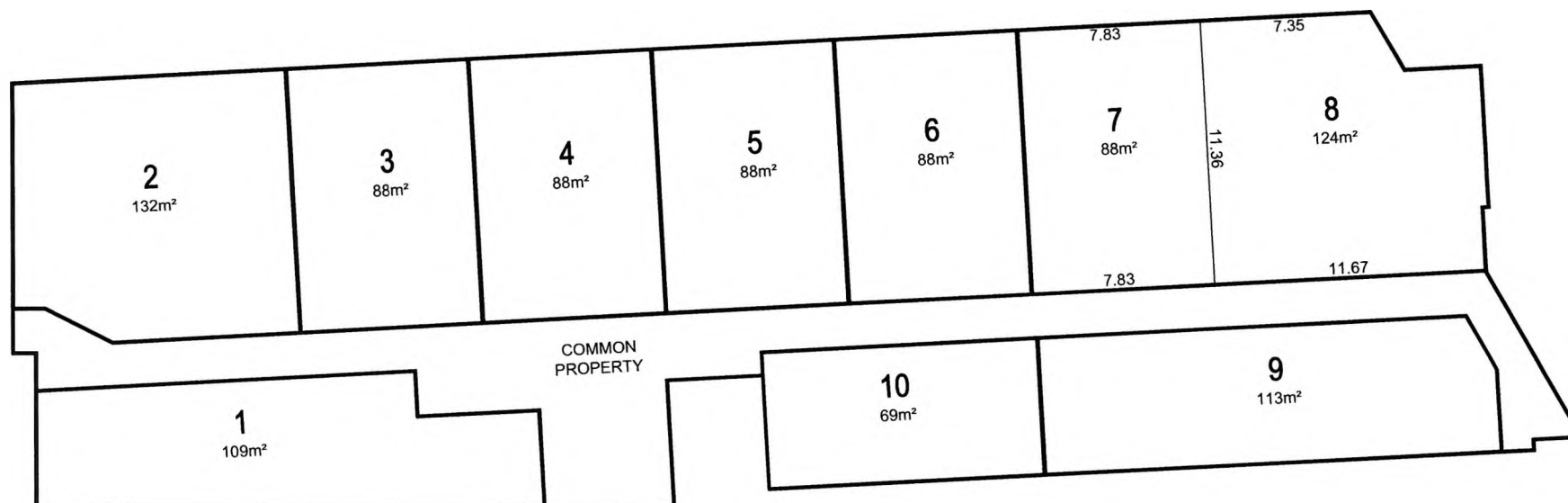
Lengths are in metres

REGISTERED

ANY SERVICE LINE WITHIN ONE LOT SERVING ANOTHER LOT IS
COMMON PROPERTY.

COMMON SERVICE LINES ARE COMMON PROPERTY.

GROUND FLOOR PLAN



CAUTION: THE AREAS SHOWN
ARE FOR THE PURPOSE OF THE
STRATA SCHEMES DEVELOPMENT
ACT 2015 ONLY AND ARE
APPROXIMATE.

SURVEYOR : ADAM JOHN McCAULL
Name : LE MOTTEE GROUP PTY LTD
PO BOX 363,
RAYMOND TERRACE 2324
Date : 29th AUGUST 2017
Reference : 6607 SP-V1

PLAN OF SUBDIVISION OF LOT 4 DP 1240695

LGA: NEWCASTLE
Locality : NEW LAMBTON HEIGHTS
Reduction Ratio: 1: 200
Lengths are in metres

REGISTERED

COMMITMENT LETTER

31 January 2019

To: VIG Bidco Pty Limited (**Bidco**)

Dear Sir / Madam

Project Vigour – Propco Bridge Loan – Commitment Letter

We, NorthWest Healthcare Properties REIT (TSX:NWH:UN) (**NWH**), are pleased to set out in this letter the terms and conditions on which a corporate vehicle (**PropCo**) incorporated or established in Australia owned or controlled directly or indirectly by NWH or such other entity as may be notified to you, are willing to provide the bridge loan described in the Term Sheet (the **Propco Bridge Loan**).

In this letter:

Acquisition means the acquisition of all shares in the Target by Bidco pursuant to a scheme of arrangement.

Affiliate means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

Business Day means a day on which banks are open for general business in each of Melbourne, Victoria, Sydney, New South Wales and Toronto, Canada (not being a Saturday, Sunday or public holiday in that place).

Commitment Deed means the commitment deed between, among others, NWH and the Target dated on or about the date of this letter.

Commitment Documents means this letter and the Term Sheet and any other document designated by Bidco and PropCo.

Facility Agreement means the facility agreement to be entered into under which the Propco Bridge Loan is to be provided.

Finance Documents means the Facility Agreement, and any other documentation agreed between Bidco and Propco to be a “Finance Document” for the purposes of this letter.

Financial Close means the date on which all conditions precedent to first utilisation of the Propco Bridge Loan have been satisfied or waived in writing by Propco, being a date not later than the expiry of the Certain Funds Period (as described in the Term Sheet).

Holding Company means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

Indirect Tax means any goods and services tax, consumption tax, value added tax or any tax of a similar nature.

Parent Entity means NWH and each other person who accedes as a Parent Entity to this letter.

Property Sale & Leaseback means the sale and leaseback transaction contemplated in the Commitment Deed.

Subsidiary means a subsidiary within the meaning of Part 1.2 Division 6 of the *Corporations Act 2001* (Cth).

Target means Healthscope Limited.

Term Sheet means the term sheet attached to this letter as an Annexure A.

Transaction means the Acquisition and the financing arrangements implemented to finance the Acquisition (including payment of transaction costs associated with the Acquisition).

Unless a contrary indication appears, a term defined in any other Commitment Document has the same meaning when used in this letter.

1. Commitment

Subject to the other terms of this letter, Propco agrees to provide the Propco Bridge Loan in an amount equal to the Facility Limit set out in the Term Sheet.

PropCo may be the Lender under the Propco Bridge Loan, however, this does not absolve each Parent Entity from any liability or responsibility for the obligations of Propco under the Commitment Documents until Financial Close has occurred.

2. Conditions

2.1 PropCo confirms that:

- (a) it supports Bidco in respect of the proposed Transaction;
- (b) it has reviewed versions of the conditions precedent documents set out in Part A of Schedule 1 of the Term Sheet and confirms that those conditions precedent have been approved;
- (c) it has completed (or otherwise has the benefit of to its satisfaction) all due diligence required by it and confirms that no further due diligence is required in relation to the Transaction;
- (d) it has obtained all necessary internal approvals for it to provide the Propco Bridge Loan, subject to the terms and conditions of the Commitment Documents only and that no other investment committee or internal approvals are required in order for it to provide its commitment under the Propco Bridge Loan; and
- (e) it has sufficient available cash and/or committed funding sources to provide its commitment and funding under the Propco Bridge Loan.

2.2 This offer to provide the Propco Bridge Loan is made on the terms of the Commitment Documents and is subject to the following conditions:

- (a) the execution and delivery of the Finance Documents and the satisfaction of the conditions precedent set out in Part B of Schedule 1 of the Term Sheet by no later than 22 November 2019 or any later date agreed between Bidco and Propco; and
- (b) this letter not being terminated in accordance with paragraph 8 (*Termination*);

2.3 Bidco acknowledges and agrees that, except arising as a result of any breach of Propco's obligation in paragraph 3 (*Finance Documents*), Propco will have no liability to Bidco or any of its Affiliates or any other person if, as a result of any condition in paragraph 2.1 or 2.2 not being satisfied, Propco does not provide the Propco Bridge Loan on the terms set out in this letter.

3. Finance Documents

Propco and Bidco will negotiate in good faith and use reasonable endeavours with a view to agreeing, executing and delivering the Facility Agreement and other Finance Documents required as at Financial Close reflecting the terms and conditions set out in the Commitment Documents as soon as practicable following the execution and return of this letter by Bidco and, in any event to substantially agree the form of the Facility Agreement by the date falling 2 months after the date of the Implementation Deed (or

such later date nominated in writing by the Senior Borrower and agreed by PropCo, acting reasonably).

4. Certain Funds

To assist Bidco in meeting its obligations under the Acquisition Documents in respect of the Acquisition, Propco confirms that its commitment to lend the Propco Bridge Loan is made on a certain funds basis, on the terms as described in the Term Sheet.

5. Costs and Expenses

Each party shall pay their own out-of-pocket costs and expenses (including legal fees) incurred by any of them in connection with the negotiation, preparation and execution of the Finance Documents and the Commitment Documents, whether or not the Finance Documents are signed.

6. Confidentiality

The parties acknowledge and agree that clause 12 (*Confidentiality and announcements*) of the Commitment Deed applies to this letter as if it was fully set out in this letter.

7. Assignments

No party may assign any of its rights or transfer any of its rights or obligations under the Commitment Documents without the prior written consent of each of the other party, except as expressly permitted under another Commitment Document.

8. Termination

8.1 If Bidco does not accept the offer made by Propco in this letter on or before 11pm (Sydney time) on the fifth Business Day after the date of this letter (or any later date as agreed in writing by Propco), such offer shall terminate on that date.

8.2 Propco may terminate its obligations under this letter with immediate effect by notifying Bidco in writing if:

- (a) Bidco notifies Propco in writing that it does not intend to proceed with the Transaction;
- (b) the Target is sold to a party other than the Senior Borrower (or its Affiliate or nominee);
- (c) the Commitment Deed is terminated under clause 3.1 or 3.2 of the Commitment Deed;
- (d) the Bilateral Deed is terminated;
- (e) the Scheme has not become Effective and the Takeover has not been declared or become unconditional under and in accordance with the Implementation Deed on or before 1 November 2019;
- (f) the Senior Facilities Agreement is terminated and not replaced with alternative debt and/or equity funding arrangements; or
- (g) Propco agrees with Bidco that this letter should be terminated.

8.3 Bidco may terminate rights and obligations of Propco under the Commitment Documents with immediate effect by notifying Propco in writing if Propco breaches any of its obligations under the Commitment Documents and that breach is not remedied within 15 Business Days of receipt of written notice from the Senior Borrower to remedy the relevant breach, if such breach is capable of remedy.

9. Survival

9.1 Except for paragraphs 1 (*Commitment*), 6 (*Confidentiality*) and 8 (*Termination*), the terms of this letter shall survive and continue after the Finance Documents are signed.

- 9.2 Without prejudice to paragraph 9.1, 5 (*Costs and Expenses*), 6 (*Confidentiality*) and 8 (*Termination*) to 13 (*Governing Law and Jurisdiction*) inclusive shall survive and continue after any termination of the obligations of Propco under the Commitment Documents.

10. Entire Agreement

- 10.1 The Commitment Documents, together with the Commitment Deed and Bilateral Deed set out the entire agreement between Bidco and Propco as to providing the Propco Bridge Loan and supersede any prior oral and/or written understandings or arrangements relating to the Propco Bridge Loan.
- 10.2 Any provision of a Commitment Document may only be amended or waived in writing signed by Bidco and Propco.

11. General

- 11.1 This letter may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this letter.
- 11.2 Each of the attorneys or authorised signatories executing this letter states that they have no notice of revocation of the power of attorney appointing that attorney or their authority to execute this letter.

12. References to PropCo

- 12.1 The parties acknowledge that PropCo has not yet been incorporated or established. Without prejudice to the obligations of NWH under this letter, in its own right, each Parent Entity ("**Responsible Persons**") agrees that it is bound by this letter as if it were PropCo (and as if each reference to PropCo was a reference to the Responsible Persons) until such time as PropCo is incorporated or established and PropCo binds itself to this letter and assumes all of the obligations of NWH incurred under this letter as PropCo.
- 12.2 Despite this, without prejudice to the obligations of NWH (in its own right) or Propco under this letter, each Parent Entity will continue to be bound by this letter as PropCo and will not be released from all obligations incurred as PropCo under, and will continue to have liability to Bidco under, or rights under, this commitment letter as PropCo until Financial Close has occurred.
- 12.3 If another owner entity accedes to, or otherwise joins, the Bilateral Deed and/or the Commitment Deed in the capacity of "owner" of Propco, such person must also accede to this letter in the capacity as Parent Entity, and all references to "Parent Entity" in this letter and the Term Sheet will be extend to such person.

13. Governing Law and Jurisdiction

- 13.1 This letter (including the agreement constituted by your acknowledgement of its terms) is governed by the laws of Victoria.
- 13.2 Each party submits to the non-exclusive jurisdiction of the courts of Victoria.

14. Limitation of Liability

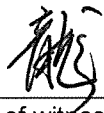
The obligations of NWH under this letter are not personally binding upon any (i) trustee, officer, employee or agent of NWH or any successor, (ii) any registered or beneficial holder of NWH units (a **Unitholder**) or (iii) any annuitant under a plan of which a Unitholder acts as a trustee or carrier; and resort shall not be had to, nor shall recourse or satisfaction be sought from any of the foregoing or the private property of any of the foregoing, save the case of the trustee, where it is acting in breach of trust, grossly negligent or committing fraud.

If you agree to the above, please acknowledge your agreement and acceptance of the offer by signing and emailing a countersigned copy of this letter to us on or before the date referred to in paragraph 8.1.

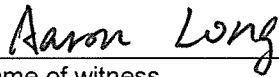
Yours faithfully

SIGNED by

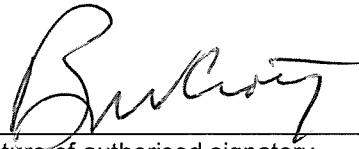
as an authorised signatory of
**NORTHWEST HEALTHCARE
PROPERTIES REAL ESTATE
INVESTMENT TRUST** in the presence of:



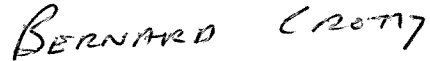
Signature of witness



Name of witness



Signature of authorised signatory



Name of authorised signatory

ACCEPTANCE

We accept the terms of this letter and the term sheet:



VIG Bidco Pty Limited

Name: *LEONARD CHERSKY*

Title: *DIRECTOR*.

ANNEXURE A- TERM SHEET

This term sheet forms the annexure to the Commitment Letter for the Propco Bridge Loan dated on or about 31 January 2019 between VIG Bidco Pty Limited and NorthWest Healthcare Properties Real Estate Investment Trust (**Commitment Letter**)

Strictly private and confidential

Project Vigour – Propco Bridge Loan Term Sheet

Sponsor	Brookfield Capital Partners Limited on behalf of itself and any trusts, funds, partnerships, investors or any other entities managed or controlled by it, or in respect of which it is principal adviser, and any of its Affiliates and any investors, trusts, funds partnerships and / or other entities controlled, managed or advised by it.
Senior Borrower / Company	VIG Bidco Pty Limited, a 100% Australian wholly owned subsidiary of Holdco and the entity which will acquire the Target.
Holdco	VIG Senior Holdco Pty Limited, together with Senior Borrower, the "Obligors" .
Guarantors / Security	Each Obligor will enter into an all-asset general security deed which includes specific security over the share capital held by it in, in the case of Holdco, the Senior Borrower and in the case of the Senior Borrower, the Target. Schedule 5 sets out the Agreed Security Principles applicable to the security. Schedule 6 sets out the Intercreditor Principles applicable to the sharing of the security as between Propco and Bidco's Senior Lenders.
Lender or Propco	An entity incorporated or established in Australia owned or controlled directly or indirectly by NorthWest Healthcare Properties REIT (TSX:NWH:UN) (Parent Entity) and its Affiliates (as defined in the Bilateral Deed).
Security Trustee	To be appointed. The Security Trustee will hold the security on trust for Propco and the Senior Borrower's Senior Lenders.
Facility	Bullet term loan facility.
Facility Limit	The Facility will be sized at an amount equal to the aggregate of (i) the Relevant Prices for each Sale Asset, plus (ii) the aggregate consideration payable for the Other Properties (if any) to be acquired by the Property Trust (or an entity owned by the Parent Entities) under the Step Up Contract(s) ("Step Up Properties" , and each a "Step Up Property") less (iii) the consideration attributable to the Scheme Declined Delayed Settlement Properties (if any).
Currency	AUD
Availability Period	From the date the Borrower countersigns the Commitment Letter to and including the end of the Certain Funds Period.
Purpose	To fund the Acquisition, the repayment of any Finance Debt of the Target Group (the "Refinancing") and related fees and other expenses in connection with the Refinancing, the Acquisition and the financing thereof.
Maturity Date	90 days from Financial Close (unless extended by a further 90 days at the election of Propco, by providing no later than 11 Business Days prior notice).
Repayment at calendar quarter end date	The Senior Borrower must repay the Facility so that the aggregate outstanding principal balance is reduced to A\$250 million or less no later than the 10 th Business Day before the first calendar quarter end date occurring after Financial Close.
Interest	An amount equal to the sum of the base rent that would have been payable by the lessee of each Sale Asset (and Step Up Property, if any) pursuant to the lease for such Sale Asset (and Step Up Property, if any) as if the Lease had commenced on Financial Close. Interest shall be paid on each date on which rent would have been payable under the

	Leases and on the date on which any amount referable to a Sale Asset (and Step Up Property, if any) is prepaid or repaid.
Fees	None.
Default Interest	2.0% p.a. in addition to the applicable Interest, on overdue sums only.
Voluntary Cancellation	The Senior Borrower may cancel all or part of the unutilised amount of the Facility on giving 2 Business Days' irrevocable, written notice.
Repayment at maturity	The outstanding balance of the Facility must be repaid in full on the Maturity Date.
Voluntary Prepayment	The Senior Borrower may prepay all or part of the principal outstanding under the Facility on giving 2 business days' irrevocable, written notice without premium or penalty. Amounts repaid or prepaid under Facility may not be redrawn.
Mandatory Prepayment for Post-Close Delayed Properties	If following Initial Completion, there are any Settlement Date Delayed Settlement Properties which Propco elects not to retain on an "all or nothing" basis ("Declined Properties"), then Propco may, within 10 Business Days of Initial Completion, issue a repayment notice (which may be via email) to the Senior Borrower requiring that the Propco Bridge Loan be prepaid by the Declined Funded Amount within 11 Business Days of receipt of such notice (or to the extent any portion of the Propco Bridge Loan was funded by Propco from the ANZ Facilities, such portion will be prepayable within such shorter period (being not less than 5 Business Days) prescribed for prepayment under the ANZ Facilities agreement. Declined Funded Amount" means an amount specified by Propco not exceeding the consideration attributable to Declined Properties.
Mandatory Prepayment from Property Sale Proceeds	The Senior Borrower must immediately prepay the Facility in an amount equal to the sum of the purchase price for the Sale Assets and Step Up Properties (if any) sold on the Sale Date. Prepayment may occur via endorsement of the promissory note(s) issued by Propco or its subsidiaries as consideration for purchase of the Sale Assets and Step Up Properties (if any).
Financial Covenants	None.
Conditions precedent to initial drawdown	Refer Schedule 1.
Certain Funds	To assist the Senior Borrower in meeting its obligations under the Implementation Deed and to ensure that it has sufficient funds available to complete the Acquisition, from the date of the Commitment Letter until and including the earliest to occur of (i) Financial Close, (ii) the date set out in paragraph 2.2(a) of the Commitment Letter (or any later date agreed by the Senior Borrower and Propco) and (iii) the termination of the Commitment Letter in accordance with its terms (the "Certain Funds Period"): (a) Propco agrees that any duly executed request issued in accordance with the Facility Agreement by the Senior Borrower for a drawing of the Propco Bridge Loan will be complied with; and (b) Propco may not exercise any right which exist in favour of it to (i) cancel, rescind or terminate the Facility Agreement or the Propco Bridge Loan facility or exercise any similar right or remedy, (ii) make or enforce any claim under the Finance Documents, (iii) accelerate repayment of the Propco Bridge Loan facility, (iv) enforce the Security, or (v) exercise any right of set-off or counterclaim in relation to any Loan, unless any of the following events or circumstances has occurred and is subsisting on the Utilisation Date for the Propco Bridge Loan:

	(i) the documentary and other conditions precedent referred to as conditions precedent to Financial Close (as set out in Schedule 1) have not been satisfied or waived in accordance with the Finance Documents; (ii) any Major Representation is untrue or misleading in any material respect (whether by omission or otherwise); (iii) any Major Default is continuing or would result from the Loan requested by the Senior Borrower being advanced; or (iv) it is unlawful for Propco to make the Loan. Immediately upon the expiry of the Certain Funds Period all such rights, remedies and entitlements shall be available to Propco, notwithstanding that that they may not or could not be exercised during the Certain Funds Period. “Major Default” means any Event of Default with respect to the Senior Borrower or Holdco only (and for the avoidance of doubt, not affecting Target or any subsidiary thereof) with respect to non-payment (of principal or interest), breach of the negative undertaking in relation to granting security or incurring Finance Debt, misrepresentation as a result of the breach of a Major Representation, Insolvency Event, unlawfulness, repudiation or vitiation of Finance Documents. “Major Representation” means a representation with respect to the Senior Borrower or Holdco only (and for the avoidance of doubt, not affecting Target or any subsidiary thereof) under the representations and warranties in respect of status, binding obligations, non-conflict with other obligations, power and authority, Authorisations, immunity, pari passu ranking, insolvency, corporate benefit or trust.
Representations and Warranties	Refer Schedule 2.
Undertakings	Refer Schedule 3.
Events of Default	Refer Schedule 4.
Assignment	No party may transfer their rights under the Finance Documents without the consent of the other parties.
Documentation	All documentation will be in a form and substance satisfactory to the Senior Borrower and Propco. The Senior Borrower’s counsel to prepare first draft of the Finance Documents.
Governing law and jurisdiction:	Victoria
Counsel for Senior Borrower:	King & Wood Mallesons
Counsel for Lender	Ashurst (Martin Coleman)

Schedule 1 – Conditions precedent

Part A: Conditions precedent which will be satisfied before Commitment Letter is dated in form and substance satisfactory to Propco:

- 1 (Executed Commitment Deed) the Commitment Deed executed by all parties to it, attaching the form of contract for sale and form of lease for the relevant properties the subject of the Property Sale & Leaseback transaction.
- 2 (Property diligence) property due diligence on the properties the subject of the Property Sale & Leaseback transaction.

Part B: Conditions precedent to the drawdown in form and substance satisfactory to Propco:

- 1 (Verification certificates) Verification Certificate signed by a director of each Obligor including customary attachments.
- 2 (Finance Documents) Duly executed counterparts of all Finance Documents required to be entered into on or before Financial Close.
- 3 (Senior Debt) Evidence (by way of a certificate by a director of the Senior Borrower or a CP satisfaction letter from the Senior Agent addressed to the Lender) that the Senior Facilities will, contemporaneously with Financial Close be, advanced to the Company in an amount sufficient in aggregate, together with the Propco Bridge Loan and the Equity Commitments, to fund the obligations of the Senior Borrower to complete the Acquisition by way of scheme of arrangement.
- 4 (Equity Commitments) Evidence (by way of a certificate by a director or a CP satisfaction letter from the Senior Agent addressed to the Lender) that the Obligors will be capitalised by way of equity and/or Shareholder Subordinated Debt (including any existing shareholder rollover) in an amount sufficient in aggregate, together with the Propco Bridge Loan and the Senior Facilities, to fund the obligations of the Senior Borrower to complete the Acquisition by way of scheme of arrangement.
- 5 (Acquisition Documents) Certificate signed by a director of the Company attaching the Acquisition Documents and confirming that:
 - (a) implementation of the Acquisition will occur in accordance with the Acquisition Documents;
 - (b) all material Authorisations required to complete the Acquisition have been obtained, and all conditions precedent to completion under the Acquisition Documents have been, or will on the drawing of the first Loan, be satisfied or waived, provided that there is no (i) waiver of the Implementation Deed MAC Condition, (ii) waiver of its rights under the Implementation Deed in respect of any Prescribed Occurrence, (iii) amendment to the definition of 'Material Adverse Change' (as defined in the Implementation Deed), (iv) waiver of its rights under clause 8.4(a)(1) of the Implementation Deed or (v) waiver or amendment of the condition in the Implementation Deed regarding the FIRB Approval, where such waiver would be materially prejudicial to the Lender unless the Lender has provided its prior written consent, such consent not to be unreasonably withheld or delayed (provided further, in the case of any of (i), (ii) or (iii), the consent of the Lender is only required if the proceeds of the ANZ Facilities are to be used to fund the Propco Bridge Loan, and ANZ has elected not to fund under the ANZ Facilities by reason of equivalent conditions precedent under the ANZ Facilities);

- (c) there has been no termination or amendment of any Acquisition Document which would be materially prejudicial to the interests of the Lender unless the Lender has provided its prior written consent, such consent not to be unreasonably withheld or delayed;
 - (d) the scheme of arrangement is approved by order of a court of competent jurisdiction under section 411(4)(b) of the Corporations Act and an office copy of the order has been lodged with ASIC; and
 - (e) implementation of the scheme of arrangement has occurred or will occur on the following day after the drawing of the Propco Bridge Loan in accordance with the Acquisition Documents and, upon implementation, the Company will become 100% owner of the Target.
- 6 (Legal opinions) Customary capacity and enforceability legal opinions from counsel for Propco on the Obligors and the Finance Documents.
- 7 (Drawdown notice) the Lender has received a drawdown notice in respect of the Loan.

Part C: Conditions subsequent to be satisfied within 5 Business Days after Financial Close in form previously agreed with Propco:

- 1 (No breach of 2J.3 confirmation) with respect to each of the Target and any other relevant Target Group members, a certificate signed by a director of the relevant entity, together with extracts of resolutions of the board of directors, confirming compliance with the requirements of section 260A of the Corporations Act.

Schedule 2 – Representations and Warranties

- 1 **(Status)** It is duly incorporated and validly existing under the laws of its place of incorporation.
- 2 **(Binding obligations)** The obligations expressed to be assumed by it in each of the Finance Documents to which it is a party are legal, valid, binding and enforceable in accordance with their terms and each Security granted by it constitutes a valid and effective Security in accordance with its terms over the property to which it is expressed to apply with the priority stated in that Security, in each case, subject to Reservations.
- 3 **(Non-conflict with other obligations)** The entry into and performance by it of any obligations under, and the transactions contemplated by, the Finance Documents to which it is or is to be a party does not (and will not) breach or conflict with
 - (a) its constitutional documents;
 - (b) any laws and regulations applicable to it; or
 - (c) any Authorisation, agreements or instrument binding on it or any of its assets,where in the case of (b) and (c) to do so would have a Material Adverse Effect.
- 4 **(Power and authority)** It has the corporate power and authority to enter into and perform and deliver its obligations under the Finance Documents to which it is or is to be a party.
- 5 **(Authorisations)** It has obtained all Authorisations, which continue to be in full force and effect and which conditions it is complying with which are required for the entry into and exercise of its rights and performance by it of its obligations under the Finance Documents and the validity and enforceability of those documents.
- 6 **(Insolvency)** No Insolvency Event has occurred in respect of an Obligor.
- 7 **(No default)**
 - (a) No Potential Event of Default has occurred as at Financial Close; and
 - (b) no Event of Default has occurred and is subsisting (or would result from the making of any drawdown) of which it is aware.
- 8 **(Pari passu ranking)** Subject to the Reservations and obligations mandatorily preferred by any law applying to companies generally, each of its payment obligations under each Finance Document rank at least pari passu with the claims of all its unsecured and unsubordinated creditors.
- 9 **(No proceedings pending or threatened)** To the best of its information, knowledge and belief after having made due inquiry, there is no current or pending litigation and no other litigation, arbitration, administrative proceedings or other actions outstanding or threatened in writing, which has a reasonable prospects of an adverse determination and which in any such case if adversely determined, would have a Material Adverse Effect (taking into account available funding and/or insurances available to meet such liability).
- 10 **(Ranking)** Subject to the Reservations, the Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or pari passu ranking Security other than Permitted Security.
- 11 **(Good title to assets)** It is the sole legal and beneficial owner of all of its Secured Property (and has authority to give security over that Secured Property as contemplated by the Transaction

Security Documents), and of all its other assets and property, unless it is a trustee (as disclosed to the Agent prior to the date it became an Obligor).

1.1 **(Shares):**

- (a) The shares of any wholly-owned member of the Group subject to a Security under a Finance Document constitutes all the share capital of the relevant Group member; the shares are fully paid and freely transferable; and no person (other than another Group member) has or is entitled to any option or other right to call for the issue of share capital of any member of the Group; and
- (b) The constitutional documents of companies who are wholly-owned members of the Group whose shares are subject to a Security do not (or, within 90 days of the acquisition of that company, will not) restrict or inhibit any transfer of those shares on creation or enforcement of the relevant Security.

12 **(Benefit)** It will receive reasonable commercial benefits from entering into the Finance Documents to which it is or is to be a party.

13 **(Immunity)** It does not, and nor do any of its assets, enjoy immunity from suit or execution.

14 **(Compliance with law)** It has not breached any law (including any environmental law and the Corporations Act) binding on it or any of its assets which breach would have a Material Adverse Effect.

15 **(Trust)** It does not enter into any Finance Document or hold any property (except as expressly contemplated by this Agreement) as trustee.

All representations and warranties are made on the date of the Facility Agreement and at Financial Close.

Schedule 3 – Undertakings

All undertakings will apply to Obligors only.

Part A: Information

Each Obligor must:

1. **(Senior Finance Documents)** deliver to Propco any material amendment to the definition of “Permitted Disposal”, “Permitted Finance Debt”, “Permitted Reorganisation”, “Permitted Security” or other definitions in the Propco Bridge Loan which originally replicated the definition from the Senior Facilities Agreement.
2. **(Defaults)** promptly notify Propco if it becomes aware of any subsisting Default.

Part B: Undertakings

Each Obligor must:

1. **(Commitment Deed)** from Financial Close, procure that Target complies with its obligations under the Commitment Deed and Umbrella Deed (if entered into).
2. **(Real Property Mortgages)** if the Propco Bridge Loan is not repaid in full within 2 Business Days of its first advance (“**Trigger Date**”), to procure that relevant Target Group member, before 5pm Sydney time on the Trigger Date, passes the resolutions and lodges the ASIC forms under s260B of the Corporations Act so as to be able to grant registrable real property mortgages over the relevant Sale Assets as part of the Transaction Security (after the expiry of the 14 day statutory waiting period) by the first calendar quarter end date occurring after Financial Close (or if earlier, no later than 3 Business Days after expiry of the 14 day statutory waiting period).
3. **(Scheme)**
 - (a) promptly on reasonable request, update PropCo as to the status of and progress with respect to, the Bid Documents;
 - (b) promptly provide PropCo with such explanation or details as it may reasonably request in connection with the scheme of arrangement.

Part C: Negative Undertakings

No Obligor may:

1. **(Finance Debt)** incur any Finance Debt other than Permitted Finance Debt;
2. **(Security Interest/negative pledge)** create or allow to exist a Security over; its assets other than as a Permitted Security
3. **(Disposal)** dispose of any interest in its assets other than pursuant to a Permitted Disposal;
4. **(Senior Facilities Agreement)** for as long as the balance outstanding under the Facility exceeds \$250 million, amend the Senior Facilities Agreement to:
 - (a) increase the total facility limit available to be drawn under the Senior Facilities Agreement, unless (i) those proceeds are applied to repay all or part of the Facility, or (ii) where the increase does not exceed 5% of the total facility limit applicable at the date of the Senior Facilities Agreement;
 - (b) increase the “Margin” by more than 50bps per annum above the levels applicable at Financial Close under the Senior Facilities Agreement (or an equivalent amount of increase in any fees which results in an increase in the secured debt under the Senior Facilities Agreement).

5. **(Dividend)** for as long as the balance outstanding under the Facility exceeds \$250 million, declare, make or pay any dividend or distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) to its members or on or in respect of its share or equity capital, redeem or repay any of its share or equity capital or repay any shareholder or subordinated debt owing by it (including Shareholder Subordinated Debt) other than the following:
- (a) by an Obligor to another Obligor;
 - (b) to fund, or enable the payment:
 - (i) by a holding company of any member of the Group or any Group member of any properly incurred administration and/or holding company fees, costs and expenses in order to maintain their existence (including, for example, head office, intellectual property and IT functions and costs, premises, filing, audit, accounting, reasonable directors fees, legal and other arm's length professional adviser fees, office expenses and employee remuneration); and
 - (ii) any project based advisory or consulting fees for transactions payable to the Sponsor or a Sponsor's Affiliate by a Group member, provided such fees are payable on no worse than arms length terms,
 - (a) in the case of sub-paragraph (i) up to an aggregate amount of A\$8 million per Financial Year and in the case of sub-paragraph (ii) above, no Default is subsisting or will immediately occur as a result of the Distribution being made;
 - (c) to the holding entities above Holdco for purposes of tax funding by that Group member as contemplated by a tax funding agreement or a tax sharing agreement permitted by the Facility Agreement
 - (d) to fund Permitted Share Plan Arrangements;
 - (e) to fund:
 - (i) any payment to any existing or departing manager, officer, employee of any Group member or unit trust scheme up to an amount to be agreed in any Financial Year; or
 - (ii) other costs associated with establishing, maintaining or winding up any management equity plan in an aggregate amount of up to an amount to be agreed in any Financial Year;
 - (f) to fund any withholding tax or income tax payable by a direct or indirect shareholder of Holdco on any preferred equity, loan notes or other debt instrument;
 - (g) where this is approved by the Lender.

Schedule 4 - Events of Default & Review Event

Events of Default

- 1 **(Non-payment)** An Obligor does not pay on the due date any amount payable pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless:
 - (a) such amount is an amount of principal or interest due under the Finance Documents and failure to pay is caused by administrative or technical error beyond the control of the Obligors, and payment is made within 3 Business Days of its due date; or
 - (b) such amount is any other amount due under the Finance Documents (other than principal or interest), and such payment is made within 5 Business Days of its due date.
- 2 **(Other obligations)** Where:
 - (a) An Obligor does not comply with any provision of the Finance Documents (other than Non Payment) or with any condition of any waiver or consent by a Finance Party under or in connection with any Finance Document.
 - (b) No Event of Default under paragraph (a) above will occur if any other failure to comply is capable of remedy and is remedied within 10 Business Days of Propco giving notice to the Company of the failure to comply.
- 3 **(Misrepresentation)**
 - (a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.
 - (b) No Event of Default under paragraph (a) above will occur if such incorrect or misleading representation or statement made or deemed to be made or other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is capable of remedy and is remedied within 20 Business Days of Propco giving notice to the Company.
- 4 **(Cross default)** If:
 - (a) Any Finance Debt of any Obligor is not paid when due (after taking into account any originally applicable grace period).
 - (b) Any Finance Debt of any Obligor is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default or review event (however described).
 - (c) An Event of Default occurs under a Senior Finance Document.
 - (d) No Event of Default will occur under this provision if the aggregate amount of Finance Debt falling within paragraphs (a) to (b) above is less than A\$35 million.
- 5 **(Insolvency Event)** If:
 - (a) an Obligor is or is presumed or deemed to be unable or admits inability to pay its debts as they fall due, suspends making payments on any of its debts.
 - (b) a moratorium is declared in respect of any indebtedness of any Obligor.

- 6 **(Insolvency Proceedings)** Any corporate action, legal proceedings or other procedure or step is taken in relation to:
- (a) the suspension of payments, a moratorium of any indebtedness, winding up, dissolution, administration or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise) of any Obligor, except (A) an application made to a court for the purposes of winding up such a person which is disputed by an Obligor acting diligently and in good faith and dismissed within 20 Business Days (B) the application is frivolous or vexatious or (C) by way of a Permitted Reorganisation;
 - (b) a composition, assignment or arrangement with any creditor of any Obligor;
 - (c) the appointment of a liquidator, receiver, administrator, administrative receiver, compulsory manager or other similar officer in respect of any Obligor or any of its assets except (A) an application made to a court for the purposes of appointing such a person which is disputed by an Obligor acting diligently and in good faith and dismissed within 20 Business Days or (B) the application is frivolous or vexatious; or
 - (d) enforcement of any Security securing an amount of more than A\$35 million over any assets of any Obligor,
- or any analogous event occurs in any jurisdiction.
- 7 **(Creditor's process)** Any expropriation, attachment, sequestration, distress or execution or any analogous process in any jurisdiction affects any asset or assets of an Obligor having an aggregate value of A\$35 million and is not discharged within 20 Business Days.
- 8 **(Compulsory acquisition)** All or a material part of the Secured Property secured under the Finance Documents is resumed or compulsorily acquired by a Government Agency where (taking into account the compensation received by the Group for the acquisition) this would have a Material Adverse Effect.
- 9 **(Unlawfulness)** Subject to the Reservations, it is or becomes unlawful for an Obligor to perform any of its obligations under the Finance Documents or any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective, and in each case, this is materially adverse to the interests of the Finance Parties under the Finance Documents.
- 10 **(Repudiation)** An Obligor repudiates or rescinds a Finance Document or any of the Transaction Security or evidences an intention to repudiate or rescind a Finance Document or any Transaction Security.
- 11 **(Vitiation of Finance Documents)** Subject to the Reservations, a provision of a Finance Document is or becomes or is claimed by a party other than a Finance Party, to be wholly or partly invalid, void, voidable or unenforceable in any material respect, and the cessation of enforceability individually or cumulatively materially adversely affects the interest of the Finance Parties under the Finance Documents.
- 12 **(Cessation of business)** The Group ceases to carry on all or a substantial part of its business.
- 13 **(Judgment):** A judgment in an amount exceeding A\$35 million is obtained against an Obligor and is not the subject of an appeal, and is not otherwise set aside or satisfied by the time allowed by law.
- 14 **(Change of Control):** a Change of Control of the Senior Borrower occurs.

Schedule 5 – Agreed Security Principles

1 Agreed Security Principles

This Schedule sets out the agreed principles in respect of the guarantees and security (other than the real property mortgages contemplated under Schedule 3 Part B item 2) to be granted in respect of the Facilities (the **Agreed Security Principles**).

- (a) Where consent of a third party is required before an Obligor may grant security over certain assets and/or rights under a relevant lease, licence or contract, or it will be a breach of, or termination event under, the relevant lease, licence or contract to grant the security, the secured property shall exclude such asset and rights, with no requirement to seek such consent except in the case of the hospital leases, in which case paragraph 3 applies.
- (b) The Parties recognise that there may be certain legal and practical difficulties in obtaining effective guarantees and security from members of the Group. In particular:
 - (i) general statutory limitations, financial assistance, corporate benefit, regulatory approvals, fraudulent preference, “thin capitalisation” rules, tax restrictions, retention of title claims and similar principles may limit or delay the ability of a Group member to provide a guarantee or security or may require that the guarantee or security be limited as to amount or otherwise, and if so the same shall be limited or delayed accordingly, provided that the Company has used reasonable endeavours to overcome the limitation;
 - (ii) a key factor in determining whether a guarantee or security is not to be taken is whether the Group can demonstrate to the satisfaction of the Agent (such Agent to act reasonably in good faith when approving or disapproving any proposal made by the Company) that the applicable cost to the Group (including, without limitation, adverse effects on interest deductibility, income taxes and stamp duty, out-of-pocket expenses, notarisation and registration fees and taxes) is disproportionate to the benefit to the Finance Parties of obtaining such guarantee or security;
 - (iii) the maximum granted or secured amount may be limited to minimise stamp duty, notarisation, registration or other applicable fees, taxes and duties where the Group can demonstrate to the satisfaction of the Agent (such Agent to act reasonably in good faith when approving or disapproving any proposal made by the Company) that the benefit of increasing the granted or secured amount is disproportionate to the level of such fee, taxes and duties;
 - (iv) where there is material incremental cost involved in creating security over all assets owned by an Obligor in a particular category (e.g. real estate), only those assets in that category which the Agent considers (acting reasonably in good faith) to be material shall be subject to security;
 - (v) it is acknowledged that in some jurisdictions it may be legally impossible or impracticable to create security over certain categories of assets in which event security will not be taken over such assets;
 - (vi) Group members will not be required to give guarantees or enter into security documents if (or to the extent) it is not within the legal capacity of the relevant Group member or if the same would conflict with the fiduciary duties of the directors of those members of the Group or contravene any legal prohibition or regulatory condition or would have the potential to result in (or result in a material risk of) personal, civil or criminal liability on the part of any officer of any member of the Group, provided that the relevant Group member shall use reasonable endeavours to overcome any such obstacle;
 - (vii) to the extent possible, all security shall be given in favour of the Security Trustee and not the Finance Parties individually; “Parallel debt”, joint and several

creditorship or other equivalent provisions will be used where necessary and such provisions will be contained in the STID and not the individual security documents unless required under local laws;

- (viii) to the extent possible, there should be no action required to be taken and no costs incurred in relation to the guarantees or security when any Lender transfers any of its participation under any Finance Document to a new Lender.

Without prejudice to the other provisions of this Schedule, subparagraphs (ii), (iii) and (iv) shall not apply to secured property located in Australia and New Zealand of entities incorporated in those same jurisdictions.

- (c) No Transaction Security will be taken over the shares of Holdco.

2 Terms of Transaction Security Documents

The following principles will be reflected in the terms of any Transaction Security taken as part of this transaction:

- (a) the Transaction Security will be governed by the laws of the jurisdiction in which the majority of assets being secured are located. In particular, for the shares in a person not incorporated in Australia, no separate foreign law share security will be required unless that person is an Obligor or is the holding company of an Obligor, unless the Majority Lenders otherwise consent;
- (b) the Transaction Security will not be enforceable unless an Event of Default is subsisting ("**Enforcement Event**");
- (c) the Transaction Security Documents should only operate to create security rather than to impose new commercial obligations or prohibit or impose conditions on transactions which are permitted under the Facility Agreement. The Transaction Security Documents should not contain any additional representations, undertakings or indemnities unless they relate to the creation or perfection of the security and are required by law, and are no more onerous than any equivalent representation or undertaking in the Facility Agreement;
- (d) in respect of a security over shares and intra-group receivables, unless an Event of Default is subsisting, the applicable Obligor shall be permitted to retain and to exercise voting rights to any shares over which it has granted security and the applicable Obligor should be permitted to receive and pay dividends upstream on pledged shares and intra-group receivables and retain the proceeds and/or make the proceeds available to the Company and its Subsidiaries to the extent permitted under the Finance Documents;
- (e) the Finance Parties should only be able to exercise any power of attorney granted to them under the Transaction Security Documents if the security has become enforceable;
- (f) if an Obligor grants security over the shares in its wholly-owned Subsidiary, the constitution of that Subsidiary shall, provide (or be amended within 90 days of the acquisition (or establishment) of that Subsidiary of the Group to provide, or in the case of the Target, 5 Business Days of the Acquisition), that the directors have no right to refuse to register a transfer of shares pursuant to the enforcement of that Security;
- (g) any title documents, including share certificate and blank share transfer forms, will be required to be provided within 90 days of such assets being issued or acquired (as applicable);
- (h) where it is possible to charge, mortgage or grant a security interest over all or a category of the assets (including any freehold or leasehold titles) of an Obligor (over which security can be given in accordance with the Agreed Security Principles) by a single charging, mortgaging or general document, all such assets shall be so charged or secured; and

- (i) other than the real property mortgages contemplated under Schedule 3 Part B item 2, registrable mortgages will only be required to be granted by an Obligor over freehold real property owned by that Obligor which has a market value greater than A\$35,000,000 and registrable mortgages will only be required over registered leasehold property the subject of the Propco Sale & Leaseback or a Site Sale & Leaseback.

3 Landlord consent deed requirements

Customary landlord consent deeds will be entered into in connection with the Propco Sale & Leaseback and any Site Sale & Leaseback with the landlord, its financiers' representative, the Senior Borrower / tenant Obligor and the Security Trustee which reflect the following principles:

- (a) **(Consent to Security)** The Lessor will consent to the creation of the Lessee Security.
- (b) **(Acknowledgements relating to Security):** The Lessor will acknowledge that:
 - (i) it has received copies of the Lessee Security Documents;
 - (ii) the entry into of the Lessee Security Documents, the creation of the Lessee Security and the exercise of any right or power under any Lessee Security Document, will not of itself contravene, breach or constitute an event of default (however so defined) under the Lease or entitle the Lessor to exercise any power (including termination) under the Lease; and
 - (iii) neither the Security Trustee (nor any receiver, manager, agent or attorney appointed under the Lessee Security Documents) will be liable or taken to have assumed liability for any obligation of the Lessee solely by creation of any Lessee Security Document.
- (c) **(Cure right)** The Security Trustee (and any receiver, manager, agent or attorney appointed under the Lessee Security Documents) will have the right but not the obligation to cure any breach or event of default (however so defined) under the Lease. The Lessor will agree not to exercise any right (including any right to terminate the Lease) in respect of any breach or event of default (however so defined) under the Lease unless:
 - (i) a copy of any notice of breach or default (however so defined) under the Lease has given to the Lessee (**Default Notice**), has also been given to the Security Trustee;
 - (ii) the breach or default (however so defined) has not been remedied or its effect overcome by the Lessee or the Security Trustee (or any receiver, manager, agent or attorney appointed under the Lessee Security Documents) within an agreed cure period. No additional cure period will be given to Senior Lenders for payment defaults under the Lease if they are provided with the Default Notice at the same time it is provided to the Lessee, however, if the Senior Lenders are not provided with the Default Notice on such date, the cure period will be extended by the amount of time that elapsed between the provision of the Default Notice to the Lessee and provision of the Default Notice to the Senior Lenders. For a breach of an Essential Term (as defined in the Lease) which has not been remedied by the Lessee or waived by the Lessor within the applicable cure period under the Lease, then the Lessor must (if it proposes to terminate the Lease pursuant to that breach) give a written notice of intention to terminate the Lease to the Security Trustee ("**Lessor's Notice**") following which:
 - (A) the Enforcing Party will have an additional cure period of 10 Business Days after receipt of the Lessor's Notice (**EP Cure Period**); and:
 - (B) if the Security Trustee requests, the Lessor and the Security Trustee must meet as soon as reasonably practicable (but in any case, within the EP Cure Period) to consult in good faith in relation to the Security Trustee's plan to remedy or overcome the effects of the breach.

- (iii) If the Security Trustee or an Enforcing Party has not remedied the breach by the expiry of the EP Cure Period, the Lessor may terminate the Lease. For breaches or defaults not capable of remedy, the Lessor's Notice must include a claim for reasonable monetary compensation having regard to the nature and extent of the breach or default. Payment of the amount claimed by the Lessee or the Security Trustee within the EP Cure Period will be deemed to have cured the relevant breach or default.

The Lessee will agree to provide to the Security Trustee a copy of any notice of breach or default (however so defined) given to it under the Lease immediately upon receipt from the Lessor.

The Lessor will also agree to provide written answers to reasonable questions, in order to allow the Security Trustee to understand the nature or potential consequence of, and potential steps to remedy, any such breach or default.

- (d) **(Dealing with Lease)** The Security Trustee (or any receiver, manager, agent or attorney, appointed under the Lessee Security Documents) will be permitted to transfer, assign or otherwise deal with the Lessee's rights under and interest in the lease subject to complying with the applicable assignment provisions of the Lease.
- (e) **(Warranties)** The parties will provide customary representations and warranties, including as to the due execution and enforceability of the consent deed. The Lessee will give customary representations and warranties as to the validity and enforceability of the Lease.
- (f) **(Amendments and transfer)** The Lessee and Lessor will agree not to:
 - (i) vary or amend the Lease in any material way; or
 - (ii) rescind, surrender, transfer or assign the Lease,

in each case, without the Security Trustee's consent. The Security Trustee will not withhold its consent to an assignment by the Lessor if the proposed assignee enters into a consent deed on substantially the same terms as the existing consent deed.]

For any leased hospital site not subject to the Propco Sale & Leaseback or a Site Sale & Leaseback, the relevant Obligor shall use commercially reasonable endeavours to obtain a landlord consent deed on substantially the terms set out in the preceding paragraphs:

- (a) for any hospital lease in place as at Financial Close, for 180 days from Financial Close; or
- (b) for any hospital lease entered into after Financial Close, prior to entry into such lease.

No Obligor shall be required to act to its commercial detriment in seeking such consent (including, without limitation, an Obligor should not be required to pay any fee (other than legal or professional adviser costs and expenses) or other material amount to a counterparty, or to make any material amendment to a contract or arrangement in order to obtain such consent deed).

4 **Tenant consent deed requirements**

Customary tenant consent deeds will be entered into in connection with the Propco Sale & Leaseback and any Site Sale & Leaseback with the Senior Borrower / tenant, the Senior Lenders' representative, PropCo / landlord, its senior financier's representative and the Security Trustee.

Schedule 6 – Intercreditor Principles

1. All Security will be held by a security trustee on trust for the Bidco Banks and Propco (the **Senior Creditors**).
2. Enforcement of the Security
 - (a) If an event of default (howsoever described) occurs and the Senior Creditors do not want to waive that Event of Default, the Senior Creditors must give notice to the Security Trustee of the Event of Default.
 - (b) There is then a standstill period during which no Senior Creditor can accelerate their debt or enforce the security of:
 - (i) 10 business days, if such event of default relates to a failure to pay, insolvency of an Obligor, vitiation of a finance document, or breach of its undertakings under Parts B or C of Schedule 3 of the Propco Bridge Loan term sheet (other than item 3 of Part B) or where there is an equivalent of such undertakings in the Senior Facilities Agreement, such undertakings (**Fundamental Default**); or
 - (ii) 45 days, if such event of default is of a type not described in sub-paragraph (i) above (**Other Default**),

During that time, the Security Trustee will convene a meeting of the Senior Creditors (and additional meetings as reasonably requested by Bidco Banks or Propco).

- (c) If, after the expiry of the relevant period referred to in paragraph (b) above, there is no consensus on the way forward, the Bidco Banks or Propco can accelerate its own facilities. Upon doing so, it must promptly give written notice to the Security Trustee ("**Acceleration Notice**").
 - (d) The Security Trustee must give a copy of that Acceleration Notice to all of the Senior Creditors.
 - (e) Upon being so instructed by the Majority Senior Creditors (being Senior Creditors with at least 66⅔% of all exposures under the Senior Facilities and the Propco Loan), the Security Trustee must commence enforcement action.
3. Enforcement proceeds will be applied in the following order:
 - (a) first, the Bidco Banks and Propco will receive such amounts necessary as to repay the entirety of the debt owing to each of them. If the amount of the Enforcement Proceeds is insufficient to pay the entirety of both the total debt owing to both the Bidco Banks and Propco, then it will be split in the following proportions:

(i) Bidco Banks (via the Agent) receive: $\frac{\text{Bidco debt}}{\text{Total Debt}}$ %; and

(ii) Propco receives: $\frac{\text{Propco debt}}{\text{Total Debt}}$ %

where $[\text{Day 1}] \text{ Bidco debt} + [\text{Day 1}] \text{ Propco debt} = \text{Total Debt}$. For any Propco, $\text{Propco Debt} = 100\%$ of Propco Loan, $\text{Propco Equity} = \text{Nil}$.

- (b) secondly, if there are excess proceeds after (a), the Bidco shareholders and the Propco shareholders shall receive those proceeds in the following proportions

(i) Bidco shareholders receive: $\frac{\text{Bidco equity}}{\text{Total equity}}$ %; and

(ii) Propco shareholders receive: $\frac{\text{Propco equity}}{\text{Total equity}}$ %

where $[\text{Day 1}] \text{ Bidco equity} + [\text{Day 1}] \text{ Propco equity} = \text{Total Equity}$.

$[\text{Day 1}] \text{ Total Debt} + [\text{Day 1}] \text{ Total equity} = \text{Purchase Price} + \text{Transaction Costs}$.

Schedule 7 – Definitions

“Acquisition” means the acquisition by the Company of all the issued capital in the Target.

“Acquisition Documents” means the:

- (a) Implementation Deed; and
- (b) the Disclosure Letter and Deed Poll (each as defined in the Implementation Deed).

“ANZ” has the meaning given to it in the Bilateral Deed.

“ANZ Facilities” has the meaning given to it in the Bilateral Deed.

“Bilateral Deed” means the bilateral deed entitled “Process, Voting Commitment and Exclusivity Deed” dated on or around the date of the Propco Bridge Loan Commitment Letter between NorthWest Healthcare Properties Real Estate Investment Trust and the Senior Borrower.

“Business Day” means a day (other than a Saturday or Sunday) on which banks are open for general business in Sydney and Melbourne.

“Certain Funds Utilisation” means the drawdown made or to be made under the Facility during the Certain Funds Period.

“Change of Control” has the meaning given to it in the Rider.

“Commitment Deed” means the commitment deed dated on or about the date of the Propco Bridge Loan Commitment Letter between NWH Australia Assetco Pty Ltd as trustee of the NWH Australia Asset Trust, NorthWest Healthcare Properties Real Estate Investment Trust and the Target.

“Default” means an Event of Default or any event or circumstance specified in Schedule 4 (Events of Default) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

“Finance Debt” means any indebtedness for or in respect of:

- (a) moneys borrowed;
- (b) any amount raised under any acceptance credit, bill acceptance or bill endorsement facility;
- (c) any amount raised pursuant to any note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument;
- (d) the amount of any liability arises in respect of any lease or hire purchase contract, which would, under accounting standards, be treated as a finance or capital lease;
- (e) receivables sold or discounted (except any replacement of that facility or any other receivables to the extent they are sold on a non-recourse basis or where recourse is limited to customary warranties, indemnities or servicing or like obligations);
- (f) any redeemable shares where the holder has the right, or the right in certain conditions, to require redemption prior to the date falling six months after the final maturity date;

- (g) any amount raised under any other transaction (including any forward sale or purchase agreement) having the commercial effect of and accounted for as a borrowing;
 - (h) consideration for the acquisition of assets or services payable more than 180 days after acquisition other than where it is a deferred purchase consideration (whether or not contingent on any target or event);
 - (i) any hedge or derivative transaction;
 - (j) any counter-indemnity obligation in respect of a guarantee, indemnity, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution; and
 - (k) the amount of any liability in respect of any guarantee or indemnity for any of the items referred to in paragraphs (a) to (j) above,
- (b) but excludes any indebtedness in respect of any lease or hire purchase contract which, in accordance with accounting standards as at the date of this agreement are treated as an operating lease (and for avoidance of doubt, any change to this treatment pursuant to IFRS16 applying after 1 January 2019 will be ignored).

“Facility Agreement” means the facility agreement to be entered into between, among others, the Senior Borrower and the Lender under which the Propco Bridge Loan is to be provided.

“Finance Document” means:

- (a) the Facility Agreement;
- (b) the Transaction Security; and
- (c) any other related and ancillary documents.

“Financial Close” means the date on which conditions precedent to initial drawdown under the Facility are satisfied or waived, and first drawdown occurs.

“FIRB Approval” has the meaning given to it in the Bilateral Deed.

“Governmental Agency” means any government or any governmental, semi-governmental or judicial entity or authority. It also includes any self-regulatory organisation established under statute or any stock exchange.

“Healthscope Operations” means Healthscope Operations Pty Limited (ACN 006 405 152).

“Implementation Deed” means the implementation deed dated on or around the date of the Propco Bridge Commitment Letter between the Senior Borrower and Target.

“Implementation Deed MAC Condition” means the condition in clause 3.1(i) (‘No Material Adverse Change’) of the Implementation Deed which relates to a material adverse change of the Target Group.

“Initial Completion” means completion of the NWH Property Transaction (other than Settlement Date Delayed Settlement Properties).

“Lease” has the meaning given to that term in the Commitment Deed.

“Lessee” means the Relevant Healthscope Seller.

“Lessor” means OpCo.

“Material Adverse Effect” means a material adverse effect on:

- (a) the consolidated business, assets or financial condition of the Group (taken as a whole);
- (b) the ability of the Obligors (taken as a whole) to perform their payment obligations under the Finance Documents or in Part B and Part C of Schedule 3 (Undertakings); or
- (c) subject to the Reservations, the validity or enforceability of the whole or any material part of any Finance Document or any material rights or remedies of any Finance Party under the Finance Documents.

"NWH Property Transaction" has the meaning given to that term in the Bilateral Deed.

"OpCo" has the meaning given to that term in the Commitment Deed.

"Permitted Disposal" has the meaning given to it in the Rider.

"Permitted Finance Debt" has the meaning given to it in the Rider.

"Permitted Reorganisation" has the meaning given to it in the Rider.

"Permitted Share Plan Arrangements" means, in relation to any arrangements with management of the Company:

- (a) any conversion, cancellation, redemption or reduction of the share capital of Holdco or buy-back of, or other acquisition of shares in Holdco (or loans made by Holdco to a shareholder conduit trust vehicle for the purpose of undertaking such transaction) which is made in accordance with the terms of the relevant management share plan up to an amount to be agreed to the extent of any net cash outflow;
- (b) any other acquisition of shares from a leaver under any management share plan;
- (c) any payment to leavers as required under any management share plans up to an amount to be agreed; or
- (d) any payment to meet the costs of maintaining and establishing the management share plan up to in aggregate amount to be agreed per Financial Year.

"Permitted Security" has the meaning given to it in the Rider.

Prescribed Occurrence means:

- (a) Healthscope Operations resolving that it be wound up;
- (b) a liquidator or provisional liquidator of Healthscope Operations being appointed;
- (c) a court making an order for the winding up of Healthscope Operations;
- (d) an administrator of Healthscope Operations being appointed under the Corporations Act;
- (e) Healthscope Operations executing a deed of company arrangement; or
- (f) a receiver, or a receiver and manager, being appointed in relation to Healthscope Operations.

"Property Trust" has the meaning given to that term in the Bilateral Deed.

"Relevant Healthscope Seller" has the meaning given to that term in the Commitment Deed.

"Relevant Price" has the meaning given to that term in the Commitment Deed.

"Reservations" means:

- (a) the requirements for stamping and registration;
- (b) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganization and other laws generally affecting the rights of creditors; and
- (c) the time barring of claims under the statutes of limitation defences of set-off or counterclaim, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of stamp duty may be void and defences of set-off or counterclaim.

"Rider" means the note entitled Rider to Schedule 7.

"Sale Asset" has the meaning given to that term in the Commitment Deed.

"Sale Contract" has the meaning given to that term in the Commitment Deed.

"Sale Date" means in relation to a Sale Contract, the date of settlement of the sale and purchase of the Sale Asset under that Sale Contract.

"Scheme Declined Delayed Settlement Properties" has the meaning given to it in the Bilateral Deed.

"Secured Property" means all of the assets of the Obligors which from time to time are the subject of the Transaction Securities.

"Security" means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement, notice or arrangement having a similar effect, including any "security interest" as defined in sections 12(1) or (2) of the PPSA, but does not include any "security interest" which is deemed to be a security interest only by virtue of section 12(3) of the PPSA if the security interest does not secure payment or performance of an obligation.

"Security Trust Deed" means the security trust deed to be entered into between, among others, the Senior Lenders, the Lender and the Security Trustee.

"Senior Facilities" means the senior syndicated bank debt facilities to be made available by the Senior Lenders to the Senior Borrower to fund the Acquisition.

"Senior Facilities Agreement or SFA" means the syndicated facility agreement dated on or about the date of the Loan Agreement, which provides for the Senior Facilities between among others, Senior Lenders and the Senior Borrower.

"Senior Finance Documents" means the Syndicated Facility Agreement and other Finance Documents (as defined therein) to be entered into by the Senior Borrower in connection with the Senior Facilities.

"Senior Lenders" means the lenders under the Senior Facilities.

"Settlement Date Delayed Settlement Property" has the meaning given to that term in the Bilateral Deed.

"Shareholder Subordinated Debt" means any amounts actually or contingently owing by the Holdco to any shareholder of Holdco (or any Affiliate of that shareholder) which is subordinated to the Facilities and other liabilities under the Finance Documents pursuant to a Subordination Deed.

"Step Up Contract" has the meaning given to that term in the Bilateral Deed.

"Subordination Deed" means any subordination deed or other agreement subordinating Finance Debt to the Facilities on terms satisfactory to Propco.

"Target" means Healthscope Limited.

"Target Group" means the Target and its Subsidiaries.

"Transaction Security" means the Security created or expressed to be created in favour of, or held for the benefit of, the Security Trustee pursuant to the Transaction Security Documents.

"Transaction Security Documents" means:

- (a) the Security Trust Deed; and
- (b) the general security agreement given by the Senior Borrower and Holdco in favour of the Security Trustee;
- (c) each other document entered into by any Obligor which is in form and substance satisfactory to the Agent and to the satisfaction of the Agent creates a Security over any of its assets in favour of, or for the benefit of, the Security Trustee in respect of all or any part of the obligations of the Obligors (with or without securing the obligations of other Obligors) under the Finance Documents.

"Umbrella Deed" has the meaning given to that term in the Commitment Deed.

"Utilisation Date" means the date of the first drawdown under the Facility.

Rider to Schedule 7

“Change of Control” means:

- (a) prior to an IPO, the Sponsor and its Affiliates (whether individually or together) collectively between them cease to (directly or indirectly):
 - (i) own or control at least 50.1% of the voting share capital in Holdco or the Senior Borrower;
 - (ii) have the power to appoint or remove the majority of the directors or other equivalent officers of Holdco or the Senior Borrower; or
 - (iii) have the power to otherwise “control” (for the purposes of Section 50AA of the Corporations Act) Holdco or the Senior Borrower; or
- (b) prior to, on or after an IPO, any person, a person and its Affiliates, or a group of persons acting in concert (other than the management of the Company, the Sponsor and its Affiliates collectively between them) (directly or indirectly):
 - (i) acquires more than 50% of the voting share capital of Holdco or the Senior Borrower;
 - (ii) has the power to appoint or remove the majority of the directors or other equivalent officers of Holdco or the Senior Borrower; or
 - (iii) has the power to otherwise “control” (for the purposes of Section 50AA of the Corporations Act) Holdco or the Senior Borrower.

“Permitted Disposal” means any sale, lease, licence, transfer or other disposal:

- (a) of assets made by any member of the Group in the ordinary course of business of the disposing entity on arms length terms;
- (b) of any asset to an Obligor provided that if the disposing Obligor had given Security under the Transaction Security Documents in respect of those assets, the acquiring Obligor must grant equivalent Security over the asset following the relevant disposal;
- (c) of an asset on arms length terms by an Obligor to a wholly-owned member of the Group; provided such disposal will not result in a breach of the Group Guarantor Test (as defined in the SFA) tested at the time of the disposal;
- (d) (i) of obsolete or redundant assets on arms length terms which are not required for the efficient operation of the business of the Group and (ii) of assets on arms length terms which the board has determined are non-performing, non-strategic, or not necessary in execution of the business plan for the Group;
- (e) of assets on arms length terms in exchange for comparable or better assets;
- (f) of cash equivalent investments for cash or in exchange for other cash equivalent investments, of cash in payment of assets and services acquired in the ordinary course of business or of cash by way of a loan that is a Permitted Loan (as defined in the SFA);
- (g) constituted by a licence of intellectual property rights, provided that if the disposal constitutes a disposal of an exclusive licence, the licence it is no longer necessary for the disposing Obligor’s business;
- (h) arising as a result of any Permitted Security, to any Permitted Joint Venture or in connection with a Permitted Reorganisation;
- (i) of any site by way of sale and leaseback on arms length terms provided that:

- (i) no Default subsists or will result from the sale and leaseback; and
- (ii) a landlord consent deed is entered into between the Obligor which will be the lessee under the new lease, the landlord, the landlord's financiers' representative (if required) and Security Trustee providing the Security Trustee with the rights described in paragraph 3 of Part A of Schedule 5,

(a **"Site Sale & Leaseback"**);

- (j) required by law or a Government Agency (including assets compulsorily acquired by any Government Agency);
- (k) the Pathco Disposal;
- (l) the Propco Sale & Leaseback and any disposal of a Delayed Settlement Property;
- (m) of ownership interests in, or assets of, an Excluded Subsidiary;
- (n) any disposals under or in connection with any receivables facility (including under the Receivables Purchase Facility or any replacement of that facility) or any other receivables to the extent in each case, they are sold on a non-recourse basis or where recourse is limited to customary warranties, indemnities or servicing or like obligations up to a maximum aggregate amount not exceeding A\$200 million at any time;
- (o) of any other assets on arms length terms where the disposal proceeds for the asset, when combined with the aggregate disposal proceeds of all other Permitted Disposals under this paragraph which have completed during that Financial Year, does not exceed A\$75 million; or
- (p) of any other assets approved by the Agent (acting on the instructions of the Majority Lenders).

"Permitted Finance Debt" means Finance Debt:

- (a) incurred in connection with the Existing Financing provided such Finance Debt is repaid in full from Financial Close funds flow;
- (b) incurred under the Finance Documents or the property bridge and/or portfolio loan documents with the Other Property Investor (as defined in the Bilateral Deed);
- (c) to the extent covered by any letter of credit, guarantee or indemnity issued under an Ancillary Facility;
- (d) constituting any Shareholder Subordinated Debt;
- (e) which is subordinated to the Facilities pursuant to a Subordination Deed;
- (f) arising under the definition of Permitted Loan (except under paragraph (e) of that definition), Permitted Guarantee (except under paragraph (f) of that definition) or as permitted by Schedule 3, Part D, paragraph 10 (*Hedging*);
- (g) of any person acquired by a member of the Group after the Financial Close which is incurred under arrangements in existence at the date of acquisition, but not incurred or increased or having its maturity date extended in contemplation of, or since, that acquisition, and outstanding only for a period of 90 days following the date of acquisition;
- (h) under finance or capital leases, provided that the aggregate capital value of all such items so leased under outstanding leases by members of the Group does not exceed A\$75 million at any time;
- (i) incurred pursuant to any Permitted Disposal under paragraphs (i) or (l) of that definition;

- (j) bilateral transactional banking facilities used in the ordinary course of business of the Group up to an aggregate amount of an amount to be agreed at any time;
- (k) any Finance Debt arising under any netting or set-off arrangement entered into between members of the Group in the ordinary course of their banking arrangements for the purpose of netting debit and credit balances of members of the Group (including any Ancillary Facility which is an overdraft comprising more than one account) or otherwise arising under cash pooling or cash management arrangements, provided that where owed by Obligors to members of the Group which are not Obligors, the principal amount concerned would be permitted pursuant to another applicable provision of this definition;
- (l) any arm's length deferred consideration in relation to a Permitted Acquisition;
- (m) any Finance Debt under insurance premium funding arrangements entered into by the Group for its insurance policies not exceeding A\$10 million at any time outstanding;
- (n) consisting of Treasury Transactions not prohibited by the Facility Agreement;
- (o) not permitted by the preceding paragraphs and the outstanding principal amount of which (when aggregated with the total principal amount of Finance Debt permitted under this paragraph does not exceed A\$75 million at any time;
- (p) the Senior Facilities and any Finance Debt incurred under any Finance Documents (as defined in the SFA); or
- (q) approved by the Agent (acting on the instructions of the Majority Lenders).

"Permitted Security" means:

- (a) any Security arising under the Finance Documents;
- (b) any Security arising by operation of law that arises in the ordinary course of business and not securing Finance Debt, and not as a result of any default or omission by any member of the Group so long as there is no default in the obligations secured, other than any default contested in good faith;
- (c) any netting or set-off arrangement entered into between members of the Group in the ordinary course of their banking arrangements for the purpose of netting debit balances of members of the Group (including any Ancillary Facility which is an overdraft comprising more than one account) or otherwise arising under cash pooling or cash management arrangements, provided that where owed by Obligors to members of the Group which are not Obligors, the principal amount concerned would be a Permitted Loan;
- (d) any payment or close out netting or set-off arrangement pursuant to any Treasury Transaction or foreign exchange transaction entered into by a member of the Group which constitutes Permitted Finance Debt, excluding any Security under a credit support arrangement;
- (e) any bankers' liens, right of set-off or other netting arrangement arising in respect of any transactional banking facilities in the ordinary course of its banking arrangements;
- (f) any Security over or affecting any asset acquired by a member of the Group after the date of the Facility Agreement if:
 - (i) it was not created in contemplation of the acquisition of that asset by a member of the Group;
 - (ii) the principal amount secured has not been increased in contemplation of or since the acquisition; and
 - (iii) it is removed or discharged within 90 days of the date of acquisition of such asset;

- (g) any Security over or affecting any asset of any entity which becomes a member of the Group after the Financial Close, where the Security is created prior to the date on which that company becomes a member of the Group if:
 - (i) it was not created in contemplation of that entity becoming a member of the Group;
 - (ii) the principal amount secured has not increased in contemplation of or since that entity becoming a member of the Group; and
 - (iii) it is removed or discharged within 90 days of that entity becoming a member of the Group;
- (h) any Security arising under any retention of title in connection with the acquisition of goods in the ordinary course of business;
- (i) any Security arising as a consequence of any finance lease, capital lease, hire purchase arrangement or any other purchase money security interest (as that term is defined in the PPSA) permitted under the definition of Permitted Finance Debt where the Security is only over the relevant asset (and its proceeds and any related insurance) or is otherwise subordinated in priority to the security on terms satisfactory to the Agent;
- (j) any lien:
 - (i) arising by operation of law in respect of Taxes so long as the debt it secures is paid when due or contested in good faith and appropriately provisioned; or
 - (ii) for money payable for work performed by suppliers, mechanics, workmen, repairmen or employees and, in each case, arising in the ordinary course of business either not yet due or being contested in good faith and appropriately provisioned;
- (k) any Security over cash deposits made in favour of landlords to secure performance under leases of a member of the Group with that landlord where required under the terms of that lease;
- (l) any cash collateral provided to secure an indemnity obligation in respect of a bank guarantee or letter of credit the principal amount of which would be Permitted Finance Debt;
- (m) any rights of set-off arising under commercial contracts entered into by members of the Group in the ordinary course of business;
- (n) any Security over the interest in, or assets of, a Permitted Joint Venture;
- (o) any Security in connection with the Existing Financing provided such Security is released within 30 days of Financial Close; or
- (p) any Security, the principal amount secured by which (when aggregated with the principal amount of any other Finance Debt which has the benefit of Security, other than as permitted above) does not exceed in aggregate A\$75 million at the time the Security is created; or
- (q) any Security approved by the Agent (acting on the instructions of the Majority Lenders).

This term sheet forms an annexure to the Process, Voting Commitment and Exclusivity Deed dated on or about 31 January 2019 between NorthWest Healthcare Properties REIT and Bidco (***Bilateral Deed***)

Strictly private and confidential

Project Vigour – Propco Portfolio Loan (Takeover) Term Sheet

Sponsor	As for Propco Bridge Loan.
Senior Borrower / Company	[#] <i>TBC if it will be the 1 Target borrower, not the individual freehold owning Target entities</i>
Guarantors / Security	As no financial assistance whitewash is required to be conducted, the Lenders will receive on Financial Close, subject to the Agreed Security Principles, security from the Senior Borrower, and requisite wholly-owned subsidiaries of the Senior Borrower as needed to comply with the minimum Guarantor Group coverage test. Schedule 5 sets out the Agreed Security Principles applicable to the security. Schedule 6 sets out the Intercreditor Principles applicable to the sharing of the security as between Propco and Bidco's Senior Lenders.
Lender or Propco	[#] <i>TBC if it will be a single Propco even if delayed settlement contract is with a Propco Sub</i>
Security Trustee	As for Propco Bridge Loan.
Facility	Bullet term loan facility.
Facility Limit	The Facility will be sized at an amount equal to the consideration for the Settlement Date Delayed Settlement Properties.
Currency	AUD
Availability Period	From the date of the Commitment Deed to and including the end of the Certain Funds Period (as defined in the PropCo Bridge Loan).
Purpose	Towards funding the payment of a distribution to the shareholders of Healthscope Limited at Financial Close (" HSO Distribution ").
Maturity Date	As for the Propco Bridge Loan – 90 days from Financial Close (unless extended by a further 90 days at the election of Propco, by providing no later than 11 Business Days' prior written notice).
Repayment at calendar quarter end date	As for the Propco Bridge Loan - The Senior Borrower must repay the Facility so that the aggregate outstanding principal balance is reduced to A\$250 million or less no later than the 10 th Business Day before the first calendar quarter end date occurring after Financial Close.
Interest	An amount equal to the sum of the base rent that would have been payable by the lessee of the Settlement Date Delayed Settlement Property pursuant to the lease for such Settlement Date Delayed Settlement Property as if the Lease had commenced on Financial Close. Interest shall be paid on each date on which rent would have been payable under the Leases and on the date on which any amount referable to a Settlement Date Delayed Settlement Property is prepaid or repaid.
Fees	None.
Default Interest	As for the Propco Bridge Loan - 2.0% p.a. in addition to the applicable Interest, on overdue sums only.

Voluntary Cancellation	As for the Propco Bridge Loan - The Senior Borrower may cancel all or part of the unutilised amount of the Facility on giving 2 Business Days' irrevocable, written notice
Repayment at maturity	As for the Propco Bridge Loan -The outstanding balance of the Facility must be repaid in full on the Maturity Date.
Voluntary Prepayment	As for the Propco Bridge Loan - The Senior Borrower may prepay all or part of the principal outstanding under the Facility on giving 2 business days' irrevocable, written notice without premium or penalty. Amounts repaid or prepaid under the Facility may not be redrawn.
Mandatory Prepayment for Post-Close Delayed Properties	If following Initial Completion, there are any Settlement Date Delayed Settlement Properties which Propco elects not to retain on an "all or nothing" basis (" Declined Properties "), then Propco may, within 10 Business Days' of Initial Completion, issue a repayment notice (which may be via email) to the Senior Borrower requiring that the Propco Bridge Loan be prepaid by the Declined Funded Amount within 11 Business Days of receipt of such notice (or to the extent any portion of the Propco Portfolio Loan was funded by Propco from the ANZ Facilities, such portion will be prepayable within such shorter period (being not less than 5 Business Days) prescribed for prepayment under the ANZ Facilities agreement. " Declined Funded Amount " means an amount specified by Propco not exceeding the consideration attributable to Declined Properties.
Mandatory Prepayment from Delayed Settlement Property Sale Proceeds	The Senior Borrower must immediately prepay the Facility in an amount equal to the sum of the Purchase Price for the relevant Settlement Date Delayed Settlement Properties once sold. Amounts owed to Propco may be set off by the consideration received by the Senior Borrower (or its subsidiary) from the sale of the Settlement Date Delayed Settlement Properties. This may occur via endorsement of promissory note(s) issued by Propco or its subsidiaries as consideration for the purchase of the Settlement Date Delayed Settlement Properties. [Note: Set-off/PNote mechanics to be confirmed]
Financial Covenants	None.
Conditions precedent to drawdown	Those set out in Schedule 1 only. For avoidance of doubt, there are no additional conditions precedent to drawdown other than those set out in Schedule 1 (ie no customary bank-style "no incorrect representation/no Default" conditions precedent as the basis for the Propco SLB transaction in the takeover scenario, is that Propco must fund a fixed amount – in the expected scenario, 100% of this are to purchase the Sale Assets, but in the contingency scenario where there are Settlement Date Delayed Settlement Properties, the funding still has to be provided but takes on the character of this loan.
Representations and Warranties	Refer Schedule 2.
Undertakings	Refer Schedule 3.
Events of Default	Refer Schedule 4.
Assignment	No party may transfer their rights under the Finance Documents without the consent of the other parties.
Documentation	All documentation will be in a form and substance satisfactory to the Senior Borrower and Propco. The Senior Borrower's counsel to prepare first draft of the Finance Documents.

Governing law and jurisdiction:	Victoria
Counsel for Senior Borrower	King & Wood Mallesons
Counsel for Lender	Ashurst

Schedule 1 – Conditions precedent

Part A: Conditions precedent to first drawdown in form and substance satisfactory to Propco

- 1 **(Verification certificates)** Verification Certificate signed by a director of each Obligor including customary attachments.
- 2 **(Finance Documents)** Duly executed counterparts of all Finance Documents required to be entered into on or before Financial Close.
- 3 **(Senior Debt)** Evidence (which may be by way of a director's certificate) that the Senior Facilities will, contemporaneously with Financial Close be, advanced to HSO.
- 4 **(Acquisition)** A certificate signed by a director of HSO confirming that:
 - (a) the Takeover has been declared or become unconditional;
 - (b) on Financial Close, Bidco will have a relevant interest (as defined in the Corporations Act 2001) in at least 50.1% of all the Target Shares;
 - (c) all material Authorisations required to complete the Acquisition have been obtained, and all conditions precedent to completion under the Acquisition Documents have been, or will on the drawing of the first Loan, be satisfied or waived, provided that there is no (i) waiver of the Implementation Deed MAC Condition, (ii) waiver of its rights under the Implementation Deed in respect of any Prescribed Occurrence, (iii) amendment to the definition of 'Material Adverse Change' (as defined in the Implementation Deed), (iv) waiver of its rights under clause 8.4(a)(1) of the Implementation Deed, where such waiver would be materially prejudicial to the Lender unless the Lender has provided its prior written consent, such consent not to be unreasonably withheld or delayed (provided further, in the case of any of (i), (ii) or (iii), the consent of the Lender is only required if the proceeds of the ANZ Facilities are to be used to fund the Propco Portfolio Loan, and ANZ has elected not to fund under the ANZ Facilities by reason of equivalent conditions precedent under the ANZ Facilities).
- 5 **(Legal opinions)** Customary capacity and enforceability legal opinions from counsel for Propco on the Obligors and the Finance Documents.
- 6 **(Drawdown notice)** the Lender has received a drawdown notice in respect of the Loan (which may be given on the same day as Financial Close).

Part B: Conditions subsequent to be satisfied within 5 Business Days after Financial Close in form previously agreed with Propco:

- 1 **(No breach of 2J.3 confirmation)** with respect to each of the Target Group members, a certificate signed by a director of the relevant entity, together with extracts of resolutions of the board of directors, confirming compliance with the requirements of section 260A of the Corporations Act.

Schedule 2 – Representations and Warranties

As for Propco Bridge Loan.

Schedule 3 – Undertakings

All undertakings will apply to Obligors only.

Part A: Information

Each Obligor must:

1. **(Defaults)** promptly notify Propco if it becomes aware of any subsisting Default.

Part B: Undertakings

- 1 **(Commitment Deed)** from Financial Close, comply with its obligations under the Commitment Deed and Delayed Settlement Property Contracts.
- 2 **(Real Property Mortgages)** if the Propco Portfolio Loan is not repaid in full within 2 Business Days of its first advance ("**Trigger Date**"), procure that relevant Target Group members grant registrable real property mortgages over the relevant Settlement Date Delayed Settlement Properties as part of the Transaction Security by the first calendar quarter end date occurring after Financial Close.

Part C: Negative Undertakings

As for Propco Bridge Loan, except that there will be:

- 1 a permission for the Obligors to make the HSO Distribution at Financial Close;
- 2 a permission to distribute the sale proceeds of any Delayed Settlement Property in order to repay the Facility.

Schedule 4 - Events of Default & Review Event

Events of Default

As for Propco Bridge Loan.

Schedule 5 – Agreed Security Principles

1 Terms of Transaction Security Documents

As for Propco Bridge Loan.

2 Landlord consent deed requirements

As for Propco Bridge Loan.

Schedule 6 – Intercreditor Principles

As for Propco Bridge Loan.

Schedule 7 – Definitions

As for Propco Bridge Loan except that:

- any reference to the “Senior Facilities” shall be a reference to the facilities made available to the Target (or a 100% subsidiary of Healthscope Limited)
- a reference to “Holdco” shall be a reference to the “Senior Borrower”
- the following additional definitions shall apply:

“Delayed Settlement Property Contract” has the meaning given to that term in the Bilateral Deed.

“HSO” means Healthscope Limited (ACN 144 840 639)

“Purchase Price” has the meaning given to that term in the Delayed Settlement Property Contract.

“Settlement Date Delayed Settlement Properties” has the meaning given to that term in the Bilateral Deed.

“Takeover” has the meaning given to that term in the Bilateral Deed.

“Target Shares” means fully paid ordinary shares in HSO.

CONFIDENTIALITY DEED

Parties	NWH Australia Assetco Pty Ltd (ACN 617 449 948) Level 19, 181 William Street, Melbourne VIC 3000, Australia Brookfield Capital (Australia) Pty Ltd (ACN 167 749 653) Level 22, 135 King Street, Sydney NSW 2000, Australia ("Recipient") ("Discloser")
Confidentiality	1 The Discloser is considering a potential transaction whereby the Discloser or an Affiliate would acquire up to 100% of the ordinary shares in Healthscope Limited (ACN 144 840 639) ("Healthscope") ("Share Transaction"). 2 The Recipient has requested the Discloser to provide it with information in connection with a potential transaction whereby the Recipient or an Affiliate would acquire directly or indirectly an interest in some or all of the freehold real property interests of Healthscope and its Affiliates ("Property Transaction"). 3 The Discloser has agreed to disclose confidential information to the Recipient on the terms set out in this document and solely to enable the parties to: (a) discuss and assess the commercial feasibility of the Property Transaction; and (b) negotiate the terms and conditions of the Property Transaction and any agreements or other documents relating to the Property Transaction, ("Purpose"). 4 The parties acknowledge and agree that they currently have no understanding or agreement (whether formal or informal) with each other in relation to the Share Transaction or the Property Transaction. 5 In consideration of the information being disclosed, the Recipient agrees to comply with the General terms scheduled to this document.
Dated	22 November 2018

We accept this confidentiality deed

EXECUTED by **BROOKFIELD
CAPITAL (AUSTRALIA) PTY LTD** in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by
authority of its directors:



.....
Signature of director

.....
SHANE ROSS

.....
Name of director (block letters)



.....
Signature of director

.....
LEN CHERSKY

.....
Name of director

EXECUTED by **NWH AUSTRALIA
ASSETCO PTY LTD** in accordance
with section 127(1) of the *Corporations
Act 2001* (Cth) by authority of its
directors:

.....
Signature of director

.....
Name of director (block letters)

.....
Signature of director/company
secretary*

.....
*delete whichever is not applicable

.....
Name of director/company secretary*
(block letters)

.....
*delete whichever is not applicable

We accept this confidentiality deed

**EXECUTED by BROOKFIELD
CAPITAL (AUSTRALIA) PTY LTD** in
accordance with section 127(1) of the
Corporations Act 2001 (Cth) by
authority of its directors:

.....
Signature of director

.....
Name of director (block letters)

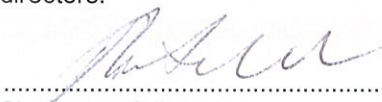
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Signature of director/company
secretary*

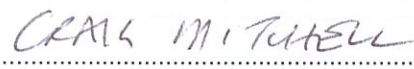
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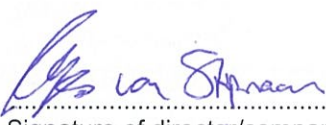
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Name of director/company secretary*
(block letters)

*delete whichever is not applicable

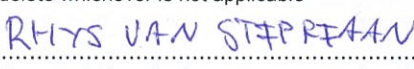
**EXECUTED by NWH AUSTRALIA
ASSETCO PTY LTD** in accordance
with section 127(1) of the *Corporations
Act 2001* (Cth) by authority of its
directors:


.....
Signature of director


.....
Name of director (block letters)


.....
Signature of ~~director~~/company
secretary*

*delete whichever is not applicable


.....
Name of ~~director~~/company secretary*
(block letters)

*delete whichever is not applicable

Schedule: General terms

What is confidential?

- 1 Unless it is of a type described in paragraph 2, the following constitutes “**Confidential Information**” for the purposes of this document:
 - (a) all information (in whatever form) which has been, or is, provided by or on behalf of the Discloser, its Affiliates and Associates to the Recipient and/or its Third Party Recipients in connection with the Purpose and/or the Share Transaction;
 - (b) the existence and content of this document;
 - (c) the Purpose;
 - (d) the existence, and the potential terms, conditions and structure, of the Share Transaction and the Property Transaction; and
 - (e) the fact that the parties have had, will have or are having discussions about this document, the Share Transaction and/or the Purpose and the content of those discussions.
- 2 The Recipient does not have to treat as confidential, and this document does not otherwise apply to, information which:
 - (a) is in or becomes part of the public domain other than as a result of a breach of this document or a breach of any other obligation of confidence owed to the Discloser or any of its Affiliates of which the Recipient is aware;
 - (b) becomes available to the Recipient or a Third Party Recipient from another person who is in possession of it lawfully and can disclose it to the Recipient or a Third Party Recipient on a non-confidential basis;
 - (c) was known to the Recipient or a Third Party Recipient at the time of disclosure, other than as a result of a breach of this document or a breach of any other obligation of confidence of which the Recipient is aware; or
 - (d) is independently developed by the Recipient or a Third Party Recipient without use or reference to the Confidential Information.
- 3 The Recipient agrees that the Discloser is under no obligation to disclose any information to any person and the Discloser has an absolute discretion as to what, if any, information it chooses to disclose.

No disclosure

- 4 The Recipient agrees not to disclose Confidential Information except in accordance with this document.
- 5 The Recipient may disclose Confidential Information on a confidential basis to:
 - (a) officers, members and employees of the Recipient and of its Affiliates who have a genuine need to know the Confidential Information for the Purpose;
 - (b) genuine professional advisers or consultants and insurance brokers of the Recipient and its Affiliates appointed for the Property Transaction and in pursuit of the Purpose (including genuine professional advisers for any financier referred to in paragraph 5(c) or equity partner referred to in paragraph 5(d)), provided that before any Confidential Information is disclosed to them such advisers, consultants and brokers are approved in writing by the Discloser;
 - (c) existing or prospective debt financiers of the Recipient and its Affiliates who propose to provide debt finance to the Recipient or its Affiliates for the Property Transaction, provided that before any Confidential Information is disclosed to them such financiers are approved in writing by the Discloser; and
 - (d) existing or prospective equity partners for the Property Transaction, but excluding BGH Capital Pty Ltd (ACN 617 386 982) (“**BGH**”), any member of the consortium that has been established by BGH in relation to Healthscope and any of their respective Affiliates, provided that before any Confidential Information is disclosed to them such partners are approved in writing by the Discloser. The parties acknowledge and agree that the approval of the Discloser will not be required where the partner is an Affiliate of the Recipient.
- 6 The Recipient and its Third Party Recipients may also disclose Confidential Information if required by law or the rules of any securities exchange or requested or required by any court, regulatory or supervisory authority or any government agency or with the Discloser’s prior written consent. Subject to any law or court order to the contrary, the Recipient must inform the Discloser as soon as practicable if it or any Third Party Recipient discloses any

Confidential Information by law or by any court, regulatory or supervisory authority or any government agency.

Use by Recipient and others

- 7 The Recipient must not, and must procure that each Third Party Recipient does not, use, or cause or permit to be used any Confidential Information:
- (a) except for the Purpose;
 - (b) to the current or potential disadvantage or detriment of the Discloser or any of its Affiliates (provided that this clause shall not prevent the Recipient using the Confidential Information for the purpose of negotiations as contemplated by paragraph (b) of the definition of Purpose); or
 - (c) without limiting paragraph 7(b), in connection with any actual, proposed or potential Competing Proposal.
- 8 The Recipient must procure that no Third Party Recipient discloses the Confidential Information to any person other than:
- (a) to the Discloser and its advisers on the Share Transaction, the Property Transaction or both;
 - (b) to the Recipient;
 - (c) to other Third Party Recipients on a confidential basis (and solely for the Purpose); and
 - (d) as may be required by law or the rules of any securities exchange or requested or required by any court, regulatory or supervisory authority or any government agency in accordance with paragraph 6.
- 9 This document does not give the Recipient or any Third Party Recipient (or any person to whom any of them disclose any Confidential Information) any right, title or interest in any Confidential Information.
- 10 The Recipient must take and procure that each Third Party Recipient takes, reasonable steps to secure the Confidential Information from unauthorised access or disclosure.
- 11 Promptly and in any event within 5 business days following a request from the Discloser, the Confidential Information must either (at the election of the Recipient) be returned by the Recipient and the Third Party Recipients to the Discloser, or the Recipient and the Third Party Recipients must destroy the Confidential Information, and the Recipient must certify in writing that it has been destroyed or returned (as applicable). Nothing in this paragraph 11 requires the return or destruction of:
- (a) any board or committee papers of the Recipient or any Third Party Recipient provided such papers contain a level of detail which is no greater than is customary for such documents;
 - (b) Confidential Information which is stored electronically pursuant to an existing routine data back-up exercise on the servers or back-up sources of the Recipient or a Third Party Recipient provided that the Confidential Information is deleted from local hard drives and no attempt is made to recover it from those servers or back-up sources by the Recipient or the Third Party Recipients other than as required by law or the rules of any securities exchange or as requested or required by any court, regulatory or supervisory authority or any government agency or for genuine compliance or professional standards purposes relevant to the holder;
 - (c) Confidential Information which the Recipient or any Third Party Recipient is required by applicable law or regulation to retain or is required to retain in order not to prejudice coverage under any applicable insurance policy; or
 - (d) documents that are created by any legal advisers of the Recipient or any Third Party Recipient that are reasonably necessary to support any advice given to the Recipient or which are protected by legal professional privilege.

Any Confidential Information retained under the exceptions above must continue to be held in accordance with this document and may not be used for any purpose except as expressly noted above. This is a continuing obligation which survives termination of this document.

Breach

- 12 The Recipient must:
- (a) notify the Discloser of any threatened, suspected or actual breach of this document that comes to its attention or to the attention of any Third Party Recipient;
 - (b) provide the Discloser and its Affiliates with all assistance reasonably required by them to prevent or limit, or otherwise take any action (including bringing legal proceedings) in relation to, any threatened, suspected or actual breach of this document; and

- (c) take any action, including bringing legal proceedings, reasonably requested by the Discloser in relation to, any threatened, suspected or actual breach of this document.
-

Insider trading

- 13 The Recipient acknowledges that the Confidential Information may include Inside Information. The Recipient will not, and will procure that its Affiliates and Associates do not, take any action that would breach Part 7.10, Division 3 of the Corporations Act.
-

No representations for accuracy of information

- 14 The Recipient acknowledges that:
- (a) none of the Discloser, its Affiliates or their advisers have made or makes any representation or warranty, express or implied, as to the accuracy, content or completeness of the Confidential Information (except to the extent expressly provided in the Definitive documentation);
 - (b) none of the Discloser, its Affiliates or their advisers is under any obligation to notify the Recipient, or provide any further information to the Recipient, if any of them becomes aware of any inaccuracy, incompleteness or change in the Confidential Information;
 - (c) it will make its own assessment of all Confidential Information in conjunction with its appointed advisers and satisfy itself as to the accuracy, content or completeness of that information, including any financial information, statements of opinion or forecasts and it will not rely on the Confidential Information when entering into any Definitive Documentation (except to the extent expressly provided in the Definitive Documentation); and
 - (d) nothing in the Confidential Information constitutes a recommendation, offer or agreement with respect to the Share Transaction or the Property Transaction.
- 15 To the maximum extent permitted by law and except to the extent expressly provided in the Definitive Documentation, neither the Discloser nor any of its Affiliates is liable in any way for, and the Recipient (for itself and each Third Party Recipient) unconditionally and irrevocably releases the Discloser and each of its Affiliates from any liability for any loss of any kind arising from any error, inaccuracy, incompleteness or other similar defect in the Confidential Information, or arising from the use, disclosure or reliance by any person on any of the Confidential Information, and whether or not the loss results from or arises out of or in connection with any negligence, misrepresentation or default of the Discloser or any of its Affiliates.
-

Term

- 16 Unless otherwise expressly provided to the contrary, the obligations in this document terminate on the earlier of:
- (a) the date that is 2 years from the date of this document; and
 - (b) the date when the Recipient (and/or one or more of its Affiliates) and the Discloser (and/or one or more of its Affiliates) executes Definitive Documentation or any other documentation containing equivalent confidentiality provisions.
-

General

- 17 This document may be varied only if both parties agree in writing. If a party does not exercise a right, power or remedy in connection with this document fully or at a given time they may still exercise it later. A party may give its approval or consent under this document conditionally or unconditionally or withhold its approval or consent in its absolute discretion unless this document expressly provides otherwise.
- 18 The Recipient agrees that if it breaches any of the obligations under this document (including as a result of an action or omission of any of its Affiliates or Associates or any Third Party Recipient) damages may not be an adequate remedy to the Discloser or its Affiliates. The Discloser or its Affiliates, as applicable, may apply to a court for an order preventing the Recipient, its Affiliates or Associates and/or any Third Party Recipient, as applicable, from breaching those obligations and/or taking that action or omitting to take that action and seek any other appropriate remedy, whether in law or equity. The rights, powers and remedies of the parties in connection with this document are in addition to other rights, powers and remedies given by law independently of this document.
- 19 The Recipient must comply, and must procure that its Affiliates and Associates comply, with all applicable laws relating to the storage, use and disclosure of the Confidential Information (including all applicable privacy laws and data protection laws) (by organisation) and with any

- applicable privacy code or policy which has been adopted by the Discloser or any of its Affiliates.
- 20 The Recipient agrees that the Discloser enters into this document for itself and for the benefit of its Affiliates and Associates and holds the benefit of this document on trust for its Affiliates and Associates. The Discloser may enforce this document on its behalf and on behalf of any one or more of its Affiliates and Associates.
- 21 The parties agree that the terms of access by the Recipient, its Affiliates, Associates and Third Party Recipients to Confidential Information contained in any data room or website provided or arranged by the Discloser or on the Discloser's behalf in connection with the Share Transaction, the Property Transaction or both will, to the extent of any conflict, always be superseded by the understandings and agreements contained in this document (notwithstanding that any such terms of access may be "clicked through" at any time after the date of this document).
- 22 In this document, the term:
- (a) "**Associate**" has the meaning given to it in section 12 of the Corporations Act;
 - (b) "**Affiliate**" means, in respect of a person ("**Primary Person**"), a person: (i) Controlled directly or indirectly by the Primary Person; (ii) Controlling directly or indirectly the Primary Person; (iii) who is Controlled, directly or indirectly, by a person or persons who Control the Primary Person; or (iv) directly or indirectly under the common Control of the Primary Person and another person or persons;
 - (c) "**Competing Proposal**" means any expression of interest, offer, or proposal by any person or its Associates (other than the Discloser and its Associates) to consider or enter into any transaction which is the same or similar in economic terms to the Share Transaction, the Property Transaction or both or any other transaction within paragraphs (i) to (iv) below, whether existing before, on or after the date of this document:
 - (i) any person (other than the Recipient or its Affiliates) acquiring directly or indirectly a Relevant Interest in ordinary shares in Healthscope;
 - (ii) any person acquiring directly or indirectly any interest in all or a substantial part of the business or assets of Healthscope or its Affiliates;
 - (iii) without limiting paragraph 22(c)(ii), any person acquiring directly or indirectly any interest in all or a some of the freehold real property interests of Healthscope and its Affiliates; or
 - (iv) any person acquiring directly or indirectly Control of, or merging or amalgamating with, Healthscope or any of its Affiliates, including by way of takeover bid, scheme of arrangement or capital reduction;
 - (d) "**Control**" means with respect to any person (other than an individual) the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person whether through the ownership of voting securities, by agreement or otherwise, and for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this document, a fund advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person, and, in respect of the Discloser, will also include any fund, account, client, limited partnership or other collective investment vehicle or other person which is managed or advised by the Discloser or an Affiliate of the Discloser;
 - (e) "**Corporations Act**" means the *Corporations Act 2001* (Cth);
 - (f) "**Definitive Documentation**" means the definitive documentation entered into in connection with the Property Transaction;
 - (g) "**Inside Information**" has the meaning given to it in section 1042A of the Corporations Act;
 - (h) "**Representative**" of a party means a director, officer, employee, agent, auditor, adviser, partner, consultant, joint venturer, contractor or sub-contractor of that party or any Affiliate or Associate of that party;
 - (i) "**Relevant Interest**" has the meaning given in the Corporations Act; and
 - (j) "**Third Party Recipient**" means each Affiliate of the Recipient and each person who receives any Confidential Information in accordance with paragraph 5.
- 23 The Recipient acknowledges that it enters into this document in its personal capacity and as trustee of the NWH Australia Asset Trust and is liable both personally and in its capacity as trustee.

- 24 This document may consist of a number of copies each signed by one or more parties to it. If so, the signed copies are treated as making up a single document and the date on which the last counterpart is executed is the date of the document.
- 25 The law in force in New South Wales, Australia governs this document. The parties submit to the exclusive jurisdiction of the courts of that place.



Side Deed

VIG Bidco Pty Limited

ACN 631 014 938

and

NorthWest Healthcare Properties Real Estate
Investment Trust

2019

CONTENTS

CLAUSE	PAGE
1. INTERPRETATION	2
1.1 Bilateral Deed	2
1.2 Definitions	2
1.3 Interpretation.....	2
2. AGREED AMOUNTS FOR PURPOSES OF BILATERAL DEED	2
2.1 Equity Funding Amount	2
2.2 Step Up Equity Funding Amount	2
2.3 Derivative Security Amount.....	2
2.4 FIRB Liquidated Damages Payment	2
2.5 Funding Liquidated Damages Payment	3
2.6 Funding Milestone Amount.....	3
2.7 Letter of Credit Amount.....	3
2.8 Liquidated Damages Payment	3
3. CONFIRMATION REGARDING EXISTING DEBT FACILITIES AND EQUITY FUNDING.....	3
4. ANZ FACILITIES	4
5. BREACH OF THIS DOCUMENT	4
6. GENERAL	5

THIS DEED is made on

2019

BETWEEN:

- (1) **VIG Bidco Pty Limited** ACN 631 014 938 (**Brookfield**); and
- (2) **NorthWest Healthcare Properties Real Estate Investment Trust (NWH)**.

RECITAL

The parties agree to enter into this deed as a supplement to the Process, Voting Commitment and Exclusivity Deed between Brookfield and NWH dated on or about the date of this document (**Bilateral Deed**).

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Bilateral Deed**

Capitalised terms used in this document have the same meaning given to those terms in the Bilateral Deed unless the context otherwise requires.

1.2 **Definitions**

Bilateral Deed has the meaning given in the Recital.

1.3 **Interpretation**

Clauses 1.2 to 1.4 of the Bilateral Deed are incorporated into this document.

2. **AGREED AMOUNTS FOR PURPOSES OF BILATERAL DEED**

2.1 **Equity Funding Amount**

The parties agree that the 'Equity Funding Amount' for the purposes of the Bilateral Deed is \$453,500,000 (four hundred and fifty three million, five hundred thousand dollars) less the proposed equity funded proportion of the consideration attributable to the Declined Delayed Settlement Properties (if clause 10.2 of the Bilateral Deed applies).

2.2 **Step Up Equity Funding Amount**

The parties agree that the 'Step Up Equity Funding Amount' for the purposes of the Bilateral Deed is \$453,500,000 (four hundred and fifty three million, five hundred thousand) (exclusive of GST).

2.3 **Derivative Security Amount**

The parties agree that the 'Derivative Security Amount' is \$162,000,000.

Subject to clause 10.1(e) of the Bilateral Deed, for the purposes of clause 10.1(d)(i) of the Bilateral Deed, Brookfield will agree to a fee of 1.5% of the Derivative Security Amount if offered by DB, provided that the Derivative Security complies with clause 10.2(d)(ii) of the Bilateral Deed.

2.4 **FIRB Liquidated Damages Payment**

The parties agree that the 'FIRB Liquidated Damages Payment' is an amount in cash of \$50,000,000 (fifty million dollars) (exclusive of GST) payable by NWH to Brookfield under clause 8.3 of the Bilateral Deed.

2.5 **Funding Liquidated Damages Payment**

The parties agree that the 'Funding Liquidated Damages Payment' for the purposes of the Bilateral Deed is an amount in cash of \$50,000,000 (fifty million dollars) (exclusive of GST) payable by NWH to Brookfield under clause 10.7 of the Bilateral Deed.

2.6 **Funding Milestone Amount**

The parties agree that the 'Funding Milestone Amount' for the purposes of the Bilateral Deed is \$291,800,000 (two hundred and ninety one million eight hundred thousand).

2.7 **Letter of Credit Amount**

The parties agree that the 'Letter of Credit Amount' for the purposes of the Bilateral Deed is \$50,000,000 (fifty million dollars) (exclusive of GST).

2.8 **Liquidated Damages Payment**

The parties agree that the 'Liquidated Damages Payment' means:

- (a) where there is no Step Up Event:
 - (i) unless paragraph (a)(ii) below applies, an amount in cash of \$250,000,000 (two hundred and fifty million dollars) (exclusive of GST); or
 - (ii) where there is a Successful Third Party Sale, an amount in cash of \$50,000,000 (fifty million dollars) (exclusive of GST); or
- (b) if a Step Up Event occurs and the parties agree to enter into a Step Up Commitment Deed or Step Up Contract (as applicable):
 - (i) unless paragraph (b)(ii) below applies, then an amount in cash of \$500,000,000 (five hundred million dollars) (exclusive of GST); or
 - (ii) where there is a Successful Third Party Sale, an amount in cash of \$100,000,000 (one hundred million dollars) (exclusive of GST),

payable by NWH to Brookfield under clause 8 of the Bilateral Deed.

3. **CONFIRMATION REGARDING EXISTING DEBT FACILITIES AND EQUITY FUNDING**

- (a) NWH undertakes to Brookfield that it will use its best endeavours:
 - (i) to enter into an underwriting agreement with one or more investment banks for a fully underwritten equity capital raise of not less than \$70,000,000 no later than 21 days after the date of this deed (**NWH Equity Raising**);
 - (ii) to complete the NWH Equity Raising such that the proceeds are received by NWH or its Affiliates by no later than 2 Business Days prior to the Scheme Meeting; and
 - (iii) to use those proceeds to part fund the Equity Funding Amount if the Equity Funding Letter of Credit is not provided instead.
- (b) NWH undertakes to Brookfield that it will:
 - (i) use its best endeavours to:

- (A) maintain the existing facility limit of each Existing NWH Debt Facility and the ANZ Facilities until the End Date;
 - (B) enforce its and its Affiliate's rights to draw down under each Existing NWH Debt Facility and the ANZ Facilities and use those proceeds to part satisfy the consideration under the Sale Contracts and the Step Up Contracts (if applicable) including by way of the PropCo Bridge Loan and/or the Portfolio Loan (if required) (except as those amounts are adjusted to account for the proportion of the sale price of any Declined Discretionary Delayed Settlement Properties which was to be funded by an Existing NWH Debt Facility or the ANZ Facilities); and
 - (C) not add any other conditionality to an Existing NWH Debt Facility or the ANZ Facilities which would prejudice NWH's or its Affiliate's ability to draw down and use the proceeds to part satisfy the consideration under the Sale Contracts and the Step Up Contracts (if applicable) including by way of the PropCo Bridge Loan and/or the Portfolio Loan (if required); and
- (ii) notify Brookfield of:
- (A) any material changes to the terms of an Existing NWH Debt Facility or the ANZ Facilities; and
 - (B) any disputes between NWH or its Affiliate and the relevant lender,
- in each case, which would have a detrimental impact on NWH's or its Affiliate's ability to draw down under, and use the proceeds of, an Existing NWH Debt Facility or the ANZ Facilities to part satisfy the consideration under the Sale Contracts and the Step Up Contracts (if applicable) including by way of the PropCo Bridge Loan and/or the Portfolio Loan (if required).

4. **ANZ FACILITIES**

NWH agrees to cooperate in good faith and take all reasonable steps so that Brookfield can seek commitments from ANZ that either:

- (a) ANZ will provide the facilities to Brookfield on substantially the same terms as those contained in the ANZ Facility Term Sheet; or
- (b) in relation to the following:
 - (i) that the benefit of the ANZ Facility Term Sheet is capable of assignment to Brookfield, or a member of the Brookfield Group;
 - (ii) that the facility agreement and related finance documents (including security documents) (**ANZ Facility Documentation**) for the ANZ Facilities are capable of assignment to Brookfield, or a member of the Brookfield Group; and
 - (iii) that the borrower under the ANZ Facilities is capable of being substituted for Brookfield, or a member of the Brookfield Group.

5. **BREACH OF THIS DOCUMENT**

The parties agree that in clauses 6.1(a), 8.2(a)(ii), 8.5(a), 8.5(b), 8.7(a) and 15(c) of the Bilateral Deed, a reference to "this deed" should be read as a reference to the Bilateral Deed and this document.

6. **GENERAL**

Clauses 14 and clauses 16 to 20 of the Bilateral Deed are incorporated into this document.

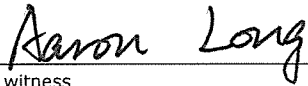
This document will terminate with effect from the date of termination of the Bilateral Deed.

EXECUTED as a deed.

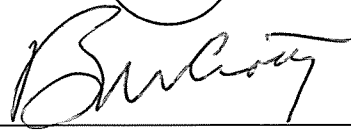
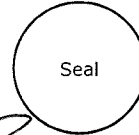
SIGNED, SEALED AND DELIVERED
by **NORTHWEST HEALTHCARE**
PROPERTIES REAL ESTATE
INVESTMENT TRUST in the presence
of:



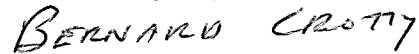
Signature of witness



Name of witness



Signature of authorised signatory



Name of authorised signatory

EXECUTED by **VIG BIDCO PTY
LIMITED:**



Signature of director

LEONARD CHERSKY

Name



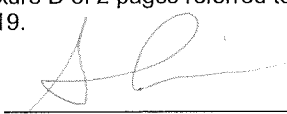
Signature of director/~~secretary~~

SOPHIA RIHANI

Name

Annexure D

This is Annexure D of 2 pages referred to in the Form 603 (Notice of initial substantial holder) signed by me and dated 28 February 2019.

Signed by: 

Print name: Sophia Zara Rihani

Date: 28 / 2 / 2019

-
- 1 NWH Australia Holdco Pty Ltd as trustee for the NWH Australia Hold Trust
 - 2 NWH Australia AssetCo Pty Ltd as trustee for the NWH Australia Asset Trust
 - 3 NorthWest Healthcare Australia RE Limited as responsible entity of the NorthWest Healthcare Properties Australia Real Estate Investment Trust
 - 4 Northwest Healthcare Australia Investments Pty Limited
 - 5 NorthWest Healthcare Properties management Pty Limited
 - 6 NorthWest Healthcare Management (Hurstville) Pty Ltd
 - 7 Divine Logistics Pty Ltd as trustee for the Divine Logistics Trust
 - 8 NorthWest Healthcare Custodian (Casey) Pty Ltd
 - 9 NorthWest Healthcare (ARCBS) Pty Limited
 - 10 NWI LP
 - 11 NHP Holdings Limited Partnership
 - 12 NWI Healthcare Properties LP
 - 13 NorthWest Healthcare Properties Corporation
 - 14 NWI Healthcare Properties LP
 - 15 NWI Gesundheitsimmobilien GmbH & Co KG
 - 16 NWI Management GmbH
 - 17 NWI Healthcare Properties LLC
 - 18 Northwest International Investimentos Imobiliar SA
 - 19 Northwest International II Investimentos Imobilair SA
 - 20 Fundo De Investimentos Imobiliario NorthWest Investimentos Fund I Imobiliarios Em Saude
 - 21 NorthWest Investimentos Em Saude Fund I Fundo de Investimento Mutlimercado
 - 22 NWI NZ Management Company Limited
 - 23 Trustee Executors Limited as trustee for the Vital Healthcare Property Trust
 - 24 NorthWest Healthcare Property Management Limited
 - 25 Australian Properties Limited
 - 26 NorthWest Healthcare Australia Property Proprietary Ltd as trustee for Vital Healthcare Australian property Trust
 - 27 Vital Healthcare Property Ltd

28	Vital Healthcare Investment Trust
29	Colma Services Ltd
30	Eastern Specialists Consulting Ltd
31	Future Revelation Limited (BVI)
32	NorthWest Healthcare Australia Acquisition Company Pty Limited
33	NWI Australian Management Company Pty Ltd
34	NWHA Investment Management Pty Ltd
35	NWHA Development Management Pty Ltd