

Deed of Variation of Lease: Women's Rest Centre, Lot 200, 108 Barrack Street, Merredin

Shire of Merredin

Merredin Community Resource Centre Inc



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Details

Parties

Shire of Merredin

of PO Box 42, Merredin, Western Australia 6415
(Lessor)

Merredin Community Resource Centre Inc

of 110 Barrack Street, Merredin, Western Australia 6415
(Lessee)

Background

- A. Pursuant to the Lease, the Lessor leased to the Lessee the Premises.
- B. The parties have agreed to vary the Lease to remove the progressive increase of Rent during the Further Term and to clarify the maintenance obligations of the parties.

Agreed terms

1. Definitions

1.1 Definitions

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

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

Lease means the Lease specified in **Item 1** of the Schedule;

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

Premises means the Premises more particularly described in **Item 2** of the Schedule; and

Schedule means the Schedule to this Deed.

1.2 Same meaning as Lease

Unless the contrary intention appears, words defined in the Lease have the same meaning when used in this Deed.

2. Variation of Lease

From the date of this Deed, the parties mutually covenant and agree that the Lease shall be varied by:

- (a) deleting the wording Item 5 of the Schedule and replacing it with the following wording:

“No rental applicable during the initial term.

During the Further Term, the rent is \$43.33 per month (\$520 per annum) payable monthly in advance.”

- (b) Inserting new special condition into Item 9(d) of the Schedule as follows:

“(d) Maintenance Schedule

(i) The Lessee covenants and agrees to comply with and be responsible for those obligations and items listed as the responsibility of the Lessee in the maintenance schedule annexed to this Lease as Appendix 1.

(ii) The Lessor covenants and agrees to comply with and be responsible for those obligations and items listed as the responsibility of the Lessor in the schedule annexed to this Lease as Appendix 1.

(iii) The Lessee and the Lessor agree that the provisions of the schedule annexed to this Lease as Appendix 1, will prevail over any contrary provision in this Lease.”

- (c) inserting the maintenance schedule annexed to this Deed as Annexure 1, as new Appendix 1 to the Lease.

3. Terms of Variation

Except as varied by this Deed, all terms and conditions contained or implied in the Lease continue to apply.

4. Severance

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

5. Costs

The Lessee shall pay the costs in relation to the preparation and execution of this Deed.

6. Interpretation

Unless expressed to the contrary:

- (a) words importing:
 - (i) the singular includes the plural;
 - (ii) the plural includes the singular; and
 - (iii) any gender includes each gender;
- (b) A reference to:
 - (i) a natural person includes a body corporate or local government; and
 - (ii) a body corporate or local government includes a natural person.
- (c) A reference to a professional body includes a successor to or substitute for that body.
- (d) A reference to a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
- (e) A reference to a statute, ordinance, code, regulation, award, town planning scheme or other law includes a regulation, local law, by-law, requisition, order or other statutory instruments under it and any amendments to re-enactments of or replacements of any of them from time to time in force;
- (f) A reference to a right includes a benefit, remedy, discretion, authority or power;
- (g) A reference to an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a misrepresentation or a breach of warranty;
- (h) Subject to any contrary provisions in this Deed a reference to this Deed or provisions or terms of this Deed or any other deed, agreement, instrument or contract include a reference to:
 - (i) both express and implied provisions and terms; and
 - (ii) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended.
- (i) A reference to writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
- (j) A reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them.
- (k) If a Party comprises two or more persons, the covenants and agreements on their part bind and must be observed and performed by them jointly and each of them severally and may be enforced against any one or more of them.

- (1) Except in the Schedule headings do not affect the interpretation of this Deed.

Schedule

Item 1: Lease

A lease between the Shire of Merredin as the “Lessor” and Merredin Community Resource Centre Inc as the “Lessee”, copy annexed hereto as **Annexure 2**.

Item 2: Premises

The premises as described in the Lease.

Signing page

EXECUTED on the _____ day of _____ 2021

The Common Seal of the Shire of Merredin
was hereto affixed in the presence of:

SIGNATURE OF PRESIDENT

(Print Full Name)

SIGNATURE OF CHIEF EXECUTIVE OFFICER

(Print Full Name)

THE COMMON SEAL of Merredin Community Resource Centre Inc was hereunto affixed pursuant to the constitution of Merredin Community Resource Centre Inc in the presence of each of the undersigned each of whom hereby declares by the execution of this document that he or she holds the office in Merredin Community Resource Centre Inc indicated under his or her name-

Office Holder Sign

Office Holder Sign

Name:

Name:

Address:

Address:

Office Held:

Office Held:

Annexure 1 – Maintenance Schedule (New Appendix 1)

LESSEE'S RESPONSIBILITIES

BUILDING MAINTENANCE

SCHEDULE

INTERNAL

The interior of the premises is to be always maintained in a clean and tidy condition at all times and, within the terms of the lease is to be kept free of dirty marks, cobwebs and vermin. The repair of any damage or other repairs not entirely attributable to fair wear and tear upon the premises rests solely with the lessee.

Windows

To be clean and operable.

Doors

To be clean, lockable and operable. Any door closers or other devices fitted should be maintained in a sound working condition.

Note: locks are not to be changed without written approval.

Ceilings

To be clean, free of cobwebs and cleaned of any temporary decoration. Penetrations for appliances such as air conditioning *vents* shall be kept clean and in sound operating condition.

Floors

To be clean and regularly maintained in accordance with the requirements of the type and surface.

Cupboards

To be regularly cleaned with all doors, latches, drawers and shelves being in a sound, clean and operable condition.

Sinks, Basins and Cisterns

To be maintained in a clean, sanitary and operable condition. Freeing of all blockages and repairs to fittings are the Lessee's responsibility.

Electrical Fittings

All electrical fittings such as power points, light switches, light fittings and 'EXIT' signs shall be maintained in a safe, clean and operable condition. The responsibility for the replacement of globes, fluorescent tubes and light fittings rests with the Lessee.

The installation of additional power points and/or other electrical works is the responsibility of the Lessee but only on approval of the Shire which shall not be unreasonably withheld.

Appliances

All appliances including Air Conditioning, Stoves, Refrigerators, Freezers, to be maintained in a sound operable condition and be serviced in accordance with manufacturer's standards/requirements.

Toilets and Showers

To be kept in a clean and operable condition at all times. All blockages to be cleared by the Lessee. All toilet paper, paper towels, urinal blocks and other consumables to be supplied by the Lessee.

Replacement and repair of fittings (roll dispensers, taps, shower heads) the responsibility of the Lessee. All walls and floor surfaces to be kept clean and undamaged.

Fire Appliances

To be maintained at Lessee's cost and checked for sound operation twice annually and/or in accordance with manufacturer's instructions.

EXTERNAL

The externalities of the building are to be kept in a clean and tidy condition free from cobwebs and litter.

Windows

To be clean and operable at all times.

Security Screens

To be clean and firmly fixed. Any cobwebs to be regularly removed.

Verandah

To be clean and free from cobwebs.

Doors

To be sound, clean, operable and lockable.

Note: locks are not to be changed without written approval.

Eaves

To be clean and free from cobwebs.

Wastewater disposal

Maintain in good working order wastewater pipes and fittings, toilets, sanitary appliances, drains, septic tanks and leach drains. Blockages are to be cleared where possible.

Light Fittings

To be kept clean and free from cobwebs. The responsibility for the replacement of globes, fluorescent tubes and light fittings rests with the Lessee.

Signs

Any approved signs to be kept in a safe condition and regularly maintained.

Surrounds

To be kept clean, tidy and free from litter and rubbish. Premises to be kept free of animals, birds, insects and the Lessee pay for the cost of any pest extermination which becomes necessary.

LESSOR'S RESPONSIBILITIES

BUILDING MAINTENANCE SCHEDULE

GENERAL

Major Structural Repairs

This relates to major maintenance and repairs to the structure of the building such as painting, roof/gutter/downpipe repairs and replacement, and any major structural damage to the general building structure not the cause of the Lessee.

Exterior of Building

Maintain the part of the premises that surrounds the building thereon in good condition.

Gutters and Downpipes

To be cleaned at regular intervals to remain free from debris. Gutters and downpipes are to be cleared periodically.

Fencing

Maintain in good repair all fencing surrounding the premises.

Vandalism Damage

Removal of graffiti, repair of vandalism damage generally.

Fixtures

All fixtures will be replaced/renewed as per the Shire of Merredin's Asset Management Plan and subject to budgeting.

Insurance

The Shire will maintain a building insurance policy for the initial term of the lease; however the Lessee is responsible for insuring all fixtures, fittings and items within the premises belonging to the Lessee.

Damage

DAMAGE IS TO BE REPORTED AS SOON AS POSSIBLE TO THE SHIRES EXECUTIVE MANAGER OF DEVELOPMENT SERVICES AND POLICE TO BE NOTIFIED WHERE APPLICABLE

Annexure 2 – Lease

SHIRE OF MERREDIN

AND

MERREDIN COMMUNITY RESOURCE CENTRE

FREEHOLD LEASE

**Women's Rest Centre
Lot 200, 108 Barrack Street
MERREDIN WA 6415**

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This lease is made on the first day of August 2016 (01/08/2016)

Shire of Merredin

of Cnr Barrack & King Streets, PO Box 42, Merredin, Western Australia
(Lessor)

and

MERREDIN COMMUNITY RESOURCE CENTRE
110 BARRACK STREET
MERREDIN WA 6415
of Western Australia
(Lessee)

Recitals

The Lessor has agreed to grant to the Lessee a lease of the Premises on the provisions of this Lease.

Operative Part

The Parties agree:

1 Definitions

In this Lease, unless otherwise required by the context or subject matter:

“**Alterations**” means any of the acts referred to in clause 11(1)(a) to (c).

“**Amounts Payable**” means the Rent and any other money payable by the Lessee under this Lease;

“**Authorised Person**” means:

- (a) an agent, employee, licensee or invitee of the Lessee; and
- (b) any person visiting the Premises with the express or implied consent of any person mentioned in **paragraph (a)**;

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

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

“**CPI**” means the Consumer Price Index (All Groups) Perth number published from time to time by the Australian Bureau of Statistics;

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

“**Further Term**” (if any) means the further term specified in **Item 3** of the Schedule;

“**Interest Rate**” means the rate at the time the payment falls due being 2% greater than the Lessor’s general overdraft rate on borrowings from its bankers on amounts not exceeding \$100,000.00;

“**Land**” means the land described at **Item 1** of the Schedule;

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

“**Lessee’s Covenants**” means the covenants, agreements and obligations set out or implied in this Lease or imposed by law to be performed and observed by any person other than the Lessor;

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

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

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

“**Permitted Purpose**” means the purpose set out in **Item 8** of the Schedule;

“**Premises**” means the premises described in **Item 1** of the Schedule;

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

“**Rent Period**” means each period from the Commencement Date or a Rent Review Date to the next Rent Review Date or Termination;

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

“**Term**” means the term of years specified in **Item 2** of the Schedule; and

“**Termination**” means the date of:

- (a) expiry of the Term or any Further Term by effluxion of time;

- (b) sooner determination of the Term or any Further Term; or
- (c) determination of any period of holding over.

2 Interpretation

In this Lease, unless expressed to the contrary:

- (1) Words importing:
 - (a) the singular include the plural;
 - (b) the plural include the singular; and
 - (c) any gender include each gender;
- (2) A reference to:
 - (a) a natural person includes a body corporate or local government;
 - (b) a body corporate or local government includes a natural person;
 - (c) a professional body includes a successor to or substitute for that body;
 - (d) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;
 - (e) a statute, includes an ordinance, code, regulation, award, town planning scheme, regulation, local law, by-law, requisition, order or other statutory instrument made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in for a right includes a benefit, remedy, discretion, authority or power;
 - (g) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;
 - (h) this Lease or provisions of this Lease or any other deed, agreement, instrument or contract includes a reference to:
 - (a) both express and implied provisions; and
 - (b) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;

- (i) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;
 - (j) any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to any one or more of them; and
 - (k) a subparagraph, paragraph, subclause, clause, Item, Schedule, Annexure or Appendix is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule, Annexure or Appendix of this Lease;
- (3) The covenants and obligations on the part of the Lessee not to do or omit to do any act or thing include:
- (a) covenants not to permit that act or thing to be done or omitted to be done by an Authorised Person; and
 - (b) a covenant to do everything necessary to ensure that that act or thing is not done or omitted to be done;
- (4) Except in the Schedule, headings do not affect the interpretation of this Lease; and
- (5) If a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

3 Grant of lease

- (a) The Lessor leases to the Lessee the Premises subject to all Encumbrances for the Term subject to:
 - (i) the payment of the Amounts Payable; and
 - (ii) the performance and observance of the Lessee's Covenants.
- (b) The Lessee accepts the Lease granted by the Lessor under this clause.

4 Quiet enjoyment

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

5 Rent and other payments

(1) Amounts to be Paid by Lessee

The Lessee covenants with the Lessor:

(a) Rent

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

(b) Outgoings

to pay to the Lessor or to such person as the Lessor may from time to time direct all of the outgoings or charges, assessed or incurred in respect of the Premises specified in **Item 6** of the Schedule.

(c) Interest

without affecting the rights, power and remedies of the Lessor under this Lease, to pay to the Lessor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

(d) Costs

(i) to pay to the Lessor on demand:

- (A) any statutory duty or tax payable on or in connection with this Lease;
- (B) all registration fees in connection with this Lease; and
- (C) all legal costs of and incidental to the instructions for the preparation and execution of this Lease.

(ii) to pay to the Lessor all costs, legal fees, disbursements and payments incurred by or for which the Lessor is liable in connection with or incidental to:

- (A) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Lease;
- (B) any breach of covenant by the Lessee or an Authorised Person;
- (C) the preparation and service of a notice under section 81 of the *Property Law Act 1969* requiring the Lessee to

remedy a breach even though forfeiture for the breach may be avoided in a manner other than by relief granted by a Court;

- (D) any work done at the Lessee's request; and
- (E) any action or proceedings arising out of or incidental to any matters referred to in **paragraph (d)** or any matter arising out of this Lease.

(2) Payment of Money

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

6 Accrual of amounts payable

Amounts Payable accrue on a daily basis.

7 Insurance

(1) Insurances to be Effected

The Lessor will effect and maintain the insurance policies specified in **Item 7** of the Schedule as the responsibility of the Lessor and the Lessee must effect and maintain with insurers approved by the Lessor, and with the Lessor's interest noted on the policy, any insurance policy specified as the responsibility of the Lessee in **Item 7** of the Schedule.

(2) Details and Receipts

In respect of any insurances required to be effected and maintained by the Lessee, the Lessee must:

- (a) on demand supply to the Lessor details of the insurance and give to the Lessor copies of certificates of currency;
- (b) promptly pay all premiums and produce to the Lessor each policy or certificate of currency and each receipt for premiums paid or each certificate of currency issued by the insurers approved by the Lessor; and
- (c) notify the Lessor immediately when a policy of insurance is cancelled.

(3) Not to Invalidate

The Lessee must:

- (a) not do or omit to do any act or thing or bring or keep anything on the Premises which might:
 - (i) render the insurance on the Premises or any adjoining premises void or voidable; or
 - (ii) cause the rate of a premium to be increased for the Premises or any adjoining premises;
- (b) pay any increase in the rate of a premium referred to in **paragraph (a)** on the demand of the Lessor;
- (c) pay any excess in regard to any identified in **Item 7** of the Schedule and
- (d) notify the Lessor when an event occurs which gives rise or might give rise to a claim under, or which could prejudice, a policy of insurance.

(4) Report

Each Party must report to the other promptly in writing and in an emergency verbally:

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

(5) Settlement of Claim

The Lessor may, but the Lessee may not without prior written consent of the Lessor, settle or compromise any claims under any policy of insurance required by **subclause (1)**.

(6) Lessor as Attorney

The Lessee irrevocably appoints the Lessor as the Lessee's attorney during the Term:

- (a) in respect to all matters and questions which may arise in relation to any policy of insurance required by **subclause (1)**;
- (b) with full power to demand, sue for and recover and receive from any insurance company or society or person liable to pay the insurance money as are payable for the risks covered by the insurance policies required by **subclause (1)**;
- (c) to give good and effectual receipts and discharges for the insurance policies required by **subclause (1)**; and

- (d) to settle, adjust, arbitrate and compromise all claims and demands and generally to exercise all powers of absolute owner.

8 Indemnity

(1) Indemnity

The Lessee indemnifies the Lessor against any liability or loss arising from and any costs, charges and expenses incurred in connection with:

- (a) any damage to the Premises, or any loss of or damage to anything on it; and
- (b) any injury to any person on the Premises,

and for which the Lessor becomes liable.

(2) Indemnity Unaffected by Insurance

The Lessee's obligation to indemnify the Lessor under this Lease or at law is not affected by the Lessee's obligation to insure under **clause 7** or at law and the indemnity under **subclause (1)** is paramount.

(3) Receipt of Insurance Money

If insurance money is received by the Lessor for any of the obligations set out in this clause, then the Lessee's obligations under **subclause (1)** will be reduced by the extent of such payment.

9 Limit of lessor's liability

The Lessor will not be liable for loss, damage or injury to any person or property in or about the Premises however occurring and the Lessor will not be liable for any failure to perform and observe any of the Lessor's Covenants due to any cause beyond the Lessor's control.

10 Maintenance, repair and cleaning

(1) Maintenance

- (a) The Lessee must, at its own expense, undertake the maintenance of the Premises specified in **Schedule Item 9** to this Lease.
- (b) In addition to, and notwithstanding the specificity of the maintenance obligations provided for in **Schedule Item 9**, the Lessee must keep the Premises in good, safe, clean and tenantable repair at all times.

- (c) The Lessee must comply with all reasonable conditions that may be imposed by the Lessor from time to time in relation to any maintenance of the Premises required to be undertaken by the Lessee under **subclause (1)(a) or (b)**; and
- (d) The Lessee must take such reasonable action as is necessary to:
 - (i) prevent, if it has occurred as a result of the Lessee's use of the Premises; and
 - (ii) rectify or otherwise ameliorate,

the effects of erosion, drift or movement of sand, soil, dust or water on or from the Premises.
- (e) The Lessor shall maintain any fire safety equipment on the Premises, which maintenance shall include undertaking all regular checks of equipment and ensuring that the Premises meets any prescribed standards, as required by any written law or as otherwise reasonable directed by the Lessor.
- (f) The Lessee must keep the Premises free of any vermin and termites and the cost of extermination will be borne by the Lessee.
- (g) If the Lessee fails to keep the Premises free from vermin or termite activity, the Lessor may arrange for extermination and the costs shall be borne by the Lessee.

(2) Repair

The Lessee must promptly repair at its own expense to the satisfaction of the Lessor any damage to the Premises, regardless of how it is caused, and replace any of the Lessor's fixtures and fittings which are or which become damaged.

(3) Cleaning

The Lessee must at all times keep the Premises clean, tidy, unobstructed and free from dirt and rubbish and must not leave rubbish bins or containers outside the Premises other than on official rubbish collections days.

(4) Acknowledgement of State of Repair of Premises

The Lessee acknowledges that it has inspected the structure of the Premises internally and externally prior to the execution of this Lease and enters into the Lease with full knowledge of the structural state and state of repair of the Premises.

11 Alterations

(1) Restriction

The Lessee must not:

- (a) make or allow to be made any alteration, addition or improvements to or demolish any part of the Premises;
- (b) erect or construct any building on the Premises;
- (c) remove, alter or add to any fixtures, fittings or facilities in or on the Premises; or
- (d) subject to the performance of any obligations under **clause 10**, remove any flora, trees or fauna, alter or cut down any flora, or sell, remove or otherwise dispose of any flora, sand, gravel, timber or other materials from the Premises.

unless the Lessee has obtained the prior written consent of:

- (e) of the Lessor;
- (f) of any other person from whom consent is required under this Lease;
- (g) of the insurers approved under **clause 7**,

and the Parties agree that any consent may be given upon certain conditions (“**Conditions**”).

(2) Consent

If the Lessor:

- (a) and all other persons whose consent is required under this Lease or at law consents to any matter referred to in **subclause (1)** the Lessor may:
 - (i) require that work be carried out in accordance with plans and specifications approved by the Lessor or any other person giving consent; and
 - (ii) require that any alteration be carried out to the satisfaction of the Lessor under the supervision of an engineer or other consultant; and
- (b) consents to any matter referred to in **subclause (1)**:

- (i) the Lessor gives no warranty that the Lessor will issue any consents, approvals, authorities, permits or policies under any statute for such matters; and
- (ii) the Lessee must apply for and obtain all such consents, approvals, authorities, permits or policies as are required at law before undertaking any alterations, additions, improvements or demolitions.

(3) Work to be at Lessee's Expense

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

(4) Conditions

- (a) Subject to **clause 11(4)(b)**, if any of the persons referred to in **clause 11(1)(e) to (g)** impose Conditions with respect to the proposed Alterations, the Lessee must comply with the Conditions if it is entitled at law to proceed to make the Alterations and does so proceed.
- (b) If any of the Conditions require other works to be done by the Lessee, then the Lessee must at the option of the Lessor either:
 - (i) carry out those other works at the Lessee's expense; or
 - (ii) permit the Lessor to carry out those other works at the Lessee's expense,

in accordance with the Lessor's requirements.

12 Use

(1) Restrictions on Use

The Lessee must not and must not suffer or permit a person to:

- (a) use the Premises for any purpose other than for the Permitted Purpose;
- (b) use the Premises for any purpose which is not permitted under any town planning scheme or any law relating to health;
- (c) do or carry out on the Premises any harmful, offensive, or illegal act, matter or thing;
- (d) do or carry out on the Premises any thing which causes a nuisance, damage or disturbance to the Lessor or to owners or occupiers of adjoining properties;

- (e) store any dangerous compound or substance on or in the Premises;
- (f) do any act or thing which might result in excessive stress or harm to any part of the Premises; or
- (g) display from or affix any signs, notices or advertisements on the Premises without the prior written consent of the Lessor.

(2) No Warranty

The Lessor gives no warranty:

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

(3) Premises Subject to Restriction

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

(4) Indemnity for Costs

The Lessee indemnifies the Lessor against any claims or demands for all costs, on a solicitor client basis, incurred by the Lessor by reason of any claim in relation to any matters set out in **subclauses (1) to (3)**.

13 Lessor's right of entry

(1) Entry on Reasonable Notice

The Lessee or any Authorised Person must permit entry by the Lessor or any person authorised by the Lessor, on reasonable notice, except in the case of an emergency, onto the Premises:

- (a) at all reasonable times;
- (b) with or without workmen and others;
- (c) with or without plant, equipment, machinery and materials; and
- (d) for each of the following purposes:
 - (i) to inspect the state of repair of the Premises and to ensure compliance with the provisions of this Lease;

- (ii) to carry out any survey or works which the Lessor considers necessary, however the Lessor will not be liable to the Lessee for any compensation for such survey or works provided they are carried out in a manner which causes as little inconvenience as is reasonably possible to the Lessee;
- (iii) to comply with the Lessor's Covenants under this Lease or to comply with any notice or order of any authority in respect of the Premises for which the Lessor is liable; and
- (iv) to do all matters or things to rectify any breach by the Lessee of any of the Lessee's Covenants, but the Lessor is under no obligation to rectify any breach and any rectification under this subparagraph is without prejudice to the Lessor's other rights, remedies or powers under this Lease.

(2) Costs of Rectifying Breach

All costs and expenses incurred by the Lessor as a result of any breach referred to in **subclause (1)(iv)** together with any interest payable on such sums, will be a debt due to the Lessor and payable to the Lessor by the Lessee on demand.

14 Statutory obligations & notices

(1) Comply with Statutes

The Lessee must:

- (a) comply promptly with all statutes relating to the Premises or to the Lessee's use of the Premises;
- (b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any statute for the use of the Premises for the Permitted Purpose;
- (c) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held on the Premises; and
- (d) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Premises or to the business the Lessee carries on the Premises.

(2) Indemnity if Fails to Comply

The Lessee indemnifies the Lessor against:

- (a) failing to perform, discharge or execute any of the items referred to in **subclause (1)**; and

- (b) any claims, demands, costs or other payments of or incidental to any of the items referred to in **subclause (1)**.

15 Report to lessor

The Lessee must immediately report to the Lessor:

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

16 Default

(1) Events of Default

A default occurs if:

- (a) any Amounts Payable remain unpaid for 7 days after becoming due whether or not a demand or Notice has been given to the Lessee;
- (b) the Lessee is in breach of any of the Lessee's Covenants (other than the covenant to pay the Amounts Payable) for 14 days after a Notice has been given to the Lessee to rectify the breach or to pay compensation in money;
- (c) an order is made or a resolution effectively passed for the winding up of the Lessee unless the winding up is for the purpose of amalgamation or reconstruction;
- (d) a controller, as defined by the *Corporations Act 2001*, is appointed in respect of the property of the Lessee under this Lease;
- (e) a mortgagee takes possession of the property of the Lessee under this Lease;
- (f) any execution or similar process is made against the Lessee's property on the Premises;
- (g) the Premises are vacated by the Lessee prior to Termination;

- (h) a person other than the Lessee or a permitted sublessee or assignee is in occupation or possession of the Premises or in receipt of rents or profits; or
- (i) any application is made or notice given or any other procedure started by which the registration of the Lessee is to be cancelled or dissolved under the *Corporations Act 2001*.

(2) Forfeiture

On the occurrence of any of the events of default specified in **subclause (1)** the Lessor may:

- (a) without Notice or demand at any time enter the Premises and on re-entry the Term will immediately determine;
- (b) by Notice to the Lessee determine this Lease and from the date of giving such Notice this Lease will be absolutely determined; and
- (c) by Notice to the Lessee elect to convert the unexpired portion of the Term into a tenancy from month to month, when this Lease will be determined as from the giving of the Notice, and until the tenancy is determined the Lessee will hold the Premises from the Lessor as a tenant from month to month under **clause 19**,

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

(3) Lessor May Remedy Breach

If the Lessee:

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

then the Lessor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Lessee and the Lessee must pay to the Lessor on demand the Lessor's costs and expenses of remedying each breach or default.

(4) Acceptance of Amounts Payable By Lessor

Demand for or acceptance of the Amounts Payable by the Lessor after an event of default has occurred will not affect the exercise by the Lessor of the rights and powers conferred on the Lessor by the provisions of this Lease or at law

and will not operate as an election by the Lessor to exercise or not to exercise any right or power.

(5) Essential Provisions

Each of the Lessee's Covenants in **clauses 5** (Rent and Other Payments), **7** (Insurance), **8** (Indemnity), **10** (Maintenance, Repair and Cleaning), **12** (Use), **23** (Assignment, Subletting and Charging) and **34** (Goods and Services Tax) is an essential provision of this Lease, but this subclause does not mean or imply that there are no other essential provisions in this Lease.

(6) Breach of Essential Provisions

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

- (a) the Lessee must compensate the Lessor for the loss or damage suffered by reason of the breach of that essential provision;
- (b) the Lessor will be entitled to recover damages against the Lessee in respect of the breach of an essential provision; and
- (c) the Lessee covenants with the Lessor that if the Term is determined:
 - (i) for breach of an essential provision or the acceptance by the Lessor of a repudiation of this Lease by the Lessee; or
 - (ii) following the failure by the Lessee to comply with any Notice given to the Lessee to remedy any default,

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

(7) Subclause (6)(c) to Survive Termination

The Lessee agrees that the covenant set out in **subclause (6)(c)** will survive Termination or any deemed surrender at law of the estate granted by this Lease.

(8) Lessee may Deduct Amounts for Re-letting

The Lessee may deduct from the amounts referred to in **subclause (6)(c)** the Rent and other money which the Lessor reasonably expects to obtain by re-letting the Premises between the date of the determination of this Lease and the date on which the Term would have expired by effluxion of time.

(9) Lessor to Mitigate its Losses

The Lessor must take reasonable steps to mitigate its losses and endeavour to relet the Premises at a reasonable rent and on reasonable provisions, but the Lessor is not required to offer or accept rent or provisions which are the same or similar to the Rent or provisions contained or implied in this Lease.

17 Damage or destruction

(1) Abatement of Rent

If the Premises are at any time during the Term, without neglect or default of the Lessee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation and use of the Lessee, then the Rent or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Premises have been rebuilt or made fit for the occupation and use of the Lessee, and in case of any dispute arising under this provision the same will be referred to arbitration under the provisions of the *Commercial Arbitration Act 1985* and the full Rent must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Lessor will refund to the Lessee any Rent which according to the award appears to have been overpaid.

(2) Termination

In the event that fifty per cent (50%) or more of the Premises are damaged or destroyed by fire or any like casualty the Lessor will have the option to be exercised by notice in writing delivered to the Lessee within sixty (60) days of such occurrence, to elect to cancel and terminate this Lease. The Term will terminate upon the third date after such notice is given and the Lessee must vacate the Premises and surrender the same to the Lessor but such termination will be without prejudice to the Lessor's rights in respect of any antecedent breach of this Lease.

18 Option to renew

(1) Exercise of Option

If:

- (a) there is a Further Term specified in **Item 3** of the Schedule;
- (b) at the date of exercise of the option in this clause and at the date of expiration of the Term the Lessee is not in arrears of payment of the Rent and there is no outstanding breach or non-observance of any of the Lessee's Covenants; and
- (c) the Lessee serves notice in writing on the Lessor not more than six (6) months nor less than three (3) months prior to the expiration of the Term of the Lessee's desire to renew the Term,

the Lessor will at the cost of the Lessee grant to the Lessee a further lease of the Premises for the further period specified in **Item 3** of the Schedule upon and subject to the same terms, covenants and conditions as are contained or implied in this Lease except this **clause 18**.

(2) Execution of Deed of Extension of Lease

Upon the valid exercise of any option to extend this Lease for a Further Term under **subclause (1)**, the Lessee shall prior to the expiration of the Term by effluxion of time, execute a deed recording the extension of this Lease prepared by the Lessor.

(3) Costs of Deed of Extension

The Lessee shall pay to the Lessor on demand any costs incurred in preparing the deed of extension of this Lease referred to in **subclause (2)**.

19 Holding over

If the Lessee remains in possession of the Premises after the expiry of the Term, and any Further Term granted, with the consent of the Lessor, the Lessee will be a monthly tenant of the Lessor at a rent equivalent to one twelfth of the Rent for the period immediately preceding expiry of the Term or Further Term and otherwise on the same provisions of this Lease, provided that all consents required under this Lease or at law have been obtained to the Lessee being in possession of the Premises as a monthly tenant.

20 Restore premises

Prior to Termination, the Lessee at the Lessee's expense must restore the Premises to a condition consistent with the observance and performance by the Lessee of the Lessee's Covenants under this Lease, fair wear and tear excepted.

21 Yield up the premises

(1) Peacefully Surrender

On Termination the Lessee must:

- (a) peacefully surrender and yield up to the Lessor the Premises in a condition consistent with the observance and performance of the Lessee's Covenants under this Lease; and
- (b) surrender to the Lessor all keys and security access devices and combinations for locks providing access to or within the Premises held by the Lessee, whether or not provided by the Lessor.

(2) Subclause (1) to Survive Termination

The Lessee's obligation under **subclause (1)** shall survive Termination.

22 Removal of property from premises

(1) Remove Property Prior to Termination

Prior to Termination, the Lessee must remove from the Premises all property of the Lessee including the Lessee's fixtures and promptly make good, to the satisfaction of the Lessor, any damage caused by the removal of that property or fixtures.

(2) Lessor can Remove Property on Re-Entry

On re-entry the Lessor will have the right to remove from the Premises any property of the Lessee, and the Lessee indemnifies the Lessor against all damage caused by the removal of and the cost of storing that property.

23 Assignment, subletting and charging

(1) No Assignment or Subletting without Consent

The Lessee must not assign the leasehold estate in the Premises nor sub-let, part with possession, or dispose of the Premises or any part of the Premises without the prior written consent of the Lessor and any other persons whose consent is required under this Lease or at law.

(2) Change in Ownership of Shares

If the Lessee is a corporation the shares in which are not quoted on any stock exchange in Australia, any change in the beneficial ownership, issue or cancellation of shares in that corporation or any holding company of that

corporation within the meaning of the *Corporations Act 2001* will be deemed to be an assignment of the leasehold estate created by this Lease.

(3) Lessor's Consent to Assignment and Subletting

Provided all parties whose consent is required under this Lease or at law to an assignment or subletting give their consent, then the Lessor may not unreasonably withhold its consent to the assignment or subletting of the leasehold estate created by this Lease if:

- (a) the proposed assignee or sublessee is a respectable and responsible person of good financial standing;
- (b) all Amounts Payable due and payable have been paid and there is no existing unremedied breach, whether notified to the Lessee or not, of any of the Lessee's Covenants;
- (c) the Lessee procures the execution by:
 - (i) the proposed assignee of a deed of assignment; or
 - (ii) the proposed sublessee of a deed of sublease,

to which the Lessor is a party and which deed is prepared and completed by the Lessor's solicitors; and

- (d) the deed of assignment contains a covenant by the assignee with the Lessor to pay all Amounts Payable and to perform and observe all the Lessee's Covenants, or the deed of sublease contains a covenant by the sublessee with the Lessor, to pay all the Amounts Payable and to perform and observe all of the Lessee's Covenants in respect of the subleased area of the Premises.

(4) Consents of Assignee Supplementary

The covenants and agreements on the part of any assignee will be supplementary to the Lessee's Covenants and will not release the assigning lessee from the Lessee's Covenants.

(5) Property Law Act 1969

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

(6) Costs for Assignment and Subletting

If the Lessee wishes to assign or sublet the leasehold estate created by this Lease, the Lessee must pay all reasonable professional and other costs, charges and expenses, incurred by the Lessor or other person whose consent is required under this Lease, of and incidental to:

- (a) the enquiries made by or on behalf of the Lessor as to the respectability, responsibility and financial standing of each proposed assignee or sublessee;
- (b) any consents required under this Lease or at law; and
- (c) all other matters relating to the proposed assignment or subletting,

whether or not the assignment or subletting proceeds.

(7) No Mortgage or Charge

The Lessee must not mortgage or charge the Premises.

24 Acts by agents

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

25 Governing law

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

26 Statutory powers

The powers conferred on the Lessor by or under any statutes are, except to the extent that they are inconsistent with the provisions of this Lease, in addition to the powers conferred on the Lessor in this Lease.

27 Notice

(1) Form of Delivery

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

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

(2) Service of Notice

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

- (a) if by personal delivery, when delivered;

- (b) if by leaving the Notice at an address specified in **subclause (1)(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours; and
- (c) if by post to an address specified in **subclause (1)(b)**, on the second business day following the date of posting of the Notice.

(3) Signing of Notice

A Notice to a Party may be signed:

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

28 Severance

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

29 Disputes

(1) Appointment of Arbitrator

Except as otherwise provided, any dispute arising out of this Lease is to be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 1985* and the Lessor and the Lessee may each be represented by a legal practitioner.

(2) Payment of Amounts Payable to Date of Award

The Lessee must pay the Amounts Payable without deduction to the date of the award of the Arbitrator or the date of an agreement between the Parties whichever event is the earlier, and if any money paid by the Lessee is not required to be paid within the terms of the award of the Arbitrator or by agreement between the Lessor and the Lessee, then the Lessor will refund to the Lessee the money paid.

30 Variation

This Lease may be varied only by deed executed by the Parties subject to such consents as are required by this Lease or at law.

31 Moratorium

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

32 Further assurance

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

33 Waiver

(1) No General Waiver

A failure by the Lessor to exercise or its delay in exercising any right, power or privilege in this Lease does not operate as a waiver of or otherwise impair that right, power or privilege.

(2) Partial Exercise of Right Power or Privilege

A single or partial exercise of any right, power or privilege does not preclude any other or further exercise of that right, power or privilege or the exercise of any other right, power or privilege.

34 Goods and services tax

(1) Definitions

The following definitions apply for the purpose of this clause:

- (a) **"Act"** means the Commonwealth's *A New Tax System (Goods and Services Tax) Act 1999* and associated Acts and subsidiary legislation;
- (b) **"Consideration"** means the Amounts Payable or any other money payable to the Lessor under this Lease, but does not include the amount of the GST which may apply to the Amounts Payable or other money payable under the Act;
- (c) **"GST"** means a tax under the Act levied on a Supply including but not limited to the Amounts Payable or other money payable to the Lessor

for goods or services or property or any other thing under this Lease;
and

- (d) “**Supply**” means a good or service or any other thing supplied by the Lessor under this Lease and includes but is not limited to a grant of a right to possession of the Premises.

(2) Lessee to Pay GST

- (a) The Consideration will be increased by the amount of the GST, if any, which the Lessor is required under the Act to pay on any Supply made under this Lease;
- (b) The Lessee must pay any increase referred to at **paragraph (a)** whether it is the Lessee or any other person who takes the benefit of any Supply;
and
- (c) The Lessee must pay the amount of the GST to the Lessor at the same time and in the same manner as the Lessee is required to pay the Consideration under this Lease.

(3) Consideration in Kind

If consideration in kind is accepted by the Lessor for any Supply made under this Lease, the GST amount payable to the Lessor under **subclause (2)(b)** in respect of the consideration in kind will be calculated by using the prevailing market value of the consideration in kind as determined by the Lessor.

(4) No Contribution from Lessor

If the Lessee is required under this Lease to make any payment of money or give other consideration to a third party for outgoings, goods, services and benefits of any kind, the Lessee is not entitled to any contribution from the Lessor for any GST payable by it to any person.

(5) Statement of GST paid is Conclusive

A written statement given to the Lessee by the Lessor of the amount of the GST that the Lessor pays or is liable to pay or account for is conclusive as between the Parties except in the case of an obvious error.

(6) Tax Invoices

For each payment by the Lessee under this clause the Lessor agrees to promptly deliver to the Lessee, as required under the Act, tax invoices and adjustment notes in a form which complies with the Act, so as to enable the Lessee to claim input tax credits or decreasing adjustments for Supplies.

(7) Reciprocity

If the Lessee furnishes any Supplies to the Lessor under this Lease, then the requirements set out in this clause with respect to the Lessee will apply to the Lessor with the necessary changes.

35 Commercial Tenancy Act

If at any time the *Commercial Tenancy (Retail Shops) Agreements Act 1985* applies to this Lease and a provision of that Act conflicts with a provision of this Lease, then each conflicting provision of this Lease is deemed to be amended to the extent necessary to comply with that Act.

36 Caveat

(1) No Absolute Caveat

The Lessee nor any person on behalf of the Lessee will, without the prior written consent of the Lessor, lodge any absolute caveat at Landgate against the Certificate of Title for the Land, to protect the interests of the Lessee under this Lease.

(2) CEO & Lessor as Attorney

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

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

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

- (d) a withdrawal of any absolute caveat lodged by or on behalf of the Lessee;
- (e) a withdrawal of any caveat lodged by or on behalf of the Lessee and not withdrawn on Termination; and
- (f) a surrender of the estate granted by this Lease,

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

37 Indemnity and ratification

(1) Ratification

The Lessee undertakes to ratify all the acts performed by or caused to be performed by the Lessor, its agent or attorney under **clause 36**.

(2) Indemnity

The Lessee indemnifies the Lessor against:

- (a) any loss arising from any act done under **clause 36**; and
- (b) all costs and expenses incurred in connection with the performance of any act by the attorney on behalf of the Lessee under **clause 36**.

38 Additional terms, covenants and conditions

Each of the terms covenants and conditions (if any) specified in **Item 9** of the Schedule shall be deemed part of this Lease and shall be binding upon the Lessor and Lessee as if incorporated in the body of this Lease.

SCHEDULE

Item 1: Premises

The Premises consists of the building known as the Women's Rest Centre located on Lot 200, 108 Barrack Street, Merredin WA 6415.

Item 2: Term

From 1 August 2016 and expiring on 29 February 2020.

Item 3: Further Term

Five (5) years commencing on 1 March 2020 and expiring on 28 February 2025.

Item 4: Commencement Date

1 August 2016

Item 5: Rent

No rental is applicable for the first term, with a rental on a sliding scale applying to the further term of five years to ensure 100% of a commercial rent is paid in the final year.

Item 6: Outgoings

- (a) The Lessee must pay all outgoings or charges of any kind, assessed or incurred in respect of the Premises, or the Lessee's use or occupation of the Premises, including but not limited to, any rate, installation, meter, rental or consumption charge.
- (b) If the Premises are not separately charged or assessed the Lessee will pay to the Lessor a proportionate part of any charges or assessments referred to in **paragraph (a)** being the proportion that the Premises bears to the total area of the land or premises included in the charge or assessment.

Item 7: Insurance

The Lessor will effect and maintain the following insurance policies in respect of the Premises:

- (a) insurance of the Premises to the full insurable value on a replacement or reinstatement value basis against damage arising from fire, tempest storm, earthquake, explosion, aircraft or other aerial device including items dropped from any device, riot.

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strike, commotion, flood, lightning, act of God, fusion, smoke, flood, water damage, leakage, impact by vehicle, machinery breakdown, malicious acts or omissions and other standard insurable risks.

The Lessee must effect and maintain the following insurance policies in respect of the Premises:

- (a) adequate public liability insurance for not less than ten million dollars (\$10m) in respect of any one claim or such greater amount as the Lessor may from time to time reasonably require;
- (b) insurance against all risks as the Lessor may require, of all plate glass windows, doors and display show cases forming part of or within the Premises for a sum which is not less than its full insurable value.

Item 8: Permitted Purpose

The Premises shall be utilised as a Community Resource Centre as defined from time to time by the State Government.

Item 9 Special Conditions


- (a) The Premises is taken on an "as is" basis with no further improvements or modifications to be undertaken during the lease period at Council's expense;
- (b) All outgoings and day to day maintenance expenses for the Premises will be the responsibility of the Merredin Community Resource Centre; and
- (c) Confirmation of the expenditure on the old Council Chambers is to be provided and evidenced by way of invoices.

Executed by the Parties as a Deed:



PRESIDENT

KEN HOOPER
PRINT FULL NAME



CHIEF EXECUTIVE OFFICER

GREG POWELL
PRINT FULL NAME


SIGNED by:



SIGNATURE OF CHAIR
MERREDIN COMMUNITY RESOURCE CENTRE

SUSANN KAYE O'CONNOR
PRINT FULL NAME

in the presence of:

Witness signature: 

Witness name: DERBIE MORRIS
Witness address: 11 COWAN WAY
MERREDIN

Witness occupation: COORDINATOR

Our Ref:
Your Ref:

Ms Sue Olcorn
Chairperson
Merredin Community Resource Centre
110 Barrack Street
MERREDIN WA 6415

Dear Sue

Re: Merredin Community Resource Centre's (MCRC) Lease of Women's Rest Centre

I refer to your correspondence dated 27 July 2016. To address your query in relation to maintenance responsibilities of the Women's Rest Centre I can only reiterate Council's resolution (CMRef 81799) which states:

"That:

- 1. in accordance with Section 3.58 of the Local Government Act 1995 the proposal to lease the Women's Rest Centre under a commercial lease to the Merredin Community Resource Centre on a no rental arrangement until February 2020 with the Merredin Community Resource Centre being responsible for all outgoings and day to day maintenance costs be advertised for public comment; and*
- 2. if no negative comment is received, the execution of a commercial lease on the Women's Rest Centre, located on Lot 200 Barrack Street, Merredin to the Merredin Community Resource Centre be approved subject to the following:*
 - 1. execution of a commercial lease until February 2020 under the same terms as the Merredin Community Resource Centre's lease of the old Council Chambers;*
 - 2. the Women's Rest Centre is taken on an "as is" basis with no further improvements or modifications to be undertaken during the lease period at Council's expense;*
 - 3. no rental applicable for the term but all outgoings and day to day maintenance expenses for the Women's Rest Centre to be the responsibility of the Merredin Community Resource Centre (Note: any use of the building beyond the initial term will be subject to amendment of the lease of the old Council Chambers with payment of a commercial lease on a sliding scale over a further term of five years); and*
 - 4. confirmation of the expenditure on the old Council Chambers evidenced by way of invoices."*

I bring your attention specifically to point 1 and points 2.2 and 2.3 of the above resolution (though point 2.3 is essentially a repeat of point 1).

To put points 1 and 2.3 into context, it means the MCRC is responsible for all utility costs including, but not limited to, electricity costs, water rates & consumption costs, gas costs (if applicable), telephone and internet costs etc.

Similarly, the MCRC is responsible for all day-to-day maintenance costs. That is to say, for example, should water taps be leaking, or the air-conditioning/heating/hot water system require repair, or gutters require cleaning, those costs are to be borne by the MCRC.

To put point 2.2 into context, it means the MCRC has viewed the building, is satisfied that it is fit for purpose and that all structures and equipment are accepted in their current condition.

Upon that acceptance should the MCRC determine that, say, an additional air-conditioning or heating unit be required in part of the building, those costs are to be borne by the MCRC. Similarly, should the MCRC determine that it would be more suitable for a non-loadbearing wall to be removed, or that a wall should be painted prior to the scheduled repainting of the building, those costs are to be borne by the MCRC.

Should any part of the structure of the building fail, roof or ceiling collapse, or other damage occur which is claimable under insurance, the responsibility and costs for repair, under Council's insurance policy, lies with Council.

It should be noted that in leasing the Women's Rest Centre to the MCRC free of charge it was Council's intent that Council would not be responsible for any costs associated with the lease, hence the conditions mentioned within its resolution.

I trust the above explains the situation and that under that understanding the lease is acceptable, and as such have enclosed a copy of the signed lease for your records and information.

If you have any further queries please contact Vanessa Green, Executive Assistant, on the number detailed below or via email to ea@merredin.wa.gov.au.

Yours sincerely



GREG POWELL
Chief Executive Officer

4 August 2016

Enc.