



Deed of Licence to Occupy

THIS DEED made the day of 2024

BETWEEN: **SOUTH BURNETT REGIONAL COUNCIL**
of Glendon Street, Kingaroy, Queensland 4610

ABN 89 972 463 351

('Licensor')

AND: **MURGON INDEPENDENT LIFESTYLE PROJECT INC**
Of 23 Watt Street, Murgon, Queensland 4605

ABN 12 648 837 252

('Licensee')

Licence to Occupy – Part of Lot 37 on RP842815, being approximately 1.824 ha

1. DEFINITIONS AND INTERPRETATIONS:

Definitions

In this Deed, unless a contrary intention appears, the following terms shall have the meanings respectively assigned to them, that is to say:

'Commencement Date' means that date mentioned in Item 3 of the Schedule as the Commencement Date;

'Commercial Use' includes the renting out of the Licence Area or any part of the Licence Area to third parties and/or operating a commercial business from the Licence Area;

'Consumables' means those items consumed by the Licensee, whether used for community purposes, personal purposes, business purposes or other purposes.

'Consumer Price Index (all groups) for the city of Brisbane' means that which is published by the Australian Bureau of Statistics;

'Contamination' means Contamination as defined in the *Environmental Protection Act 1994* and also includes asbestos contamination within and on the Licence Area;

'Council' means the South Burnett Regional Council;

'Deed of Licence to Occupy' means this Deed of Licence to Occupy and includes all attachments, schedules, documents, maps and photographs;

'Expiry Date' means that date mentioned in Item 3 of the Schedule as the Expiry Date;

'Extra Requirements of Licence' means those requirements expressed in Item 6 of the Schedule forming part of this Deed of Licence to Occupy;

'GST' means any tax imposed by or through the GST Act on a supply;

'GST Act' means the *A New Tax System (Goods and Services Tax) Act 1999* and any related tax imposition act (whether imposing tax as a duty of customs excise or otherwise) and includes any legislation which is enacted to validate, recapture or recoup the tax imposed by any of such Acts;

'Land' means the part of Lot 37 on RP842815;

'Hire Fees' means fess and charges paid for groups and individuals for the hire and use of the Premises;

'Licence' means this Deed of Licence to Occupy and any attachments, Schedules, documents, maps and photographs attached hereto;

'Licensee' means the Murgon Independent Lifestyles Project Inc, the entity named as such in this Deed of Licence to Occupy;

'Licensor' means the South Burnett Regional Council, the entity named as such in this Deed of Licence to Occupy;

'Licensee's Associates' Means the Licence's employees, agents, contractors, customers, clients, visitors (with or without permission and/or invitation), invitees, and any other person claiming through or under the Licensee who may at any time be on the Premises;

'Option Exercise Date' means that period of time expressed in Item 6 of the Schedule forming part of this Deed of Licence to Occupy;

‘Other Expenditure’ means the outlays and expenditure as mentioned in Item 5 of the Schedule forming part of this Deed of Licence to Occupy;

‘Permitted Use’ means to access and use the Licence Area for the activities of the Licensee and for associated community purposes as approved by the Licensor;

‘Licence Area’ means the land described in Item 2 of the Schedule forming part of this Deed of Licence to Occupy and as shown on the Plan of Licence (Attachment A to this Deed of Licence to Occupy);

‘Premises’ means the area described in Item 2 of the Schedule forming part of this Deed of Licence to Occupy.

‘Public Liability Insurance’ means public risk insurance however defined from time to time;

‘Purpose of Licence’ means that purpose as identified in Item 1 of the Schedule forming part of this Deed of Licence to Occupy and includes allowing the Licensee to access and use the Licence Area for the Permitted Use of the Licensee’s activities and for associated community purposes as approved by the Licensor;

‘Rent’ means that amount mentioned in and calculated in accordance with Item 4 of the Schedule forming part of this Deed of Licence to Occupy;

‘Schedule or Schedules’ means the Schedule or Schedules attached to this Deed of Licence to Occupy and forming part of this Deed of Licence to Occupy;

‘Service Charges’ means all charges for or in relation to all services and consumables that may be charged and/or metered from time to time and specifically includes telephone, gas, electricity, internet connections and services, data services, and excess water and also includes all other utilities and services used in or charged against or in respect of the Licence Area during the term of the Licence;

‘Supply’ means any supply within the meaning which it bears in the GST Act;

‘Term of Licence to Occupy’ means that period in Item 3 of the Schedule commencing on the Commencement Date and ending on the Expiry Date;

‘Contaminate’ means to contaminate as defined in the *Environmental Protection Act 1994* and also includes asbestos contamination within and on the Licence Area.

Interpretation

In this Deed:

- (a) headings are for convenience only and do not affect interpretation;
- (b) the expression ‘entity’ includes a natural person, corporation, unincorporated association, partnership, trust and any entity having a legal personality;
- (c) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it and all ordinances, by laws, regulations, rules and other statutory instruments (however described) issued under it;
- (d) words importing the singular include the plural (and vice versa) and words denoting a given gender include all other genders;
- (e) a reference to a provision or clause of this Deed includes any modification or variation to such provision or clause from time to time made under the provisions of this Deed;

- (f) a reference to a party to this Deed includes that party's successors and assigns;
- (g) The word "Person" shall include companies, corporations and artificial Persons as well as natural Persons;
- (h) The word "Negligence" means an act, including an intentional act, that breaches a duty of care owed to a Person and causes that Person to incur or sustain a Cost that is compensable at law;
- (i) a reference to the term 'in writing' or 'written' includes any communications sent by letter, facsimile, email or other mode of transmission capable of producing or reproducing any words in visible and legible form;
- (j) where the Licensee consists of more than one entity, covenants on the part of the Licensee will bind those entities jointly and severally;

2. NOW THIS DEED WITNESSES as follows:-

- 2.1 The Licensor hereby licenses and authorises the Licensee and the Licensee's Associates and all persons duly authorised by the Licensee to enter and use for the Permitted Use and purpose described in Item 1 of the Schedule with the area described in Item 2 of the Schedule.
- 2.2 The term of the Licence shall be as detailed in Item 3 of the Schedule hereto.
- 2.3 The Licensee shall, during the term of the Licence, pay the Licensor the Rent as set out in Item 4 of the Schedule.

3. COVENANTS BY THE LICENSOR:

The Licensor covenants that:-

- 3.1 If the Licensee shall pay the Rent hereby reserved and observe and perform the agreements herein throughout the currency of this Licence the Licensee shall peaceably hold and enjoy the Licence Area for the Permitted Use and purposes stated in Item 1 of the Schedule hereto during the currency of the Licence without any interruption by the Licensor or any persons lawfully claiming under or in trust for the Licensee.
- 3.2 On the determination of the Licence or within one (1) month thereafter if the payments to be made hereunder shall be duly paid up to such termination and there shall not be any unsatisfied breach of any stipulation or provision contained in this License the Licensor to provide access to the Licence Area by the Licensee to remove only the buildings structures or fixtures placed by it on the Licence Area pursuant to Item 9 of the Schedule.

4. COVENANTS BY THE LICENSEE:

The Licensee covenants:-

- 4.1 To pay the Rent punctually on the due date to the Licensor as provided by the Licence and all other Service Charges which may be applicable.
- 4.2 Not to assign, sub-let, or in any manner part with or dispose of the Licence Area or any part thereof or the use or possession or occupancy thereof or any part thereof without the consent of the Licensor in writing first had and obtained.
- 4.3 Not to erect, demolish, remove or relocate any building or other structures on the Licence Area unless approved by the Licensor under this Licence prior to any applications being made to the local authority for building or works approvals. Such works shall be considered by the Licensor after a written request which includes a proposed plan. If approval is granted by the Licensor under this Licence, the Licensee shall comply with local authority requirements including the building requirements of the Building Act 1975, Building Code of Australia 2016 and any relevant Australian Standards as updated from time to time.
- 4.4 To use the Licence Area and such buildings as may be erected thereon for the Permitted Use detailed within this Licence and in Item 1 of the attached Schedule forming part of this Deed of Licence to Occupy or for such other purpose as may be sanctioned or approved of from time to time in writing by the Licensor.
- 4.5 That, at all times during the term of this Licence, operate its business on the Licence Area with due diligence and efficiency and in a proper and businesslike manner.
- 4.6 The Licensee acknowledges and agrees that this Licence does not grant the Licensee with an interest in the Land and provides a right for the Licensee to use the property for the Permitted Use only.

- 4.7 To clean, maintain and leave the Licence Area in good repair, (having regard to their condition at the commencement of this Deed of Licence to Occupy) in so far as it relates to the activities of the Licensee.
- 4.8 Not to remove from the Licence Area any sand, gravel, soil or timber, nor undertake any earthworks without the prior written consent of the Licensor.
- 4.9 To keep the Licence Area clean and free of noxious weeds and plants.
- 4.10 Not to accumulate rubbish on the Land. All rubbish generated from the activities of the Licensee its members, associates or invitees is to be removed by the Licensee. Costs of rubbish removal is to be met by the Licensee.
- 4.11 Not to Contaminate the Licence Area.
- 4.12 To manage and conduct the Licence Area so that nothing shall be done to injure the reputation of the Licence Area or the Licensor or offend against any statute or any of the regulations of the Council or other local or public authority in any way.
- 4.13 To permit the Licensor and its servants and agents at all reasonable times to enter and view the Licence Area and inspect the condition thereof and for all other reasonable purposes.
- 4.14 To permit the Licensor and its servants and agents to enter and carry out requirements of public authorities or carry out repairs and maintenance under the Licence.
- 4.15 To indemnify the Licensor against all damages and expenses which the Licensor may sustain expend or be put to by reason or on account of any negligence or wilful default on the part of the Licensee to observe and perform any of the covenants or agreements on the part of the Licensee herein contained or hereby implied.
- 4.16 To seek approval from the Licensor of any change in the use of the Licence Area whether community not-for-profit to Commercial Use or vice versa, and the Rent shall be renegotiated between the Licensor and the Licensee in accordance with such change to be effective as from the date of change.
- 4.17 To be responsible for the insurance of any contents purchased by the Licensee, if and when required, and to provide a copy of insurance to the Licensor upon request.
- 4.18 The Licensee acknowledges that:
 - (i) The Licence Area may be subject to Contamination; and
 - (ii) the Licensor has not provided any representation or warranty that the Licence Area is, or will continue to be, suitable for use by the Licensee for the Permitted Use, or is safe for entry or use by the Licensee, the Licensee's Associates, the public or the Licensee's property.

5. TERMINATION OF LICENCE:

- 5.1 If the Licensee in any year shall give to the Licensor not less than three (3) months previous notice in writing of its desire that the present Licence shall determine and shall pay the payments to be made hereunder and perform and observe the stipulations and provisions contained in this Licence up to such date of determination the present Licence shall thenceforth cease and determine at the end of the said period of three months without prejudice to any claim which either party may have against the other in respect of any breach of any covenant or conditions herein.

5.2 This License may be determined by notice given by the Licensor to the Licensee if at any time the payments herein provided for are twenty-one (21) days in arrears or if the Licensee has upon request and within a reasonable time failed to carry out the terms and conditions herein contained but otherwise is not to be revocable by the Licensor during the term set out in Item 3 in the Schedule hereto.

5.3 Provided further that if the Licensor at any time after the Expiry Date shown in Item 3 of the Schedule hereto shall give to the Licensee not less than three (3) months previous notice in writing of its desire that the present Licence shall determine then the Licensee shall pay the payments to be made hereunder and perform and observe the stipulations and provisions contained herein up to such date of determination the present Licence shall thenceforth cease and determine at the end of the said period of three (3) months without prejudice to any claim which either party may have against the other in respect of any breach of any covenants or condition herein contained.

6. GST:

6.1 Definitions:

- (a) "GST means GST within the meaning of the GST Act.
- (b) "GST Act" means A New Tax System (Goods and Services Tax) Act 1999 as amended.
- (c) Expressions used in this clause shall have the meaning given to them in the GST Act.

6.2 The parties acknowledge that the initial base rent is expressed as a GST exclusive amount.

6.3 The Licensor must issue to the Licensee a Tax Invoice, which complies with the GST Act, at least fourteen (14) days prior to the due date for payment of the consideration for the supply.

7. COSTS:

The costs of and incidental to the preparation, execution, and stamping of these presents and all stamp duties thereof shall be borne and paid by the Licensee but only to the extent that the Licensor shall request in writing.

8. LEGAL COSTS:

The Licensee will be liable for all costs associated with the preparation of this Deed of Licence to Occupy including any attachments, schedules, documents, maps and photographs that form part of this Deed of Licence to Occupy.

9. NOTICES

9.1 Notices under this Deed of Licence to Occupy must be in writing.

9.2 Notices are effectively given if:

- a) Delivered or posted to the other party or its solicitor; or
- b) Sent to the facsimile number of the other party or its solicitor; or
- c) Sent to the general email account of the other party or its solicitor.

9.3 Posted Notices shall be treated as given five (5) business days after posting.

9.4 Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.

9.5 Notices sent by email will be treated as given when the sender obtains a read receipt.

9.6 Notices given after 5.00pm (EST) will be treated as given on the next business day.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the day and year aforesaid.

SIGNED SEALED AND DELIVERED)

by: (Licensee))

in the presence of:)

J T Hook

Signature of Witness

Jim Hook

Name of Witness in Full

Noel Dowdle

(Name and Position)

NOEL DOWDLE

PRESIDENT

SIGNED SEALED AND DELIVERED)

by: (Licensee))

in the presence of:)

OB Wessling

Signature of Witness

L M Goodchild

(Name and Position)

LORRAINE GOODCHILD

SECRETARY

ONEN BURNETT WESSLING

Name of Witness in Full

SIGNED for and on behalf of SOUTH)

BURNETT REGIONAL COUNCIL)

the Chief Executive Officer)

in the presence of:-)

Mark Pitt

Chief Executive Officer

Signature of Witness

Name of Witness in Full

LICENCE TO OCCUPY

SCHEDULE

Item 1: Purpose of Licence

The purpose of the licence is to provide the Licensee with a right to use the Licence Area for the purpose of investigating the viability to establish an independent disability unit complex with caretakers' residence for the community.

The Licensee does not have exclusive possession of the Licence Area and must use the Licence Area only for a community purpose so that the Land may be used for any community purpose now and in the future without undue interruption or obstruction.

Item 2: Licence Area

Part of Lot 8 RP66068, being approximately 18240 m2 as shown on the attached identification plan at Attachment A.

Item 3: Term of Licence to Occupy

Commencement Date: 1 February 2024

Expiry Date: 31 January 2027

Item 4: Rent

The rent shall be \$75.00 plus GST per annum. Rent shall be paid annually in advance prior to the anniversary of the commencement date in each year.

Item 5: Other Expenditure:

The Licensee shall solely be responsible for and shall promptly pay all charges for (if applicable): water including excess water, bins and waste management, telephone, gas, electricity and all other utilities and services used (as connected) in or charged against or in respect of the Licence Area, used by the Licensee, during the term of the Licence.

Item 6: Extra Requirements of Licence

- 6.1. The Licensee must not remove trees without prior written approval from the Licensors.
- 6.2. The Licensee will not store, sell supply or consume liquor on the Licence Area except with the prior approval of the Licensors and only upon obtaining any necessary licence for the storage, sale or supply of liquor and in accordance with the conditions of any licence so obtained.
- 6.3. The Licensee will not inscribe, paint, write or affix on the Licence Area in writing, lettering, sign or notice advertising any commercial or non-commercial entity or event unless directly advertising the activities of the Licensee and with prior consent of the Licensors.
- 6.4. The Licensee will not any time carry on or to admit to be carried on or committed upon the Licence Area any offensive business or occupation or nuisance or behaviour.
- 6.5. The Licensee must pay all other operational costs incurred by the Licensee in respect of the Licence Area and in conducting the Licensee's business.
- 6.6. The Licensee notes that the Licensors may, from time to time, provide for capital works within the area of the Licence in its annual budgeting process and not inhibit access to the Licence Area to carry out those capital works.

- 6.7. Any additions or alterations made by the Licensee under Clause 4.3 of this Licence are to be made at the expense of the Licensee and are deemed to be the property of the Licensee. At the termination of this Licence, the Licensee has the right to remove such additions or alterations made to the Licence Area. The Licensee, prior to the termination of this Licence, shall pull down and remove such additions and alterations in a proper and competent manner so as not to cause any damage to the Licence Area and immediately after such removal, restore the Licence Area so far as possible to the condition at the commencement of the Licence and to the satisfaction of the Licensor. The Licensor reserves the right to remedy any works undertaken by the Licensee and forward the expense of such remedy to the Licensee for payment.
- 6.8. Any such alterations or improvements made under Clause 4.3, if not removed by the Licensee, are considered abandoned and become the property of the Licensor. Any alterations and improvements considered unusable, unsafe or not required by the Licensor, may be removed by the Licensor within six (6) months of the termination of this Licence. Any costs incurred in the removal such alterations or improvements will be forwarded to the Licensee for payment.
- 6.9. The Licensee acknowledges that the Rent under Item 4 of this Schedule is a concessional rent to recognise the community purpose of the Licence. If the Licensee applies to the Licensor seeking approval for an alternative use under Clause 4.4 which is Licensor determines is of a commercial nature, the Licensor reserves the right to alter the Rent under Item 4 to reflect the commercial use.
- 6.10. The date of commencement and the amount of the commercial Rent will be determined by the Licensor. The Licensor reserves the right to recoup commercial Rent if it considers the commercial use had commenced prior to approval being sought by the Licensee, despite the Licensor withholding formal approval.
- 6.11. The Licensee acknowledges and accepts the condition of the Licence Area at the Commencement Date of this Licence.
- 6.12. The Licensor reserves the right to inspect the Licence Area during the term of the Licence. The Licensor may request the Licensee to undertake maintenance under the terms of this Licence, if the condition is not to the satisfaction of the Licensor. Such maintenance will be at the expense of the Licensee.

Item 7: Insurance and Indemnity

- 7.1. The Licensee shall indemnify and keep indemnified the Licensor from and against all claims and expenses of any nature which the Licensor may suffer or incur in connection with loss of life and/or personal injury and/or damage to property arising from or out of any occurrence in upon or at the Licence Area or the use by the Licensee of the Licence Area or to any Person or the property of any Person being in or entering or near the Licence Area occasioned wholly or in part by any act neglect default or omission by the Licensee its agents contractors servants workmen customers or any other Person or Persons using or upon the Licence Area with its consent or approval express or implied BUT the Licensee shall not be liable to indemnify the Licensor for any loss or damage occasioned by any act neglect default or omission by the Licensor its agents contractors or servants.
- 7.2. The Licensee shall not without the written consent of the Licensor do any act matter or thing upon the Licence Area which shall or may increase the rate or premium payable by the Licensor under any policy of insurance taken out by the Licensor in respect of the Licence Area provided that such policies contain only conditions usual and appropriate to the circumstances. If the Licensee shall do any such act matter or thing upon the Licence Area then the Licensee shall pay the amount of the increased premium to the Licensor upon written demand.
- 7.3. The Licensee shall at all times in its use of the Licence Area comply with the requirements of the Regional Fire Safety Officer and the laws and regulations for the time being relating to fires and the provisions of any and every relevant statute regulation and ordinance. If the Licensee shall do or permit to be done any act matter or thing which has the effect of invalidating or voiding any policy of

insurance taken out by the Licensor than the Licensee shall be responsible for any damage or loss which the Licensor may suffer or incur as a result thereof provided that such policies contain only conditions usual and appropriate to the circumstances.

7.4. The Licensee shall at all times during this Lease or any extension thereof at the Licensee's own expense insure by obtaining and keeping in full force and effect a standard public risk liability policy or policies (in the joint names of the Licensee and the Licensor) in respect of the Licence Area, each part thereof, the business carried out therein (whether in accordance with these presents or otherwise) by the Licensee, and any Person who may at any time for any reason whatsoever be in or upon or about the Licence Area or any part thereof. The Licensee covenants and agrees with the Licensor that the aforesaid Policy or Policies shall:

- (i) be for a sum not less than **\$20,000,000.00**; and
- (ii) include such inclusions usually listed in a standard public risk liability Policy as the Licensor may reasonably require; and
- (iii) shall be produced to the Licensor upon demand. The Licensee shall indemnify and at all times during this Lease or any extension thereof keep the Licensor indemnified against the cost and expense of the aforesaid Policies and also any damage injury loss or inability arising from or caused by the Licensee's breach of the provisions of this Clause.

Attachment A – Plan of Licence Area

