



Lease Agreement

between

The Corporation of the Town of Tecumseh

and

Hotel Dieu Grace Healthcare

This Agreement made as of the 24th day of July 2024,

Between:

The Corporation of the Town of Tecumseh
(hereinafter the "**Town**")

Of the First Part

-and-

Hotel Dieu Grace Healthcare
(hereinafter the "**HDGH**")

Of the Second Part

Recitals:

Whereas the Town is the registered owner of the lands and premises legally described as Part Lot 153, Concession 2 designated as Part 6 on 12R416, Tecumseh and municipally known as 12420 Lanoue Street, Tecumseh (the "**Premises**");

And Whereas HDGH desires to establish and operate at the Premises a satellite Cardiac Wellness Site as an extension for its existing Cardiac Wellness Program as well as potential satellite opportunities for its senior programming for the provision of services to residents of the community;

And Whereas for the aforesaid purpose, the Town has agreed to lease to HDGH the Premises on the terms and conditions contained herein.

Now Therefore this Agreement witnesseth that in consideration of the fees, covenants and agreements contained herein, the Town does lease the Premises to HDGH upon the following terms and conditions:

Article 1: Basic Terms, Definitions and Interpretations

1.1 Summary of Basic Terms

The following is a summary of certain terms, which are part of, and are referred to in subsequent sections of this Agreement. Any conflict or inconsistency between these terms and the terms contained elsewhere in this Agreement will be resolved in favour of the terms contained elsewhere in this Agreement.



Term	Details of Term
Address of the Premises:	12420 Lanoue Street Tecumseh, Ontario N8N 4S3
Agreement Fee:	BD\$25,000.00 per annum
Term:	From the Commencement Date until December 31, 2029
Extension/Renewal Terms:	1 extension of 5 years
Commencement Date:	Per section 3.1
Address of Town:	917 Lesperance Road Tecumseh, Ontario N8N 1W9
Address of HDGH:	1453 Prince Road Windsor, Ontario N9C 3Z4
Termination:	Upon 12 months notice to the other or upon default as specified herein

1.2 Definitions

In this Agreement and in any Schedules hereto, the following words or phrases have the following meaning(s):

- 1.2.1 “**Agreement**” means this agreement and all the terms, covenants and conditions set out herein, as amended from time to time in accordance with Section 7.15 of this Agreement.
- 1.2.2 “**Agreement Fee(s)**” means the Agreement Fee payable by HDGH to the Town pursuant to Article 4 of this Agreement.
- 1.2.3 “**Architect**” means the independent, arm’s length architect, surveyor or professional civil engineer, from time to time named by the Town.
- 1.2.4 “**Authority**” means any governmental authority, quasi-governmental authority, agency, body or department whether federal, provincial or municipal, having or claiming jurisdiction over the Licensed Premises or the Building, or the use thereof.
- 1.2.5 “**Building**” means the building known municipally as 12420 Lanoue Street, in the Town of Tecumseh, in the Province of Ontario, erected on the Lands, from and including the lowest floor or level of the Building to and including the roof of the Building, the Common Areas



and Facilities, the Parking Areas and the areas and facilities exclusively serving the Building, which areas and facilities may include, without limitation, lobbies, foyers and vestibules, sidewalks, storage and mechanical areas, Mechanical and Electrical Services, janitor rooms, mail rooms, telephone rooms, rooms for the Mechanical and Electrical Services, stairways, escalators, elevators, truck and receiving areas, driveways, loading docks and corridors.

- 1.2.6 “**Business Day**” means any day which is normally considered a regular day of business for most government offices for the Province of Ontario.
- 1.2.7 “**By-Laws**” is defined in Section 6.13.3 of this Agreement.
- 1.2.8 “**Claims**” is defined in Section 6.7 of this Agreement.
- 1.2.9 “**Commencement Date**” means the date set out in Article 3 of this Agreement for the beginning of the Term.
- 1.2.10 “**Common Areas and Facilities**” means those areas, facilities, utilities, improvements, equipment and installations in the Building which are not leased or licensed to tenants or licensees of the Building, and which serve or are for the benefit of the Building and are located within the Building or on the Lands, including all areas, facilities, utilities, improvements, equipment and installations which are provided by the Town for the use or benefit of all the tenants, licensees, their employees, customers and other invitees in common with others entitled to the use and benefit thereof in the manner and for the purposes permitted by this Agreement.
- 1.2.11 “**Contemplated Use**” means the use set out in Section 5.6 of this Agreement.
- 1.2.12 “**Date of Damage**” is defined in Section 7.6 of this Agreement.
- 1.2.13 “**Environmental Contaminant(s)**” means (i) any substance which, when it exists in the Building or the water supplied to or in the Building, or when it is released into the Building or any part thereof, or into the water or the natural environment, is likely to cause, at any time, material harm or degradation to the Building or any part thereof, or to the natural environment or material risk to human health., including but not limited to any flammables, explosives, radioactive materials, asbestos, lead paint, PCBs, fungal contaminants (including without limitation, and by way of example only, stachybotrys chartarum and other moulds), mercury and its compounds, dioxins and furans, chlordane (DDT), polychlorinated biphenyls, chlorofluorocarbons (CFCs), hydro-chlorofluorocarbons (HCFCs), volatile organic



compounds (VOCs), urea formaldehyde foam insulation, radon gas, chemicals known to cause cancer or reproductive toxicity, pollutants, contaminants, hazardous wastes, toxic or noxious substances or related materials, petroleum and petroleum products, or (ii) any substance declared to be hazardous or toxic under any Environmental Laws now or hereafter enacted or promulgated by any Authorities, or (iii) both (i) and (ii).

- 1.2.14 “**Environmental Laws**” means any federal, provincial or local law, statute, ordinance, regulation, policy, guideline or order and all amendments thereto pertaining to health, industrial hygiene, environmental conditions or Environmental Contaminants, including, without limitation, the *Environmental Protection Act*, R.S.O. 1990, c.E.19, the *Environmental Assessment Act*, R.S.O. 1990, c.E.18, the *Ontario Water Resources Act*, R.S.O. 1990, c.O.40, the *Occupational Health and Safety Act*, R.S.O. 1990, c.O.1 and applicable air quality regulations thereunder, the *Safe Drinking Water Act*, 2002, S.O. 2002, c.32, and applicable air quality guidelines, as such statutes, regulations and guidelines may be amended from time to time.
- 1.2.15 “**Extension Term**” is defined in Section 7.10 of this Agreement.
- 1.2.16 “**HDGH**” includes, for the purpose of Section 6.7 herein and any other provisions herein limiting HDGH’s liabilities, the servants, employees, agents, invitees and licensees of HDGH, and any other governmental agency, ministry, corporation or department over whom HDGH may reasonably be expected to exercise control.
- 1.2.17 “**HDGH Indemnified Parties**” means the parties set out in Section 6.7 of this Agreement.
- 1.2.18 “**Improvements**” means all items generally considered as leasehold improvements including, without limitation, all installations, alterations, and additions from time to time made, erected or installed in the Premises by or on behalf of HDGH, or any previous occupant of the Premises.
- 1.2.19 “**Indemnifying Party**” is defined in Section 7.13 of this Agreement.
- 1.2.20 “**Lands**” means the lands underneath or directly adjacent to the Building as more particularly described in Schedule A attached hereto.
- 1.2.21 “**Mechanical and Electrical Services**” include, but are not limited to, all mechanical, electrical, drainage, lighting, incinerating, ventilation, air-conditioning, elevating, heating, pumping, sprinkling, alarm, plumbing and other mechanical and electrical systems installed in or used in the operation of the Building and the Lands.



- 1.2.22 “**Parking Areas**” means the improvements constructed from time to time, in or as part of the Building and the Lands for use as parking facilities for the tenants and/or licensees of the Building and their employees, servants and invitees, and the areas and facilities that are appurtenant solely to those improvements. The Town shall designate the minimum number of the parking spaces comprising the Parking Areas prescribed by the relevant Authority for the sole and exclusive use of people with disabilities.
- 1.2.23 “**Person**” if the context allows, includes any person, firm, partnership or corporation, or any group of persons, firms, partnerships or corporations or any combination thereof.
- 1.2.24 “**Sales Taxes**” means all business transfer, multi-usage sales, sales, goods and services, harmonized sales, use, consumption, value-added or other similar taxes imposed by the Government of Canada and/or Ontario upon the Town, or HDGH, or in respect of this Agreement, or the payments made by HDGH hereunder or the goods and services provided by the Town hereunder including, without limitation, the use of the Premises and the provision of administrative services to HDGH hereunder.
- 1.2.25 “**Service Provider**” means any Person retained by HDGH to provide services to HDGH in respect of the administration of and operations under this Agreement.
- 1.2.26 “**Structure**” means the foundation, roof (including the roof membrane), exterior wall assemblies, including weather walls and bearing walls, subfloor and structural columns and beams of the Building, all plumbing, drainage, Mechanical and Electrical Services and equipment leading up to, from and under the Building, and any other portions of the Building normally considered to be part of the structural portion of a building, or where the repairs or replacements thereto are normally considered a major capital expenditure.
- 1.2.27 “**Term**” means the term of this Agreement set out in Article 3 of this Agreement.
- 1.2.28 “**Town**” means the Corporation of the Town of Tecumseh and its duly authorized representatives.
- 1.2.29 “**Town Indemnified Parties**” means the parties set out in Section 5.11 of this Agreement.
- 1.2.30 “**Trade Fixtures**” means the personal chattels installed prior to the Commencement Date, at the Commencement Date or during the Term by or on behalf of HDGH, in, on or which serve, the Premises, for the



sole purpose of HDGH carrying on its trade in the Premises pursuant to Section 5.7 of this Agreement and which Trade Fixtures HDGH is permitted to remove only to the extent permitted by the terms of this Agreement, but Trade Fixtures do not include Improvements of HDGH.

- 1.2.31 “**Utilities**” means all gas, electricity, water, sewer, steam, fuel oil, power, telecommunications equipment for transmitting and receiving signals, and other utilities used in or for the Building or the Licensed Premises, as the case may be.

Article 2: Grant of Premises

In consideration of the Agreement Fees reserved and the covenants and agreements herein contained to be paid, observed, and performed by HDGH, the Town hereby grants to HDGH the exclusive licence and privilege (irrevocable in accordance with the terms hereto) to utilize the Premises for the purpose of the Contemplated Use and for no other purpose, subject to the further terms and conditions hereof.

Article 3: Term

- 3.1** The parties hereto acknowledge the Town is currently occupying the Premises during the renovations of the Tecumseh Arena and will vacate the Premises as soon as reasonably possible to return to Tecumseh Arena and provide vacant possession to HDGH. The Town shall provide thirty (30) days’ written notice to HDGH of its intent to provide vacant possession of the Premises and the date on which such vacancy will be effective (such date shall be the “**Commencement Date**”).
- 3.2** The term of this Agreement shall commence on the Commencement Date and shall terminate on the 31st day of December 2029 (the “**Term**”).
- 3.3** The Town or HDGH shall have the right to terminate this Agreement at any time and for any reason throughout the Term or any extension thereof, without penalty, damages, compensation or bonus, upon giving the other twelve (12) months’ prior written notice.

Article 4: Agreement Fee

- 4.1** HDGH shall pay Agreement Fees to the Town as follows:
- 4.1.1 On or before the Commencement Date, an amount equal to the pro rated annual Agreement Fee from the Commencement Date to the 31st day of December 2024 ($\$25,000.00/365 \text{ days} \times \# \text{ of days}$): and



- 4.1.2 Thereafter on or before the 1st day of September in the years 2025 to and including 2029, the sum of Twenty-Five Thousand Dollars (\$25,000.00) plus HST.

Article 5: HDGH Covenants

HDGH covenants with the Town as follows:

5.1 Compensation for Damage

To make good any damage to the Premises caused by negligent, reckless, or willful misconduct of HDGH servants, agents, employees, licensees, or invitees.

5.2 Network/Wi-Fi Accounts and Infrastructure

To obtain network and Wi-Fi accounts for the Premises at its own expense during the Term and including all charges for network and Wi-Fi used or consumed within the Premises.

5.3 Notice of Defect

To give the Town notice, as soon as reasonably possible, of any accident to or defect in the Mechanical or Electrical Services, or any other system or part of the Premises to which the Town is required to repair.

5.4 Entry by the Town

To permit the Town to enter the Premises at any reasonable time after delivering two (2) Business Days prior written notice to HDGH designated representative, for the purpose of inspecting the Premises and making permitted repairs to the Premises.

5.5 Assign or Sublet

Not to assign this Agreement, sublet, part with, or share possession of the Premises or any part thereof, without the prior written consent of the Town, such consent not to be unreasonably withheld, delayed, or conditioned. Consent may be conditioned upon written confirmation that the entirety of the Premises will continue to be used for the Contemplated Use.

5.6 Use of Premises

HDGH is hereby granted permission to use the Premises as a satellite Cardiac Wellness Site as an extension of its existing Cardiac Wellness Program, including but not limited to, potential satellite opportunities for its existing seniors programming, to the extent permitted by applicable laws and, in each case, in the fulfillment of wellness services (the “**Contemplated Use**”).



5.7 Not to Affect Insurance

Not to do or omit or permit to be done or omitted on the Premises anything which shall cause the insurance premiums for the Building to be increased and if the insurance premiums for the Building shall be increased by reason of anything done or omitted or permitted to be done or omitted by HDGH or any permitted by HDGH to be upon the Premises, such increase shall form part of the calculation for Agreement Fees as set forth in Article 4 hereof.

5.8 HDGH's Compliance with Laws

To comply with all codes and regulations of any federal, provincial, or municipal laws, regulations and any codes of any relevant Authority which apply to HDGH's use or operation of the Premises and the services provided therein and as relating further to the making of any repairs, replacements, additions, changes, substitutions, or improvements that relate to such use or operation by HDGH.

Without limiting the generality of the foregoing, HDGH shall comply with all rules and regulations regarding the disposal of biohazard/biomedical waste to the extent applicable.

5.9 Waste

Not to do or allow any waste, damage, disfiguration, or injury to the Premises or the fixtures and equipment forming a part thereof or permit any overloading of the floors thereof.

5.10 Nuisance

Not to use or permit the use of any part of the Premises for any dangerous, noxious, or offensive trade or business, or cause or permit any nuisance in, at, or on the Premises. HDGH acknowledges and agrees that the Contemplated Use does not contravene this Section.

5.11 HDGH's Indemnity

5.11.1 Subject to the paragraphs below and Section 7.13, HDGH shall defend, protect, indemnify, and hold the Town and the Town's agents, officers, directors, employees, and contractors (collectively, the "**Town Indemnified Parties**") harmless against and from any and all injuries, costs, expenses, liabilities, losses, damages, injunctions, suits, actions, fines, penalties, and demands of any kind or nature (including reasonable solicitors' fees) arising in connection with any and all third party claims arising out of: (a) injuries occurring within the Premises, (b) any intentional conduct or negligence of HDGH or any person for whom it is in law responsible, or (c) any breach or default in the performance of any obligation on HDGH 's part to be performed under



this Agreement. This indemnity does not include the intentional or negligent acts or omissions of the Town or any person for whom it is in law responsible. This indemnity shall survive termination of this Agreement only as to claims arising out of events that occur prior to termination of this Agreement.

5.12 HDGH's Insurance

- 5.12.1 HDGH shall, at its own expense, obtain and keep in force during the term of this Agreement, Commercial General Liability Insurance satisfactory to the Town, inclusive of public liability coverage, which insurance shall be underwritten by an insurer licensed to conduct business in Ontario and include, but not be limited to, the following:
- (a) a limit of liability of not less than Five Million Dollars (\$5,000,000.00) per occurrence;
 - (b) the Town named as an "Additional Insured;"
 - (c) a provision for cross liability and severability; and
 - (d) thirty (30) days prior notice of cancellation of the policy provided in writing to the Town.
- 5.12.2 A certificate of insurance evidencing the above shall be provided to the Town prior to the Commencement Date and upon each renewal during any Term of this Agreement.
- 5.12.3 Failure to furnish certificates of insurance or notices of lapse on any policy constitutes a material breach and grounds for termination of this Agreement unless the User is able to provide reasoning acceptable to the Town.

5.13 Facilitate Cleaning

To leave the Premises in a reasonably tidy state at the end of each Business Day to facilitate the Town's janitorial services.

Article 6: Town's Covenants

The Town covenants with HDGH as follows to provide the following as part of the annual lease fee:

6.1 Exclusive Use

HDGH will have exclusive use of the Premises as of the Commencement Date and throughout the Term, as may be extended.



6.2 Services and Facilities

To provide and operate the following services and facilities for the Premises as expressed below, and maintain such services and facilities in good repair (and, if necessary, replace same) during the Term:

- 6.2.1 Utility Systems: All utility systems and facilities including water, fuel, and electricity, and including all charges for Utilities used or consumed within the Premises
- 6.2.2 Electrical Systems/Lenses, Bulbs and Related Equipment: An electrical system which is satisfactory for HDGH's purposes including fixtures and outlets together with the initial installation and ongoing replacement of bulbs, fluorescent tubes and ballasts during the Term, and all maintenance and parts thereof.
- 6.2.3 Thermal Conditions and Air Quality: A heating, ventilation, and air-conditioning system,
- 6.2.4 Water System: A water system capable of supplying hot and cold water to the Premises and the washrooms serving the Premises.
- 6.2.5 Washrooms: Fully equipped washroom facilities for male and female employees and guests of HDGH in accordance with the requirements established by the *Occupational Health and Safety Act*, R.S.O. 1990, c.0.1, as amended, and the regulations made thereunder, or any successor act, an accessible male and female washroom installed in accordance with the requirements of the *Building Code Act*, 1992, S.O. 1992, c. 23, as amended and any other applicable requirements of any relevant Authority, and the provision of all washroom equipment and supplies reasonably necessary, in the opinion of HDGH, for the use and operation of such washroom facilities, including, without limitation, a sink, vanity, toilet bowl, paper towel dispenser, garbage pail, soap dish and toilet paper dispenser.
- 6.2.6 Exterior, Common Areas: Maintenance of the exterior of the Building, the landscaped grounds of the Lands, the Parking Areas and walkways of the Building and the Common Areas and Facilities of the Building in good repair and first-class condition and the prompt removal of snow and ice.
- 6.2.7 Glass Replacement: Prompt replacement in case of breakage, of all plate glass and other glazing materials of the Building, including without limitation, that which demises the Premises, with material of the same kind and quality as that which may be damaged or broken, save where such damage or breakage has been occasioned by HDGH, its servants or agents.



6.2.8 Janitorial Services: Janitorial service for the Premises as would a reasonably prudent owner of a similar building, including the provision of waste removal services and all cleaning materials and washroom supplies.

6.3 Access

To permit HDGH, its agents, invitees and those having business with any or all of them, full and uninterrupted access to the Building on those days as determined pursuant to Section 6.1 of this Agreement, including access for persons with disabilities. The Town covenants and agrees to provide all services and facilities required to be provided by it hereunder at all times throughout the Term.

6.4 Repair

To maintain the Premises, including the Improvements, the Building and the Structure in good repair and tenantable condition during the Term and make good any defect or want of repair and/or replacement promptly upon notice thereof with a minimum of disruption to HDGH's business.

6.5 HDGH's Improvements

6.5.1 To grant permission to HDGH to tender for and complete, at HDGH's sole cost and expense, such Improvements to the Premises as HDGH may consider necessary from time to time both prior to and during the Term or any extension thereof, provided that such Improvements do not affect the Structure and that where such Improvements may affect the Mechanical and Electrical Services, HDGH agrees to use the Town's professional engineers as consultants if so, required by the Town. HDGH will give the Town written notice of its intention to make Improvements and upon request shall supply the Town with plans of the proposed Improvements. HDGH will obtain the prior written approval of the Town for any Improvements, which approval will not be unreasonably withheld.

6.5.2 HDGH covenants not to suffer or permit during the Term hereof any construction liens or other liens for work, labour, services or materials ordered by it or for the cost of which it may be in any way obligated, to attach to the interest of the Town in the Premises or the Lands, and that whenever and so often as any claim for lien is received by HDGH or registered on title to the Lands, HDGH shall, as soon as reasonably possible on the earlier of receiving notice of the claim or registration, procure the discharge or vacate thereof by payment or by giving security or in such other manner as is or may be required or permitted by law.



6.6 Town's Improvements

That, unless the Town fully complies with the terms and conditions set out below, at no time during the Term shall the Town commence any further construction or alterations to the Building which will have the effect of:

- 6.6.1 materially interfering with the business operations of HDGH;
- 6.6.2 materially interfering with ingress to or egress from the Premises; or
- 6.6.3 causing noise or other nuisances, which might materially interfere with the HDGH's business operations; and
- 6.6.4 unless HDGH otherwise consents, HDGH's consent therefor shall not to be unreasonably withheld.

In the event that the Town intends to commence any construction relating to items 6.6.1 to 6.6.3, inclusive outlined in this Section 6.6, in or around the Building, at any time during the Term, such construction shall be subject to the following terms and conditions:

- 6.6.5 the Town must receive the prior written approval of any required Authorities;
- 6.6.6 all construction must be completed promptly and in a good and workmanlike manner, and must not materially interfere with the use of the Premises or any part thereof by HDGH;
- 6.6.7 all Utilities and other base building systems must continue to be fully operative during any period of construction to the extent possible.

6.7 Town's Indemnity

Subject to Section 7.13, to indemnify HDGH, its agents, officers, directors, employees, , parents, subsidiaries, successors and assigns (collectively, "**HDGH Indemnified Parties**") and save them harmless from and against all losses, claims, actions, damages, costs, liabilities and expenses (together the "**Claims**") in connection with loss of life, personal injury, damage to property (including any portion of the Building and its equipment, machinery, services, fixtures and Improvements) or any other loss or injury arising from or out of the conduct of any work by the Town, the provision of any service by the Town or any act or omission of the Town or those for whom the Town is at law responsible or by anyone permitted to be in the Building by the Town. If HDGH is, without fault on its part, made a party to any litigation commenced by or against the Town, then the Town will protect, indemnify and hold HDGH harmless and pay all expenses and reasonable legal fees incurred or paid by HDGH in connection with such litigation.



6.8 Compliance with Laws

To comply with all provisions of law including, without limitation, all enactments, by laws and any regulations of any Authority which relate to the Premises or to the use or occupation thereof or to the making of any repairs, replacements, additions, changes, substitutions or improvements of or to the Premises or any part thereof.

6.9 Town's Insurance

The Town acknowledges and agrees that throughout the Term, it shall maintain in full force and effect the following insurance with respect to the Building: (a) "all risks" property insurance, on a full replacement cost basis, with respect to the Building; (b) boiler and machinery insurance, on a full replacement cost basis, with respect to all pressure vessels, boilers, machinery and equipment in or servicing the Building; and (c) comprehensive general liability insurance for bodily injury (including death) and property damage, in the amount of at least Ten Million Dollars (\$10,000,000) per occurrence, which policy shall name HDGH as an Additional Insured, and contain cross liability and severability of interests clauses. The Town shall provide HDGH with a certificate evidencing such insurance, containing an undertaking by the Town's insurers to provide HDGH with a minimum of thirty (30) days' notice in the event of any material change, cancellation or termination of such policies.

6.10 No Environmental Contaminants

To use its continuing effort throughout the Term and any extension thereof to ensure that no part of the Building or Lands is used, without limitation, to generate, manufacture, refine, treat, transport, store, handle, dispose of, transfer or produce any Environmental Contaminant, except in strict compliance with all applicable laws of any relevant Authority, including the Environmental Laws.

6.11 Environmental Contaminants

To remove any Environmental Contaminant located on or in the Building whether known to the Town as of the date of execution of this Agreement, and whether resulting from any act, omission, or negligence of the Town or those for whom it is in law responsible, which is not contained in accordance with all applicable laws of any relevant Authority. If any such Environmental Contaminant is not removed forthwith by the Town, HDGH shall be entitled, but not required, to remove the same on the Town's behalf, and the Town shall reimburse HDGH for the cost thereof.

6.12 Notification of Environmental Contaminants

To notify HDGH immediately in the event the Town receives notice of any violation of any Environmental Law or that any order of an administrative tribunal



or any Authority is made or is proposed to be made against the Town in respect of any Environmental Contaminant in, on or near the Lands or Building, and to notify HDGH immediately of any discharge, release or discovery of any Environmental Contaminant which is not contained in accordance with all applicable laws of any relevant Authority, in or on any part of the Building or Lands.

6.13 Warranty

- 6.13.1 Excepting any Environmental Contaminant arising from HDGH's past use, present or future use of the Premises, the Town: (i) represents and warrants there has not been and is not now; and (ii) covenants to ensure that there will not be, at any time during the Term, any Environmental Contaminant located, stored, manufactured, refined, disposed of, produced, processed or incorporated in or on any part of the Building or the Lands, except in accordance with Section 6.11 of this Agreement. In the event there is any Environmental Contaminant in the Premises, the Building, or on the Lands, which is not handled in accordance with Section 6.12 of this Agreement, HDGH may terminate this Agreement if the Town is unwilling or unable to cleanup or decommission such within a reasonable time of becoming aware of such Environmental Contaminant.
- 6.13.2 The Town further represents and warrants that as of the Commencement Date and throughout the Term and any extension thereof, all Mechanical and Electrical Services and equipment serving the Premises are and will be in good working order and condition and satisfactory for the carrying on of HDGH's business in and from the Premises
- 6.13.3 The Town further covenants and agrees that, as of the Commencement Date: (i) there shall not be any by laws (the "**By- Laws**"), including, without limitation, any restrictive covenants, development agreements, zoning or other ordinances or regulations of any Authority which will prevent HDGH from conducting its business operations in and from the Premises in accordance with this Agreement; and (ii) all such By-Laws shall permit the continual operation of the Building and every part of the Premises in accordance with this Agreement. In the event any By-Law(s) prohibits or prevents HDGH from using any part of the Premises for the Contemplated Use, HDGH may, on thirty (30) days prior written notice, terminate this Agreement, without prejudice to HDGH's rights to claim for damages against the Town arising out of any By-Law prohibiting or preventing HDGH's use of the Premises as aforesaid.



6.14 Asbestos

Notwithstanding anything to the contrary contained in this Agreement, at all times, including, but not limited to, any times during which either the Town or HDGH are making any Improvements or other improvements, additions or renovations in or about the Premises or the Building, or at any times when any maintenance or repairs of any kind are being carried out in or about the Premises or the Building, the Town agrees to comply with the provisions of Ontario Regulation 278/05, “Designated Substance – Asbestos on Construction Projects and in Buildings and Repair Operations” (the “**Regulation**”) and the Environmental Laws. Failing such compliance by the Town, HDGH may, at HDGH’s sole option, (a) on twenty (20) days prior written notice to the Town, take all reasonable measures, at the Town’s sole cost and expense, to complete the work required to comply with the Regulation and the Environmental Laws, to deduct the costs and expenses incurred thereby from the Agreement Fee and to recover the balance, if any, after such deduction, from the Town; or (b) terminate this Agreement. The Town shall in no case withhold its consent to the making of any Improvements to the Premises by HDGH because of the cost to it of compliance with this Section.

6.15 Consent and Approval

That the Town and each Person acting for or on behalf of the Town making a determination, designation, calculation, estimate, conversion or allocation or in giving an approval or consent under this Agreement, will act reasonable, promptly and in good faith and each accountant, architect, engineer or surveyor, or other professional Person employed or retained by the Town will act in accordance with the applicable principles and standards of that Person’s profession.

Article 7: Provisos

7.1 Overholding

If HDGH remains in possession of the Premises after the date fixed for the expiration of the Term or any extension thereof without any further written agreement, HDGH shall be deemed to be occupying the Premises from year to year at the annual Agreement Fee rate payable by HDGH during the Term.

7.2 Trade Fixtures

HDGH may, at its option, at any time during the Term and/or any extension thereof and/or upon the expiry or sooner termination thereof, remove or replace any Trade Fixtures installed by or on its behalf in the Premises or install new Trade Fixtures therein, as the case may be. For greater certainty, HDGH shall not be obligated to remove its Trade Fixtures at the expiration or earlier termination of the Term.



7.3 Signs

- 7.3.1 HDGH may erect such signs on the Premises in accordance with the Building standard and in accordance with municipal laws, as it considers necessary for the proper conduct of its business.
- 7.3.2 All such signs may be removed by the Town from the Premises at the end of the Term or any extension thereof.
- 7.3.3 HDGH shall compensate the Town for any damage caused to the Premises or Building, if applicable, by the removal of the signs.

7.4 Unavoidable Delays

Notwithstanding anything in this Agreement, if either party is bona fide delayed or hindered in or prevented from the performance of any term, covenant, or act required hereunder by reason of strikes or labour trouble; inability to procure materials or services; power failure; restrictive governmental laws or regulations; riots; insurrection; sabotage; rebellion; war; act of God; or other reason whether of a like nature or not which is not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement (but excluding the inability to perform because of financial difficulties or lack of funds), then the performance of that term, covenant or act is excused for the period of the delay and the party delayed will be entitled to perform the term, covenant or act within the appropriate time period after the expiration of the period of the delay. If any of the events or problems referred to in this Section 7.4 occur and either party contemplates that it will be bona fide delayed or hindered in or prevented from the performance of any term, covenant or act required hereunder by reason thereof, such party shall forthwith deliver written notice to the other, with full and detailed particulars setting out the nature of such event or problem and the period of the delay contemplated by the party giving notice for the performance of any such term, covenant or act required hereunder.

7.5 Right-of-Way

If the Premises are now or hereafter served by an alley, easement, or right-of-way, HDGH, its servants, agents, employees, licensees and invitees shall have the full right of ingress and egress over such alley, easement or right-of-way in common with all others entitle thereto.

7.6 Damage and Destruction

If at any time during the Term, the Building shall be damaged or destroyed, either in whole or in part, by fire or other peril insured against by HDGH, then, and in every such event:



- 7.6.1 If the damage or destruction to the Building is such that, in the opinion of the Architect to be given to HDGH within twenty (20) days of the date of the occurrence of such damage or destruction (the “**Date of Damage**”), the Licensed Premises are rendered partially unfit for occupancy or impossible or unsafe for use or occupancy, then the Agreement Fee shall abate as of the Date of Damage in proportion to the part of the Premises which is rendered unfit for occupancy or impossible or unsafe for use or occupancy, and Agreement Fee will not be payable again until such time as the Premises and the Improvements have been fully restored by the Town to their condition as of the Commencement Date.
- 7.6.2 If the damage or destruction to the Building is such that, in the opinion of the Architect to be given to HDGH within twenty (20) days of the Date of Damage, the Premises are rendered wholly unfit for occupancy or impossible or unsafe for use or occupancy, or that reasonable or convenient access is prevented thereto, and if, in either event, the damage, in the opinion of the Architect to be given to HDGH within twenty (20) days of the Date of Damage, cannot be repaired with reasonable diligence within one hundred and twenty (120) days of the Date of Damage, then either the Town or HDGH may terminate this tenancy within twenty (20) days following the date of the giving of the Architect’s opinion, upon written notice to the other party, in which event this Agreement will be at an end as of the Date of Damage and the Agreement Fee shall be apportioned and paid in full to the Date of Damage.
- 7.6.3 In the event that neither the Town nor HDGH shall terminate this Agreement in accordance with the provisions of Section 7.6.2 of this Agreement, then the Town shall repair the Premises, the Improvements and the Building with all reasonable speed and the Agreement Fee hereby reserved shall abate from the Date of Damage until the later date of either (i) the Premises and Improvements are restored to their condition as of the Commencement Date; or (ii) reasonable and convenient access is restored thereto, as the case may be.
- 7.6.4 If the damage or destruction is such that, in the opinion of the Architect to be given to HDGH within twenty (20) days of the Date of Damage, the Premises are rendered wholly unfit for occupancy or if it is impossible or unsafe to use and occupy the Premises, and if, in either event, the damage, in the opinion of the Architect to be given within twenty (20) days from the Date of Damage, can be repaired with reasonable diligence within one hundred and twenty (120) days of the Date of Damage, then the Agreement Fee shall abate from the Date of Damage until the date the Premises and Improvements are restored to



their condition as of the Commencement Date, provided that the Town shall repair the Premises and the Improvements with all reasonable speed.

- 7.6.5 Notwithstanding anything contained in this Section 7.6, if the Town does not commence to repair or restore the Premises, the Improvements or Building within fifteen (15) days of the date of delivery of the Architect's opinion or, having commenced the repair or restoration of the Premises, the Improvements, or the Building, does not continue to complete same within reasonable dispatch, HDGH may terminate this Agreement upon fifteen (15) days prior written notice to the Town, in which case, this Agreement shall cease and be at an end as of the Date of Damage and the Agreement Fee shall be apportioned and paid in full to the Date of Damage.

7.7 Removal of Improvements by HDGH

HDGH may, at its sole option, at any time during the Term and/or any extension thereof and/or upon the expiry or sooner termination thereof, remove or replace any Improvements or alterations made or installed by or on behalf of HDGH in the Premises or install new Improvements or alterations therein, as the case may be.

7.8 Re-Entry

- 7.8.1 If the Agreement Fee hereby reserved, or any part thereof, shall be in arrears or if HDGH defaults in the observance or performance of any of HDGH's other covenants or agreements contained in this Agreement, and HDGH fails to pay such arrears within sixty (60) days of receipt of notice in writing from the Town or if HDGH fails to remedy any other default within sixty (60) days after receipt of notice from the Town (or such longer period as is reasonably required under the circumstances so long as HDGH commences to remedy within such sixty (60) day period), the Town may, in addition to any other remedies the Town may have, either in this Agreement or at law, re-enter the Premises and the Term hereby granted shall thereupon be terminated. Notwithstanding the foregoing, and without limiting the remedies of the Town, in the event HDGH fails to remedy a default not related to payment of the Agreement Fee within the above-specified notice period, and provided the Agreement is not bona fide disputing the default, upon the expiration of the above-specified notice period the Town, at its option, acting reasonably, may remedy the default on behalf of HDGH and charge the costs thereof to HDGH.



7.8.2 With respect to any remedy exercised by the Town, the Town shall have an affirmative obligation to obtain another licensee for the Premises at a fair market rental and to otherwise mitigate its damages.

7.9 Town's Default

If the Town defaults in the observance or performance of any of its covenants or agreements contained in this Agreement, HDGH may, at its option and upon such reasonable notice as the circumstances warrant, remedy such default and deduct the reasonable cost of such action from the Agreement Fee payable under this Agreement or require the Town to otherwise reimburse HDGH for the reasonable cost of such action.

7.10 Option to Extend

7.10.1 HDGH shall be entitled to extend this Agreement for one (1) further term of five (5) years (the "**Extension Term**"). Unless otherwise mutually agreed to Extension Term shall be upon the same terms and conditions of this Agreement, including the Agreement Fee.

7.10.2 HDGH shall give written notice to the Town of its extension of this Agreement at least six (6) months prior to the end of the Term.

7.11 Non-Waiver

No condoning, excusing or overlooking by the Town or Licensee of any default, breach or non-observance by HDGH or the Town at any time or times in respect of any covenant, proviso or condition herein contained shall operate as a waiver of the Town's or HDGH's rights hereunder in respect of any continuing or subsequent default, breach or Non observance, or so as to defeat or affect in any way the rights of the Town or HDGH herein in respect of any such continuing or subsequent default or breach, and no waiver shall be inferred from or implied by anything done or omitted by the Town or HDGH save only an express waiver in writing.

7.12 Notices

7.12.1 Any notice required or contemplated by any provision of this Agreement shall be given in writing addressed in the case of notice to the Town to the following address:

The Corporation of the Town of Tecumseh
917 Lesperance Road
Tecumseh, Ontario N8N 1W9
Attention: Robert Auger, Clerk
Email: rauger@tecumseh.ca



and in the case of notice to HDGH to the following address:

Hotel-Dieu Grace Healthcare
1453 Prince Road
Windsor, Ontario N9C 3Z4
Attention: Sheri McGreen, Chief HR Officer
Email: sheri.mcgreen@hdgh.org

- 7.12.2 Notices shall be delivered personally or by facsimile or mailed by either registered or signature mail and postage prepaid enclosed in a sealed envelope. The time of giving of notice by either registered or signature mail shall be conclusively deemed to be the fifth Business Day after the day of such mailing. Such notice, if personally delivered or if delivered by facsimile, shall be conclusively deemed to have been given and received at the time of such delivery. The parties hereto acknowledge and agree that notwithstanding anything to the contrary in the *Electronic Commerce Act*, 2000, S.O. 2000, c.17, as amended from time to time, any notice, statement, demand, request or other instrument which may be or is required to be given under this Agreement or at law may not be validly delivered by way of electronic communication, save as specifically provided in this Section.
- 7.12.3 Either party may at any time by giving notice to the other party (in the manner provided above) change its address for notice purposes, and thereafter the address most recently provided shall be deemed to be the address so changed.

7.13 Indemnification

- 7.13.1 The parties agree that in order to be entitled to indemnification from either HDGH under Section 5.11, or from the Town under Section 6.7 of this Agreement (each, an **"Indemnifying Party"**) in respect of any matter referred to therein (a **"Claim"**), each person seeking indemnification (a **"Protected Person"**) shall comply with the following terms and conditions:
- (a) if a Protected Person receives a notice of Claim or Claims, whether actual or threatened, he, she, or it shall promptly deliver to the Indemnifying Party written notice setting forth in reasonable detail all available particulars of the Claim(s);
 - (b) upon the written request of the Indemnifying Party, each Protected Person shall furnish to the Indemnifying Party copies of all documents and provide any other information relating to the Claim(s) that is in the possession or under the control of the Protected Person;



- (c) each Protected Person shall take all reasonable steps necessary to secure and preserve his, her or its rights in respect of the Claim(s) and, to the extent that the Protected Person has a right to commence a proceeding against another person (whether for damages or indemnification or otherwise) in respect of a matter for which the Protected Person claims indemnification from the Indemnifying Party hereunder, the Protected Person shall assign that right to the Indemnifying Party and subrogate the Indemnifying Party to that right to the extent of the amounts paid by the Indemnifying Party or for which the Indemnifying Party is liable hereunder;
- (d) each Protected Person shall not voluntarily assume any liability in respect of or settle or compromise a Claim(s) or any proceeding relating thereto without obtaining the Indemnifying Party's prior written consent;
- (e) the Indemnifying Party shall have the right to participate in the negotiation, settlement or defence of the Claim(s) and any proceedings relating thereto or appeal thereof, but the Indemnifying Party may not settle any action commenced against a Protected Person without the written consent of that Protected Person;
- (f) if the Indemnifying Party elects to participate in or assume control of the negotiation, settlement or defence of the Claim(s) and any proceedings relating thereto or appeal thereof, each Protected Person shall cooperate fully with the Indemnifying Party in connection with the same, and each Protected Person shall agree to be represented by legal counsel chosen by the Indemnifying Party, unless, in the opinion of such legal counsel, there would arise a conflict of interest preventing such legal counsel from representing the Protected Person, and, where it is such legal counsel's opinion that a conflict of interest prevents their representing a Protected Person, that Protected Person shall be entitled, subject to the Indemnifying Party's prior written approval, to retain legal counsel of his, her or its choice (it being understood that HDGH may withhold its approval in relation to any counsel proposed by a Protected Person who does not agree to retainer terms, including fees, consistent with the policies of the Ministry of the Attorney General of Ontario), and the fees and expenses of the Protected Person's counsel incurred in his, her or its representation shall be costs to which this indemnity extends;
- (g) if the Indemnifying Party is not also a party to the Claim, the Protected Person shall consent to any order or leave that may be applied for by the Indemnifying Party to be added as a party or to



be allowed to make representations on its own behalf without being a party;

- (h) the expenses incurred by a Protected Person in investigating, defending or appealing any Claim(s) shall, at the Protected Person's request, be paid by the Indemnifying Party as may be appropriate to enable the Protected Person to properly investigate, defend or appeal such Claims(s), with the understanding that if it is ultimately determined that the Protected Person is not entitled to be indemnified hereunder, the Protected Person shall immediately repay such amount(s) so paid, which shall become payable as a debt due to the Indemnifying Party; and
- (i) the Protected Person agrees to pay to the Indemnifying Party all amounts he, she, or it receives as a recovery or reimbursement of any Claim which has been previously indemnified by the Indemnifying Party hereunder.

To the extent necessary to give effect to the foregoing indemnity with respect to the Town Indemnified Parties (other than the Town), the Town shall hold all such rights of indemnification in trust for the benefit of the other Town Indemnified Parties. To the extent necessary to give effect to the foregoing indemnity with respect to HDGH Indemnified Parties (other than HDGH), HDGH shall hold all such rights of indemnification in trust for the benefit of the other Licensee Indemnified Parties.

7.14 Conflict of Interest

- 7.14.1 The Town and any of its successors, assigns, directors, officers, employees, agents, servants, and representatives shall not engage in any activity where such activity creates a conflict of interest, actual or potential, in the sole opinion of HDGH, with the License or the exercise of any of the rights or obligations of the Town hereunder. The Town shall disclose to HDGH in writing and without delay any actual or potential situation that may be reasonably interpreted as either a conflict of interest or a potential conflict of interest.
- 7.14.2 For clarification, a "conflict of interest" means, in relation to the performance of its contractual obligations pursuant to this License, the Town's other commitments, relationships or financial interests (i) could or could be seen to exercise an improper influence over the objective, unbiased and impartial exercise of its independent judgement, or (ii) could or could be seen to compromise, impair or be incompatible with the effective performance of its contractual obligations pursuant to this Agreement.



7.15 Entire Agreement

HDGH and the Town acknowledge that there are no covenants, representations, warranties, agreements or conditions, expressed or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Agreement save as expressly set out in this Agreement and that this Agreement and the Schedule(s) hereto constitute the entire agreement between the Town and HDGH and may not be modified except as herein explicitly provided or except by subsequent agreement in writing of equal formality hereto executed by the Town and HDGH. Schedule A attached to this Agreement; forms part of this Agreement.

7.16 Counterparts

The parties agree that this Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall be construed together as a single binding instrument. Such counterparts may be delivered by facsimile or other electronic means, including by electronic mail in portable document format (PDF). The electronic signature of any party hereto shall constitute a valid and binding signature with the same effect as an original signature endorsed hereon. Any party delivering an executed counterpart of this Agreement by facsimile or by electronic transmission shall, if requested, also deliver an originally executed counterpart within seven (7) days of the facsimile or electronic transmission. Failure to deliver an originally executed copy shall not affect the validity, enforceability or binding effect of this Agreement.

7.17 Severability

The Town and HDGH agree that all of the provisions of this Agreement are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate paragraph hereof. Should any provision or provisions of this Agreement be illegal or not enforceable, it or they shall be considered separate and severable from this Agreement and its remaining provisions shall remain in force and be binding upon the parties hereto as though the said provision or provisions had never been included.

7.18 Interpretation

The words "herein", "hereof", "hereby", "hereunder", "hereto", "hereinafter", and similar expressions refer to this Agreement and not to any particular paragraphs section or other portion thereof, unless there is something in the subject matter or context inconsistent therewith.



7.19 Headings and Captions

The headings in this Agreement have been inserted as a matter of convenience and for reference only and in no way define, limit or enlarge the scope of meaning of this Agreement nor any of the provisions hereof.

7.20 Effect of Agreement

This Agreement and everything herein contained shall operate to the benefit of the parties hereto and be binding upon the respective successors, assigns and other legal representatives, as the case may be, of each of the parties hereto subject to the granting of consent by the Town as provided herein to any assignment or sublease, and every reference herein to any party hereto shall include the successors, assigns and other legal representatives of such party.

7.21 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of Ontario.

7.22 Time of Essence

Time shall be of the essence hereof.

7.23 Freedom of Information

The Town acknowledges and agrees that the commercial and financial information in this Agreement is subject to the *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. F.31, as amended. This acknowledgement shall not be construed as a waiver of any right to object to the release of this Agreement or of any information or documents.

[Signature Block on next page]



In Witness Whereof the parties hereto have set their hand and seal as of the date first above written.

The Corporation of the Town of Tecumseh

Per: _____
Gary McNamara, Mayor

Per: _____
Robert Auger, Director Legislative
Services and Clerk

We have authority to bind.

Hotel Dieu Grace Healthcare

Per: _____
Bill Marra, President and CEO

I have authority to bind.



Schedule "A"

Lands

Part Lot 153, Concession 2 designated as Part 6 on 12R416, Tecumseh, municipally known as 12420 Lanoue Street, Tecumseh

