

DEED

THIS DEED is made the 23rd day of December 1994

BETWEEN: THE CORPORATION OF THE CITY OF UNLEY of 181 Unley Road

Unley in the State of South Australia (hereinafter together with its successors and

assigns called "the Council") of the first part, ELGANU PTY. LTD. A.C.N. 063

967 886 of 35 Webb Street Port Adelaide in the said State (hereinafter together with

its successors and assigns called "the Vendor") of the second part and COMMISSIONER OF STAMPS

HALL PTY. LTD. A.C.N. 066 629 678, HELEN MARGARET PARKEN and of 2) DEED S.A. STAMP DUTY PAID \$10.00

MARGARET HOPE QUINN all c/- 97 Pirie Street Adelaide in the said State

(hereinafter together with their respective executors, administrators, successors and

assigns called "the Purchasers") of the third part WHEREAS:-

- A. The Vendor is the registered proprietor of Lot 6 in D.P. 41634 being portion of the land comprised in Certificate of Title Register Book Volume 5200 Folio 443 (hereinafter called "the land") which land is part of the development of the land situated at 84-88 King William Road Goodwood in the said State.
- B. The land is subject to a Land Management Agreement dated the 28th day of October 1994 (hereinafter called "the Land Management Agreement") made between the Council of the one part, the Vendor of the second part and HYDE PARK CLINIC PTY. LTD. of the third part (a copy of which is annexed hereto) which provides for the creation and maintenance of the rights of way more particularly referred to in the Land Management Agreement.
- C. The Land Management Agreement is to be noted against the Certificate of Title to the land pursuant to Section 57 of the Development Act, 1993.
- D. Pursuant to agreement dated the _____ day of _____ 1994 and made between the Vendor of the one part and the Purchaser of the other part, the Vendor agreed to sell to the Purchaser who agreed to purchase from the Vendor the land for the consideration and upon and subject to the terms and conditions more particularly set out in the agreement.

- E. It is a condition of the Land Management Agreement that the Vendor will not transfer the land except to a transferee who executes a deed with the Council in substantially similar form to the Land Management Agreement.

NOW THIS DEED WITNESSES as follows:-

1. The parties hereto acknowledge that the matters set out in the recitals above are true and accurate and agree that they shall form part of this deed.
2. The Purchasers hereby covenant and agree with the Council and the Vendor to observe, perform and keep all and singular the terms, conditions, covenants, provisos, agreements and restrictions contained in or implied by the Land Management Agreement in respect of the land and on the part of the Vendor to be observed performed and kept as if in respect of the land, the Purchasers were a party to the Land Management Agreement in place of the Vendor.
3. Without limiting the generality of clause 2 hereof, the Purchaser hereby covenants and agrees with the Council that the Purchaser shall not transfer the land or any part thereof except to a transferee who shall as a condition of such transfer undertake in writing directly with the Council duly to observe and perform in respect of the land or any part thereof, all the covenants and other stipulations on the part of the Purchaser herein and in the Land Management Agreement contained (including this provision) and who shall as condition of such transfer execute a deed with the Council in substantially similar form to this deed and containing substantially similar covenants and other stipulations provided that the Council's legal costs in respect of and all stamp duty, registration fees, mortgagee's fees and other incidental fees in respect to the preparation execution stamping and registration of the deed shall be borne and paid by the transferee.
4. The Purchaser's shall indemnify the Vendor against all costs, claims, demands, expenses and damages which the Vendor may be put to or may suffer or otherwise be liable for arising out of or in any way in consequence of the failure by the Purchasers to observe, perform and keep all and singular the terms, conditions, covenants, provisos and agreements and restrictions contained

in or implied by the Land Management Agreement in respect of the land and on the Vendor's part to be observed, performed and kept.

5. The obligations and undertakings of the Purchasers herein contained shall be joint and several.
6. All costs of and incidental to the preparation, execution and stamping of this deed and all stamp duty and other fees thereon shall be borne and paid by the Purchasers.

IN WITNESS whereof the parties hereto have hereunto executed this deed the day and year first before written.

THE COMMON SEAL of THE CORPORATION OF THE CITY OF UNLEY was hereunto affixed in the presence of:

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.....
[Signature]
.....
City Manager

THE COMMON SEAL of ELGANU PTY. LTD. was hereunto affixed in the presence of:



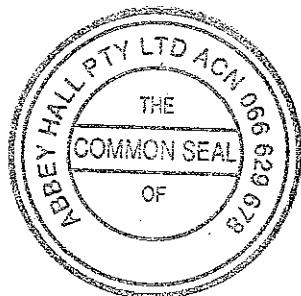
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[Signature]
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Director
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[Signature]
.....
Secretary

THE COMMON SEAL of ABBEY HALL PTY. LTD. was hereunto affixed in the presence of:

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.....
[Signature]
.....
Director
.....
[Signature]
.....
Secretary

SIGNED SEALED AND DELIVERED
by the said HELEN MARGARET
PARKEN in the presence of:

[Handwritten signature]
.....

[Handwritten signature]
.....

SIGNED SEALED AND DELIVERED
by the said MARGARET HOPE
QUINN in the presence of

[Handwritten signature]
.....

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LAND MANAGEMENT AGREEMENT

THIS DEED is made the 28th day of October 1994

BETWEEN: THE CORPORATION OF THE CITY OF UNLEY of 181 Unley Road Unley in the State of South Australia (hereinafter together with its successors and assigns called "the Council") of the first part, HYDE PARK CLINIC PTY. LTD. A.C.N. of 88 King William Road Goodwood in the said State (hereinafter together with its successors and assigns called "the Owner") of the second part and ELGANU PTY. LTD. A.C.N. 063 967 886 of 35 Webb Street Port Adelaide in the said State (hereinafter together with its successors and assigns called "Elganu") of the third part WHEREAS:-

- A. Elganu is the registered proprietor of the whole of the land comprised in Certificate of Title Register Book Volume 4197 Folio 962 situated at 84-86 King William Road Goodwood aforesaid (hereinafter called "the Elganu land").
- B. The Owner is the registered proprietor of the whole of the land comprised in Certificate of Title Register Book Volume 2078 Folio 118 and Volume 4152 Folio 508 situated at 88 King William Road Goodwood aforesaid (hereinafter called "the Clinic land").
- C. By a development application no. 090/D024/94, a copy of which is annexed hereto, (hereinafter called "the application") the Owner and Elganu have sought planning authorisation pursuant to the provisions of the Development Act 1993 (hereinafter called "the Act") from the Council to develop the Clinic land and the Elganu land by the creation of four (4) new allotments as shown on the plan accompanying the application (hereinafter called "the proposed development") and which allotments are to be developed as follows:-
 - (i) Lot 5 - as a Bistro, dental surgery and car park;
 - (ii) Lot 6 - as an office and residential unit development;
 - (iii) Lot 7 - as a residential unit development; and,
 - (iv) Lot 8 - as a medical clinic and car park.
- D. Initially, Lots 5, 6 and 7 are to be owned by Elganu and Lot 8 is to be owned by the Owner.

- E. Provisional development plan consent was granted by the Council on the day of _____ 1994 upon and subject to certain conditions including a condition that the Owner and Elganu enter into this Land Management Agreement with the Council.
- F. The Council has consented to the land division referred to in recital C on the condition that the rights of way specified in the proposed plan of division (hereinafter called "the rights of way") are created upon the deposit of the plan of division.
- G. Pursuant to the provisions of Section 57(2) of the Act, the Owner and Elganu have agreed with the Council to enter into this Land Management Agreement relating to the proposed development upon and subject to the terms and conditions and conditions hereinafter provided.

NOW THIS DEED WITNESSETH as follows:-

1. INTERPRETATION

- 1.1 The parties hereto acknowledge that the matters set out in the recitals above are true and accurate and agree that they shall form part of this Deed.
- 1.2 In the interpretation of this Deed unless the context shall otherwise require or admit:-
- 1.2.1 Words and phrases used in this Deed which are defined in the Act shall have the meanings ascribed to them by the Act;
- 1.2.2 References to any statute or subordinate legislation shall include all statutes and subordinate legislation amending consolidating or replacing the statute or subordinate legislation referred to;
- 1.2.3 The term "the Owner" includes its successors, assigns and transferees.
- 1.2.4 The term "Elganu" includes its successors, assigns and transferees;
- 1.2.5 The term "person" shall include a corporate body;

- 1.2.6 The term "car park area" shall mean that part of the Clinic land specified as such on the plan included in the application;
- 1.2.7 The term "the plan" shall mean the plan included in the application;
- 1.2.8 Words importing the singular number or plural number shall be deemed to include the plural number and the singular number respectively;
- 1.2.9 Words importing any gender shall include every gender;
- 1.2.10 Where two or more persons are bound hereunder to observe or perform any obligation or agreement whether expressed or implied then they shall be bound jointly and each of them severally;
- 1.2.11 Any clause headings are reference purposes only and shall not be resorted to in the interpretation of this Deed.
- 1.3 If any provision of this Deed shall be found by a court of competent jurisdiction to be invalid or unenforceable in law then and in such case the parties hereto request and direct such court to sever such provision from this Deed.
- 1.4 The law governing the interpretation and implementation of the provisions of this Deed shall be the law of South Australia.

2. RIGHTS OF WAY

The Owner and Elganu shall not unless the Council shall grant its prior consent in writing thereto, cause or permit any of the rights of way to be surrendered either in whole or in part, or altered in any way whatever.

3. CONSTRUCTION OF CAR PARKS AND DRIVEWAYS

3.1 Elganu shall construct or cause to be constructed:-

- 3.1.1 Car parks on that portion of Lot 8 marked "G" on the said plan and that portion of Lot 5 marked "D" on the said plan (herein called "the car parks"); and



3.1.2 Driveways on those portions of the Lot 6 marked "B" and "C" on the said plan and those portions of Lot 7 marked "A" and "E" on the said plan;

(all of which works are herein called "the works").

3.2 Elganu shall achieve practical completion of the works:-

3.2.1 In the position shown on the plan or as the parties may otherwise agree in writing;

3.2.2 In conformity with plans and specifications of works prepared by or on behalf of Elganu and submitted to and approved in writing by the Council or its authorised officers before the commencement of the works. Without limiting the generality of the foregoing, the car parks and driveways shall be constructed with a uniform surface of a type approved by the Council.

3.2.3 To the reasonable satisfaction of the Council in all things;

3.2.4 At the expense of Elganu in all things; and,

3.2.5 On or before the 28th day of February 1995.

3.3 The approval of the Council required pursuant to clause 3.2.2 hereof may if granted be given upon such conditions as may be reasonable in all the circumstances taking into account any applicable or usual building construction standards.

3.4 Elganu shall complete the works and shall rectify and make good any defects therein arising from faulty materials and/or workmanship during the period of six calendar months commencing on the date of practical completion of the works (hereinafter called "the maintenance period").

3.5 If any of the material supplied by Elganu are or any of the work executed in the performance or maintenance of the works is of an inferior quality or in any other respect not in compliance with the provisions of this Deed, Elganu shall upon receipt of a written notice from the Council specifying the nature of the non-compliance and



requiring the rectification and making good of the same, forthwith remove such materials from the works and/or re-execute such work at the expense of Elganu in all things so that such materials and/or such work shall comply with the requirements of this Deed.

3.6 The Council may issue a notice pursuant to clause 3.5 hereof on more than one occasion during the performance of the works and/or prior to the expiration of the maintenance period.

4. MAINTENANCE OF CAR PARKS

4.1 The Owner as the owner of Lot 8 and Elganu as the owner of Lots 5 and 6, shall be jointly and severally responsible to maintain the car parks in a good and serviceable condition and shall provide and supervise the regular cleaning of the car parks and shall generally exercise such control as is necessary over the persons using the car parks.

4.2 As between the owners of Lots 5, 6 and 8, the costs of maintaining and cleaning the car parks shall be borne and paid by them in the following proportions:-

Lot 5 - Fifty (50) per centum

Lot 6 - Twenty-five (25) per centum

Lot 8 - Twenty-five (25) per centum.

5. MAINTENANCE OF DRIVEWAYS

5.1 The Owner as the owner of Lot 8 and Elganu as the owner of Lots 5, 6 and 7 shall be jointly and severally responsible to maintain the driveways in a good and serviceable condition and shall provide and supervise the regular cleaning of the driveways and shall generally exercise such control as is necessary over the persons using the driveways.

5.2 As between the owners of Lots 5, 6, 7 and 8, the costs of maintaining and cleaning the driveways shall be borne and paid by them in the following proportions:-

- Lot 5 - Forty-four per centum
- Lot 6 - Twenty-five per centum
- Lot 7 - Eight per centum
- Lot 8 - Twenty-three per centum

6. MISCELLANEOUS PROVISIONS

- 6.1 The Owner and Elganu shall not grant any lease or licence, easement or other right of any nature whatsoever which may give any person the right to possession, use or entry upon the car parks or the driveways upon any terms whatsoever unless such grant shall be expressed in writing and shall contain as an essential term thereof a covenant by the grantee not to do or omit to do or suffer or permit any other person to do or omit to do any act matter or thing upon the car parks or driveways which would constitute a breach of the provisions of this Deed if such act matter or thing were done or omitted to be done by the Owner or Elganu.
- 6.2 That the Owner shall not transfer Lot 8 or any part thereof except to a transferee who shall as a condition of such transfer undertake in writing directly with the Council duly to observe and perform in respect of Lot 8 or any part thereof all the covenants and other stipulations on the part of the Owner herein contained (including this provision) and who shall as a condition of such transfer execute a deed with the Council in substantially similar form to this deed and containing substantially similar covenants and other stipulations provided that the Council's legal costs in respect of and all stamp duty, registration fees, mortgagee's fees and other incidental fees in respect of the preparation execution stamping and registration of the deed shall be borne and paid by the transferee.
- 6.3 That Elganu shall not transfer Lots 5, 6 or 7 or any of them or any part thereof except to a transferee who shall as a condition of such transfer undertake in writing directly with the Council duly to observe and perform in respect of the relevant lot or any part thereof all the

covenants and other stipulations on the part of Elganu herein contained (including this provision) and who shall as a condition of such transfer execute a deed with the Council in substantially similar form to this deed and containing substantially similar covenants and other stipulations provided that the Council's legal costs in respect of and all stamp duty, registration fees, mortgagee's fees and other incidental fees in respect of the preparation execution stamping and registration of the deed shall be borne and paid by the transferee.

- 6.4 Any owner of one or more of the said lots shall give to any intending purchaser of a lot notice of this deed.
- 6.5 Any person who disposes of one of the said lots shall within 14 days of disposing of the same advise the Council in writing of the name and address of the purchaser of that lot.
- 6.6 The owner of any of the said lots and the successors in title of such owner shall be successively released and discharged from the observance and performance of any of the covenants and other stipulations contained in or implied by this deed to be observed or performed as owner in respect of such lot upon ceasing to be registered as the owner of such lot to the intent that the covenants and other stipulations contained in or implied by this deed shall be binding only upon the owner for the time being of such lot.
- 6.7 The Council and any employee or agent of the Council authorised by the Council may at any reasonable time enter the development site for the purpose of:-
 - 6.7.1 Inspecting the car parks and/or the driveways;
 - 6.7.2 Exercising any other powers of the Council under this Deed or pursuant to law.
- 6.8 If the Owner and/or Elganu shall be in breach of any provision of this Deed, the Council may, by notice in writing served on the Owner and/or Elganu, specify the nature of the breach and require the Owner

and/or Elganu to remedy the breach within such time as may be nominated by the Council in the notice (being not less than twenty-eight days from the date of service of the notice) and if the Owner and/or Elganu fails so to remedy the breach, the Council or its servants or agents may carry out the requirements of the notice and in doing so may enter and perform any necessary works upon the development site and recover any costs thereby incurred from the Owner and/or Elganu.

- 6.9 This Deed may not be varied except by a supplementary Deed signed by the parties hereto.
- 6.10 The Owner may waive compliance by the Owner and/or Elganu with the whole or any part of the obligations on their part herein contained provided that no such waiver shall be effective unless expressed in writing and signed by the Council or by its authorised officers.
- 6.11 This Deed contains the whole agreement between the parties in respect to the matters referred to herein.
- 6.12 Notice shall for the purposes of this Deed be properly served on the Owner and/or Elganu if it is:-
- 6.12.1 Posted to the last address known to the Council of the Owner and/or Elganu; or,
- 6.12.2 Affixed in a prominent position to the development site.
- 6.13 The Council may delegate any of its powers under this Deed to any person.
- 6.14 The Owner and Elganu hereby indemnify the Council and agree to keep it forever indemnified in respect of the whole of its costs and expenses of and incidental to the negotiation preparation stamping and registration of this Deed and the implementation of its terms.
- 6.15 The requirements of this Deed are at all times to be construed as additional to the requirements of the Act and any other legislation affecting the land the subject of the proposed development.

6.16 Each party hereto shall do and execute all such acts documents and things as shall be necessary to ensure that this Deed is noted against the Certificates of Title for the said lots pursuant to the provisions of Section 57 of the Act in priority to any other registrable interest in the land save and except for the estate and interest of the Owner therein.

IN WITNESS whereof the parties hereto have hereunto executed this Deed the day and year first before written.

THE COMMON SEAL of THE CORPORATION OF THE CITY OF UNLEY was hereunto affixed in the presence of:

.....
Director *MAY 95 'L*
.....
R. J. [unclear]
.....
Secretary *City Manager*

THE COMMON SEAL of HYDE PARK CLINIC PTY. LTD. was hereunto affixed in the presence of:

.....
Director
.....
Secretary

THE COMMON SEAL of ELGANU PTY. LTD. was hereunto affixed in the presence of:



.....
Director
.....
Secretary

THE CORPORATION OF THE CITY
OF UNLEY

the Council

and

ELGANU PTY. LTD.

the Vendor

and

ABBAY HALL PTY. LTD.,
HELEN MARGARET PARKEN and
MARGARET HOPE QUINN

the Purchasers

DEED

SCALES & PARTNERS
48 Carrington Street
ADELAIDE SA 5000
Tel: (08) 212 4334

[94/3572] TME:AGRMENTS:ELGANU.DEE