

Hobart Private Hospital Project Deed

Summary Paper

1. Overview

This paper summarises the key terms of the 'Hobart Private Hospital – Project Deed' and ancillary documents (together, the **Contract**) entered into between the Crown in the Right of the State of Tasmania; and the Tasmanian Health Service (together, the **State**); and Healthscope (Tasmania) Pty Ltd (the **Operator**).

The Contract has been based on the state-of-the-market precedent documents for fully-outsourced, collocated hospital arrangements in Australia, amended to take into account both the non-outsourced nature of the Hobart Private Hospital (ie. the State does not pay for the provision of public patient services from that facility), and the bespoke nature of certain elements of this arrangement.

The Contract represents a reasonable, commercial market position.

The Contract includes a range of obligations in addition to the rental return and maintenance obligations of a standard tenancy lease, including (among other things):

- a commitment to a range of service delivery requirements at the facility, including a commitment to maintain a 24/7 Emergency Department; and
- a commitment to invest in the facility, to ensure that it is contemporary and enhances the facilities clinical services profile and capacity.

2. Basic parameters

- **Term:** The initial term of the contract is for 20 years, commencing on 13 December 2019, with an option (exercisable by the State) for a further term of up to 5 years
- **Rent:** The arrangement involves Healthscope paying the State a commercial market annual base rent.
- **Tenure:** The tenure arrangements consist of:
 - a lease over the HPH site itself;
 - a sublease over that portion of the site under which the Hobart Rivulet runs (and in relation to which the State takes a headlease from the Hobart City Council); and
 - a licence for ancillary areas.

3. Material Obligations

- **Primary Obligations:** The Operator is required to undertake all activities that it is permitted or obliged to do in accordance with (among other things):
 - all applicable laws and policies
 - the Hospital Licence;
 - the Accreditation Requirements;
 - Best Industry Practices;
 - the Quality Standards; and
 - the Project Objectives.

- **Clinical Services:** In addition to those standards listed above, the Operator is obliged to perform a minimum specified range of Clinical Services in accordance with (among other things):
 - the Service Requirements Schedule
 - the Service Plans (including the Clinical Services Plan, the Admissions Plan and the Safety, Quality and Risk Management Plan);
 - all applicable Health Policies; and
 - having regard to the highest standard of Patient care and safety at all times.

These obligations are also overlaid by the private hospital licensing regime, with which the Operator is required to comply with, regardless of its additional contractual obligations.

- **Facility:** The Operator assumes all repair, maintenance and lifecycle obligations in respect of the Facility, and must ensure that the Facility:
 - remains Fit For Purpose during the life of the Contract; and
 - is handed back to the State commensurate with the specified Handover Condition at the end of the Term.
- **Shared Services:** There is some sharing of services between the RHH and the HPH facilities, specifically:
 - the provision by the State (for value) of certain 'Specialised Utilities'; and
 - certain individual 'Service Agreements' that sit outside the Contract and govern ad hoc sharing arrangements on a clinical- and support-service specific basis. These are 'rolling' arrangements that can be discontinued by either side.

Other than in these circumstances, the Facility is intended to operate entirely separately to the RHH.

4. Service-Specific Provisions

- **Service Change and Cessation**
 - The Operator is obliged to perform a specified minimum range of Clinical Services at the Facility, designed to complement and support those provided from the RHH.
 - The Operator may not permanently or materially cease or change any of the 'baseline' group of Clinical Services without following the detailed process in the Contract to do so, which involves (among other things) the Operator being first required to prove that the requested change or cessation:
 - has been notified to, and discussed in good faith with, the State in advance;
 - is something that an objective Reasonable Operator would also do in their circumstances;
 - has not been caused or contributed to by the malpractice of, or legal or contractual breach of, the Operator;
 - will, once implemented, not impact on the services being offered from the Facility continuing to complement the RHH; and
 - in respect of the ED, no change can be sought until the sooner of 5 years from commencement, or the date on which there is a demonstrable reduction in ED volumes caused by the State introducing new ED services from the RHH.

- The Operator may add additional services at any time, provided that they remain complementary and, once introduced, form part of the 'baseline' Clinical Services that cannot then be discontinued or varied, except as permitted above.
- Emergency and various non-emergency services must be provided 24/7, subject to limited exceptions (e.g. lack of capacity due to patient demand). Any such temporary closure or cessation of services must be notified to the State as soon as practical after the Operator becomes aware of any actual or impending unavailability, and where requested by the State the Operator must engage in discussion with the State in order to mitigate its effects.
- **KPIs and Performance Regime**
 - In addition to these general service obligations, the Contract imposes a series of abatable KPIs on the Operator, relating primarily to the quality and availability of Clinical Services. Failure to meet these KPIs can lead to an abatement (in the form of an addition to the Base Rent) and, in more severe circumstances, a State termination right.

5. Development Commitment

The Project Deed includes a commitment by Healthscope to invest in the facility, to ensure that it is contemporary and enhances the facilities clinical services profile and capacity.

6. Security package

As with other similar transactions, the Contract requires the Operator to provide and maintain a Performance Bond and parent company guarantee in favour of the State as security for the performance of its obligations under the Contract.

7. Default and Termination

The Contract includes a standard Operator default regime, whereby the State may have a right to terminate the Contract if (for example) certain specified material default events on the part of the Operator are not appropriately remedied within specified timeframes, or more serious 'immediate termination events' (for example, Operator insolvency) occur.

8. Other standard terms

The Contract incorporates a range of other standard terms which represent commercial market positions, including detailed provisions in respect of:

- Facility repair and maintenance;
- Force Majeure and Relief Events;
- Facility Modifications (requested by either State or Operator);
- damage to the Facility and surrounds;
- indemnities and limits on liability;
- insurance;
- assignment;
- intellectual property rights;
- confidentiality; and
- end of term handover of the Facility.