

Dated

21 December 2018

**PORTAL CONSTRUCTION LIMITED**

and

**SANDWELL AND WEST BIRMINGHAM HOSPITALS NHS TRUST**

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LEASE

of

Land and Buildings at Cranford Street, Smethwick

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**CLARKE MAIRS LLP**  
ONE HOOD STREET,  
NEWCASTLE UPON TYNE  
NE1 6JQ  
TEL. 0191 245 4737  
FAX. 0191 261 5023  
REF: GB/48791

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THIS LEASE is made on the date mentioned in the Lease Details

**BETWEEN**

- (1) the Landlord; and
- (2) the Tenant

**1. DEFINITIONS AND INTERPRETATION**

In this Lease:

- 1.1 **"the EPB Regulations"** means the Energy Performance of Buildings (Certificates and Inspectors) (England and Wales) Regulations 2007 and all amendments and revisions and **"EPC"** means an Energy Performance Certificate as defined in the EPB Regulations
- 1.2 **"Conduits"** means drains sewers pipes cables wires and mains
- 1.3 **"the Rent Days"** means 25 March, 24 June, 29 September and 25 December in each year of the Lease Term
- 1.4 **"Third Party Rights"** means the matters referred to on the register of title number WM379676 as at 11:50:16 on 21 September 2018
- 1.5 **"Contamination"** means contamination of the Property or any adjoining or neighbouring property by any substance:
  - 1.5.1 the presence of which is causing significant harm or which gives rise to the possibility of harm being caused to the health of living organisms or other significant interference of which they form part; or
  - 1.5.2 which is causing or is likely to cause pollution of surface or ground waters
- 1.6 Words printed in bold on the page headed Lease Details have the meaning printed opposite that word

1.7 Where there are two or more persons entering into an obligation jointly their liabilities will be joint and several

1.8 References to statutory requirements include all legislation on the relevant subject in force from time to time and all subsidiary orders and regulations

**2. GRANT OF LEASE**

The Landlord lets with full title guarantee to the Tenant the Property for the Lease Term subject to and where applicable with the benefit of the Third Party Rights together with the following rights in common with the Landlord and any other person authorised by the Landlord:

2.1 (so far as the Landlord is able to grant such right) the right to enter any part of any land buildings or structures adjoining the Property so far as is reasonably necessary to carry out any works to the Property required or permitted by this lease, subject to the person exercising such right doing so only on reasonable written notice (save in case of emergency), causing as little damage as possible in the exercise of such right, and making good any damage caused to the reasonable satisfaction of the Landlord; and

2.2 rights of light, air, support and protection to the extent that these rights are capable of being enjoyed at any time during the term

**3. TENANT'S PAYMENTS**

3.1 The Tenant agrees to pay the first instalment of Annual Rent on the Rent Commencement Date for the period from the Rent Commencement Date to the next Rent Day

3.2 Starting on the next Rent Day the Tenant agrees to pay (without deduction or set off save for any set off required or permitted by law) to

- the Landlord the Annual Rent by quarterly payments in advance on the Rent Days and if required by the Landlord by direct debit or standing order
- 3.3 The Tenant also agrees to pay (without deduction or set off) to the Landlord (but not as rent):
- 3.3.1 a fair proportion (decided by the Landlord acting reasonably) of any charges for the supply of water gas electricity and/or drainage services to the Property in the event that the relevant service is not supplied directly to the Property from the statutory service provider
- 3.3.2 the reasonable and proper cost (including professional fees) of any works to the Property which the Landlord does (acting reasonably) arising from a default by the Tenant
- 3.3.3 the reasonable and proper costs (including professional fees) which the Landlord incurs in:
- (a) dealing with any application by the Tenant for consent or approval whether or not it is given (unless the Landlord unreasonably withholds its approval or consent)
  - (b) complying with any duty or obligation under the EPB Regulations as a result of any act or proposal of the Tenant
  - (c) preparing and serving notices of disrepair or schedules of dilapidations during the Lease Term or recording failure to give up the Property in the appropriate state of repair when this Lease ends
  - (d) enforcing the obligations of the Tenant
- 3.3.4 interest at 4% above the base lending rate of Barclays Bank Plc on any of the above payments when more than 14 days overdue to be calculated from the due date
- 3.3.5 (on provision of a valid value added tax invoice addressed to the Tenant) value added tax ("VAT") on all sums to be paid by the Tenant under this Lease
- all such payments to be made within 14 days of written demand unless a later date is specified
- 3.4 The Tenant also agrees to make the following payments (without deduction) where and when payable:
- 3.4.1 all periodic rates taxes and outgoings of a recurring and non-capital nature relating to the Property or a fair proportion (decided by the Landlord acting reasonably) of such rates taxes and outgoings if the Property is not separately assessed
- 3.4.2 a fair contribution (decided by the Landlord acting reasonably) of the cost of repair or maintenance of any common structure service or facility shared with other property
- 3.5 The Tenant also agrees not to claim void or unoccupied rating relief for the Property nor to accept any assessment for such relief and to indemnify the Landlord against any loss of rating relief applicable to unoccupied premises after the end of the Lease Term by reason of any such relief having been allowed to the Tenant before the end of the Lease Term
- 3.6 In the event of the Tenant failing to pay the Annual Rent or other amounts payable under this Lease on the due date for payment, then without prejudice to all other rights and entitlements which the Landlord has by reason of that default, whether under this Lease or otherwise, the rent or other amounts due and payable together with any interest payable thereon shall again become due and payable on each and every day that it remains unpaid so that each day there is a failure to pay the rent or other amounts due will give rise to a default in

compliance with the obligation for payment on that date

#### 4. **CONDITION OF THE PROPERTY**

The Tenant agrees:

- 4.1 To repair the Property and to keep it in good repair and condition provided always that the Tenant shall not be liable to put or keep the Property in any better state of repair and condition than that in which it is at the date of this Lease as evidenced by the Schedule of Condition annexed hereto and provided further that the Tenant shall not be liable to remediate any Contamination in existence prior to the date of this lease
- 4.2 To decorate the inside of the Property when reasonably necessary and at least in the last year of the Lease provided always that the Tenant shall not be liable to put or keep the Property in any better decorative repair and condition than that in which it is at the date of this Lease as evidenced by the Schedule of Condition annexed hereto
- 4.3 That when decorating under this clause the Tenant will use colours and types of finish used previously or as agreed in writing by the Landlord (such agreement not to be unreasonably withheld or delayed)
- 4.4 To keep the Property clean and tidy
- 4.5 Not to make any alterations additions or improvements to the Property except that after obtaining the Landlord's written consent (such consent not to be unreasonably withheld or delayed) the Tenant may make non-structural alterations but will need to comply with the EPB Regulations and such reasonable conditions as the Landlord may specify in its consent
- 4.6 To comply with any statutory requirements relating to the Tenant's use of the Property

- 4.7 That if it fails to do any work which this Lease requires the Tenant to carry out the Landlord can do the work itself after giving written notice and if the Tenant still fails to start and proceed quickly with the work within 2 months of the notice

#### 5. **USE OF THE PROPERTY**

- 5.1 The Tenant agrees to use the Property only for the Permitted Use or for such other use for which the Tenant has obtained both Landlord's written consent (not to be unreasonably withheld or delayed) and planning permission and in doing so not to carry out any illegal activities or to cause a nuisance to the Landlord or to nearby occupiers or neighbours
- 5.2 In using the Property, the Tenant will comply with all statutory requirements and will apply for and maintain any licences and consents which may be required
- 5.3 The Tenant will maintain third party liability insurance and employers liability
- 5.4 The Tenant will not display any signs or notices at the Property unless approved in writing by the Landlord (such approval not to be unreasonably withheld or delayed) save that any signage and branding required in relation to the Permitted Use shall not require the Landlord's approval
- 5.5 The Tenant accepts that the Landlord gives no warranty that the Permitted Use is the authorised use of the Property under planning restrictions and that it is the Tenant's responsibility to confirm this

#### 6. **LANDLORD'S RIGHTS**

- 6.1 The Tenant agrees that the Landlord can enter the Property at any reasonable time for:

- 6.1.1 inspection of the Property
- 6.1.2 the enforcement of the Tenant's obligations
- 6.1.3 marketing and reletting in the last 6 months of the Lease Term
- 6.2 In exercising these rights the Landlord agrees that:
  - 6.2.1 except in emergencies (when as much notice as reasonably possible will be given) the Landlord will enter only during normal business hours and after reasonable prior written notice to the Tenant
  - 6.2.2 the Landlord will cause as little disruption and inconvenience as is practicable and will make good any damage caused to the Property

**7. TRANSFER**

- 7.1 The Tenant agrees not to share occupation or share or part with possession of any part or the whole of the Property with anyone else other than in accordance with clause 7.3
- 7.2 The Tenant agrees not to sublet the whole or any part of the Property
- 7.3 The Tenant agrees not to assign the whole or any part of this Lease save that the Tenant may assign the whole of this Lease to a contractor under contract to the Tenant to complete the development of the Midland Metropolitan Hospital with the prior written consent of the Landlord (not to be unreasonably withheld or delayed)
- 7.4 As a condition of its consent to assign the Landlord may require a written guarantee from the Tenant that the assignee will perform its obligations as the new tenant and the guarantee will be in such terms as the Landlord shall reasonably require

- 7.5 Within 7 days after this Lease has been assigned the Tenant is to give a copy of the assignment document to the Landlord and such copy will be certified as a true copy by the Tenant or by any professional adviser to the Tenant

**8. OTHER MATTERS**

- 8.1 The Tenant:
  - 8.1.1 is to send to the Landlord promptly copies of any notices received by the Tenant relating to the Property or to any neighbouring property
  - 8.1.2 is not to apply for planning permission in respect of the Property without the Landlord's written consent (not to be unreasonably withheld or delayed)
  - 8.1.3 is to indemnify the Landlord against any claims made against the Landlord arising from any failure by the Tenant to perform its obligations under this Lease and all costs incurred by the Landlord relating to any such claims provided that the Landlord shall use its reasonable endeavours to mitigate any such loss and shall not settle any claims without the Tenant's consent (not to be unreasonably withheld or delayed)
  - 8.1.4 is not to breach the Third Party Rights
- 8.2 The Property includes all additions and alterations and landlord's fixtures and fittings
- 8.3 An obligation by the Tenant not to do anything shall include an obligation not to permit anyone else do to it

**9. LANDLORD'S OBLIGATIONS**

- 9.1 While the Tenant materially complies with its obligations under this Lease the Landlord will allow the Tenant to possess and use the Property without interference from the

Landlord or anyone permitted by the Landlord

## **10. END OF LEASE**

When this Lease ends the Tenant is to:

10.1 return the Property to the Landlord leaving it in the state and condition in which this Lease requires the Tenant to keep it

10.2 if the Landlord so reasonably requires remove anything the Tenant has fixed to the Property (including any partitioning) and make good any damage caused by that removal

## **11. FORFEITURE**

11.1 This Lease comes to an end if the Landlord forfeits it by entering any part of the Property which the Landlord is entitled to do whenever:

11.1.1 payment of the Annual Rent is 14 days overdue even if it was not formally demanded

11.1.2 the Tenant has not materially complied with any of the terms of this Lease

11.1.3 the Tenant if an individual (and if more than one any of them) is adjudicated bankrupt or an interim receiver of its property is appointed

11.1.4 the Tenant if a company (and if more than one any of them) goes into liquidation (unless solely for the purpose of amalgamation or reconstruction when solvent) or has an administrative receiver appointed or has an administration order made in respect of it

11.2 The forfeiture of this Lease does not cancel any outstanding obligation of either party

## **12. BREAK OPTION**

12.1 The Tenant may terminate this Lease by serving a Break Notice on the Landlord

12.2 A Break Notice served by the Tenant shall be of no effect if, at the Break Date stated in the Break Notice the Tenant has not paid any part of the Annual Rent, or (provided that a valid VAT invoice addressed to the Tenant has been supplied) any VAT in respect of it, which was due to have been paid; or vacant possession of the whole of the Property is not given

12.3 Subject to clause 13.2, following service of a Break Notice this Lease shall terminate on the relevant Break Date

12.4 Termination of this Lease on a Break Date shall not affect any other right or remedy that either party may have in relation to any earlier breach of this Lease

12.5 If this Lease terminates in accordance with clause 13.3 then, within 14 days after the relevant Break Date, the Landlord shall refund to the Tenant the proportion of the Annual Rent, and any VAT paid in respect of it, for the period from and excluding the relevant Break Date up to and excluding the next Rent Payment Date, calculated on a daily basis

## **13. AGREEMENT**

It is confirmed that this Lease has not been entered into following a prior agreement between the parties

## **14. SERVICE OF NOTICES**

14.1 Any notice to be served by the Tenant on the Landlord under this Lease shall be sent to the Landlord at the address from which rent demands are issued

14.2 Any notice to be given by the Landlord to the Tenant under this Lease shall be sent to the Tenant addressed to its registered office and marked for the attention of its Chief Executive

purport to confer on any third party any benefit or the right to enforce any terms of this Lease

**15. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

For the purposes of the Contracts (Rights of Third Parties) Act 1999 nothing in the Lease shall confer or

Executed as a Deed by the parties hereto the day and year first before written.

Signed as a Deed by PORTAL  
CONSTRUCTION LIMITED acting by a  
Director and its Secretary

.....  
Director

.....  
Director/Secretary

EXECUTED AS A DEED by SANDWELL  
AND WEST BIRMINGHAM HOSPITALS  
NHS TRUST in the presence of:

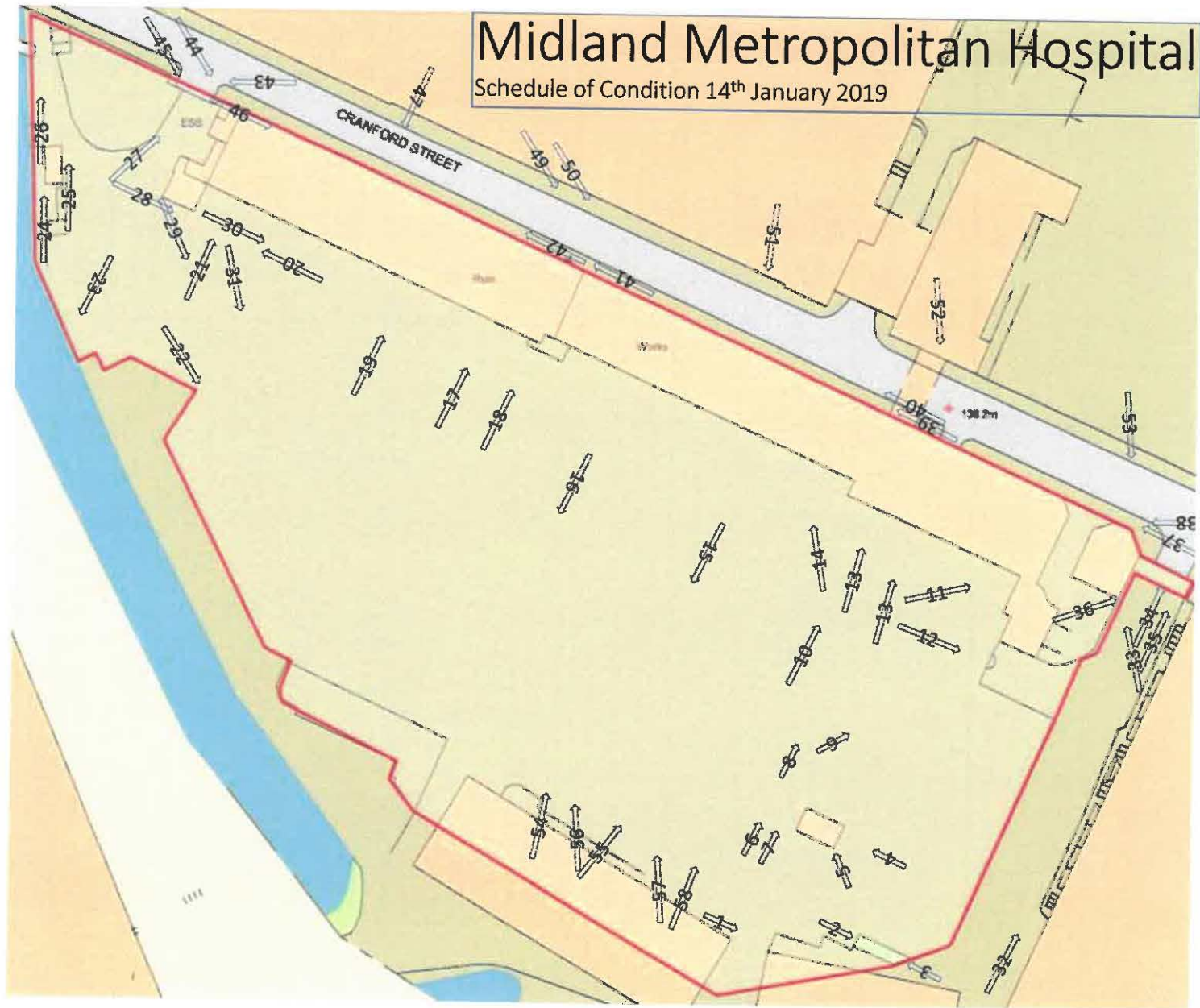


*Rajinder*  
.....  
Authorised Signatory

*[Signature]*  
.....  
Authorised Signatory

# Midland Metropolitan Hospital

Schedule of Condition 14<sup>th</sup> January 2019



# Midland Metropolitan Hospital

Schedule of Condition 14<sup>th</sup> January 2019



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Schedule of Condition 14<sup>th</sup> January 2019



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