



**COOTAMUNDRA-  
GUNDAGAI REGIONAL  
COUNCIL**

# Gundagai Gym Complex Lease Agreement 2023/2024



This AGREEMENT is made on the .. /.. /....

**PARTIES:**

Cootamundra Gundagai Regional Council ABN 46 211 642 339 ("Council")

("Lessee")

**BACKGROUND:**

A. The Council is the registered proprietor of, or has the care, control, and management of, the Land.

B. The Lessee has requested a lease to use the Premises for the Permitted use.

C. The Council has resolved to grant the Lessee a lease of the Premises.

D. The Council and Lessee wish to record the terms of their agreement in this Lease.

AND THE PARTIES AGREE as follows:

**1. ACKNOWLEDGEMENT OF BACKGROUND**

The preceding statements are accurate and form part of this Lease

**2. DEFINED TERMS AND INTERPRETATION**

**2.1. Introductory**

**In the Lease unless contrary intention appears:**

2.1.1. A reference to this Lease is a reference to this document;

2.1.2. Words beginning with capital letters are defined in Clause 2.2;

2.1.3. A reference to a clause is a reference to a clause in this lease;

2.1.4. A reference to an Item is a reference to an item in the First Schedule;

2.1.5. A reference to a Schedule is a reference to a schedule of this Lease; and

2.1.6. A reference to an Annexure is a reference to an annexure to this lease.

**2.2. Defined Terms**

**Agreed Consideration** means the Rent, Outgoings and all other consideration (whether in money or otherwise) to be paid or provided by the Lessee for any supply or use of the Premises and any goods, services or other things provided by the Council under this lease.

**Building** means the interior and exterior of all present and future improvements on the Land and includes all Building Services and Common Areas and all conveniences, services, amenities and appurtenances of or to the Building.

**Building Services** includes all services (including gas, electricity, water, sewerage, communications, fire control, air-conditioning, plumbing and telephone and all plant, equipment, pipes, drains, wires

and cables in connection with them as applicable) to or of the Building or any premises in or on the Land supplied by any authority, the Council or any other person the Council authorises.

**Business Day means** a day which is not a Saturday, Sunday or Public Holiday in Gundagai.

**Commencement Date means** the commencement date described in Item 3.

**Council means** the Cootamundra-Gundagai Regional Council, and where the context permits includes the employees, contractors, agents and other invitees of the Council.

**Council's Equipment means** all fixtures and fittings, plant, equipment, services, chattels and other goods installed or situated in or on the Premises and made available for use by the Lessee.

**GST has the same meaning** as given to that term in the GST Legislation.

**GST Legislation means the** *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* and any ancillary or similar legislation.

**Initial Term means** the initial term of this lease commencing on the commencement date described in Item 3.

**Land means** the land described in Item 2 and includes any part of the Land.

**Law includes** any requirement of the statute, rule, regulation, proclamation, ordinance or by law, present or future, and whether state, federal or otherwise.

**Lessee means** the party described as "Lessee" in this Lease and where the context permits includes the employees, contractors, agents, customers and other invitees of the lessee.

**Lessee's Equipment means** any and all fixtures and fittings and other equipment installed in or brought on to or kept in the Premises by the Lessee.

**Operate means** the conduct and management of the Complex by the Contractor by the terms of this agreement.

**Outgoings means** outgoings described in Item 7

**Payment Date means** the Commencement Date and the first day of each month during the term

**Permitted Use means** the use described in Item 8

**Premises means** the premises described in Item 1 including the Council's Equipment

**Public Authority includes:**

- any government in any jurisdiction, whether federal, state, territorial or local;
- any minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government or in which any government is interested; and
- any provider of public utility services, whether statutory or not.

**Rates and Taxes means** all present and future rates, charges, levies, assessments, duty and charges of any Statutory Authority, other department or authority having the power to raise or

levy any such amounts in respect of the use, ownership or occupation of the Land or Premises and includes water and sewer charges, council rates, and emergency services levy.

**Renewal Term means** the term (if any) of renewal or extension in Item 4

**Rent** means the rent described in Item 5

**Review Date** means each date in Item 6

**Statutory Authorities means** any authorities created by or under any relevant Legislation

**Statutory Requirements means** all relevant and applicable Legislation and all lawful conditions, requirements, notices and directives issued or applicable under any such Legislation.

**Term means** the Initial Term, the Renewal Term and any period during which the Lessee holds over or remains in occupation of the Premises

### **2.3. Interpretation**

Unless the contrary intention appears:

2.3.1. Headings are for convenience only and do not affect interpretation;

2.3.2. The singular includes the plural and vice versa;

2.3.3. A reference to an individual or person include a corporation, partnership, joint venture, authority, trust, state or government and vice versa;

2.3.4. A reference to any party in this Lease, or any other document or arrangement referred to in this Lease, includes that party's executors, administrators, substitutes, successors and assigns;

2.3.5. A reference to any document (including this Lease) is to that document as varied, novated, ratified, or replaced from time to time;

2.3.6. A reference to any Legislation includes any statutory modifications or reenactment of it or any Legislation substituted for it, and all regulations and rules issued under it;

2.3.7. A reference in this Lease to the Council's approval or consent, is to the Council's prior written approval or consent which may be granted or withheld in the absolute discretion of Council;

2.3.8. "including" and similar expressions are not and must not be treated as words of limitation;

2.3.9. Any special condition in the Second Schedule will apply to this Lease and in the event of any inconsistency with the terms and conditions in the body of the Lease, then those special conditions will prevail.

### **3. GRANT OF LEASE**

The Council grants and the Lessee accepts a lease of the Premises for the Term as set out in this Lease.

### **4. RENT**

#### **4.1. Payment of Rent**

The Lessee must pay Rent by equal monthly instalments in advance of each payment date.

## **5. RATES AND TAXES AND OUTGOINGS**

### **5.1. Power and Utilities**

5.1.1. The Lessee will pay when they are due for payment, all costs for the use of telephone, light and other facilities and the consumption of electricity, gas, and all other services and utilities supplied or used from the Premises.

5.1.2. If there is no separate meter for recording or measuring the services and utilities consumed on or from the Premises, then the Lessee must if required by the Council, install the necessary meters at its own cost.

## **6. USE OF PREMISES**

### **6.1. Permitted Use**

The Lessee must use the Premises only for the Permitted Use and must not use or allow the Premises to be used for:

6.1.1. Residential purposes; or

6.1.2. Any other use;  
(without the Council's consent).

### **6.2. Offensive Activities**

The Lessee must not carry on any offensive or dangerous activities on or from the Premises or create a nuisance or disturbance either;

6.2.1. For the Council; or

6.2.2. For the owners or occupiers of any adjoining property; and must always ensure that activities conducted on or from the Premises will not bring any discredit upon Council.

### **6.3. Use of Facilities**

6.3.1. The Lessee will ensure that the Building Services are used carefully and responsibly and in accordance with any directions that may be given by the Council from time to time.

6.3.2. The Lessee will be responsible to repair and correct any damage or malfunction which results from any misuse or abuse of the Building Services by the Lessee.

### **6.4. Statutory Requirements**

The Lessee must comply with all Statutory Requirements (including any obligations under the Work Health and Safety Act 2011) relating to:

6.4.1. The Lessee's use and occupation of the Premises;

6.4.2. The nature of the Permitted Use conducted on the Premises by the Lessee.

### **6.5. Alcohol and Gaming**

6.5.1. The Lessee agrees:

6.5.1.1. That the Lessee will not apply for a gaming machine licence in respect to the Premises during the Term.

6.5.2. Unless the Lessee first obtains the written consent of the Council, the Lessee must not apply for a liquor licence under the Liquor Act 2007.

6.5.3. If the Lessee obtains a liquor licence under this clause, the Lessee must not do (or fail to do) or allow any of its employees, agents, contractors, licensees or invitees to (or fail to);

6.5.3.1. Do anything that is in breach of the Liquor Act 2007 or of any of the conditions of the Liquor Licence; or

6.5.3.2. Do anything that may result in the liquor licence being revoked or suspended;

6.5.3.3. Assign the liquor licence;

6.5.3.4. Apply to remove the liquor licence;

6.5.3.5. Allow a liquor licence to be granted to another person in respect of the Premises or any part of the Premises; or

6.5.3.6. Apply to vary or revoke any conditions of the liquor licence.

6.5.4. At or before the expiry or early termination of this Lease, the Lessee must:

6.5.4.1. Give any notices the Council requires to renew or assign the liquor licence;

6.5.4.2. Allow those notices to be affixed as and for the period required by the Liquor Act 2007;

6.5.4.3. Assign the liquor licence to the Council or the Council's nominees if required to do so by the Council; and

6.5.4.4. Do anything else that may be required to affect the renewal or assignment of the liquor licence.

## **6.6. Signs**

The Lessee must not place any signs or advertisements on the outside or inside (if they can be seen from outside) of the Premises, except a sign or signs which;

6.6.1. Are approved by the council; and

6.6.2. Comply with any relevant Statutory Requirements.

## **6.7. Dangerous Equipment and Installations**

The Lessee may only install or use within the Premises equipment and facilities which are reasonably necessary for and normally used in connection with the Permitted Use and will not install or bring onto the Premises:

6.7.1. Any electrical, gas powered or other machinery or equipment that may pose a danger, risk, or hazard;

6.7.2. Any chemicals or other dangerous substances that may pose a danger, risk or hazard; or

6.7.3. Any heavy equipment or items that may damage the Premises or Building.

## **6.8. Fire Precautions**

The Lessee must:

6.8.1. Comply with all requirements and directives of the Council regarding fire safety systems and procedures including fire evacuation drills and other

procedures; and

6.8.2. Comply with all Statutory Requirements relating to fire safety systems and procedures including any structural works or modifications or other building works which are required as a consequence of the Lessee's particular use of the Premises.

#### **6.9. Security**

6.9.1. The Lessee must keep the Premises securely locked at all times when the Premises are not occupied.

6.9.2. The Lessee is required to keep a register of keys/fobs issued for the Premises and to make a copy of this register available to the Council on demand. The Lessee must purchase upfront the required fobs at a cost of \$20 each and remains liable for the use of all keys/fobs issued in respect of the Premises.

6.9.3. Upon the expiry or earlier determination of this Lease, the Lessee must immediately return all keys/fobs to the Premises in the Lessee's possession or control to Council.

### **7. INSURANCE**

#### **7.1. Lessee must Insure**

The Lessee must keep current during the Term:

7.1.1. Public risk insurance for at least the amount in Item 9 (or any other amount the Council reasonably requires) for each claim;

7.1.2. All insurance in respect of the Lessee's Equipment for its full replacement value; and

7.1.3. Other insurances required by any Statutory Requirement or which the Council reasonably requires.

#### **7.2. Requirements for Policies**

Each Policy the Lessee takes out under this clause 7 must:

7.2.1. Be with an insurer and on terms reasonably approved by Council;

7.2.2. Be in the name of the Lessee and note the interest of the Council and any other persons the Council requires;

7.2.3. Cover events occurring during the policy's currency regardless of when the claims are made; and

7.2.4. Note that despite any similar policies of the Council, the Lessee's policies will be primary policies.

#### **7.3. Evidence of Insurance**

The Lessee must give the Council certificates evidencing the currency of the Policies the Lessee has taken out under this Clause 7. During the Term the Lessee must:

7.3.1. Pay each premium before it is due for payment;

7.3.2. Give the Council certificates of currency each year when the policies are renewed and at other times the Council requests;

7.3.3. Not allow any insurance policy to lapse or vary or cancel it without the Council's consent;

7.3.4. Notify the Council immediately if a policy is cancelled or if an event occurs which could prejudice or give rise to a claim under a policy.

#### **7.4. Insurance Affected**

7.4.1. The Lessee must not do anything which may:

7.4.1.1. Prejudice any insurance of the Premises or the Building; or

7.4.1.2. Increase their premium for that insurance.

7.4.2. If the Lessee does anything (with or without Council's consent) that increases the premium of any insurance the Council has in connection with the Premises or the Building, the Lessee must on demand pay the amount of that increase to the Council.

### **8. STAFF AND VOLUNTEER REGISTRATION**

The Lessee will ensure that all staff or volunteers operating for or on behalf of the Lessee who offer coaching or technical advice remain duly qualified, trained, and registered with any and all relevant bodies and that records of such are maintained by the Lessee.

### **9. REPAIR AND MAINTENANCE**

#### **9.1. Repair**

9.1.1. If the Council requires the Lessee to do so, the Lessee must promptly repair any damage caused or contributed to by the act, omission, negligence, or default of the Lessee.

#### **9.2. Maintain and Replace**

The Lessee must maintain, repair, or replace items in or attached to the Premises which are damaged or worn with items of the same or similar quality to those in use when they were last replaced with the Council's approval, or if they have not been replaced, to those in use at the Commencement Date.

#### **9.3. Alterations by Lessee**

9.3.1. The Lessee must not carry out any alterations or additions to the Premises without Council's consent.

9.3.2. The Lessee must provide full details of the proposed alteration and additions to the Council.

9.3.3. The Council may impose any conditions it considers necessary if it gives its approval, including requiring the Lessee to obtain the Council's consent to any agreements that the Lessee enters into in relation to the alterations or additions.

9.3.4. The Lessee must carry out any approved alterations and additions:

9.3.4.1. In a proper and workmanlike manner;

9.3.4.2. In accordance with the conditions imposed by the Council and with the approvals made by Council in its capacity as lessor under this Lease.

9.3.4.3. In accordance with all Statutory Requirements; and



9.3.4.4. In a way to minimize disturbance to others.

9.3.5. Unless otherwise agreed in writing between all parties, all alterations and additions to the Land or the Premises made pursuant to this clause will be or become the property of Council.

9.3.6. The Lessee will pay all of Council's costs (including consultant's costs and legal costs) as a result of the Lessee's alterations and additions.

#### **9.4. Cleaning**

The Lessee must:

9.4.1. Keep and maintain the Premises in a clean and sanitary condition;

9.4.2. Keep the Premises free of vermin, insects, and other pests;

9.4.3. Store and keep all waste materials and garbage in proper clean receptacles, maintaining all receptacles in a hygienic manner and arranging (at the Lessee's cost and expense in all things) the regular removal thereof from the Premises;

9.4.4. Keep bins larger than 240L screened from public view;

9.4.5. Comply with all food safety legislation and policies; and

9.4.6. Permit annual inspection of the Premises by the relevant health authority and provide evidence to Council.

#### **9.5. Plumbing and drainage**

9.5.1. The Lessee must keep and maintain in good condition and free from blockage all Building Services constituting pipes or drains of any kind.

9.5.2. The Lessee must rectify or repair any blockages or damage to any Building Services constituting pipes and drains of any kind from outlets or faucets to the branching connection from the main supply that the Council reasonably believes was caused or substantially contributed to by the Lessee.

9.5.3. The parties agree that clause 9.5 does not limit any other obligation Imposed on the Lessee pursuant to this Lease.

### **10. TRANSFERRING, SUBLETTING AND CHARGING**

#### **10.1. Transfer**

The Lessee may only transfer its interest in this Lease provided:

10.1.1. The proposed transfer does not change the Permitted Use;

10.1.2. The proposed transferee is able to meet the financial obligations under the Lease; and

10.1.3. The lessee has complied sought and obtained Council's consent to the transfer.

#### **10.2. Subletting**

The Lessee must not sublet or sublicense any part of the Premises.

### **11. COUNCIL'S OBLIGATIONS AND RIGHTS**

#### **11.1 Quiet Enjoyment**

Subject to Council's rights and to the Lessee complying with the Lessee's obligations under this lease, the Lessee may occupy the Premises during the Term without interference from the Council.

### **11.2 Right to Enter**

The Council may (except in the case of emergency when no notice will be required) enter the premises after giving the Lessee reasonable notice:

11.2.1. To see the state of repair of the Premises;

11.2.2. To do repairs to the Premises or the Building or other works which cannot reasonably be done unless the Council enters the Premises;

11.2.3. To do anything the Council must or may do under this lease or must do under any Legislation or to satisfy the requirements of any Statutory Authority; and

11.2.4. To show prospective lessees through the premises

### **11.3 Emergencies**

In an emergency the Council may:

11.3.1 Close the premises or building; and

11.3.2 Prevent the Lessee from entering the premises or Building.

### **11.4 Works and Restrictions**

11.4.1. The Council may:

11.4.1.1. Install, use, maintain, repair, alter, and interrupt Building Services;

11.4.1.2. Carry out works on the Building (including extensions, renovations and refurbishment); and

11.4.1.3. Close (temporarily or permanently) and restrict access to the common areas.

11.4.2. The Council must (except in cases of emergency) take reasonable steps to minimise interference with the Lessee's use and occupation of the Premises.

### **11.5. Right to Rectify**

The Council may at the Lessee's cost do anything which the Lessee should have done under this Lease but which the Lessee has not done or which the Council reasonably considers the Lessee has not done properly.

## **12. DAMAGE OR DESTRUCTION**

### **12.1. Termination for destruction or damage**

12.1.1. If the Premises is destroyed or is damaged so that the Premises is unfit for the Lessee's use then within three (3) months after the damage or destruction occurs, the Council must give the Lessee notice either:

12.1.1.1. Terminating this Lease (on a date at least one (1) month after the Council gives notice); or

12.1.1.2. Advising the Lessee that the Council intends to repair the Premises and/or the Building so that the Premises are accessible and the Lessee can occupy and use the Premises.

12.1.2. If the Council gives a notice under clause 12.1.1.2 but does not carry out the intention within a reasonable time, the Lessee may give notice to the Council that the Lessee intends to end the Lease if the Council does not do whatever is necessary to make the Premises accessible and fit for use and occupation by the Lessee within a reasonable time (having regard to the nature of the required work).

12.1.3. If the Council does not comply with clause 12.1.1 or with the Lessee's notice

under clause 12.1.2, the Lessee may end this Lease by giving the Council not less than one (1) months' notice.

#### **12.2. Reduction or Abatement of Rent**

12.2.1. The Yearly Amounts to be paid by the Lessee will during the period the Premises are unfit or inaccessible be reduced unless:

12.2.1.1. The Premises are unfit or inaccessible; or

12.2.1.2. An insurer refuses to pay a claim; As a result of a deliberate or negligent act or omission of the Lessee.

12.2.2. The level of reduction (if any) will depend on the nature and extent of the damage

12.2.3. If the level of reduction (if any) cannot be agreed, it will be determined by a valuer.

#### **13. RENEWAL**

13.1. If a right of renewal has been granted to the Lessee as described in Item 4, the Lessee shall be deemed to have exercised their right to renew of this lease for the additional term described in Item 4 unless the Lessee serves the Council with written notice stating the Lessee's intention not to renew the Lease before the expiry of the Initial Term, or if Item 4 provides for more than one right of renewal, before the expiry of the preceding Renewal Term (whichever is applicable)

13.2. The Lessee will not be entitled to a right of renewal if:

13.2.1. The Lessee has been in breach of this Lease at any time before giving notice of the Lessee's exercise of the right of renewal;

13.2.2. The Lessee is in breach of the Lease at the time of giving that notice; or

13.2.3. The Lessee is in breach or commits a breach of this Lease after giving notice but before commencement of the Renewal Term.

#### **14. RIGHTS AND OBLIGATIONS ON EXPIRY**

##### **14.1. Expiry**

This Lease will come to an end at midnight on the last day of the Term unless it is terminated earlier by the Council or the Lessee under any other provision of this Lease.

##### **14.2. Handover of Possession**

14.2.1. Before this Lease comes to an end, the Lessee will:

14.2.1.1. Remove all the Lessee's Equipment and repair any damage caused by such removal

14.2.1.2. No later than (1) month before this Lease comes to an end, provide the Council with a written summary of all alterations and additions made to the Premises by the Lessee, whether these alterations were authorised by the Council or not;

14.2.1.3. If required by the Council, remove, and reinstate any alterations or additions made to the Premises by the Lessee; and

14.2.1.4. Complete any repairs which the Lessee is obliged to carry out under this Lease.

##### **14.3. Abandoned Goods**

If when this Lease comes to an end, the Lessee leaves any goods or equipment at the Premises, then the Council will be entitled to deal with and dispose of those goods.

##### **14.4. Holding Over**

If, with the Council's written consent, the Lessee continues to occupy the Premises after the end of this Lease, the Lessee does so as a monthly tenant which:

- 14.4.1. Either party may terminate on one month's notice given at any time; and
- 14.4.2. Is on the same terms as this Lease.

## **15. BREACH**

### **15.1. Payment Obligations**

15.1.1. The Lessee must make payments due under this Lease:

15.1.1.1. Without demand;

15.1.1.2. Without set-off, counter claim, withholding or deduction;

15.1.1.3. To the Council; and

15.1.1.4. By direct debit or such other means as directed by the Council.

15.1.2. If payment is stated to be due on a particular Payment Date (such as the next Payment Date, the Lessee must make that payment on demand)

### **15.2. Council's Rights on Breach**

15.2.1. If the Lessee is at any time in breach of any of its obligations under this Lease, and the Lessee fails to remedy that breach to the satisfaction of the Council after being requested by the Council to do so, the Council and anybody authorised by the Council for that purpose may at any time thereafter come onto the Premises without notice and do all things necessary to remedy that breach.

15.2.2. The Lessee will be liable to pay or reimburse the Council for all costs and expenses incurred in that regard which the Council may recover from the Lessee as a debt due and payable on demand.

## **16. INDEMNITY AND RELEASE**

### **16.1. Risk**

The Lessee occupies and uses the Premises at the Lessee's risk.

### **16.2. Indemnity**

The Lessee is liable for and indemnifies the Council against all actions, liabilities, penalties, claims or demands for any loss, damage, injury, or death incurred or suffered directly or indirectly including in connection with:

16.2.1. Any act or omission of the Lessee;

16.2.2. The overflow or leakage of water or any other harmful agent into or from the Premises;

16.2.3. Any fire on or from the Premises;

16.2.4. Loss or damage to the property or injury or death to any person caused by the Lessee, the use of the Premises by the Lessee or otherwise relating to the Premises;

16.2.5. A breach of this Lease by the Lessee; or

16.2.6. The Lessee's use or occupation of the Premises.

### **16.3. Release**

The Lessee releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury, or death occurring in the Premises or the Building except to the extent that they are caused by the Council's negligence.

### **16.4 Indemnities are independent.**

Each indemnity is independent from the Lessee's other obligations and continues during this Lease and after this Lease ends.

Signature of Contractor

\_\_\_\_\_  
Full Name of Contractor (Print)

\_\_\_\_\_  
Date

This agreement was Signed in my presence by  
With whom I am personally acquainted or as to whose identity I am satisfied:

I certify that I am an eligible witness and that an authorised officer of the Council signed this  
dealing in my presence.

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Full Name of Witness (Print)

\_\_\_\_\_  
Date

Certified correct for the purposes of the Real Property Act 1900 by the authorised Officer  
named below.

\_\_\_\_\_  
Signature of Authorised Person

\_\_\_\_\_  
Full Name of Authorised Person (Print)

\_\_\_\_\_  
Authority of Officer

\_\_\_\_\_  
Signing on Behalf of Cootamundra Gundagai Regional Council

\_\_\_\_\_  
Date

## Schedule

<b>Item 1 Premises –</b>  The Internal of the Building known as the Pool Gym at the Gundagai Memorial Swimming Pool is located on the corner of Nangus Road and Sheridan Lane, Gundagai, NSW with the Amenities building, and Recreation/Activity room being situated on the northern end of the site. The room is located at the western end of the pool entrance/amenities building at The Gundagai Memorial Swimming Pool as depicted in the attached plan and consists of 92m2 area within the building structure with rubber flooring, air-conditioning and swipe card security entry. The premises has toilet and shower facilities, and power supplies conveniently located for use with gym equipment requiring power.
<b>Item 2, Land –</b>  NA
<b>Item 3, Initial Term -</b>  12 months commencing on Monday XX /XXXX/ 20XX and expiring midnight on Sunday XX /XXXX/ 20XX
<b>Item 4, Renewals -</b>
<b>Item 5, Rent –</b>  Xx Month to xx Month xxxx - \$xx.xx per month
<b>Item 6, Rent review Dates –</b>
<b>Item 7, Outgoings –</b>  Swipe Card Access keys - \$20 each
<b>Item 8, Permitted Use –</b>  Operation of a Unisex Gym made available to all members of the community subject to payment of an applicable membership fee.
<b>Item 9 Public Risk Insurance –</b>  \$20,000,000

