

This Caretaking Agreement is made by way of Deed dated: 2019

Parties

THE BODY CORPORATE FOR TENERIFFE HILL APARTMENTS CTS 24567 a body corporate formed under the Body Corporate and Community Management Act 1997 ("the Act") of c/- BCP Strata Pty Ltd, PO Box 153, Mooloolaba, Queensland, 4557 ("the Body Corporate")

AND:

Minghua Zhou Pty Ltd ACN 162 817 101 as trustee for the Minghua Family Trust of Unit 19, 46 Chermside Street, Teneriffe, Queensland, 4005 ("the Caretaker")

AND:

Minghua Zhou Pty Ltd ACN 162 817 101 as trustee under instrument 715146866 of of Unit 19, 46 Chermside Street, Teneriffe, Queensland, 4005 ("the Lot Owner")

AND:

Minghu Zhou and Brock Miller of Unit 19, 46 Chermside Street, Teneriffe, Queensland, 4005 ("the Guarantors")

Background

- A. The Body Corporate wishes to provide for the control and management of the Complex and the maintenance, caretaking and repair of the Common Property.
- B. The Body Corporate will appoint the Caretaker which will accept such appointment to so assist the Body Corporate as a service contractor and to perform the Caretaking Duties.
- C. The Caretaker is a service contractor as that term is defined in the Act.

Operative part

1. Definitions

1.1 In this Agreement except where inconsistent with the context words used which are defined in the Act will have the meaning so defined and the following terms will have the following meanings -

- (a) "Associate" - if the Caretaker is a company, its directors, substantial shareholders and its management staff, or if the Caretaker is a partnership, the partners and management staff of the partnership;
- (b) "Caretaker's Unit" - Lot 19 in the Scheme, or such other Lot approved by the Committee;
- (c) "Caretaking Duties" - those duties which the Caretaker must perform under this Agreement;

- (d) "Commencement Date" – 1 February 2019;
- (e) "Complex" - the Lots and Common Property comprised in the Scheme and being the complex known as Teneriffe Hill Apartments situated at 24 Chermside Street, Teneriffe Queensland;
- (f) "Common Property" - the common property as defined by the Act and which is the responsibility of the Body Corporate to maintain, and includes all property of the Body Corporate located on the common property, but does not include any Exclusive Area;
- (g) "Committee" - the committee of the Body Corporate elected or appointed under the Act;
- (h) "Controller" - the natural person or persons who in the reasonable opinion of the Body Corporate hold effective control of the relevant company;
- (i) "C.P.I." - the Consumer Price Index All Groups for Brisbane published by the Australian Bureau of Statistics, or if that is suspended or discontinued, then the Queensland male basic wage applicable in Brisbane;
- (j) "Exclusive Area" - any part of the Common Property in respect of which any person, Owner or Lot, has a lease, licence or exclusive use, but an Exclusive Area is not such an area which is –
 - i. used for carparking;
 - ii. not enclosed;
 - iii. accessible to the Caretaker; and
 - iv. an area which the Body Corporate is responsible to keep cleaned and maintained;
- (k) "Further Term" - 15 years commencing 1 February 2029 and ending 31 January 2044;
- (l) "Lots" - lots in the Scheme;
- (m) "Management Rights" has the meaning given to the term "management rights" in the Act;
- (n) "Maximum Expenditure": \$500 increased in accordance with increases in the C.P.I.;
- (o) "Nominee" - the person nominated by the Body Corporate under Clause 7.1;
- (p) "Owners" - registered owners of Lots and includes mortgagees in possession;
- (q) "Prohibited Transferee" –
 - i. a company whose shares are traded on a public stock exchange; or

- ii. a company whose shares are owned in whole or in part, by another company or by any of the persons named in this clause 1.1(q);
- iii. a company whose shares are held by another company or by any of the persons named in this clause 1.1(q) in trust;
- iv. Minghua Zhou Pty Ltd ACN 162 817 101; or
- v. Any current or former directors and / or shareholders of Minghua Zhou Pty Ltd ACN 162 817 101; or
- vi. Minghu Zhou, Brock Miller, Hua Zhong, Zhongyi Ju, Robert Ju and Zhixiong Zheng;

or any Associate of any such persons.

- (r) "Remuneration" - \$107,265.73 for the first year of the Term and after that as calculated under this Agreement;
- (s) "Scheme" - the Community Titles Scheme for the Complex and under which the Body Corporate was created;
- (t) "Specialist" – in relation to the duties performed under this Agreement, means those duties required by law to be performed by a person who holds-
 - (i) a licence issued by the Queensland Building and Construction Commission; or
 - (ii) some other formal trade qualification or training;
- (u) "Term" – subject to clause 9.2, 10 years from the Commencement Date, terminating on the Termination Date; and
- (v) "Termination Date" – 31 January 2029.

2. Interpretation

2.1 In the interpretation of this Agreement unless the context otherwise requires:-

- (a) Words denoting any gender include all other genders.
- (b) Words denoting persons include all bodies, associations, trusts, partnerships, instrumentalities and entities corporate or unincorporate, and vice versa.
- (c) References to any of the parties include in the case of a person, their personal representatives and permitted assigns, and in other cases their successors and permitted assigns.
- (d) Any obligation on the part of two or more persons is deemed to bind or benefit as the case may be, any two or more of them jointly and each of them severally.
- (e) Words expressing the singular include the plural and vice versa.

- (f) Headings are included for convenience only and do not affect the interpretation of this Agreement.
- (g) References to Sections, Clauses, Recitals, Schedules and Annexures are to Sections and Clauses of and Recitals, Schedules and Annexures to this Agreement.
- (h) References to this Agreement are to this Agreement as amended supplemented or varied from time to time.
- (i) References to any document or agreement includes all references to such document or agreement as amended, novated, supplemented, varied or replaced from time to time.
- (j) Expressions cognate with expressions defined in clause 1 are to be construed accordingly.
- (k) References to dates and times are to Brisbane time.
- (l) References to "\$" and "dollars" are to Australian dollars.
- (m) Recitals to this Agreement are to be read as and form part of this Agreement.
- (n) References to writing include typing, telex, facsimile and all other means of reproducing words in a permanent and visible form.
- (o) References to any legislation includes any legislative provision which amends, extends, consolidates or replaces it and any orders, regulations, instruments, proclamations or other subordinate legislation made under it.
- (p) References to institutes, associations, bodies and authorities whether statutory or otherwise will, if it ceases to exist or is reconstituted, renamed or replaced or its powers or functions are transferred to refer to the institute, association, body or authority established or constituted in its place or which substantially succeeds to its powers or functions.
- (q) No rule of construction will apply to the disadvantage of a party because that party was responsible for the drafting of this Agreement or any part of it.
- (r) Unless application is mandatory by law, any legislation present or future will not apply to this Agreement so as to abrogate, extinguish, impair, delay or otherwise prejudicially affect the exercise or enjoyment of any rights given or accruing to any party.

3. Appointment And Term

- 3.1 The Body Corporate appoints the Caretaker for the Term to look after the Common Property from the Commencement Date.
- 3.2 Subject to the Caretakers strict compliance with the terms of this clause, if there is not, at the time the Caretaker gives notice under this Clause nor at the Termination Date, an outstanding breach of this Agreement by the Caretaker entitling the Body Corporate to terminate it, the Caretaker may, by giving written notice to the Body Corporate –

- (a) not greater than 12 months; and
- (b) not less than 6 months,

before the Termination Date, extend or renew this Agreement or the term of it for the Further Term, otherwise upon the same conditions as are contained in this Agreement with the exception of this Clause 3.2 which will be deleted and except that the remuneration for the first year of the Further Term will be calculated in accordance with Clause 4.

3.3 The Caretaker -

- (a) accepts the appointment;
- (b) will look after the Common Property as required by this Agreement;
- (c) will perform the Caretaking Duties; and
- (d) is an independent contractor of the Body Corporate.

3.4 This Agreement is subject to and conditional upon the Caretaker contemporaneously entering into a Letting Agreement with the Body Corporate.

4. **Remuneration**

4.1 The Remuneration will be increased for the second and subsequent years of the Term and the Further Term by the same percentage of the previous year's Remuneration as the last percentage increase in the C.P.I. for one year as last recorded by the Commonwealth Statistician immediately before the year in which the Remuneration is to be reviewed, subject to Clause 4.2.

4.2 Despite Clause 4.1, the Remuneration for any year will never be less than the Remuneration for the previous year.

4.3 The Body Corporate must pay the Remuneration to the Caretaker by equal monthly instalments in arrears, the first payment one calendar month from the Commencement Date, and monthly after that.

4.4 The Body Corporate must pay to the Caretaker in addition to the Remuneration a further amount equal to the Remuneration multiplied by the statutory rate of GST (as defined in the *A New Tax System (Goods and Services Tax) Act 1999*) prevailing at the time of payment.

4.5 The Remuneration is paid only for the Caretaking Duties and not for any letting or ancillary services which the Caretaker or any other entity provides.

5. **Caretaker's duties**

5.1 In addition to any specific duties set out in any schedule to this Agreement, the Caretaker must as reasonably required in relation to the Common Property -

- (a) hose (where lawful) or otherwise clean all walkways, access areas and other areas of the Common Property that require cleaning;

- (b) keep clean, tidy and maintained all parts of the Common Property;
- (c) clean any drains and gutters on Common Property;
- (d) mow and trim the edges of the lawns;
- (e) maintain the lawns, gardens and shrubs, which duty includes maintaining and operating any watering systems, fertilising, weed control, and arranging mulching and top dressing; and
- (f) effect repairs and maintenance to the Common Property where the services of a Specialist are not required.

5.2 The Caretaker must arrange contracts between the Body Corporate and independent Contractors for all work of a specialist nature required for any of those things referred to in Clause 5.1 or for any services to, or work to be carried out to, the Common Property including without limitation -

- (a) specialist cleaning, repairs, maintenance, landscaping or other work in relation to the Common Property;
- (b) cleaning of external windows or parts of the Complex not easily accessed; and
- (c) the provision of water, electricity, gas, fuel, telephone and other necessary services as required by the Body Corporate.
- (d) Such contracts with independent contractors will only be entered into with the prior consent of the Body Corporate, but the Body Corporate must not unreasonably withhold such consent.

5.3 The Caretaker must:

- (a) regularly ensure the correct operation and, if necessary, arrange for expert specialist maintenance of -
 - (i) any waste disposal system;
 - (ii) all Common Property electrical apparatus;
 - (iii) any pumps and auxiliary motors; and
 - (iv) all other parts of the Common Property where inspection and/or maintenance is required;
- (b) arrange all appliances, equipment, material and supplies necessary to carry out the Caretaking Duties and to generally maintain the Common Property;
- (c) promptly report and account to the Body Corporate for -
 - (i) matters requiring repair or creating a hazard or danger that involves expenditure of money in excess of the Maximum Expenditure;
 - (ii) use by the Caretaker of any Body Corporate funds; and

- (iii) use by the Caretaker of any other property of the Body Corporate in carrying out the Caretaking Duties;
- (d) monitor compliance with the By-Laws and advise the Body Corporate of any serious or persistent breaches of them;
- (e) if the Caretaker becomes aware of non-compliance with any relevant laws concerning the maintenance and operation of the Common Property, advise the Body Corporate of such non-compliance;
- (f) arrange a qualified third party to notify the Body Corporate of any alteration of the fire safety requirements;
- (g) keep order and safeguard the Complex against unlawful entry and arrange security contracts at the expense of the Body Corporate as required by the Body Corporate;
- (h) in relation to fire fighting equipment on Common Property arrange at the direction and expense of the Body Corporate when required:
 - (i) for any requisite inspections by the relevant officer; and
 - (ii) for maintenance necessary to maintain it in an efficient working condition;
- (i) be available or contactable 7 days per week, at all reasonable times, either on the Scheme or by mobile telephone;
- (j) maintain and supervise carparking arrangements on the appropriate areas of the Common Property;
- (k) keep possession of all keys for any Common Property areas and keys of any Owners who provide them to the Caretaker;
- (l) arrange to keep the lighting of Common Property operating efficiently; and
- (m) carry out such other reasonable and appropriate tasks requested by the Body Corporate relevant to the caretaking of the Common Property.

5.4 In relation to workplace health and safety, the Caretaker must:

- (a) be familiar with current workplace health and safety laws as those apply to the Common Property, Body Corporate contractors, invitees, volunteer work and Owners;
- (b) conduct site inductions for Body Corporate contractors to ensure that they are familiar with their workplace health and safety responsibilities in the form advised by the qualified third party engaged by the Body Corporate to advise on issues of this nature;
- (c) at the direction and expense of the Body Corporate engage an appropriately qualified consultant to:
 - (i) review and renew the Body Corporate's "Safe Work Plan";

- (ii) audit the Body Corporate's records and "Safe Work Plan" compliance and provide a written report to the Committee; and
 - (iii) conduct site inductions for Body Corporate Committee members; and
 - (d) keep workplace health and safety records to record site inductions, incident reports relating to Common Property and accidents on Common Property and provide these to the Committee as reasonably required and on reasonable notice.
- 5.5 The Caretaking Duties must be carried out by any or all of the Caretaker personally, or if it is a company, personally by its directors and shareholders, unless –
- (a) the Body Corporate has approved some other natural person or persons as the Nominee of the Caretaker to perform its duties ("the Caretakers Nominee"); and
 - (b) the Caretakers Nominee has executed a personal guarantee in favour of the Body Corporate in a form acceptable to the Body Corporate.
 - (c) The Caretaker has complied with clause 8.6.
- 5.6 The Caretaker's duties under this Agreement are limited to those that do not require the services of a Specialist whose services, if and when required, will be arranged by the Caretaker at the direction and expense of the Body Corporate.
- 5.7 The Caretaker must, at its own expense, engage a third party contractor or contractors who are not a Prohibited Transferee or an Associate of the Caretaker to perform the Caretaking Duties that relate to gardening, and those in relation to the toilets in the commercial precinct in clause 1.6 of Schedule 2. The Committee may, acting reasonably, direct the Caretaker to discontinue using a particular contractor on not less than 30 days' notice.
- 6. Expenses**
- 6.1 All of the Caretaking Duties must be carried out at the cost and expense of the Caretaker unless this Agreement provides that they are to be carried out at the expense of the Body Corporate.
- 6.2 The Body Corporate must pay all costs and expenses of -
- (a) all work required to be performed by a Specialist;
 - (b) external maintenance agreements and other contracts or agreements entered into between the Body Corporate and independent contractors or consultants (if any);
 - (c) all fuels, appliances, materials, equipment and consumables necessary to enable the Caretaker to perform the Caretaking Duties; and
 - (d) all out-of-pocket costs for repair and maintenance of the Common Property.

6.3 The Caretaker can spend up to the Maximum Expenditure for each individual item of expenditure from monies of the Body Corporate in carrying out the Caretaking Duties.

6.4 The Body Corporate must reimburse the Caretaker for any of the Caretaker's monies spent under Clause 6.3 within 14 days of the Caretaker providing written evidence of the expenditure.

7. **Instructions**

7.1 The Body Corporate must -

- (a) nominate one person to communicate with the Caretaker on its behalf; and
- (b) notify the Caretaker in writing of the appointment of that Nominee or its replacement.

7.2 The Caretaker must -

- (a) confer with the Nominee concerning the Caretaking Duties; and
- (b) follow the reasonable directions (if any) issued by the Nominee in relation to the performance of the Caretaker's Duties; and
- (c) attend any general meeting or Committee meeting of the Body Corporate if requested and given reasonable notice by the Nominee.

8. **Assignment and Dealing**

8.1 The Caretaker must not assign its interest in this Agreement or appoint a Caretakers Nominee unless it obtains the Body Corporate's consent.

8.2 The Body Corporate must -

- (a) not unreasonably, arbitrarily or capriciously refuse or delay giving its consent to any proposed assignment; and
- (b) give its consent or refusal to any proposed assignment within 30 days of the Caretaker giving to it the information reasonably necessary for the Body Corporate to properly consider the proposed assignment.

8.3 Before giving its consent to any proposed assignment, the Body Corporate will be entitled to require -

- (a) satisfactory evidence that the proposed assignee and any Associates who will be carrying out the Caretaking Duties are financially sound and reputable, responsible, respectable and capable of satisfactorily performing the Caretaking Duties; and
- (b) two business references and two personal references of the proposed assignee and any Associates who will be carrying out the Caretaking Duties.

8.4 As a condition of considering any request for giving its consent to any assignment, the Body Corporate will be entitled to require -

- (a) that the proposed assignee execute in favour of the Body Corporate a Deed of Covenant to comply with the terms of this Agreement;
- (b) that the Caretaker pay to the Body Corporate all its reasonable legal and administrative costs incurred by it in giving its consent or establishing the suitability of the proposed assignee and / or its Associates, whether or not such consent is ultimately given;
- (c) if the proposed assignee is a company, personal guarantees from the directors and shareholders; and
- (d) that the assignee, or if it be a company it or its Controller becomes the registered owner of, or otherwise acquires the right to occupy, the Caretaker's Unit.

8.5 Subject to the Act, the Body Corporate must not require or receive any premium, payment or benefit for any request to consent or consent given under this clause, except as provided in Clause 8.4(b).

8.6 Where it is proposed that –

- (a) one or more of the natural persons that make up the Controller (or Caretakers Nominee, if appointed) at any time are to cease to do so or are to be replaced; or
- (b) if the Caretaker is a company, there is a change in the directors or shareholders of the Caretaker,

that will be regarded as an assignment requiring approval under this Clause 8.

8.7 Upon an assignment under this clause, the assignor will be released from liability for the performance of this Agreement as from the date of that assignment.

8.8 The Body Corporate must not approve an assignment to a Prohibited Transferee.

9. **Termination**

9.1 The Body Corporate may terminate this Agreement if the Caretaker -

- (a) is convicted of an indictable offence involving fraud or dishonesty; or
- (b) is guilty of gross misconduct or gross negligence in performing or failing to perform the Caretaking Duties; or
- (c) does not comply with clause 8; or
- (d) is in breach of this Agreement, and that breach continues at the end of 21 days after notice in writing delivered by the Body Corporate to the Caretaker requiring that breach to be remedied.

9.2 Special Termination Provisions

- (a) The parties acknowledge that the Caretaker would be a Prohibited Transferee.

- (b) Whilst the Caretaker is a Prohibited Transferee, the parties agree that this Agreement will expire on 31 July 2019.
- (c) This clause has been inserted to allow the Caretaker an opportunity to transfer this Agreement to someone who is not a Prohibited Transferee.
- (d) During the period mentioned in clause (b) above, the Body Corporate consents to Brock Miller as the Caretakers Nominee.

10. Notices

- 10.1 All notices and other communications between the parties may be sent by certified post with postage prepaid or by hand delivery to the party at the address shown in this Agreement or by facsimile transmission to the facsimile number of the party or to such other address or person as either party may specify by notice in writing to the other.
- 10.2 All such notices or communications will be deemed to have been duly given or made
 - (a) if by mail 2 business days after being deposited in the mail with postage prepaid;
 - (b) if delivered by hand at the time of delivery; and
 - (c) if sent by facsimile transmission, when the sender's transmission record indicates that the same was received without error.

11. Caretaker's Unit

- 11.1 The Caretaker must, or if it is a company it or its Controller must, own or otherwise have the right to occupy the Caretaker's Unit.
- 11.2 If, under Clause 11.1, the registered owner of the Caretaker's Unit is some person or persons other than the Caretaker, the Caretaker must if requested by the Body Corporate procure such person or persons to enter into a Deed of Covenant with the Body Corporate (to be prepared by the Body Corporate at the expense of the Caretaker) to be bound by the terms of this Agreement as far as they relate to the Caretaker's Unit.
- 11.3 If the Body Corporate gives its consent under Clause 8 to an assignment of the Caretaker's interest in this Agreement, the Caretaker or the owner of the Caretaker's Unit will be permitted to sell the Caretaker's Unit so that upon such assignment and sale, there will be compliance with Clause 11.1.
- 11.4 Upon the expiry or sooner termination of this Agreement, the Caretaker will sell the Caretaker's Unit to the party to whom the Body Corporate enters into an agreement on terms similar to those contained in this Agreement.
- 11.5 The purchase price of the Caretaker's Unit under Clause 11.4 will be as agreed, or failing agreement as determined by a registered valuer nominated by the President of the Australian Institute of Valuers and Land Economists (Queensland Chapter). The valuer's costs will be paid by the Body Corporate except in the case of termination of this Agreement as a result of a breach by the Caretaker, in which case the valuer's costs will be paid by the Caretaker.

11.6 The terms and conditions of a sale referred to under Clause 11.4 will be those contained in the standard REIQ Contract applicable to the sale of lots in a Community Title Scheme current at the time of such sale, and will provide for a 5% deposit and completion 30 days after the date of the Contract.

12. **Costs**

12.1 The Caretaker must pay -

- (a) the legal and administrative costs and expenses of the Body Corporate incurred in the preparation and execution of this Agreement and / or the expiry of the Agreement mentioned in clause 18; and
- (b) any stamp duty on this Agreement.

12.2 The Caretaker must pay the Body Corporates costs and expenses in relation to the exercise or attempted exercise of any of its powers or duties under this Agreement, including the costs of engaging third parties to remedy any default by the Caretaker, and the Body Corporates reasonable administrative and legal costs (on an indemnity basis).

13. **Severance**

13.1 If any provision of this Agreement is, for any reason, considered or found by a Court of competent jurisdiction or any competent Government authority to be invalid, illegal or unenforceable, or to reduce the term of this Agreement, or any of the Caretaking Duties are beyond the power of the Body Corporate to engage the Caretaker to perform, that provision is to be severed from the remainder of the provisions of this Agreement and will be deemed never to have been part of this Agreement. The remainder of the provisions of this Agreement (including the Remuneration) will remain in full force and effect unless the basic purposes of this Agreement are defeated.

13.2 It is not the intention of the parties that any of the Caretaking Duties should constitute the Caretaker a body corporate manager pursuant to Section 14 of the Act. If any of the Caretaking Duties in any way constitute the Caretaker a body corporate manager pursuant to the Act, then –

- (a) to the extent that any or all of the Caretaking Duties constitute the Caretaker a body corporate manager, that duty or duties shall be read down or omitted so that the Caretaker is not a body corporate manager; and
- (b) the Caretaker must continue to perform such duties as are required of a service contractor pursuant to the Act in exchange for the Remuneration.
- (c) If as a result of the operation of this Clause 13 or otherwise, there is a material change to the nature or extent of the Caretaking Duties, the Caretaking Duties (and Remuneration at a market value) shall be determined by an adjudicator pursuant to the dispute resolution provisions of the Act and, this Agreement shall be amended accordingly.

14. **Further Assurance**

14.1 The parties agree and agree to procure every other person as required to sign all documents and otherwise do all such acts, matters and things as may be necessary or desirable to give full force and effect to this Agreement.

15. **Governing Law**

15.1 This Agreement will be construed in accordance with the law of Queensland and the parties submit to the non-exclusive jurisdiction of the Queensland Courts notwithstanding the domicile or residence of any party or the occurrence of any act, matter or thing outside of Queensland.

16. **Warranty of Authority**

16.1 Each person signing this Agreement -

- (a) as attorney for any party, warrants to the other parties that at the date of execution by him or her, he or she has not received any notice or information of the revocation of the power of attorney appointing him or her; and
- (b) as an authorised officer, agent or trustee of any party, warrants to the other parties that at the date of execution by him or her, he or she has full authority to execute this Agreement in that capacity.

16.2 The Body Corporate warrants that it has at general meeting, by secret ballot, without the use of proxies and in compliance in all respects with the requirements of the Act and the applicable Regulation Module, resolved to enter into this Agreement.

17. **Letting Business**

17.1 The Caretaker has entered into a Letting Agreement with the Body Corporate contemporaneously with entering into this Agreement. The parties acknowledge and agree that -

- (a) a default under the Letting Agreement will constitute a default under this Agreement, and vice versa;
- (b) upon the expiration or termination of the Letting Agreement, this Agreement will expire or terminate on the same date; and
- (c) the Body Corporate need not give its consent to an assignment of this Agreement unless the Caretaker assigns to the proposed assignee at the same time its interest in the Letting Agreement.

18. **Surrender Of Previous Agreement**

18.1 The parties acknowledge and agree that as and from the Commencement Date, and to the extent that such agreement has not already expired by effluxion of time, the Caretaking Agreement dated 8 December 2008 between the Body Corporate and Toowong Units Pty Ltd ACN 115 331 514 ATF The Ronald Sleebos Trust, to which the Caretaker is now a party, is surrendered and terminated.

19. **Occupation Authority**

- 19.1 In accordance with the Act and the applicable Regulation Module, and subject to the provisions of this clause, the Body Corporate authorises the Caretaker to have the exclusive use and occupation of the Occupation Authority Areas being those parts of the Common Property identified on the plan or plans attached to this Agreement for all purposes necessary to enable the Caretaker to carry out the Caretaking Duties and perform its obligations under this Agreement.
- 19.2 The Caretaker must otherwise perform the Caretaking Duties in relation to the Occupation Authority Areas, including but not limited to, keeping such areas clean, tidy, orderly and secure.
- 19.3 The Committee is entitled to access and inspect the Occupation Authority Areas on reasonable notice.
- 19.4 The Caretaker must ensure that any equipment owned by the Body Corporate is stored, or (in the case of cleaning or gardening equipment when such equipment is not in use) located in the Occupation Authority Areas.
- 19.5 The Caretaker must ensure that any security video monitors and any related equipment (e.g. recording devices) is located in the Caretakers Office being the Occupation Authority Area marked P.

20. Guarantee

- 20.1 In consideration of the Body Corporate, at the request of the Guarantor, entering into this Agreement with the Caretaker, the Guarantor hereby agrees with the Body Corporate as follows-
- (a) The Guarantor guarantees-
- (i) performance by the Caretaker of its obligations under this Agreement; and
 - (ii) the payment of all loss and damage recoverable by the Body Corporate from the Caretaker.
- (b) This Guarantee will be a continuing Guarantee and will not be affected or avoided in any way by
- (i) any agreement or arrangement made between the Body Corporate and the Caretaker;
 - (ii) any alterations or variations to the rights and obligations of either the Body Corporate or the Caretaker;
 - (iii) the granting of any time or other indulgence or forbearance by the Body Corporate to the Caretaker or to the Guarantor;
 - (iv) the making of any composition with or waiver of any breach or default by the Caretaker; or
 - (v) the neglect or forbearance of the Body Corporate to enforce the provisions of this Agreement or of this Guarantee;

it being the intention that this Guarantee be unconditional and absolute in any and all circumstances.

- (c) The obligations of the Caretaker the performance of which are hereby guaranteed apply for as long as Minghua Zhou Pty Ltd ACN 162 817 101 as trustee for the Minghua Family Trust remains the Caretaker under this Agreement.
- (d) The Body Corporate will be at liberty to regard the Guarantor in all respects as a principal debtor and will not be obliged to take action first against the Caretaker.
- (e) The obligations of the Guarantor will not merge or be deemed to have merged in any judgment obtained by the Body Corporate against the Caretaker.
- (f) In the event of any term of this Agreement not being enforceable against the Caretaker as principal whether by reason of any legal limitation, disability or incapacity the Guarantor will be responsible under this Guarantee as though the Guarantor was solely or principally liable as the Caretaker under the Agreement.
- (g) The Guarantor waives in favour of the Body Corporate, the Caretaker and any other person any estate or assets so far as necessary to give effect to anything contained in this Guarantee.

20.2 As a separate and independent obligation and for the consideration referred to the Guarantor hereby agrees to indemnify the Body Corporate from all claims suffered or incurred by the Body Corporate by reason of the Caretaker's default in observing or performing the Caretaker's obligations under this Agreement and the preceding provisions of this Clause will apply to this indemnity.

EXECUTED AS A DEED

The Common Seal of The Body Corporate for)
Teneriffe Hill Apartments CTS 24567 was)
affixed pursuant to a resolution of the Body)
Corporate in the presence of two officers who)
certify that they are the proper officers of the)
Body Corporate to affix that seal)
)

Signature

Name and designation

Signature

Name and designation

Executed by Minghua Zhou Pty Ltd ACN 162)
817 101 as trustee for the Minghua Family)
Trust as Caretaker in accordance with the)
Corporations Act by authority of its director(s))
)
)

Signature of Director

Name of Director (block letters)

Signature of Director/Secretary/ Sole
Director & Secretary*
*delete whichever is not applicable

Name of Director/Secretary/ Sole
Director & Secretary*
*delete whichever is not applicable

Executed by Minghua Zhou Pty Ltd ACN 162)
817 101 as trustee under instrument)
715146866 as Lot Owner in accordance with)
the Corporations Act by authority of its)
director(s))
)
)

Signature of Director

Name of Director (block letters)

Signature of Director/Secretary/ Sole
Director & Secretary*
*delete whichever is not applicable

Name of Director/Secretary/ Sole
Director & Secretary*
*delete whichever is not applicable

Signed Sealed and delivered by Minghu Zhou) _____
as Guarantor before me) Signature

Witness Signature

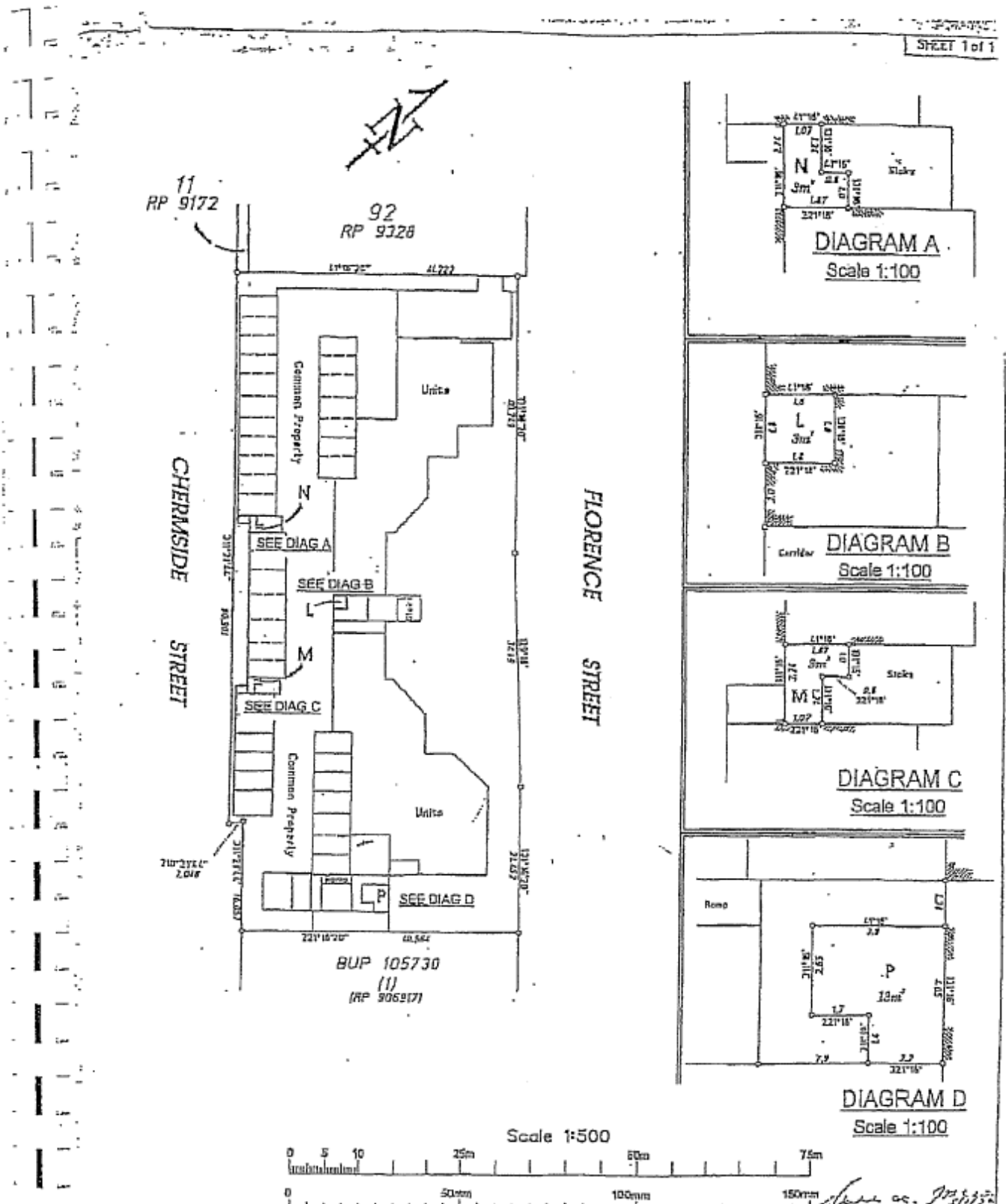
Witness Full Name

Signed Sealed and delivered by Brock Miller) _____
as Guarantor before me) Signature

Witness Signature

Witness Full Name

Schedule 1 Occupation authority plan



AND RURAL SURVEYS PTY LTD A.C.N. 006 748110,
 DESIGN SURVEYOR, CERTIFY THAT THE DETAILS
 SHOWN ON THIS SKETCH PLAN ARE CORRECT

D. D. D.
 Date 5/1/99
S. S. S.

SKETCH PLAN OF AUTHORITY TO OCCUPY
 AREAS L-N & P
 TENERIFFE HILL APARTMENTS
 LEVEL A

PARISH: NORTH BRISBANE COUNTY: STANLEY

AGGREGATED YES
 URBAN & RURAL SURVEYS CC
 16 Orford Street
 Enoggera
 Queensland 4051
 Ph. (07) 2223 3714
 Fax (07) 2225 1250
 LAND SURVEYORS
 DEVELOPMENT CONSULTANTS
 PLANNERS
 NORTH SURVEYS GROUP
 Plot No. 7758#013

Schedule 2 – Specific Caretaking Duties

Caretaker's Duties

1. Caretakers Daily Duties

1.1 Building inspection and security

- (a) The Caretaker must carry out daily inspections of the complex to ensure that no breach of security or damage to the common property has occurred.
- (b) Any such breach or damage found must to be reported by the Caretaker to the appropriate authority for correction, replacement or reinstatement action as soon as practicable.
- (c) The Caretaker must document all details of any particular incident.

1.2 COMMUNICATIONS, DOOR AND ENTRANCE LOCKS –

- (a) The Caretaker must check that the Caretaker's phone; email, and intercom unit are all operating.
- (b) The Caretaker must check the main entrance intercom system, the automatic entry/exit gates to complex and to basement car parks, check associated key control switches and associated safety limit systems are all functioning correctly to provide all residents and guests with ready entry and exit to and from the units and the complex.
- (c) The Caretaker must organise immediate action as necessary to remedy any system failure/s.
- (d) The Caretaker must program and re-code swipe cards for security access system as required (the Caretaker must provide 1 free swipe card per year per resident, and may charge a reasonable fee for subsequent replacements) .
- (e) The Caretaker must replace batteries in unit entry door lock systems as required.

1.3 Availability—

- (a) The Caretaker must be available within the complex during the hours as set out below (excluding public holidays): -
 - (i) Monday to Friday inclusive: 8.30am — 5.00 pm
 - (ii) Saturday: 9.30am — 12.00 noon
- (b) The Caretaker may be absent from the property during those hours for reasonable periods of time for business or personal reasons provided that the Caretaker is contactable (by mobile phone for example) so as to be able to return to the complex within a reasonable period of time.

1.4 Rubbish disposal —

- (a) The Caretaker must carry out regular inspections of rubbish bin area, sort and level bin deposits and rotate bin under rubbish chute when full.
 - (b) The Caretaker must check all common area refuse receptacles daily and empty and replace bin liners as required.
 - (c) The Caretaker must maintain rubbish bin areas/bin rooms in a clean and tidy condition
- 1.5 Entrances, forecourt, stairways, and associated areas —
- (a) The Caretaker must check all areas and pick up litter as required.
 - (b) The Caretaker must empty any rubbish bins that may be located in these areas.
- 1.6 Common area toilets and associated facilities
- (a) The Caretaker must clean and service common area toilets and associated facilities, sweep and mop tiled floors, replace consumables as required.
 - (b) The Caretaker must empty rubbish bins and replace bin liners.
 - (c) The Caretaker must carry out regular checks throughout each day (minimum of twice daily) to ensure the facilities remain in a clean, tidy and hygienic condition.
- 1.7 Unit entry stairwells and associated areas —
- (a) The Caretaker must sweep and clean tiled areas of stairwells and associated common areas.
- 1.8 Commercial precinct —
- (a) The Caretaker must sweep and clean commercial precinct walkways and exclusive use paved areas.
 - (b) The Caretaker must pick up litter from commercial precinct car parks and driveways.
 - (c) The Caretaker must carry out regular daily monitoring of commercial precinct and associated areas, pickup rubbish and clean up spills.
 - (d) The Caretaker must sweep and clean tiled access arcade to commercial area car park.
- 1.9 Driveways and resident car park areas —
- (a) The Caretaker must pick up and dispose of litter from entrances, driveways and resident car park areas.
 - (b) The Caretaker must monitor resident's vehicle parking and report any breaches of by-laws.
 - (c) The Caretaker must throughout the day check that cars are parked correctly. The Caretaker must advise residents of any parking by-law breaches or if the driver cannot be located leave a note advising that the vehicle has been parked in breach of the by-laws.

1.10 Lawns, gardens and landscape features —

The Caretaker must inspect all garden areas and pick up litter, dead foliage, fronds and branches from lawn and garden areas.

1.11 By-Laws —

- (a) The Caretaker must monitor observance of the by-laws and behaviour of those using the common property.
- (b) The Caretaker must advise occupiers, (where possible), of any noticed or reported breaches of the Body Corporate's by-laws.
- (c) The Caretaker must report to the Committee any persistent breaches of the Body Corporate's by-laws.

1.12 Incident Record

- (a) The Caretaker must record accidents and injuries and/or any other matters as may be considered by the Caretaker as important or essential for recording and reporting to the Body Corporate.

1.13 Lot in the Scheme

The Caretaker or the Caretaker's Associate's must own a lot in the Scheme.

1.14 Reside in the Scheme

The Caretaker, the Caretaker's Associates or other nominated representative approved by the Body Corporate must reside in a lot in the Scheme. This need not be the Caretaker's Unit.

2. Caretaker's Weekly Duties

2.1 General areas —

- (a) The Caretaker must check and clean building letterboxes and surrounding areas and dispose of junk mail in those areas (but excluding the inside of private letter boxes).
- (b) The Caretaker must sweep and clean clothes line drying areas.

2.2 Upper floor level foyers and associated areas –

- (a) The Caretaker must sweep, mop and clean all floor level landings, corridors, passageways and stairwells using an appropriate cleaning or sanitising agent on a weekly basis or more frequently during periods of high occupancy or wet or inclement weather to maintain these areas in a clean, tidy and safe condition.
- (b) The Caretaker must wipe and dust any furniture or fittings located in these areas.
- (c) The Caretaker must clean any accessible common area glass.
- (d) The Caretaker must sweep, mop, clean and disinfect each floor level rubbish room and garbage chute.

2.3 Building maintenance, repairs and services —

- (a) The Caretaker must carry out minor repairs to common property that do not require the services of a Specialist, when and as required.
- (b) The Caretaker must check and maintain the operation of community hot water systems.

2.4 Security and emergency services —

- (a) The Caretaker must maintain register of master keys and keys under management control and sign out and in keys to contractors as authorised.

2.5 Driveways and resident car park areas —

- (a) The Caretaker must sweep and clean entrance, car parking areas and driveways and car parks.
- (b) The Caretaker must check and maintain operation of automatic entry/exit roller shutter (watch through full cycle).
- (c) The Caretaker must test and ensure the correct operation of the basement sumps.
- (d) The Caretaker must check and ensure that residents car parks are kept clear of excess items (e.g. furniture) and that all such items to be stored in designated storage areas.

2.6 Commercial precinct —

- (a) The Caretaker must arrange the removal of any graffiti from common areas walls.

2.7 Common area lights —

- (a) The Caretaker must inspect all common area lights for correct operation or damage, replace accessible faulty light globes/tubes as necessary.
- (b) The Caretaker must arrange any specialist repairs as required.
- (c) The Caretaker must de-web lights, clean shades and fittings as required

2.8 Lawns, gardens and landscape features —

- (a) The Caretaker must weed and tidy all common area gardens.
- (b) The Caretaker must mow all lawns in common areas of complex.
- (c) The Caretaker must trim around edges of paths, gardens, shrubs and trees, etc.
- (d) The Caretaker must light prune, trim and shape all palms, trees, and shrubs and dispose of trimmings.
- (e) The Caretaker must check and maintain garden irrigation systems to ensure they are working correctly, in particular to ensure that no drippers or hoses have blown off.

2.9 Rubbish disposal —

- (a) The Caretaker must check and sort recycle bins, rotate full bins to provide access to empty bins.
- (b) The Caretaker must place out recycle bins for collection, return and clean (fortnightly).
- (c) The Caretaker must sweep, clean and maintain refuse room in a clean and tidy condition.
- (d) The Caretaker must sweep, clean and maintain recycle bin areas in a clean and tidy condition.
- (e) The Caretaker must hose, clean and disinfect rubbish bins.

2.10 Electrical switchboards —

- (a) The Caretaker must check switchboards and switchboard rooms and ensure rooms are accessible and kept clean and tidy.

2.11 Entrances, forecourt and associated areas —

- (a) The Caretaker must sweep and clean main entrance stairs, paved forecourt, footpaths and associated areas.

2.12 Body corporate and administrative matters —

- (a) The Caretaker must order, purchase and pick up goods and consumables on behalf of Body Corporate.
- (b) The Caretaker must attend to requirements and obtain quotations that are requested by the Body Corporate for the repairs or specialised maintenance required for the common property.
- (c) The Caretaker must arrange and reasonably supervise any trades people or contractors who may be engaged by the Body Corporate or the Caretaker.
- (d) The Caretaker must ensure that any Body Corporate common property maintenance or building contracts in force are carried out in accordance with their terms and agreed conditions.
- (e) The Caretaker must notify the relevant maintenance contractor of any defect or breakdown that may occur at the complex and ensure that the contractor is advised to rectify the reported defect as soon as practicable.
- (f) The Caretaker must advise the Body Corporate's Committee Representative of any such defects not rectified under the terms of engagement in order for further action to be taken by the Body Corporate.
- (g) The Caretaker must record accidents and injuries and/or any other matters as may be considered by the Caretaker as important or essential for recording and reporting to the Body Corporate.
- (h) The Caretaker must arrange and oversee building renovation, restoration and improvement projects.

- (i) The Caretaker must determine requirements, implement and monitor projects on behalf of the Body Corporate.
- (j) Re-stock common area light globes and any other Body Corporate consumables as required.

3. Caretaker's Monthly Duties

3.1 General areas —

- (a) The Caretaker must sweep, clean and tidy store/plant rooms.
- (b) The Caretaker must provide access to ENERGEX/ORIGIN/TELSTRA, etc for the reading of meters and maintenance of equipment.

3.2 Drains & gutters —

- (a) The Caretaker must keep all storm water drains and gutters clear and clean.
- (b) The Caretaker must ensure all grates and drain covers are in a sound condition and securely fixed in place so as not to form a hazard or danger to pedestrians or vehicles.

3.3 Lawns, gardens and landscape features —

- (a) The Caretaker must lightly prune, trim and shape all trees, shrubs and plants and clean up and dispose of trimmings.

3.4 Common area ventilation systems —

- (a) The Caretaker must ensure the continual operation of ventilation systems in car park areas.

3.5 Workplace health and safety —

- (a) The Caretaker must check the complex for any apparent hazards and organise repairs/maintenance if required .
- (b) The Caretaker must advise the Body Corporate's Committee representative by confirmation in writing of any situation that it reasonably believes requires the Body Corporate's attention.

3.6 Driveways and resident car park areas —

- (a) The Caretaker must inspect all visible and exposed pipe work and brackets, report any damage or leaks.
- (b) The Caretaker must check the operation of the automatic carpark entrance shutter, lubricate components where and as necessary.
- (c) The Caretaker must spot clean driveway and car park oil and grease spills and drips as required.
- (d) The Caretaker must organise any repairs or maintenance required to keep the shutter, control switches, safety limit controllers and drive equipment in correct working order.

3.7 Maintenance contractors —

- (a) The Caretaker must ensure that any such contracts are carried out in accordance with their terms. This includes (but not limited to) maintenance and testing of fire equipment, pumps, inaccessible glass cleaning, rubbish disposal, community hot water systems, electrical installations, ventilation systems, etc.

3.8 Body corporate accounts and correspondence —

- (a) The Caretaker must check and endorse as correct for payment any invoice or account that the Caretaker is responsible for and is authorised to operate on behalf of the Body Corporate.
- (b) The Caretaker must promptly forward any such Body Corporate accounts, quotations, correspondence, etc, to the Body Corporate for appropriate action as may be required.
- (c) The Caretaker must clear, sort and redirect unclaimed mail.

3.9 Commercial precinct —

- (a) The Caretaker must clean oil and grease spills in commercial precinct car parks.

4. Caretaker's Quarterly Duties

4.1 Maintenance of equipment —

- (a) The Caretaker must maintain Body Corporate equipment any other required work tools, etc, to ensure they are kept in correct and safe working order.
- (b) The Caretaker must maintain a register of Body Corporate assets and equipment including a service record of any maintenance or repairs to such equipment.

4.2 Body corporate and administrative matters —

- (a) The Caretaker must attend Body Corporate Committee Meetings, Extraordinary Meetings and Annual General Meetings as required.
- (b) The Caretaker must accompany Body Corporate representative on regular building inspections and prepare Caretaker's reports for presentation at Body Corporate meetings.

4.3 Upper floor level foyers and associated areas

- (a) The Caretaker must deweb, sweep and tidy all foyer level equipment cupboards and equipment (fire hose reels, extinguishers, electrical cupboards, etc)

4.4 Building maintenance repairs and services —

- (a) The Caretaker must lubricate locks and hinges on entry gates and gates to unit courtyards.

4.5 Lawns, gardens and landscape features —

- (a) The Caretaker must hand fertilise all gardens, plants and shrubs.

- (b) The Caretaker must avoid the use of organic fertilisers with offensive residual odours.
 - (c) The Caretaker must spray all plants, shrubs and trees for pests and diseases.
 - (d) The Caretaker must spray and control weeds in common area gardens and along fence lines, etc.
- 4.6 Stairwells and associated areas —
- (a) The Caretaker must wipe down and clean all common area doors and door frames.
 - (b) The Caretaker must wipe and clean all handrails and balustrades.
- 4.7 Fire & emergency safety equipment —
- (a) The Caretaker must arrange and supervise the testing and maintenance of installed fire safety doors.
- 4.8 Commercial Car Park
- (a) The Caretaker must arrange for a contractor on behalf of the Body Corporate at the Body Corporate's expense to machine sweep the commercial car park.
5. Caretaker's Six Monthly Duties
- 5.1 Driveways, basement and car park areas
- (a) The Caretaker must check condition of exposed pipework and brackets in basement car park areas and report any damage or leaks.
 - (b) The Caretaker must clean and deweb as required.
- 5.2 Fire & emergency safety equipment —
- (a) The Caretaker must arrange and confirm the testing and maintenance of installed fire fighting equipment including hose reels, fire extinguishers, control panels and alarms.
 - (b) The Caretaker must arrange and confirm the testing of emergency exit lights.
- 5.3 Rubbish disposal —
- (a) The Caretaker must arrange and supervise the cleaning of the garbage chute by a contractor as required.
- 5.4 Maintenance of equipment —
- (a) The Caretaker must maintain a register of Body Corporate assets and equipment including a service record of any maintenance or repairs to such equipment.
- 5.5 Lawns, gardens and landscape features —

- (a) The Caretaker must treat lawns seasonally for the eradication of bindi, clover and other weed growths.
6. Caretaker's Annual Duties
- 6.1 Fire & emergency safety equipment
- (a) The Caretaker must arrange and supervise the testing and maintenance of installed fire fighting equipment including hose reels, fire extinguishers, control panels and alarms.
- 6.2 Pest control —
- (a) The Caretaker must arrange, provide access and supervise pest control services.
- 6.3 Building keys and security access systems —
- (a) The Caretaker must carry out annual audit of security keys/swipe cards under Caretaker's control, cancel or re-code as appropriate for security protection.
- 6.4 Lawns, gardens and landscape features —
- (a) The Caretaker must arrange and supervise contractors for the cutting back of large trees when and as directed by the Body Corporate.
 - (b) The Caretaker must turn over and re-mulch garden beds.
 - (c) The Caretaker must engage and supervise the planned garden and irrigation maintenance contractor.
7. Caretaker's Duties As Required
- 7.1 "As Required" means duties to be undertaken at the minimum frequency necessary to maintain the highest standard, or as reasonably directed by the Body Corporate Representative
- 7.2 Building cleaning —
- (a) The Caretaker must arrange and supervise the cleaning of inaccessible areas of the exterior of the building including the walls, window awnings, roof and gutters when and as approved and directed by the Body Corporate representative.
 - (b) The Caretaker must engage and supervise suitable commercial cleaning contractor to clean tiles in common areas ensuring the removal of embedded grime, when and as approved and directed by the Body Corporate representative.
- 7.3 Workplace health and safety —
- (a) The Caretaker must use its best endeavours, to ensure that all contractors, (who may be either engaged by the Caretaker or employed by the Body Corporate), abide by the required current Workplace Health and Safety regulations.
 - (b) The Caretaker must ensure that all required and approved safety signage (for the use of chemicals, fuel, etc.) is correctly displayed in and around the complex

as may be required from time to time and as instructed (if necessary) by an expert engaged by the Caretaker if not otherwise readily ascertainable from other sources.

7.4 Safety audit —

- (a) The Caretaker must arrange and organise access to the property for any required safety inspection by a qualified safety auditor when authorised by the Body Corporate.
- (b) The Caretaker must ensure that any recommendations made by the inspector and approved by the Body Corporate are implemented without delay.

7.5 Sinking fund audit —

- (a) When authorised by the Body Corporate, the Caretaker must arrange required access for a qualified building engineer/surveyor to inspect all areas of the common property in order to prepare the Body Corporate's Sinking Fund Report or for any other reason.

7.6 Heavy rain —

- (a) The Caretaker must check for blockages in drains and visually check the complex for any drainage or water problems.

7.7 Caretaker's report -

- (a) The Caretaker must provide, as required, a written report to the Body Corporate's Committee representative to cover any incidents or situations that may have occurred at the complex and that require the Body Corporate's attention.

7.8 On-site personnel —

- (a) The Caretaker must meet, speak to, and supervise contractors, company representatives, quotation personnel, etc. that have been engaged by the Body Corporate or the Caretaker for the conducting of repairs or any other business in regard to the efficient operation of the complex.

7.9 Emergency services —

- (a) The Caretaker must liaise with the police, ambulance and fire brigade when necessary.

7.10 Pest control —

- (a) The Caretaker must arrange and attend to any required pest control service for green ant, white ant, wasp infestation, etc, throughout the building and gardens as necessary.

7.11 Logbooks—

- (a) The Caretaker must maintain a Body Corporate logbook for electrical compliance tags for the Body Corporate's common property electrical equipment.

- (b) The Caretaker must arrange and supervise any required electrical contractors to test, tag and record all such completed services in the appropriate equipment registration logbooks.
- (c) The Caretaker must ensure logbooks are maintained for the maintenance and testing of all prescribed fire safety installations in the building as per the *Fire and Emergency Service Act 1990* and *Building Fire Safety Regulations 2008*.

7.12 Signage —

- (a) The Caretaker must organise for the repair and replacement of any required safety signage, road markings and any other required signage in the complex.

7.13 Shut-off water valves —

- (a) The Caretaker must check the condition and operation of shut-off valves installed throughout the complex, arrange any required repairs as necessary.
- (b) The Caretaker must organise access for inspection of any installed non-return valves when required.

7.14 Licenses & insurances —

- (a) The Caretaker must use its best endeavours to ensure that all tradespersons or contractors (who may be either engaged by the Caretaker or employed by the Body Corporate) are licensed as required by law and hold current insurances (public liability and professional indemnity), and keep a logbook of such persons entering the complex and their relevant details.