

Date

2017

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BODY CORPORATE FOR COMMUNITY TITLES SCHEME XXXXXX  
(‘THE BODY CORPORATE’)

**AND**

XXXXXXX (‘THE MANAGER’)

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## **CARETAKING AND LETTING AGREEMENT**

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**Flood Legal Pty Ltd**  
Suite 2 Paradiso, 78-82 Marine Parade  
Kingscliff NSW 2487  
PO Box 2006  
Kingscliff NSW 2487  
Email: [enquiries@floodlegal.com.au](mailto:enquiries@floodlegal.com.au)  
Ref: SMF:TBA

## RECITALS

- A. The Body Corporate is created under the Act.
- B. The Body Corporate is responsible under the Act to maintain and control the Common Property of the Scheme.
- C. The Body Corporate wishes to engage the Manager as a Service Contractor as defined in the Act to perform certain duties and provide certain services for the better control and caretaking of the Common Property of the Scheme.
- D. The Body Corporate also wishes to authorise the Manager to conduct a letting agent business for the Scheme.
- E. The Manager has agreed to accept the engagement and authorisation and the Parties wish to record the terms of their agreement.
- F. The Body Corporate has resolved to enter this Agreement at general meeting in accordance with the legislative requirements of the Act.

## OPERATIVE PART

### 1. Definitions

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In this Agreement the following terms have the following meaning unless the context requires:

‘Act’ means the *Body Corporate and Community Management Act 1997* and includes any Regulations under the Act that apply to the Scheme.

‘Accessible’ means any Common Property that can be accessed by the Manager which does not exceed a fall height of two metres as per the Workplace Health and Safety Regulation.

‘Agreement’ means this Agreement including any schedule or attachment and any variations or assignments of this Agreement.

‘Approved Nominee’ means where the Manager is a company or a trust or both, a natural person approved in writing by the Body Corporate to perform the duties and obligations of the Manager (which cannot unreasonably be withheld).

‘Capital Repairs’ means work that is not Repair and Maintenance and is of a one off or capital nature. Such work includes, but is not limited to, urgent works to damaged common property (i.e. glass breakages, fencing security, pool filter implosions etc.) and other large scale project works such as balustrading repairs, project (as opposed to spot) painting, recarpeting or tiling common property and mulching).

‘Caretaking Duties’ means the duties set out in Schedule A.

‘Commencement Date’ means xxxxxx.

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‘Committee’ means the Committee of the Body Corporate.

‘Common Property’ means the common property for the Scheme as defined in the Act.

‘CPI’ means the all groups consumer price index for Brisbane or if that is suspended or discontinued, then an index nominated by the President for the time being of the Queensland Law Society Incorporated.

‘Excluded Duties’ means:

- (a) tasks related to areas which are not Accessible.
- (b) tasks relating to duties on Common Property that are subject to an exclusive use Grant;
- (c) tasks that are not of a regular and recurrent nature;
- (d) tasks that relate to Capital Repairs;
- (e) tasks of a technical or specialist nature outside the scope of the Manager’s skill and expertise, which includes (but is not limited to) performing a duty that requires the services of a skilled tradesperson;
- (f) tasks where the outcomes of poor workmanship or materials will place people in or around the Scheme at any significant risk.
- (g) aesthetic work such as plastering, painting, tiling, paving, etc other than minor repairs that provide a stop gap before a more permanent repair can be made.

which therefore require a suitably qualified and equipped contractor at the expense of the Body Corporate.

‘Expiry Date’ means xxx.

‘GST’ mean the goods and services tax under the GST Act.

‘GST Act’ means A new Tax System (Goods and Services Tax) Act 1999 (Cth) as amended and includes other GST related legislation.

‘Hourly Rate’ means \$45 per hour plus GST (as adjusted from time to time in accordance with this Agreement).

‘Letting Services’ means the provision of services to owners and occupiers in the Scheme which include:

- (a) the letting of lots for permanent use;
- (b) the sales of lots;
- (c) the hiring of chattels or other equipment to owners and occupiers; and

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- (d) the provision of any other ancillary services commonly provided in connection with the letting of lots by other Agents in schemes of a similar nature to the Scheme which the Manager wishes to provide.

'Letting Scheme' means the group of Lots which the Manager manages on behalf of Owners.

'Lot Owners' means owners of Lots in the Scheme.

'Non Scheduled Duties' means work performed, or to be performed, by the Manager that is not part of the Caretaking Duties.

'Related Person' means:

- (a) In the context of a company, the corporation's directors, substantial shareholders and principal staff;
- (b) in the context of a partnership, the partners and principal staff of the partnership; or
- (c) in the context of a trust, the trustees and principal staff of the trust.

'Remuneration' means the annual amount of \$650.00 plus GST per lot registered within the Scheme adjusted in accordance with the provisions of clause 6(b).

'Repairs and Maintenance' means tasks that can be performed by unskilled persons using basic hand tools and can be completed in less than one hour.

'Scheme' means Riverbrooke CTS xxxxxx.

'Term' means the period of 25 years.

## **2. Interpretation**

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This Agreement is governed by the laws of Queensland and the Parties submit to the non-exclusive jurisdiction of the courts of that state.

In the interpretation of this Agreement:

- (a) References to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;
- (b) Words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, references to documents or agreements also mean those documents or agreements as changed, novated or replaced, and words denoting one gender include all genders;
- (c) Grammatical forms of defined words or phrases have corresponding meanings;
- (d) Headings are included for convenience only and will not affect the interpretation of this Agreement or any schedule;

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- (e) Each clause in this Agreement is not, except where expressly provided, limited in meaning or effect by any other clause in this Agreement.
  - (f) Reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
  - (g) References to a party are intended to bind their executors, administrators and permitted transferees;
  - (h) Obligations under this Agreement affecting more than one party bind them jointly and each of them severally;
  - (i) Headings to this Agreement have been inserted for guidance only and will not affect the construction of this Agreement; and
  - (j) Unless application is mandatory by law, any statute, proclamation, order, regulation or moratorium present or future will not apply to this Agreement so as to abrogate, extinguish, impair, diminish, fetter, delay or otherwise prejudicially affect the exercise of enjoyment of any rights, powers, privileges, remedies or discretions given or accruing to any party.

### **3. Engagement and Authorisation**

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The Body Corporate:

- (a) engages the Manager to perform the Caretaking Duties; and
- (b) authorises the Manager to provide the Letting Service;

for the Term commencing on the Commencement Date and expiring on the Expiry Date.

### **4. Caretaking Duties**

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- (a) The Manager or its Approved Nominee must:
  - (i) perform the Caretaking Duties with due care and skill and must act honestly, diligently and in accordance with the highest business practice at all times; and
  - (ii) keep and maintain the Common Property in a clean and orderly condition consistent with the required operation of apartments of a similar Scheme; and
  - (iii) comply with the reasonable directions of the Body Corporate Committee in relation to the performance of the Caretaking Duties provided that such direction or duty is consistent with the Manager's obligations under this Agreement; and
  - (iv) if requested by the Body Corporate arrange and supervise independent contractors to perform services of a specialist

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nature for the Body Corporate in regard to the Common Property at the cost of the Body Corporate; and

- (v) comply with any statutory obligation regulating the performance of its duties.
- (b) Notwithstanding any other provision of this Agreement, the Manager shall not be obligated to perform any Excluded Duties. The Manager must if required by the Body Corporate, supervise (where applicable), any contractors appointed by the Body Corporate to provide the Excluded Duties or any other contracts on behalf of the Body Corporate whilst such Contractor is working on the Common Property. For certainty the person or entity required to perform the Excluded Duties or any other contracts shall be engaged at the Body Corporate's cost.
- (c) For clarity the Manager as an independent contractor of the Body Corporate is not obliged to:
  - (i) perform any Excluded Duties;
  - (ii) enforce the by-laws of the Body Corporate or take any action in relation to the by-laws through the Commissioner for Body Corporate and Community Management;
  - (iii) perform any duty of a body corporate manager (as defined in the Act).

## **5. Expenses**

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- (a) The Body Corporate must pay all costs and expenses of all fuels, appliances, materials, equipment and supplies necessary to enable the Manager to perform the Caretaking Duties.
- (b) The Manager may arrange expenditure on behalf of the Body Corporate for those expenses referred to in this Agreement but expenditure on any individual item in excess of five hundred dollars (\$500.00) shall require the prior approval of the Body Corporate except in case of an emergency.
- (c) The Manager will check and verify caretaking accounts for goods and services in order for payment on a monthly basis.
- (d) The Body Corporate will reimburse the Manager for any costs in accordance with this clause within 14 days of written evidence of such expenditure.
- (e) If the Manager determines that any remedial or protective repair or other similar work is urgently necessary to prevent significant loss or damage to common property or to prevent personal injury to or the death of any person and the necessary work is not included in the Caretaking Duties the Manager will have emergency powers to do the

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necessary work, and in so doing the Manager may exceed the expenditure limit set above to:

- (i) appoint agents or consultants;
  - (ii) purchase goods and materials;
  - (iii) pledge the credit of the Body Corporate; and
  - (iv) incur expenses and accept liabilities on behalf of the Body Corporate.
- (f) The Body Corporate indemnifies the Manager against liability for any authorised or emergency expenditure properly and reasonably incurred by the Manager on behalf of the Body Corporate.
- (g) All costs of the Manager in running the Letting Business will be paid by the Manager including all consents, licences, permits, signs and equipment, except those which under any agreement are payable by some other person.

## **6. Remuneration**

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- (a) In consideration of the Manager performing the Caretaking Duties the Body Corporate must pay the Manager the Remuneration by equal calendar monthly instalments in arrears on the same day of each month with the first payment due one calendar month after the Commencement Date.
- (b) The Remuneration is to be increased for each subsequent year of the Term (and any extended term) by the same percentage as the increase in the CPI for the year last recorded immediately before the year in which the Remuneration is being reviewed provided that the Remuneration cannot be less than that paid for the previous year.
- (c) In the event that the Scheme is developed in stages then the Remuneration payable will be increased upon the introduction of further registered lots.

## **7. Letting Services**

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- (a) The Manager:
- (i) may provide the Letting Services for the Lot Owners or the occupants of their lots who require that service ('Letting Business');
  - (ii) may conduct the Letting Services from any part of the Common Property designated for use by the Manager for that purpose (if applicable) or somewhere external to the Scheme;
  - (iii) must supervise the standard of tenants of all lettings and ensure no nuisance is created;

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- (iv) shall use reasonable endeavours to improve and expand the letting of Lots and to act at all times to further the interests of the Body Corporate and the Lot Owners;
  - (v) is entitled to erect or procure the erection of signs of an appropriate size, type and design in or on the Common Property in such locations as are appropriate to do so, to promote and foster the Letting Services;
  - (vi) must obtain all necessary permits, consents or licences required to provide the Letting Services and comply with the terms and conditions of such permits, consents or licences;
  - (vii) must keep proper records and book of all tenancies.
- (b) The Manager must:
- (i) act fairly and lawfully and not discriminate between the Lot Owners participating in the Letting Scheme in the provision of the Letting Services; and
  - (ii) comply with the Code of Conduct applying to it under any relevant legislation;
  - (iii) if it operates a trust account, cause the trust account to be regularly inspected and audited in accordance with its legal obligations;
  - (iv) account to any Lot Owner participating in the Letting Scheme for any income payable to such Lot Owner, for the preceding calendar month in accordance with the terms and conditions of the private appointments and authorisations entered into by it with such lot owners.
- (d) The Letting Services may be carried out by the Manager, its delegates or its employees.
- (e) In provision of the Letting Services the Body Corporate consents to the Manager registering and or using:
- (i) a business name; and / or
  - (ii) internet domain name; and / or
  - (iii) other promotional or advertising material
- incorporating the Scheme name or any part of it or logo of the Scheme, during the Term of this Agreement or any extension of it.
- (f) The Manager acknowledges that the Owners may utilise the service of other agents or let their Lots themselves, and the Manager must not unreasonably interfere with these rights.
- (g) No Remuneration is payable by the Body Corporate to the Manager for the provision of the Letting Services.



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## **8. If Manager a Corporation**

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If the Manager is a company, then the Manager must not allow any action that may have the effect that the shareholders of the Manager at the date of this Agreement together hold or control less than 51% of the voting rights in the Manager without complying with the assignment provisions in clause 12.

## **9. Leave**

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- (a) The Manager (or the Approved Nominee where the Manager is a company) may appoint a suitable person to carry out the duties pursuant to this Agreement in the event of an emergency or annually for a period up to four (4) weeks each year for the purpose of allowing the Manager a holiday/s. On each occasion of such leave, details of the proposed replacement must be provided to the Body Corporate within a reasonable time (given the circumstances) prior to the Manager taking the leave (and in the event of holidays, at least one (1) calendar month prior to the commencement of the Manager's leave). The Body Corporate will as soon as practicable indicate its approval or otherwise to the proposed replacement PROVIDED THAT such consent will not be unreasonably withheld.
- (b) It is the Manager's responsibility to ensure the replacement from time to time adequately performs the Manager's duties pursuant to this Agreement and any breach of this Agreement on the part of such replacement will be the Manager's responsibility.
- (c) Any remuneration to a replacement will also be the responsibility of the Manager.

## **10. Insurance**

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The Manager must be insured against any and all loss, injury and damage arising as a result of the performance of the Caretaking Duties, including public liability cover for no less than \$10,000,000, and must provide the Body Corporate with a copy of its certificate of currency of such policy on request.

## **11. Body Corporate's Responsibilities and Obligations**

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- (a) The Body Corporate will not:
  - (i) itself conduct; nor
  - (ii) grant to any other person or entity any rights to conduct from the Common Property or the Scheme

a business offering the Letting Services or ancillary services similar to the Letting Scheme.

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- (b) The Body Corporate will:
- (i) ensure that the Common Property is cleaned and maintained to the standard consistent with the operation of the Lots within the Scheme as a high quality holiday letting scheme;
  - (ii) must co-operate with the Manager in taking all action reasonably and practically necessary to stop any person or entity from conducting from the Common Property or the Scheme a similar business to, or competing business with the Letting Scheme;
  - (iii) must provide to the Manager any plans, building plans, drawings or other service diagrams in regard to improvements constructed on the Scheme;
  - (iv) must take all appropriate actions or steps to ensure that the use of the Common Property or improvements thereon by guests of the Letting Scheme or occupants of lots within the Scheme are not endangered or stand at risk of injury or harm.
- (c) The Body Corporate must:
- (i) provide clear and unequivocal instructions and directions to the Manager in regard to Caretaking Duties under this Agreement;
  - (ii) not provide conflicting instructions from Committee members; and
  - (iii) nominate one Committee member to provide instruction to the Manager.

## **12. Assignment**

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- (a) The Manager must obtain the Committee's consent to any transfer, assignment or subletting of this Agreement.
- (b) In deciding whether to approve a proposed transfer, the Committee may have regard to:
- (i) the character of the proposed transferee and Related Persons of the proposed transferee;
  - (ii) the financial standing of the proposed transferee;
  - (iii) the proposed terms of the transfer; and
  - (iv) the competence, qualifications and experience of the proposed transferee and any Related Persons of the proposed transferee, and the extent to which the transferee and any Related Persons have received or are likely to receive training.

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- (c) The Committee must decide whether to approve a proposed transfer within 30 days after it receives the information reasonably necessary to decide the application for approval.
  - (d) The approval may be given on condition that:
    - (i) the transferee enter into a deed of covenant to comply with the terms of this Agreement; and
    - (ii) if the transferee is a company, the directors of the transferee enter into a deed of guarantee and indemnity with respect to the Manager's obligations under this Agreement.
  - (e) The Committee must not:
    - (i) unreasonably withhold approval to a proposed transfer; or
    - (ii) require or receive a fee or other consideration for approving the transfer other than:
      - (1) reimbursement for legal and administrative expenses reasonably incurred by the Body Corporate in relation to the application for its approval; and
      - (2) the transfer fee if the transfer fee is payable pursuant to the Act.
  - (f) Upon assignment under this clause, the assignor and any guarantors of the assignor will be released from liability for the performance of this Agreement as from the date of that assignment.

### **13. Termination**

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- (a) This Agreement may be terminated by the Body Corporate in accordance with the provisions of the Act.
- (b) The Manager may terminate this Agreement at any time without being required to provide reasons if the Manager gives the Body Corporate 3 months written notice.

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**14. Occupation Authority**

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The Body Corporate authorises and allocates to the Manager the area of the Common Property identified in any plans attaching to this Agreement. The area is required to be used by the Manager for the provision of the Caretaking Duties and Letting Services under this Agreement.

**15. Disputes**

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Any dispute will be resolved in accordance with the provisions of the Act.

**16. Indemnities**

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(a) The Body Corporate indemnifies and keeps the Manager indemnified against all actions, claims, demands, losses, costs, damages and expenses (including legal costs on a solicitor and own client basis) occasioned by:

- (i) the Body Corporate failing to provide to the Manager any information or documents in breach of this Agreement or for providing information or documents that are inaccurate or incorrect in any material respect; or
- (ii) any accident, damage, loss of property, death or injury to any person of whatever nature or kind occurring in connection with the performance by the Manager of any one or more of the Caretaking Duties or its obligations under this Agreement except where the accident, damage, loss of property, death or injury is caused by the Manager's or any person for whom the Manager is liable negligent act or default.

(b) The Manager will be liable for any accident, damage, loss of property, death or injury to any person of whatever nature of kind attributable to its own neglect, wilful act or omission or that of any person for whom it is liable.

**17. Goods and Services Tax**

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Where GST pursuant to the GST Act becomes payable on the supply of any goods or services ('supply') under or in connection with this Agreement and the Manager is required to pay GST in respect of that supply the Body Corporate must pay the GST applicable on that supply to the Manager in addition to any

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other amounts payable by the Body Corporate to the Manager under this Agreement.

## **18. Guarantee**

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- (a) In consideration of the Body Corporate entering into this Agreement, the Guarantors hereby agree with the Body Corporate as follows:
- (i) The Guarantors guarantee:
    - (1) the performance by the Manager of its obligations under the Agreement; and
    - (2) the payment of all loss and damage recoverable by the Body Corporate from the Manager.
  - (ii) This guarantee extends to claims by the Body Corporate payable in the terms of the Agreement:
    - (1) for damages for breach; and
    - (2) for the Body Corporate's reasonable legal and other expenses of seeking to enforce the obligations of the Manager and the Guarantors.
- (b) This guarantee is not discharged and the Body Corporate's rights against the Guarantors are not affected by any of the following:
- (i) the granting of any extension of time by the Body Corporate to the Manager or to the Guarantors;
  - (ii) the Body Corporate's failure to enforce covenants under the Agreement against the Manager;
  - (iii) the total or partial release of liability of the Manager or the Guarantors by the Body Corporate;
  - (iv) the death, bankruptcy or winding up of the Manager or the Guarantors; and
  - (v) the disclaimer of the Agreement following the Manager's insolvency.
- (c) In respect of any payment made by or on behalf of the Manager under the Agreement that is void or is voided for any reason, the Guarantors shall remain liable under the Guarantee as if the payment had not been made.
- (d) The Body Corporate is entitled to require the Guarantors pay to the Body Corporate any outstanding money or other amount to compensate the Body Corporate for any loss or damage without the Body Corporate having made any claim or instituted any proceedings against the Manager in respect of such monies.

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## 19. Trust Provisions

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- (a) In this clause:
  - (i) “Trust” in relation to the Manager refers to those Trusts for which the relevant Manager is Trustee; and
  - (ii) “Trustee” refers to the Manager in its capacity as trustee of a Trust.
- (b) If the Manager enters into this Agreement or otherwise at any time holds the Agreement as a Trustee of any Trust then, whether or not the Body Corporate has any notice (actual or constructive) of the Manager’s Trust, the following applies.
- (c) The Manager:
  - (i) acknowledges that this Agreement is binding on the Manager personally and in its capacity as trustee of the Trust; and
  - (ii) will cause any successor of the Manager as trustee of the Trust or any person who becomes a trustee of the Trust jointly with the Trustee to execute all documents required by the Body Corporate to ensure that this Agreement is binding on such successor.
- (d) The Manager will exercise its rights of indemnity in relation to the Trust fund for the purpose of performing its obligations as a Manager under this Agreement.
- (e) The Manager warrants that:
  - (i) the Manager is the sole trustee of the Trust and no action has been taken to remove or replace it;
  - (ii) the Manager has a right to be fully indemnified out of the Trust fund and no action has been taken which might prejudice or limit that right of indemnity;
  - (iii) each of the warranties contained in this clause will remain true as long as this Agreement remains in force;
  - (iv) the Manager has power under the Trust deed to execute and perform the Manager’s obligations under this Agreement and all necessary action has been taken to authorise the execution and performance of this Agreement under the Trust deed;

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- (v) this Agreement is executed as part of the due and proper administration of the Trust and is or will be for the benefit of the beneficiaries;
  - (vi) the Manager is not in default under the Trust deed;
  - (vii) no vesting date for the trust fund has been determined; and
  - (viii) the Manager has complied with all fiduciary obligations directly or indirectly imposed on the Manager under the Trust deed.
- (f) The Manager will not, without prior written consent of the Body Corporate:
- (i) retire as trustee of the Trust;
  - (ii) be removed as trustee of the Trust or appoint any additional, substitute or new trustee or trustees of the Trust;
  - (iii) default in its duties as trustee of the Trust;
  - (iv) exercise any power to appoint any new beneficiaries or class of beneficiaries of the Trust, which consent will not be unreasonably withheld; and
  - (v) allow the Trust to be terminated.

## **20. Costs**

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Each Party must pay their own costs of incidental to entry into this Agreement but the Manager will pay the costs of preparation of it.

## **21. Notices**

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- (a) Notices under this Agreement must be in writing and served in accordance with this Agreement.
- (b) A notice may be given by a party's Solicitor.
- (c) Any notice under this Agreement shall be addressed to the address of the applicable party as set out in this Agreement or at such other address as any such party may have substituted therefor by notice to all other parties.
- (d) Notices are effectively given if:

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- (i) delivered or posted to the other party or its solicitor; or
  - (ii) sent to the facsimile number of other party or its solicitor.
- (e) Posted notices will be treated as given 2 Business Days after posting.
  - (f) Notices sent by facsimile will be treated as given when the sender obtains a clear transmission report.
  - (g) Notices given after 5.00 p.m. will be treated as given on the next Business Day.
  - (h) Notices or other written communications by a party's solicitor (for example, varying the terms of this Agreement) will be treated as given with that party's authority.

## **22. Waiver**

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- (a) The failure of a party at any time to require full or partial performance of any provision of this Agreement shall not affect in any way the full right of that party to require such performance subsequently.
- (b) The waiver by any party of a breach of a provision of this Agreement shall not be deemed a waiver of all of part of that provision or of any other provision or of the right of that party to avail itself of its rights subsequently.
- (c) Any waiver of a breach of this Agreement shall be in writing signed by the party granting the waiver, and shall be effective only to the extent specifically set out in that waiver.

## **23. Severability**

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- (a) If it is acknowledged by the Parties or held by a Court of competent jurisdiction that:
  - (i) a part of this Agreement is void, voidable, illegal or unenforceable or would reduce the term of this Agreement; or
  - (ii) a duty or obligation imposed upon the Manager hereunder is beyond the power of the Body Corporate to delegate to the Manager or to require such Manager to perform; or
  - (iii) this Agreement would be void, voidable, illegal or unenforceable unless a part of this Agreement were severed from this Agreement;

that part is severed from and does not affect the continued operation of the rest of this document unless to sever that part would change the principal or basic purpose of this Agreement.



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**24. Counterparts**

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This Agreement may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the Agreement will be the date on which it is executed by the last party.

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**Execution page**

**EXECUTED AS AN AGREEMENT**

**SIGNED, SEALED AND DELIVERED**  
**by the BODY CORPORATE FOR**  
**CTS xxxxx in**  
**accordance with the provisions of**  
**the *Body Corporate and Community***  
***Management Act 1997***

.....  
Authorised Signatory

.....  
Authorised Signatory

.....  
Print full name of Signatory

.....  
Print full name of Signatory

**SIGNED BY XXXXXXXX in the** )  
**presence of:** )

.....  
Signature of witness

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Signature

.....  
Print name of witness

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## SCHEDULE A – CARETAKING DUTIES

### GENERAL DUTIES

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**1. Keys**

Keep possession of all keys for common property and any owners who provide them. All keys are to be locked up and secure at all times.

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**2. Monitoring of By-Laws**

Monitor compliance with the by-laws and advise the Body Corporate of any serious or persistent breaches of them.

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**3. Advise Body Corporate**

Advise the Body Corporate upon request about:

- (a) the Caretaking Duties generally and provide such other advice as the Body Corporate may request about the Caretaking, repair and maintenance of Common Property and improvements;
- (b) all things on Property requiring repair or creating a hazard or danger and take reasonable remedial action where practicable and urgent where all costs and disbursements applicable shall be paid by the Body Corporate;
- (c) any correspondence, reports, enquiries or complaints relating to the Property.

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**4. Remain Aware**

At all times ascertain and be aware of the general condition of the Common Property and remain fully apprised of the system for lighting, irrigation, drainage, sewerage, power, communication, security and other systems installed on the Common Property and with the aid of inspections made by competent personnel at the direction and cost of the Body Corporate, advise the Body Corporate generally on the condition of those things from time to time and recommend to the Body Corporate any changes or modifications to be made to any of the systems as necessary.

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**5. Signs**

As directed by and at the cost of the Body Corporate, erect such signs and notices on common property as necessary for the proper and efficient control, caretaking, use and enjoyment of common property.

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**6. Improvements generally**

In accordance with the terms of the Agreement and the expenditure limit or as otherwise authorised by the Body Corporate buy, sell, replace, erect, construct, repair, exchange, lease, hire or otherwise acquire and install all fittings, fixtures, equipment, improvements and additions to the Common Property as directed by and at the expense of the Body Corporate, as the Body Corporate may reasonably require to maintain the standard of the Common Property and any improvements on Common Property.

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**7. Maintenance**

At the direction and cost of the Body Corporate, ensure the correct operation of and arrange for expert specialist maintenance of:

- (a) Common Property electrical apparatus;

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- (b) any pumps and auxiliary motors; and
  - (c) any security systems;
  - (d) all other parts of the Common Property where inspection and/or maintenance is required.

**8. Repairs**

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Carry out minor repairs to the Common Property only to Accessible Areas of the Common Property that do not require the services of a skilled tradesperson and otherwise instruct, liaise with and oversee contractors / tradesman for repair work on behalf of the Body Corporate.

**9. Arrange and supervise sub-contracted works**

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Where the Body Corporate or this Agreement require a third party to perform any work, to procure the necessary contract at the direction and cost of the Body Corporate and ensure that the contract is carried out in accordance with its terms and keeps a register of such contractors and the dates the contracts were performed.

**10. Administrative Matters**

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In regards to works undertaken by Body Corporate Contractors:

- (a) attend to requirements and obtain quotations that are requested by the Body Corporate for repairs and specialist maintenance;
- (b) check and endorse as correct for payment prior to forwarding to the Body Corporate for the treasurer's final approval on any accounts operated on behalf of the Body Corporate;
- (c) maintain a record of all visits involving contractors, company reps, quotation personnel etc.; and
- (d) prepare monthly reports for presentation to the Body Corporate.

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## **SPECIFIC DUTIES**

The obligations of the Manager are to perform the Specific Duties personally and in that regard the Manager may unless the committee of the Body Corporate objects (which objection must be based on reasonable grounds), in its own right enter into an agreement with another party for the provision of services by that other person in the performance of the Caretaking Duties.

### **1. Gardening**

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- a) Keep pathways on Common Property in a tidy condition by cleaning, sweeping and hosing to ensure they are clean and free of all dangerous or hazardous substances;
- b) Mow grass and maintain garden beds, trees and general planted areas (including pruning) and digging over and mulching prior to Summer;
- c) Remove weed growth which is inconsistent with the landscape plan for the Property;
- d) Trim accessible palm fronds from tall palms;
- e) Lop trees up to a maximum of 2 metres (engage contractor at Body Corporate cost for lopping of any higher trees)
- f) Spray and control weeds in common area driveways, paths and paved areas;
- g) Trim and shape all hedges, clean up and dispose of trimmings;
- h) Fertilise and weed all lawns, gardens and general planted areas;
- i) Apply pesticides to lawns (to address clover, bindi etc.), gardens and general plant areas with the appropriate chemicals;
- j) Treat Common Property to eradicate insects or other pests;
- k) Water all trees, lawns, gardens and general planted areas (where automatic watering facilities are not available);
- l) Maintain all watering systems;
- m) Edge all pathways, lawns, gardens and general planted areas.

### **2. Lighting**

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Maintain (which includes the replacing of bulbs), monitor and, when necessary, adjust all lighting and timing devices in relation to the lighting on Common Property.

### **3. Drains**

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Monitor (to ensure water flow) and clean on a regular basis all above ground drains and report to the Body Corporate on any below ground drains or sewers that may require attention.

### **4. Litter and garbage removal**

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- a) Remove all litter from Common Property on a regular basis;
- b) Arrange and supervise appropriate garbage removal on a regular basis;
- c) Ensure all garbage bins or other garbage receptacles are properly within the areas designated as garbage collection points (this only a

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supervisory task Owners / Occupiers are required to take own bins to point of collection and return).

**5. Mail box**

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Clear the Body Corporate mail box daily and notify any third party who has had mail delivered that it can be collected in the manner previously directed by the Body Corporate.

**6. Car Parking**

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Control and regulate the parking of vehicles on Common Property in accordance with the by-laws or other rules and regulations given by the Body Corporate.

**7. Record Keeping**

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Keep a record of all maintenance schedules and repairs to mechanical equipment on Common Property.

**8. Barbeque area (if applicable)**

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As reasonably required:

- (a) Sweep, hose and clean the barbeque area;
- (b) Remove all fat and grease from all barbeque plates and facings of the barbeque and clean barbeque drip trays;
- (c) Check the operation of barbeque controls; and
- (d) Wipe and clean all outdoor furniture.

**9. Swimming pool**

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- (a) Keep the swimming pool in a first class condition by regularly cleaning, chlorinating, topping up water levels and otherwise maintaining it to ensure that it is free and kept free of all dangerous or hazardous substances;
  - (b) Regularly sweep, hose and clean all areas surrounding the swimming pool and all recreational and relaxation equipment around the swimming pool;
  - (c) Test the swimming pool with appropriate testing devices to ensure that the highest standards of hygiene and cleanliness are maintained;
  - (d) Descale chlorinator cells as required;
  - (e) Monitor efficiency of filters and chlorination systems;
  - (f) Clear leaves from skimmer boxes as required;
  - (g) Arrange for the pool to be professional checked each week.

**10. Fire Safety Equipment**

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Regularly inspect the firefighting equipment, arrange any requisite inspections by the relevant officer when required and, at the direction and cost of the Body Corporate, arrange for maintenance necessary to maintain the firefighting equipment in an efficient working condition.

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**Notes to interpret the Duties**

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\*As required\* means the Caretaking Duties to be undertaken at the minimum frequency necessary to maintain the Property to a reasonable standard.

Where Caretaking Duties involves the arranging, supervision or the like of external contractors or tradespersons, the expenses of such external contractors or tradespersons will be met by the Body Corporate and will only be arranged by the Manager at the direction of the Body Corporate.

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**SCHEDULE B – OCCUPATION AUTHORITY PLAN**

TO BE CONFIRMED