BD

BETWEEN:

BODY CORPORATE FOR THE LINK- NUNDAH COMMUNITY TITLES SCHEME 50858

"Body Corporate"

AND

NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST

"Agent"

AND:

NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST

"Agent's Lot Owner"

LETTING AGREEMENT

SHORT PUNCH & GREATORIX

Cnr Bundall Road & Crombie Avenue, Surfers Paradise Queensland
PO Box 5164 Gold Coast MC Qld 9726
Phone 07 5538 2277 • Fax 07 5539 8745

SPG LAWYERS

Email spg@spglawyers.com.au Website www.spglawyers.com.au

LETTING AGREEMENT

THIS AGREEMENT IS MADE BY WAY OF DEED on the 4th day of December, 2017

BETWEEN: BODY CORPORATE FOR THE LINK- NUNDAH COMMUNITY TITLES SCHEME 50858

('the Body Corporate')

AND: NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST

("the Agent")

AND: NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST

("the Agent's Lot Owner")

The Parties agree as follows:-

1 DEFINITIONS

1.1 In this Agreement the following words and phrases have the following meanings except to the extent that the context otherwise requires:-

'the Act' means the Body Corporate and Community Management Act 1997 and the regulations under that act so far as they apply to this Agreement.

'Agent's Lot' means Lot 104 in the Complex.

'Agents Appointee' means an appointee appointed by the Agent in accordance with clause 13.1.

'Agents Nominee' means the person or persons nominated by the Agent in accordance with clause 7.1.

'Ancillary Services' means services which are commonly provided in conjunction with a Letting Agent Business and in particular includes:-

(i) acting as agent in respect of sales of Lots in the Scheme.
(ii) the hiring of chattels.
(iii) acting as a travel or tour agency and providing shuttle/ mini bus transportation services to owners and occupiers.
(iv) communication services.

'Body Corporate Representative' means the person appointed in accordance with clause 12.1.

'Letting Agent Business' means the business of acting as the agent of owners of Lots included in the Scheme who choose to use the agent services for securing, negotiating, or enforcing (including the collection of rents and tariffs) leases or other occupancies of Lots in the Scheme.

'Complex' means the land included in the Community Titles Scheme for which the Body Corporate is constituted.

'Scheme' means the Community Titles Scheme for which the Body Corporate is constituted.

'Term' means the term set out in clause 2.1 and any extension of that term.

2 TERM OF AGREEMENT

The term of this Agreement is fifteen (15) years commencing on 4 December 2017 and ending on 3 December 2032 ("Term").

2.1 Option to Extend

(a) The Agent has the option ("the option") of extending the Term for ten (10) years for the period commencing 4 December 2032 and ending on 3 December 2042.

(b) The Agent is only entitled to exercise the option by giving notice in writing to the Body Corporate not later than the date which is 3 calendar months prior to the expiration of the term set out in clause 2.1.

(c) Even if the Agent exercises the option the Agent is not entitled to extend the Term if as at the date the term set out in clause 2.1 ends the Body Corporate has the right to terminate this Agreement in accordance with clause 8.1.

3 LETTING AGENCY BUSINESS

3.1 The Body Corporate authorises the Agent to conduct and the Agent must conduct a Letting Agent Business within the Complex during the Term.

3.2 In conjunction with the Letting Agent Business the Agent may provide any Ancillary Services.

4 BODY CORPORATE DUTIES

4.1 During the Term the Body Corporate must not authorise anyone other than the Agent to operate a Letting Agent Business from within the Complex.

4.2 The Body Corporate must do everything necessary to allow the Agent to register a business name which includes the name of the Scheme or part of it and to allow the Agent to maintain registration of that name. The Agent must de-register that name when the Term ends or this Agreement is terminated.

4.3 The Agent must comply with all laws, approvals and regulations in relation to operating the Letting Agent Business.

5 AGENTS DUTIES

5.1 The Agent must ensure that the Agent or the Agent's Nominee or the Agents Appointee resides in the Agent's Lot.

5.2 The Agent must be available within the Complex or contactable by phone to properly carry on the Letting Agent Business.

5.3 The Agent must not interfere with:-
the right of any owner of a Lot in the Complex to appoint someone else as that owners agent for the purpose of acting as letting agent for that owners Lot; or

any acts in accordance with that agent's agency by an agent so appointed.

6 ASSIGNMENT

6.1 The Agent may assign the Agent's rights and obligations under this Agreement to any person firm or corporation subject to the prior approval of the committee of the Body Corporate. Such approval must not be unreasonably withheld if the proposed assignee is responsible, respectable and capable of performing the obligations of the Agent under this Agreement and having regard to any other matters which the Body Corporate committee is by statute entitled to take into account.

6.2 In the event of a proposed assignment by the Agent notice in writing must be given to the secretary of the Body Corporate of such proposal which notice must include all pertinent details of the proposed assignee or assignees and must be accompanied by the following information:-
(a) at least two character references for the proposed assignee or assignees (or if the proposed assignee is a corporation or corporations then such references must be supplied for each of the directors of the corporation or corporations);
(b) at least two business references for the proposed assignee or assignees (or if the proposed assignee is a corporation or corporations then such references shall be supplied for each of the directors of the corporation or corporations); and
(c) a letter of authority to the Body Corporate authorising the Body Corporate to conduct such other enquiries as the Body Corporate may see fit in respect of such proposed assignee or assignees.

6.3 The Body Corporate is entitled on reasonable notice to require:-
(a) the proposed assignee or assignees; or
(b) the directors of the proposed assignee or assignees (if the proposed assignee is a corporation or corporations) to be present for an interview with the Body Corporate committee at a place and time nominated by the Body Corporate.

6.4 The Body Corporate committee's decision whether to approve any such assignment must be communicated in writing by the Body Corporate's secretary to the Agent as soon as may be practicable and in any case not later than thirty (30) days from the date on which notice of the proposed assignment and accompanying information is given to the Body Corporate's secretary.

6.5 The Body Corporate is entitled to require as a condition of consent that the assignee executes in favour of the Body Corporate a Deed of Covenant to perform observe and fulfill the terms covenants and conditions on the part of the Agent under this Agreement expressed or implied to be performed observed or fulfilled. Where the assignee is a corporation the Body Corporate is entitled to require that the directors of or the shareholders in the assignee execute the Deed of Covenant as guarantors of the performance by the assignee. Such Deed of Covenant shall be prepared by the solicitors for the Body Corporate.

6.6 If the Agent is a corporation:-
(a) any change in directors of that corporation; or
(b) any change in the shareholding in that corporation
which has the effect of altering the effective control of the corporation will be deemed to be an assignment of this Agreement and the other provisions of this clause 6 will

apply to such deemed assignment with such modifications as may be necessary to fit the circumstances.

6.7 The Body Corporate must not require or receive a fee or other consideration for approving an assignment other than what it is entitled to require or receive under statutory law. If it is lawful to do so, the Body Corporate may recover its reasonable expenses (including legal expenses) incurred in relation to the application for approval of the assignment, from the Agent.

6.8 The Agent is not entitled to assign the Agents rights or obligations under this Agreement in any manner other than as strictly provided in this clause 6.

7 AGENTS NOMINEE

7.1 The Parties agree that in the event that the Agent is a corporation or a partnership then the Agent must appoint a nominee or nominees.

7.2 The Agent must perform all of its duties or obligations under this Agreement through the nominee or nominees.

7.3 The nominees have all the rights given under this Agreement to the Agent.

7.4 The Agent is responsible for any remuneration payable to the nominees.

7.5 Despite the rest of this clause 7 the Agent is liable and responsible for the performance of all acts deeds and things required under this Agreement.

7.6 The appointment of the nominee or nominees or any replacement is subject to the approval of the Body Corporate which approval must not be unreasonably withheld in the case of:-

(a) a respectable and responsible person capable of performing the Agents duties under this Agreement; or

(b) where there is more than one nominee, respectable and responsible persons who between them are capable of performing the Agents duties under this Agreement.

The onus of proof of such respectability, responsibility, and capability lies on the Agent.

8 TERMINATION BY THE BODY CORPORATE

8.1 Without limiting the statutory rights of the Body Corporate this Agreement may be terminated by the Body Corporate by notice in writing to the Agent in the event that the Agent:-

(a) Assigns or transfers or attempts to assign or transfer the Agents interest in this Agreement except in accordance with the other provisions of this Agreement;

(b) Fails or neglects to carry out the Agents duties under this agreement and such failure or neglect continues for a further period of fourteen (14) days after notice in writing has been given to the Agent specifying the duty or duties which the Agent has failed or neglected to carry out and requiring the Agent to perform such duty or duties;

(c) Engages in misconduct or is grossly negligent in carrying out or failing to carry out the Agents functions as required under this Agreement; or

(d) Is convicted or one of its directors is convicted of an indictable offence involving fraud or dishonesty; or

(e) Is convicted or one of its directors is convicted on indictment of an assault or an offence involving an assault; or

(f) Carries on a business involving the supply of services to the Body Corporate or to owners or occupiers of lots without holding a licence or other authority required by law.

9 TERMINATION OTHERWISE

9.1 Otherwise in the event that:-

(a) either party to this Agreement is in default under this Agreement; and

(b) the other party shall have given fourteen (14) days notice in writing to the party in default specifying the default; and

(c) the default has not been remedied within such period of fourteen (14) days;

then the party giving such notice may by further notice in writing terminate this Agreement.

10 NOTICES

10.1 Any notice, demand or other document authorised or required to be given or served under this Agreement is sufficiently given or served if given or served:-

(a) by delivering the same personally to the addressee; or

(b) by posting same to the addressee by prepaid ordinary post as a letter addressed to the addressee at the addressee's usual or last known place of abode or if the addressee is in business as a principal, at the addressees usual known place of business; or

(c) in the case of a corporation by leaving same, or by posting same by prepaid ordinary post, as a letter addressed in either case to the corporation at its registered office or principal place of business in Queensland; or

(d) in accordance with the procedures set out in Section 347 of the Property Law Act 1974; or

(e) in accordance with the procedures set out in any legislation governing the Body Corporate; or

(f) in any other manner recognised by law.

10.2 A notice, demand or other document which is posted shall be deemed to have been served, unless the contrary is shown, at the time when by ordinary course of post it would be delivered.

11 ARBITRATION

11.1 The following provisions only apply to a dispute which is not subject to the provisions of the Act. In the event of any dispute arising between the Agent and the Body Corporate touching upon any matter arising under the terms of this agreement or incidental hereto or relative to the interpretation of any of the provisions of this Agreement then the same shall be settled by an arbitrator to be mutually agreed upon between the parties and in default of agreement then by such arbitrator as may be nominated for the purpose by the president for the time being of the Queensland Law Society Incorporated and the decision of such arbitrator shall be final and binding between the parties and such arbitration shall be carried out pursuant to the provisions of the Commercial Arbitration Act 1990.

12 BODY CORPORATE REPRESENTATIVE

12.1 The Committee of the Body Corporate must from time to time authorise one of its members or the Body Corporate Manager to give instructions to and communicate with

the Agent on behalf of the Body Corporate. The Body Corporate must advise the Agent in writing details of the person who is for the time being so authorised.

12.2 The Agent must confer fully and freely with the Body Corporate Representative if so requested relative to the performance of the duties of the Agent under this Agreement.

13 AGENT'S LEAVE

13.1 The Body Corporate agrees that the Agent may with the prior consent of the Body Corporate Committee appoint in writing an appointee for the term specified in the appointment but not exceeding a period or periods in the aggregate of four (4) weeks in each year of the Term.

13.2 Such consent must not be unreasonably withheld where the appointee is a responsible and respectable person capable of performing the Agent's duties under this Agreement.

13.3 The Agent may perform any of the Agent's duties or obligations under this Agreement through the appointee.

13.4 The appointee shall for the time so specified in the appointment have all the rights given by this Agreement to the Agent.

13.5 The Agent shall be responsible for any remuneration payable to the appointee.

13.6 Despite any such appointment the Agent is liable and responsible for the performance of all acts, deeds and things required under this Agreement.

14 COSTS

14.1 The costs of preparation and stamping of this agreement must be borne by the Agent.

15 SEVERANCE

15.1 All rights duties or obligations given or imposed by virtue of this agreement are so given and/or imposed to the extent that they are lawful and if at any time, any provision hereof is, or becomes illegal, invalid, unenforceable or void in any respect then that provision shall be ignored, read down or severed respectively so far as is possible at the same time preserving the essence of the bargain between the parties hereto and evidenced by these presents, so as to uphold the legality and validity and enforceability of the remaining provisions hereof.

16 INTERPRETATION

16.1 In this Agreement unless the context otherwise requires:-

(a) Words importing the singular number shall include the plural AND words importing the neuter gender shall be read as importing such gender as the case may require from time to time AND words importing corporations shall include a person or persons and vice versa as the case may require from time to time;

(b) any reference to a statute is to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to and all regulations, rules by-laws, proclamations, orders and other authorities pursuant to the statute.

(c) headings have been inserted for guidance only and do not form part of nor affect the interpretation of this Agreement;

(d) Whenever the same is used the word 'Agent' means, includes, and binds the Agent or where there is more than one the Agents and his her or their (whichever the case may be) executors administrators successors and assigns or in the case of a company the Agent and its administrators and assigns;

(e) Where two (2) or more persons are named herein as the Agent or become the Agent the expression 'the Agent' shall be a reference to those persons jointly as well as to each of them severally and this instrument and the obligations and agreement on their part herein contained or implied shall bind those persons jointly as well as each of them severally;

(f) Unless otherwise defined in this Agreement or the context otherwise requires, words and expressions defined in the Act to have particular meaning have that meaning when used in this Agreement.

(g) A reference within a clause to a clause or schedule are a reference that clause or that schedule in this Agreement;

(h) Where a word or phrase is given a particular meaning, other parts of speech based on that word or phrase or grammatical forms of that word or phrase have corresponding meanings.

17 AGENT'S LOT

17.1 In this clause 17:-

(a) "the Provisions" means the provisions contained in Division 8 of Part 2 of Chapter 3 of the Act.

(b) any words or phrases not otherwise defined in this Agreement have the same meaning given to them under the Act.

17.2 If under the Provisions the Agent is required to transfer the Agent's management rights to a replacement letting agent chosen by the Body Corporate, then the Agent's Lot Owner has the same rights and obligations with respect to the transfer of the Agent's Lot to the replacement letting agent as the Agent (as the letting agent) would have if the Agent was the registered owner of the Agent's lot for the purposes of those provisions.

18 BODY CORPORATE WARRANTY

18.1 The Body Corporate warrants that it has complied with all the requirements of the Act with which it must comply to ensure that the authorisation of the Agent as letting agent is not void.

19 TRUSTEE PROVISIONS

19.1 If the Agent enters into this Agreement as trustee of a trust, then the Agent represents and warrants that:

(a) it is the sole trustee of the Trust, it has not given any notice of resignation and no action has been taken to remove or replace it or to appoint any additional trustee;

(b) where the Body Corporate has required it to do so, it has disclosed to the Body Corporate full and correct particulars of the terms of the Trust and provided to the Body Corporate true copies of the Trust Deed and any documents relating to the Trust required by the Body Corporate prior to the execution of this document;

(c) it has power under the Trust Deed to execute and perform its obligations under this document and all necessary action has been taken to authorise the execution and performance of this document under the Trust Deed;

(d) this document is executed as part of the due and proper administration of the Trust, are or will be for the commercial benefit of the Trust and are or will be for the benefit of the beneficiaries of the Trust;

(e) it has an unrestricted and unlimited right to be fully indemnified out of the Trust Fund and has not released or disposed of its equitable lien over the Trust Fund;

(f) it is not in default under the Trust Deed;

(g) the Trust is duly constituted and has not terminated, and no vesting date for the Trust has been determined prior to the final vesting date for distribution specified in the Trust Deed;

(h) it has complied with all fiduciary obligations directly or indirectly imposed on it;

(i) the rights of the Body Corporate will rank in priority to the claims of the beneficiaries of the Trust.

20 SPECIAL CONDITION TO APPLY WHILST NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST IS THE AGENT

For the purposes of this clause, the following words have the following meaning:

(a) 'Agent's Nominated Appointee' means any other person or entity nominated by the Agent, provided that such person is capable of performing the Agent's obligations under this Agreement. The Body Corporate is not required to consent to the Agent's Nominated Appointee;

(b) 'Related Entity' has the same meaning as in the Corporations Act 2001 (Cwlth)

Whilst NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST (or any of their related entities) is the Agent, the following provisions will apply:

(c) The Agent may perform any of the Agent's obligations under this Agreement personally or via the Agent's Nominated Appointee. The Agent's Nominated Appointee may also engage other persons to assist them. The Agent's Nominated Appointee's actions do not affect the liability of the Agent under this Agreement, but the Agent will not be in breach of performing its obligations under this Agreement at any time if the Agent's Nominated Appointee is performing those obligations;

(d) Any clause of this Agreement requiring the Agent or other person to reside in the Agent's Lot will not apply, however:

a. either the Agent or Agent's Nominated Appointee must be contactable by telephone at all reasonable times.

(e) Any clause of this Agreement requiring the Agent or other person to provide the Letting Agent Business from the Scheme will not apply and the Agent or Agent's Nominated Appointee may provide the Letting Agent Business from the Scheme or elsewhere.

(f) The clause of this agreement headed 'Agent's Nominee' will not apply.

EXECUTED and delivered by the parties as a Deed.

THE COMMON SEAL of **BODY CORPORATE FOR THE LINK- NUNDAH COMMUNITY TITLES SCHEME 50858** is affixed in accordance with a direction or authorisation which complies with the regulations governing the use of the Seal of the Body Corporate and in the presence of persons in whose presence the Seal may be affixed under those regulations)

BODY CORPORATE FOR THE LINK - NUNDAH CTS 50858 The Common Seal of

.....

Witness to the affixing of the Seal

Sole Committee Member

.....

Witness to the affixing of the Seal

EXECUTED by **NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST**)

In accordance with Section 127 of the Corporations Act (Cwlth)

.....

SOLE DIRECTOR/SECRETARY

EXECUTED by **NUNDAH LAND HOLDINGS PTY LTD ACN 600 612 039 AS TRUSTEE FOR NUNDAH LAND TRUST**)

In accordance with Section 127 of the Corporations Act (Cwlth)

.....

SOLE DIRECTOR/SECRETARY

COPYRIGHT TO THIS DOCUMENT IS CLAIMED BY SHORT PUNCH & GREATORIX SOLICITORS
PO BOX 5164, GOLD COAST MAIL CENTRE QLD 9726 PH: (07) 55 382277