



**McDONALD BALANDA & ASSOCIATES**  
**LAWYERS**

## **CARETAKING & LETTING AGREEMENT**

Postal Address: PO Box 727, Surfers Paradise, Qld. 4217  
Street Address: Level 1, 76 Appel Street, Surfers Paradise, Qld. Australia  
Telephone: (07) 5539 9688 International 61 7 5539 9688 Facsimile (07) 5538 2651  
E-mail: [manager@mba-lawyers.com.au](mailto:manager@mba-lawyers.com.au) Web Site: [www.mba-lawyers.com.au](http://www.mba-lawyers.com.au)

**NO DUTY  
PAYABLE**

CARETAKING AND LETTING AGREEMENT

THIS DEED is made the 8th day of March 2004

**BETWEEN:** THE OWNERS "JABIRU LANDING" CTS 19359, a Body Corporate constituted under the Body Corporate and Community Management Act 1997 of care of 71 Davenport Street, Southport in Queensland ("the Body Corporate")

**AND:** DENNIS AND LYNETTE LE GASSICK ("the Resident Caretakers")

**WHEREAS:**

- A. The Body Corporate was constituted consequent upon registration of the Plan for the Development.
- B. The Body Corporate wishes to provide for the better caretaking, administration, control, use and enjoyment of the Common Property and for the better exercise and performance of its powers and duties in relation to the use thereof.
- C. The Body Corporate and the Resident Caretaker have agreed that the Resident Caretaker shall be engaged by the Body Corporate to perform certain duties on behalf of the Body Corporate as set out in this Agreement.

**NOW THIS DEED WITNESSES AS FOLLOWS:**

1. Interpretation

1.1 In this Agreement unless the context otherwise requires the following expressions shall have the following meanings:

1.1.1 "Act" means the Body Corporate and Community Management Act 1997.

1.1.2 "Agreement" means this Agreement.

1.1.3 "Body Corporate" means The Proprietors "Jabiru Landing", CTS 19359 and, where the context requires, the committee of the Body Corporate as constituted from time to time.

1.1.4 "Common Property" means the common property, as defined in the Act, in the Scheme.

1.1.5 "Development" means the development known as Jabiru Landing undertaken on the property situated at 75 Brown Street, Labrador in Queensland.

1.1.6 "Index Number" means --

- (a) the Consumer Price Index (All Groups) Number for Brisbane published from time to time by the Australian Bureau of Statistics;
- (b) If the Consumer Price Index (All Groups) Number for Brisbane is suspended or discontinued, then the Queensland male basic wage applicable in the City of Brisbane; or
- (c) If the system or practice of the determination of the Queensland male basic wage cease then an index published, at the date of commencement of the Term and at the relevant anniversary of such date, by the Australian Bureau of Statistics which reflects fluctuations of the cost of living in Brisbane; and
  - (i) as may be agreed upon by the parties; or
  - (ii) if the parties are unable to agree as may be determined by the President of the Queensland Law Society Incorporated by some person nominated by him, whose decision shall be conclusive and binding.

If at any time during the Term the Australian Bureau of Statistics shall update the reference base of the Index Number, the required conversion shall be made to preserve the intended continuity of the calculations by making the appropriate arithmetical adjustment to make the updated Index Number correspond in reference base to the Index Number at the review dates.

1.1.7 "Resident Caretaker's Unit" means Lot 42 in the Plan.

1.1.8 "Plan" means Group Titles Plan No. 4191 as it may be amended or resubdivided from time to time.

1.1.9 "Property" means the Common Property and all improvements and landscaping on or forming part of the Common Property.

1.1.10 "Related Person" means a company in respect of which not less than fifty-one percent (51%) of the issued shares are held by Jabiru Landing Management Services Pty Ltd.

1.1.11 "Scheme" means Community Titles Scheme 19359.

1.1.12 "Term" means the period of ten (10) years commencing from the 21<sup>st</sup> day of January 2004 and ending on the 20<sup>th</sup> day of January 2014.

1.2 In this Agreement except to the extent that the context otherwise requires:

1.2.1 any word importing the singular number includes the plural and vice versa;

1.2.2 any word importing one gender includes the other genders;

- 1.2.3 any reference to a person shall be construed as a reference to any person, firm, company, corporation, government, governmental authority, state or agency of a state or any association or partnership (whether or not having corporate legal personality) or any two or more of the above;
- 1.2.4 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;
- 1.2.5 any reference to "writing" includes any means of reproducing words in a tangible permanently visible form and in the English language and "written" has a corresponding meaning;
- 1.2.6 any reference to an agreement or to any other contractual instrument includes all subsequent amendments to it or changes in it entered into in accordance with its terms but only to the extent to which such amendments or changes are expressly or impliedly permitted by the terms of this Agreement;
- 1.2.7 any reference to a party to this Agreement includes a reference to its successors and permitted assigns;
- 1.2.8 any reference to recital, clause, subclause, paragraph, subparagraph, schedule or annexure shall, unless otherwise indicated, refer to a recital, clause, subclause, paragraph, subparagraph, schedule or annexure to or of the Agreement;
- 1.2.9 any heading used in this Agreement is used for convenience only and shall not be used in the interpretation of this Agreement.

2. Appointment of Resident Caretaker

The Body Corporate appoints the Resident Caretaker for the Term to carry out the duties under this Agreement and the Resident Caretaker accepts such appointment upon the terms set out in this Agreement.

3. Remuneration of Resident Caretaker

3.1 In consideration of the Resident Caretaker performing its duties as set out in this Agreement the Body Corporate shall pay the Resident Caretaker the sum of \$83,185.92 (eighty three thousand, one hundred & eighty five dollars, ninety two cents) per annum until the 1<sup>st</sup> May, 2004 by equal calendar monthly instalments in arrears the first instalment to be paid one calendar month after the date of this Agreement. On the 1<sup>st</sup> May, 2004 and thereafter annually, the remuneration will be adjusted in accordance with clause 3.2 below.

3.2 The remuneration of the Resident Caretaker shall be adjusted on the 1<sup>st</sup> May each year of the Term and any extension of the Term in accordance with the following formula:

$$NR = \frac{R \times C2}{C1}$$

Where:

NR is the annual remuneration to be payable from the relevant date.

R is the initial annual remuneration set out in clause 3.1.

C1 is the Index Number last published before the commencement of the Term.

C2 is the Index Number last published before the relevant date from which the adjusted remuneration is to be calculated.

3.3 The Body Corporate agrees to pay any GST payable on any supply under this Agreement (called the "GST") including GST payable on any remuneration payable to the Resident Caretaker.

3.4 If requested by the Resident Caretaker the Body Corporate will make payment of the remuneration direct to a bank account nominated by the Resident Caretaker.

#### 4. Duties of Resident Caretaker

4.1 The Resident Caretaker shall by its employees or agents shall carry out the following duties:

4.1.1 maintain and repair the Property or cause the same to be managed, maintained and repaired so as to ensure that the same is kept in good order and repair, and do all things necessary or in the opinion of the Resident Caretaker desirable to protect the interest of the Body Corporate in respect thereof;

4.1.2 monitor the observance of the by-laws of the Body Corporate by the owners and/or occupiers (including their guests and licences) for the time being of the lots in the Scheme and advise any persistent breaches to the Committee.

4.1.3 at the request of the Body Corporate, advise the Body Corporate concerning the duties of the Resident Caretaker, and provide such other advice as the Body Corporate may request relative to the management, repair and maintenance of the Property;

4.1.4 reside in the Resident Caretaker's Unit;

4.1.5 keep in its possession the master key or keys for any switch room, substation or other rooms under the control of the Body Corporate and the lots in the Scheme so far as individual lot owners shall permit. The possession of those keys shall only be surrendered to an authorised representative appointed by the committee of the Body Corporate or the individual lot owner concerned but the Resident Caretaker shall allow a lawfully authorised person in the course of his duties free access to any part of the Property so authorised at all reasonable times;

4.1.6 report promptly to the Body Corporate on all things requiring repair and on all matters creating a hazard or danger and take remedial action where practicable;

4.1.7 arrange maintenance contracts as required and directed by the Body Corporate and ensure that any such contracts in force are carried out in accordance with their terms and for this purpose maintain a schedule of contracts with the due dates for service calls and dates of attendance which shall be made available to a Committee representative on request;

4.1.8 comply with and carry out all reasonable directions from time to time given by the Body Corporate to the Resident Caretaker in and about the administration and management of the Property and the performance by the Body Corporate of its lawful obligations and duties;

- 4.1.9 at all times ascertain and be aware of the general condition of the Property and all machinery and appurtenances thereto so that at all times the Resident Caretaker is able to keep informed the Body Corporate in respect thereof;
- 4.1.10 as far as the Resident Caretaker is reasonably able and lawfully capable of so doing, to keep order in the property and take such precautions as it sees fit to safeguard the property against unlawful entry or accident or damage;
- 4.1.11 keep itself fully apprised of the layout, construction, location, character, plan and operating of any lighting, irrigation, drainage, sewerage, power, communication, security and other systems and equipment installed on the Property with the aid of inspections made by competent personnel and with the assistance of a set of plans of the Property and any improvements thereon (such plans to be provided to the Resident Caretaker by the Body Corporate) and advise the Body Corporate generally on the condition thereof from time to time and recommend to the Body Corporate (should the Resident Caretaker consider it necessary) any changes or modifications to be made in respect of any such matters;
- 4.1.12 advise the Body Corporate in relation to any correspondence, reports, enquiries and complaints related to the Property and the management of the Property and advise the Body Corporate on relation thereto;
- 4.1.13 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 on behalf of the Body Corporate as the Body Corporate may reasonably deem necessary to maintain the standard of the Common Property;
- 4.1.14 regularly water, fertilise, weed, mow and maintain the lawns on the common property and maintain the gardens and shrubs on the common property to a high design and standard consistent and compatible with the design and standard of the landscaping generally;
- 4.1.15 undertake such works and perform such other acts and do such other things as are incidental to or reasonably necessary and proper in the discharge or its duties and obligations under this Agreement;
- 4.1.16 carry out the written directions of the Body Corporate regarding specific matters or regarding permanent policies or procedures to be observed provided however that the Resident Caretaker may refer any such directions to an expert in the manner provided in clause 11 hereof;
- 4.1.17 clear the Body Corporate letterbox daily and forward correspondence to the relevant person;
- 4.1.18 be in attendance at the Resident Caretaker's Unit or on the Scheme for such hours that are reasonably necessary to the Resident Caretaker to attend to the duties under this Agreement: -
- 4.1.19 account promptly to the Body Corporate for any monies or other property held on behalf of the Body Corporate and source for and credit to the Body Corporate any discounts, commissions or rebates obtained with respect to any purchase or expenditure on behalf of the Body Corporate.

4.1.20 carry out regular inspections of the Property to ensure that no unauthorised persons are using the Property and, so far as is possible, ensure the proper standards of behaviour are maintained by persons using the Property;

4.2 It is fundamental to this Agreement that the Resident Caretaker shall carry out all his duties under this Agreement (or engage persons to carry out such duties on his behalf at his cost) other than those duties that require a skilled tradesman or similar person to carry out such duties. If a skilled tradesman or similar person is required, he shall be engaged by the Resident Caretaker on behalf of the Body Corporate and any dispute as to whether a skilled tradesman or similar person is required to carry out any duty, such dispute may be determined, at the instance of either party, by a licensed real estate agent nominated by the President for the time being of the Real Estate Institute of Queensland. Such nominee shall have experience in caretaking and letting agreements and in making his determination shall act as an expert and not as an arbitrator. Both parties shall be entitled to make written submissions to the nominee and the nominee shall give notice in writing of his decision as soon as is reasonably practicable. The nominee's decision shall be final and binding upon the parties and the cost of the nominee's decision shall be borne by the parties in such shares as the expert may determine and, failing such determination, equally.

4.3 The Resident Caretaker may, either in its own right or as agent for the Body Corporate (but subject to the limitations contained in this Agreement) enter into such agreements with other persons or corporations for provision of materials or services by those other persons or corporations as the Resident Caretaker may deem necessary for the proper performance of its duties and obligations hereunder.

4.4 If the Body Corporate has any obligations in respect of the maintenance or repair of improvements or any lots in the Scheme, the Resident Caretaker shall cause the same to be carried out and regularly report to and advise the Body Corporate on such maintenance and repair.

4.5 The Resident Caretaker at his cost shall have all equipment, machinery and tools necessary to carry out his duties under this Agreement other than equipment, machinery and tools related to those duties required to be carried out by a skilled tradesman or similar person. The Resident Caretaker shall cause such equipment, machinery and tools to be maintained in good working order and condition.

#### 5 Expenditure by Resident Caretaker

5.1 The Resident Caretaker shall be entitled to pledge the credit of the Body Corporate within the limits from time to time approved by the Committee of the Body Corporate for the purpose of obtaining materials used in the performance of its duties or those of other employees of the Body Corporate and for such other purposes as are necessary or incidental to the discharge of the obligations of the Resident Caretaker under the Agreement.

5.2 Everything done by the Resident Caretaker under the provisions of this Agreement shall be done as agent of the Body Corporate and all obligations or expenses thereby incurred shall be on account of the Body Corporate.

5.3 The Resident Caretaker will check and verify accounts for goods or services payable by the Body Corporate relative to matters which are the responsibility of the Resident Caretaker under this Agreement and notify the Body Corporate that they are in order for payment.

6. Assignment

6.1 The Resident Caretaker shall not assign its interest in this Agreement except to a purchaser or transferee of the Resident Caretaker's Unit or a person or entity associated with such purchaser or transferee and unless: -

6.1.1 the Resident Caretaker gives to the Body Corporate reasonable notice in writing of the Resident Caretaker's desire to assign its interest in this Agreement and such notice is accompanied by:

- (a) all pertinent details of the proposed assignee;
- (b) at least two (2) character references of the assignee (or in the case where the proposed assignee is a corporation, at least two (2) character references of at least two of the principal directors);
- (c) at least two (2) business references in respect of such assignee (including, without limitation, personal guarantees in the case of a corporation of the assignee's obligations under this Agreement);

6.1.2 the Resident Caretaker is not as at the date of giving notice or at the date of the assignment in default in the observance or performance of the covenants or agreements on the Resident Caretaker's part herein expressed or implied entitling the Body Corporate to terminate this Agreement;

6.1.3 the Resident Caretaker proposes to assign its interest in this Agreement to: -

- (a) an assignee who is a suitable, respectable, responsible and solvent person financially substantial and otherwise capable of performing the obligations of the Resident Caretaker under this Agreement (the onus of proving which to the reasonable satisfaction of the Body Corporate shall be upon the Resident Caretaker);
- (b) an assignee who enters into a deed with the Body Corporate in a form reasonably required by the Body Corporate containing, amongst other things, a covenant that he will duly perform and keep the covenants and agreements on the Resident Caretaker's part contained in this Agreement;
- (c) an assignee who furnishes to the Body Corporate such further covenants, indemnities and guarantees in the respect of the performance of the obligations of the Resident Caretaker under this Agreement as the Body Corporate shall reasonably require (including, without limitation, personal guarantees in the case of a corporation, of the assignee's obligations under this Agreement);
- (d) the Resident Caretaker pays to the Body Corporate its reasonable fees and disbursements (including legal fees and stamp duty) of and incidental to the matters referred to in this clause;

6.1.4 the Resident Caretaker enters into a deed or agreement with the Body Corporate in the form required by the Body Corporate under which the Resident Caretaker releases the Body Corporate from all claims which the Resident Caretaker then has, or in the future may have, against the Body Corporate in relation to this Agreement;

- 6.2 If the Resident Caretaker is a company, other than a company whose shares are listed on any Australian Stock Exchange, any change in the shareholding of the Resident Caretaker altering the effective control of the Resident Caretaker shall be deemed a proposed assignment of this Agreement and the Resident Caretaker shall not register, record or enter in its books any transfer of any share or shares in the capital of the Resident Caretaker, or deal with any beneficial interest in any such share or shares, or issue any new share or shares, or take or attempt to take any action having the effect of altering the effective control of the Resident Caretaker or having the effect that the shareholders of the Resident Caretaker at the date of this Agreement together beneficially hold or control less than 51% of the voting rights of capital in the Resident Caretaker, unless the Resident Caretaker complies with the conditions of clause 6.1.

#### Letting Agreement

- 7.1 The Resident Caretaker may carry on from the Resident Caretaker's Unit the business of letting lots in the Development together with all associated services commonly rendered in connection therewith in the Gold Coast area in developments of a similar type to the Development other than the provision of food and beverages by means of vending machines or otherwise.
- 7.2 The Resident Caretaker may provide such letting service for such proprietors of lots in the Development as require that service.
- 7.3 The Resident Caretaker acknowledges that the owners and occupiers of lots in the Development are free to choose whether or not to use the letting services of the Resident Caretaker provided under this Agreement. The Body Corporate shall take all reasonable steps to ensure that there is no interference with the provision by the Resident Caretaker of services under this Agreement but the Resident Caretaker acknowledges that it is not within the power of the Body Corporate to interfere with the ordinary exercise of choice of such services available to individual owners or occupiers from suppliers of such services operating from outside the Development.
- 7.4 The Resident Caretaker will maintain and staff in the Resident Caretaker's Unit a reception desk for such times as are found to be reasonably necessary for the provision of the letting service.
- 7.5 The Resident Caretaker will supervise that standard of tenants of all such lettings arranged by it and shall ensure so far as practicable that no nuisance is created in the Development and that the Development and lots therein are not brought into disrepute.
- 7.6 The Resident Caretaker may erect or procure the erection of signs in or about the Development for the purposes of promoting and fostering the letting business.
- 7.7 The Resident Caretaker shall at its own expense obtain all necessary permits or consents or licences required by law or by any local authority or other lawful authority to enable it to conduct in the Development the business of a letting agent, hirer of equipment or provider of other services as mentioned in this Agreement and the Resident Caretaker covenants that it will at all times and from time to time conduct such business in accordance with and shall comply with all statutes, regulations and by-laws or ordinances in any way relating to such business or businesses in a manner so as not unduly to interfere with the quiet enjoyment and occupation of lots in the Development and will comply with every by-law of the Body Corporate.

7.8 The parties acknowledge that none of the remuneration paid to the Resident Caretaker under this Agreement is for carrying on a letting business or providing any letting and/or ancillary services.

8. Competition for Resident Caretaker

8.1 To the extent that it is lawful, the Body Corporate covenants with the Resident Caretaker:

8.1.1 that the Body Corporate will not lease or agree to lease or grant any licence or agree to grant any licence in respect of any part of the Common Property to any person or corporation other than the Resident Caretaker for the purpose of the business of letting lots in the Development;

8.1.2 that the Body Corporate will not enter into any agreement in substantially the same terms as this Agreement with any other person while this Agreement is current.

8.1.3 that it will not grant or agree to grant to any person or corporation other than the Resident Caretaker without the prior written consent of the Resident Caretaker first had and obtained any right to provide from within the Development any of the following services namely: -

- (a) the hiring of television sets, cots, mattresses, beds and bedding, linen, cutlery, radiators, fans, prams and strollers, cooking equipment, furniture and the like;
- (b) car washing and/or polishing service, unit cleaning or room service facilities;
- (c) the advertising or vending on the Common Property or in the Development any of the above services, or acting as a travel agent or to vend tours or the like;
- (d) the installation servicing or maintaining of vending machines on the Common Property.

8.2 Subject to the requirements of law, the Resident Caretaker shall be at liberty to carry on in the Development (provided however that the business, businesses or services so carried on or rendered by the Resident Caretaker shall be in relation to the lots in the Development and the owners and occupiers thereof) those businesses or services specified in clause 8.1.3(a), (b) and (c) but the Body Corporate does not by this Agreement grant or promise to the Resident Caretaker the right to conduct or carry on the service or business specified in clause 8.1.3(d).

9. Termination by Body Corporate

9.1 This Agreement may be terminated by the Body Corporate by notice in writing to the Resident Caretaker in any of the following events: -

9.1.1 If the Resident Caretaker shall assign its interest in this Agreement in breach of Clause 6 hereof;

- 9.1.2 If the Resident Caretaker shall fail or neglect to carry out its duties under this Agreement and such failure or neglect continues for a further period of fourteen (14) days after notice in writing shall have been given to the Resident Caretaker specifying the duty which the Resident Caretaker has failed or neglected to carry out and calling upon the Resident Caretaker to perform such duty;
- 9.1.3 If the Resident Caretaker shall be guilty of gross misconduct or gross negligence in the performance of its duties hereunder;
- 9.1.4 If the Resident Caretaker, being a company, enters into liquidation (whether voluntary, compulsory or provisional), or is wound up or dissolved, or enters into a scheme of arrangement for creditors, or is placed under official management, or a receiver and/or manager of any of its assets is appointed other than for the purposes of amalgamation or reconstruction;
- 9.1.5 If the Resident Caretaker, being an individual, is convicted upon indictment of any criminal offence involving fraud, dishonesty or assault.

#### 10. Termination by Resident Caretaker

- 10.1 This Agreement may be terminated by the Resident Caretaker by notice in writing to the Body Corporate in any of the following events: -

- 10.1.1 If the Body Corporate shall fail or neglect to carry out its duties under this Agreement and such failure or neglect shall have continued for a period of fourteen (14) days after notice in writing shall have been given to the Body Corporate specifying the duty which the Body Corporate has failed or neglected to carry out and calling upon the Body Corporate to perform such duty;

- 10.1.2 If the Body Corporate shall fail to pay to the Resident Caretaker any remuneration payable to the Resident Caretaker under the terms of this Agreement on the due date for payment and such failure shall continue for a period of fourteen (14) days after formal demand has been made for it.

#### 11. Disputes

- 11.1 If any dispute arises between the Resident Caretaker and the Body Corporate touching upon any matter arising under the terms of this Agreement or incidental to this Agreement the same shall be determined and finally settled by a person to be agreed upon between the parties or failing agreement such person as may be nominated for the purpose by the President for the time being of the Queensland Law Society Incorporated at the request of either party and the person so acting shall make his determination as an expert and not as an arbitrator.
- 11.2 Both parties shall be entitled to make written submissions to the expert so appointed upon the matter the subject of the dispute.
- 11.3 The expert shall give notice in writing of his decision as soon as is reasonably practicable in the circumstances.
- 11.4 The expert's decision shall be final and binding upon the parties and the costs of the expert's determination shall be borne by the parties in such shares as the expert may determine, and failing such determination, equally.

12. Notices

12.1 All notices and other communications required or permitted to be given under this Agreement shall be in writing, shall be addressed to the address of the applicable party as set out at the commencement of this Agreement or at such other address as any such party may have substituted therefor by notice to all other parties, and shall be either delivered personally, or sent by telex, facsimile communication or by ordinary air mail, postage prepaid.

12.2 In the case of a notice sent by telex or facsimile communication, it shall be deemed to be received on the day of actual receipt if received between the hours of 9:00am and 5:00pm at the place of receipt, or otherwise on the next following day (other than a Saturday, Sunday or Public Holiday in the place of receipt). In the case of a notice sent by mail, it shall be deemed to be received only when actually received. The addressee, when requested by the sender, shall promptly provide the sender with telex or facsimile acknowledgment of receipt, but the delay or failure to give or receive any such acknowledgment will not affect the validity of the notice in respect of which it is sought.

13. Costs

Each party shall bear its own costs of and incidental to the negotiation and preparation of this agreement but any stamp duty payable hereon shall be borne by the Resident Caretaker.

14. Non-Waiver

Any extension of time or other indulgence granted by either party to the other hereunder shall not affect the rights of either party under this Agreement or generally at law.

15. Nominee of Resident Caretaker

The Resident Caretaker shall be entitled to nominate in writing from time to time to the Body Corporate a person to carry out its duties and obligations under this Agreement. Such nomination shall not affect the liability of the Resident Caretaker under this Agreement.

16. Resident Caretaker's Unit

16.1 It is agreed that the Resident Caretaker's Unit is to be used by the Resident Caretaker for the purpose of management and letting under this Agreement and while there be no breach by the Resident Caretaker of the terms and conditions of this Agreement the Resident Caretaker's Unit shall be the only lot in the Property from which management of the Property and letting of units in the Development takes place.

16.2 The Resident Caretaker agrees that at all times during the term of this Agreement or any extension hereof, the Resident Caretaker or an associated person or entity shall be the registered owner of the Resident Caretaker's Unit unless the Body Corporate shall otherwise in writing agree.

16.3 The Resident Caretaker further agrees that it will not purport to assign its interest under this Agreement unless at the same time it enters into an agreement with the proposed assignee or an associated person or entity, in respect of this Agreement, to also acquire and become the registered owner of the Resident Caretaker's Unit.

16.4 If with the prior consent in writing of the Body Corporate the Resident Caretaker's Unit shall be owned by some person or corporation other than the Resident Caretaker from time to time than it is agreed by the Resident Caretaker that, as between the Resident Caretaker and the registered proprietor from time to time of the Resident Caretaker's Unit, there shall be a commonality of control such that any natural person or persons who shall be the Resident Caretaker or who shall be the registered owner or owners of the Resident Caretaker's Unit shall effectively control any corporation as may be the registered owner of the Resident Caretaker's Unit or, the Resident Caretaker. The Resident Caretaker covenants and agrees that it will not purport to assign its rights and obligations in this Agreement where it is proposed that the Resident Caretaker's Unit shall be owned by some other person or corporation that is other than the proposed assignee unless the degree of commonality of control referred to in this sub-clause shall exist between the proposed assignee of the Resident Caretaker's rights under this Agreement and the proposed transferee of the Resident Caretaker's Unit.

17. Leave

The Resident Caretaker shall have the right to appoint a suitable replacement to carry out the Resident Caretaker's functions under this Agreement for a period of, or an aggregate of periods of up to four (4) weeks per annum for the purpose of allowing the Resident Caretaker a holiday for that period each year. On each occasion, details of the proposed replacement shall be provided to the Body Corporate at least one calendar month prior to the commencement of the Resident Caretaker's proposed holiday and the Body Corporate shall as soon as reasonably practicable indicate its assent or otherwise to the proposed replacement. Such assent shall not be unreasonably withheld or delayed. It shall be a matter for the Resident Caretaker to ensure that the replacement or replacements from time to time adequately perform the functions of the Resident Caretaker under this Agreement and any breach of this Agreement on the part of such replacement or replacements shall be deemed to be a breach by the Resident Caretaker. Any remuneration payable to such replacement or replacements shall be the responsibility of the Resident Caretaker.

18. Option for Renewal

18.1 If the Resident Caretaker: -

18.1.1 wishes to extend this Agreement for a further term of fifteen years (the "Further Term") to commence immediately after the expiration of the Term;

18.1.2 gives to the Body Corporate notice in writing not less than three (3) months before the expiration of the Term; and

18.1.3 this Agreement has not been terminated and prior to the date of commencement of the Further Term, no breach by the Resident Caretaker of any of the provisions of this Agreement has occurred (unless the same has been excused or waived by the Body Corporate or, if the breach is capable of remedy, the breach has been promptly remedied by the Resident Caretaker to the satisfaction of the Body Corporate) entitling the Body Corporate to terminate this Agreement, then

the Body Corporate shall extend this Agreement upon the same terms as are contained in this Agreement, including any guarantee and indemnity of the then Resident Caretaker's obligations under this Agreement except that: -

18.1.4 the term of the further agreement for the Further Term shall be the day immediately following the expiration of the Term;

18.1.5 the date of commencement of the Further Term shall be the day immediately following the expiration of the Term;

18.1.6 the remuneration payable to the Resident Caretaker under sub-clause 3.1 for the first year of the Further Term shall be determined on the basis of an adjustment of such remuneration in accordance with sub-clause 3.2;

19. Severance

If it is held by a Court of competent jurisdiction that: -

- (a) any part of this Agreement is void, voidable, illegal or unenforceable; or
- (b) this Agreement would be void, voidable, illegal or unenforceable unless any part of this Agreement were severed from this Agreement.

that part shall be severed from and shall not affect the continued operation of the rest of this Agreement unless to do so would change the underlying principal commercial purposes of this Agreement.

20. Proper Law

This Agreement shall be governed by and interpreted in accordance with the laws of Queensland.

21. No Delegation

The duties performed under this Agreement are performed at the direction of the Body Corporate and do not amount to a delegation of any duty, power, authority or function of the Body Corporate to the Resident Caretaker and in particular under s.97 of the Act.

IN WITNESS WHEREOF the parties hereto have hereunto set their hands and seals on the date hereinbefore mentioned.

THE COMMON SEAL of THE BODY )  
CORPORATE )

was hereunto )  
affixed under the hands of )

and )  
two Members of the Committee in the )  
presence of: )



A Justice of the Peace/Solicitor

SIGNED SEALED AND DELIVERED )  
by Dennis Le Gassick and )  
Lynette Le Gassick )  
in the presence of: )

Three handwritten signatures are present. The top one is "Dennis Le Gassick", the middle one is "Lynette Le Gassick", and the bottom one is "J. Berenzi".

A Justice of the Peace/Solicitor