Caretaking agreement

Hynes Legal Pty Ltd © 2024

Table of contents

1	Definitions and interpretation	1
2	Engagement	1
3	Caretaker's Duties	1
4	Caretaking Equipment	2
5	Body Corporate Duties	2
6	Remuneration	2
7	Caretaker's expenditure	3
8	Assignment	3
9	Termination	3
10	Costs	4
11	Notices	4
12	Waiver	4
13	Governing law	4
14	Severance	5
15	Leave	5
16	Occupation authority	5
17	Caretaker's Lot	5
18	Guarantee	5
19	Trust Provisions	6
20	Termination of Previous Agreement	7
21	Letting Authorisation	8
Executions		9
Schedule 1 - Definitions and interpretation		11
Schedule 2 - Duties		14
Schedule 3 - Occupation Authority Plan		24
(PLAN TO BE INCLUDED)		24

Hynes Legal Pty Ltd © 2024

This **Agreement** is made the day of 2024

BETWEEN

BODY CORPORATE FOR FONTANA GARDENS COMMUNITY TITLES SCHEME 22527 ('the Body Corporate')

AND

IAN BOWEN PROPERTY PTY LTD ACN 161 627 612 AS TRUSTEE FOR THE IAN BOWEN TRUST ('the Caretaker')

AND

IAN BOWEN ('the Guarantor')

Recitals

A. The Body Corporate wishes to engage the Caretaker to perform certain duties and provide certain services for the purpose of ensuring the better control and caretaking of the Scheme.

B. The Caretaker has agreed to accept the engagement for that purpose.

Schedules

The following Schedules form part of this Agreement:

Schedule 1 – Definitions and interpretation

Schedule 2 – Duties

Schedule 3 – Occupation Authority Plan

The parties agree and covenant as follows:

1 Definitions and interpretation

1.1 The words and phrases used in this Agreement have the meanings as set out at Schedule 1 of this Agreement.

1.2 In the interpretation of this Agreement, unless the context otherwise requires, the rules set out at Schedule 1 shall apply.

2 Engagement

2.1 The Body Corporate engages the Caretaker and the Caretaker accepts the engagement to perform the Duties for the Term commencing on the Commencement Date and expiring on the Expiry Date.

3 Caretaker's Duties

3.1 The Caretaker must perform the Duties and must act honestly, diligently and in accordance with the highest business practice at all times.

3.2 If the Caretaker is a corporation, and the principal directors and shareholders of the corporation will not perform or directly supervise the performance of the Duties, the Caretaker must nominate a competent representative to ensure the Duties are carried out.

3.3 The Caretaker must take out public liability insurance for $10 million and any workers compensation insurance as required by law. The Caretaker must produce copies of certificates of currency for such insurances upon the request of the Committee.

3.4 The Caretaker is an independent contractor of the Body Corporate and is not obliged to:

(a) 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;

(b) perform any duty of a body corporate manager (as defined in the Act);

Hynes Legal Pty Ltd © 2024

(c) perform any duty of a technical or specialist nature outside the scope of the Caretaker's skill and expertise, which includes (but is not limited to) performing a duty that requires the services of a skilled tradesperson;

(d) perform any duty other than those of a regular and recurrent nature, it being the intent that the Caretaker shall always be responsible for work that is Repair and Maintenance and not any work that could be considered Capital Repairs or work to common property that is not Accessible;

(e) perform Duties on common property that is subject to a grant of exclusive use; or

(f) attend to any duties which are a consequence of any act of God style event (such as cyclone, flooding, fire, severe storms etc). If an event of this nature occurs, the Caretaker's role is to assist in the management of external contractors engaged at the direction and expense of the Body Corporate to attend to what is necessary.

4 Caretaking Equipment

4.1 The Body Corporate must supply at its cost all plant and equipment necessary for the Caretaker to perform the Duties and maintain and keep the same in good working order and condition.

4.2 All such plant and equipment acquired by the Body Corporate under this clause remain the property of the Body Corporate.

5 Body Corporate Duties

5.1 The Body Corporate must:

(a) provide the Caretaker with all information reasonably necessary to enable the Caretaker to perform the Duties, including providing documents, plans, diagrams, drawings and any other documents or plans identifying the location and character of any services or amenities installed or erected on the Scheme or any improvements on the Scheme;

(b) appoint a representative to give the Caretaker directions and instructions on behalf of the Body Corporate; and

(c) reimburse the Caretaker for the cost of all perishable or consumable materials used by the Caretaker in the performance of the Duties.

6 Remuneration

6.1 In consideration of the Caretaker performing the Duties the Body Corporate must pay the Caretaker from the Commencement Date to 21 August 2024 the Remuneration on a monthly pro rata basis in advance.

6.2 The Remuneration is to be increased on 21 August 2024 and 21 August for each subsequent year of the Term (and any extended Term) by the same percentage as the change in the CPI for the year last recorded immediately before the year in which the Remuneration is being reviewed or by increasing the current amount paid by 3% whichever is the greater.

6.3 From 21 August 2024 the Remuneration (as varied) is payable by the Body Corporate to the Caretaker by equal calendar monthly instalments in advance.

6.4 Where a Goods and Services Tax ('GST') pursuant to the provisions of the A New Tax System (Goods and Services Tax) Act *1999* (Cth) becomes payable on the supply of any goods or services ('supply') under or in connection with this Agreement and the Caretaker is required to pay GST in respect of that supply the Body Corporate must pay the GST applicable on that supply to the Caretaker in addition to any other amounts payable by the Body Corporate to the Caretaker under this Agreement.

Hynes Legal Pty Ltd © 2024

7 Caretaker's expenditure

7.1 The Body Corporate will reimburse the Caretaker for any amount spent by the Caretaker to acquire equipment or materials authorised by this Agreement up to $500.00 for any single item. Any single item of expenditure above that amount requires the prior approval of the Committee.

7.2 The Body Corporate must reimburse the Caretaker within 14 days of receipt by the Body Corporate of written evidence of such expenditure.

8 Assignment

8.1 The Caretaker must obtain the Committee's consent to any transfer, assignment or subletting of this Agreement.

8.2 In deciding whether to approve a proposed transfer, the Committee may have regard to:

(a) the character of the proposed transferee and Related Persons of the proposed transferee;

(b) the financial standing of the proposed transferee;

(c) the proposed terms of the transfer; and

(d) 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.

8.3 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.

8.4 The approval may be given on condition that:

(a) the transferee enter into a deed of covenant to comply with the terms of this Agreement; and

(b) if the transferee is a company, the directors of the transferee enter into a deed of guarantee and indemnity with respect to the Caretaker's obligations under this Agreement.

8.5 The Committee must not:

(a) unreasonably withhold approval to a proposed transfer; or

(b) require or receive a fee or other consideration for approving the transfer other than:

(i) reimbursement for legal and administrative expenses reasonably incurred by the Body Corporate in relation to the application for its approval; and

(ii) the transfer fee if the transfer fee is payable pursuant to the Act.

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

9 Termination

9.1 This Agreement may be terminated by the Body Corporate by written notice to the Caretaker if the Caretaker:

(a) assigns its interest in this Agreement in breach of this Agreement;

(b) fails or neglects to carry out any of the Duties and the failure or neglect continues for a further period of 21 days after the Body Corporate has given written notice to the Caretaker specifying the Duty or Duties which the Caretaker has failed or neglected to carry out and requiring the Caretaker to perform the Duty or Duties;

Hynes Legal Pty Ltd © 2024

(c) is guilty of gross misconduct or gross negligence in the performance of any of the Duties;

(d) is convicted of an indictable offence involving fraud or dishonesty; or

(e) becomes a person of unsound mind or a person whose person or estate is liable to be dealt with in any way under any law relating to mental health.

9.2 The Caretaker may terminate this Agreement at any time without being required to provide reasons if the Caretaker gives the Body Corporate 3 months written notice.

10 Costs

10.1 Each party shall bear their own costs of and incidental to the preparation of this Agreement.

11 Notices

11.1 Any notice, approval, consent or other communication in connection with this Agreement must be in writing and may be given by:

(a) hand delivery; or

(b) sending it by prepaid ordinary post to the recipient's address; or

(c) email to the recipient's email address,

recorded for a party at the commencement of this Agreement or such other address or email address as the party may have notified in writing to the other party from time to time.

11.2 A notice, approval, consent or other communication given in accordance with clause 11.1 is taken to be received:

(a) if hand delivered, on delivery during Business Hours of the recipient other on the next Business Day;

(b) if sent by prepaid registered post, three days after the date of posting;

(c) where sent by email, at the time recorded on the email message, unless notification is received by the sender that the message was unable to be delivered or the recipient is able to establish that the time at which the email is claimed to have been sent was not the time at which such email was received by the recipient.

12 Waiver

12.1 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.

12.2 The waiver by any party of a breach of a provision of this Agreement shall not be deemed a waiver of all or part of that provision or of any other provision or of the right of that party to avail itself of its rights subsequently.

12.3 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.

13 Governing law

13.1 This Agreement is governed by the laws of Queensland and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Queensland for determining any dispute in relation to this Agreement and waives any right to object to an Action being brought in Queensland courts.

Hynes Legal Pty Ltd © 2024

14 Severance

14.1 If any provision of this Agreement is, for any reason, considered or found by a Court of competent jurisdiction or any competent Government authority to be invalid, illegal or unenforceable, or to reduce the Term of this Agreement, that provision is to be severed from the remainder of the provisions of this Agreement and will be deemed never to have been part of this Agreement or the Term will be reduced accordingly. The remainder of the provisions of this Agreement will remain in full force and effect unless the basic purposes of this Agreement are defeated.

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

(a) to the extent that any or all of the Duties constitute the Caretaker being a body corporate manager, that Duty or Duties shall be read down or omitted so that the Caretaker is not a body corporate manager;

(b) the Caretaker must continue to perform such Duties as are required of a service contractor pursuant to the Act in exchange for the Remuneration; and

(c) if as a result of the operation of this clause, or otherwise, it proves impossible to determine the nature or extent of the Duties, the Duties shall be determined by an adjudicator pursuant to the dispute resolution provisions of the Act, this Agreement shall be amended accordingly (as to both Duties and any consequential adjustment in Remuneration).

15 Leave

15.1 The Caretaker may appoint a suitable replacement to carry out the Caretaker's functions under this Agreement for a period of four weeks per annum. The Caretaker must provide reasonable details of the replacement to the Body Corporate and the Body Corporate's consent must be obtained to any replacement. That consent must not be unreasonably withheld.

16 Occupation authority

16.1 The Body Corporate hereby grants the Caretaker an authority to occupy that part of the Common Property in accordance with the Act for the purposes of a storage shed and acknowledges that the grant of the occupation authority does not unreasonably interfere with the rights of owners or occupiers.

17 Caretaker’s Lot

17.1 The Caretaker, or a related person of the Caretaker, must:

(a) own the Caretaker’s Lot; and

(b) reside in the Caretaker’s Lot, provided that the Body Corporate can approve another person who assists with the performance of the services provided by the Caretaker to do so.

18 Guarantee

18.1 The Guarantor hereby agrees with the Body Corporate as follows:

(a) The Guarantor guarantees:

(i) the performance by the Caretaker of its obligations under this Agreement and this guarantee; and

Hynes Legal Pty Ltd © 2024

(ii) the payment of all loss and damage recoverable by the Body Corporate from the Caretaker.

(b) This guarantee extends to claims by the Body Corporate payable in the terms of this Agreement:

(i) for damages for breach; and

(ii) for the Body Corporate's reasonable legal and other expenses of seeking to enforce the obligations of the Caretaker and the Guarantor,

on a full indemnity basis.

(c) This guarantee is unconditional and absolute in any and all circumstances and is a continuing guarantee which will not be affected or avoided in any way by:

(i) any agreement or arrangement made between the Body Corporate and the Caretaker;

(ii) any alterations or variations to the rights and obligations of either the Body Corporate or the Caretaker;

(iii) the granting of any time or other indulgence or forbearance by the Body Corporate to the Caretaker or the Guarantor;

(iv) the making of any composition with or waiver of any breach or default by the Caretaker; and/or

(v) the neglect or forbearance of the Body Corporate to enforce the provisions of this Agreement or those of this guarantee.

(d) The obligations of the Caretaker (the performance of which is hereby guaranteed) include all obligations arising during any extension or renewal of this Agreement for as long as the Caretaker remains the Caretaker;

(e) The Body Corporate will be at liberty to regard the Guarantor in all respects as a principal debtor and will not be obliged to take action first against the Caretaker;

(f) The obligations of the Guarantor will not merge or be deemed to have merged in any judgment obtained by the Body Corporate against the Caretaker;

(g) If any term of the Agreement is not enforceable against the Caretaker as principal (whether by reason of any legal limitation, disability or incapacity or otherwise) the Guarantor will be responsible under this guarantee as though the Guarantor were solely or principally liable as Caretaker under this Agreement; and

(h) The Guarantor waives in favour of the Body Corporate, the Caretaker and any other person any estate or assets so far as necessary to give effect to anything contained in this guarantee.

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

19 Trust Provisions

19.1 In this clause:

(a) 'Trust' in relation to the Caretaker refers to those Trusts for which the relevant Caretaker is Trustee; and

(b) 'Trustee' refers to the Caretaker in its capacity as trustee of a Trust.

Hynes Legal Pty Ltd © 2024

19.2 If the Caretaker 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 Caretakers Trust, the following applies.

19.3 The Caretaker:

(a) acknowledges that this Agreement is binding on the Caretaker personally and in its capacity as trustee of the Trust; and

(b) will cause any successor of the Caretaker 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.

19.4 The Caretaker will exercise its rights of indemnity in relation to the Trust fund for the purpose of performing its obligations as a Caretaker under this Agreement.

19.5 The Caretaker warrants that:

(a) the Caretaker is the sole trustee of the Trust and no action has been taken to remove or replace it;

(b) the Caretaker 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;

(c) each of the warranties contained in this clause will remain true as long as this Agreement remains in force;

(d) the Caretaker has power under the Trust deed to execute and perform the Caretaker'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;

(e) 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;

(f) the Caretaker is not in default under the Trust deed;

(g) no vesting date for the trust fund has been determined; and

(h) the Caretaker has complied with all fiduciary obligations directly or indirectly imposed on the Caretaker under the Trust deed.

19.6 The Caretaker will not, without prior written consent of the Body Corporate:

(a) retire as trustee of the Trust;

(b) be removed as trustee of the Trust or appoint any additional, substitute or new trustee or trustees of the Trust;

(c) default in its duties as trustee of the Trust;

(d) exercise any power to appoint any new beneficiaries or class of beneficiaries of the Trust, which consent will not be unreasonably withheld; and

(e) allow the Trust to be terminated.

20 Termination of Previous Agreement

20.1 The parties agree that the Previous Agreement is terminated on the Commencement Date of this Agreement and subject to clause 20.2 neither party will have any further rights against each other in relation to the Previous Agreement after the Commencement Date other than for rights arising before the Previous Agreement came to an end.

20.2 The Body Corporate is obliged to pay to the Caretaker the remuneration in accordance with the Previous Agreement from the date that the Body Corporate has already paid the

Hynes Legal Pty Ltd © 2024

Caretaker such remuneration up to (but not including) the Commencement Date calculated on a pro rata basis where necessary.

21 Letting Authorisation

21.1 The Body Corporate authorises the Caretaker to act as a letting agent in accordance with the Act for the Term and agrees that no part of the Remuneration payable by the Body Corporate to the Caretaker relates to such services.

Hynes Legal Pty Ltd © 2024

Executions

Executed as an Agreement

SIGNED, SEALED AND DELIVERED by the **BODY CORPORATE FOR FONTANA GARDENS CTS 22527** in accordance with the provisions of the *Body Corporate and Community Management Act 1997.*

)
)
)
)
)
)
)
)
)
)
)
)
)
)
)
)
)
)

_____
Authorised signatory

_____
Print full name

_____
Authorised signatory

_____
Print full name

_____
Date signed

SIGNED, SEALED AND DELIVERED by the said **IAN BOWEN PROPERTY PTY LTD ACN 161 627 612 AS TRUSTEE FOR THE IAN BOWEN TRUST** in accordance with Section 127 of the *Corporations Act 2001* (Cth)

)
)
)
)
)
)
)
)
)
)
)
)
)
)
)
)
)
)

_____
Director

_____
Print full name

_____
Director / Secretary

_____
Print full name

_____
Date signed

Hynes Legal Pty Ltd © 2024

SIGNED (SEALED AND DELIVERED) by the said **IAN BOWEN** in the presence of:

)
)
)
)
)
)
)
)
)
)
)
)
)

Signed

Witness

Print full name

Date signed

Hynes Legal Pty Ltd © 2024

Schedule 1 - Definitions and interpretation

Definitions

Accessible	means any Common Property that can be accessed by the Caretaker which does not exceed a fall height of two metres as per the Workplace Health and Safety Regulation. Those duties relating to such areas require the services of a suitably qualified and equipped contractor at the expense of the Body Corporate.
Act	means the *Body Corporate and Community Management Act 1997*.
Agreement	means this Caretaking Agreement.
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 (ie 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).
Caretaker's Lot	means lot 15 in the Scheme
Commencement Date	means (INSERT DATE - TBC).
Common Property	means the common property for the Scheme as defined in the Act.
CPI	means the Consumer Price Index (All Groups) for the City of Brisbane as published by the Australian Bureau of Statistics, or if that is suspended or discontinued, then an index nominated by the President for the time being of the Queensland Law Society Incorporated.
Duties	means the Duties set out in this Agreement and any Schedule to it.
Expiry Date	means 25 years after the Commencement Date.
Hourly Rate	means $45 per hour plus GST (as adjusted from time to time in accordance with this Agreement)
Non-Scheduled Duties	means work performed, or to be performed, by the Caretaker that is not part of the Duties.
Previous Agreement	means the Deed of Engagement dated 1 December 2009
Remuneration	means $63,745.85 per annum plus GST (as adjusted from time to time).

Hynes Legal Pty Ltd © 2024

Repair and Maintenance	means tasks that can be performed by unskilled persons using basic hand tools and can be completed in less than one hour. Minor repairs are repairs where the outcomes of poor workmanship or materials will not place people in or around the Scheme at any significant risk, or to repairs that provide a stop gap before a more permanent repair can be made. They do not include aesthetic work such as plastering, painting, tiling, paving, etc.
Related Persons	means: (i) in the case of a corporation - the corporation's directors, substantial shareholders and principal staff; (ii) in the case of a partnership - the partners and principal staff of the partnership; (iii) in the case of a unit trust - the trustee or a specifically named beneficiary; or (iv) in the case of a discretionary trust - the trustee or a specifically named beneficiary that receives income from the trust if the trustee does not make a discretionary distribution in a particular year.
Scheme	means the Fontana Gardens Community Titles Scheme 22527.
Term	means the period of 25 years.

Interpretation

In this Agreement, unless the contrary intention appears:

(a) Headings are for ease of reference only and do not affect the meaning of this Agreement and do not form part of the clause.

(b) The singular includes the plural and vice versa and words importing a gender include other genders.

(c) Words used in this Agreement and defined in the dictionary will have the meaning set out in the dictionary. Other grammatical forms of defined words or expressions have corresponding meanings.

(d) Words used in the *Body Corporate and Community Management Act 1997* and related Modules will have the meaning ascribed to them in that legislation unless the context otherwise requires.

(e) A reference to a clause, paragraph, schedule or annexure is a reference to a clause or paragraph of or schedule or annexure to this Agreement and a reference to this Agreement includes any schedules and annexures attached to this Agreement.

(f) A reference to a document or agreement, including this Agreement, includes a reference to that document or agreement as novated, altered or replaced from time to time.

(g) A reference to '$', '$A', 'dollar' or 'A$' is a reference to Australian currency.

(h) A reference to a specific time for the performance of an obligation is a reference to that time in the State, Territory or other place where that obligation is to be performed.

Hynes Legal Pty Ltd © 2024

(i) A reference to a right includes a benefit, remedy, authority, discretion and power;

(j) A reference to a Party includes its executors, administrators, successors and permitted assigns and if more than one, includes those persons jointly and each of them severally, their respective executors administrators and assigns.

(k) Words importing the whole of the matter or thing include a part of the matter or thing.

(l) Words and expressions importing natural persons include partnerships, bodies corporate, associations (whether incorporated or not), firms, joint ventures, trusts, authorities, governments and governmental, semi-governmental and local authorities and agencies.

(m) A reference to a 'subsidiary' of a body corporate is to a subsidiary of that body corporate in accordance with Pt 1.2 Div 6 of the *Corporations Act 2001* (Cth).

(n) A reference to any legislation or statutory instrument or regulation is construed in accordance with the *Acts Interpretation Act 1901* (Cth) or the equivalent State legislation, as applicable, and includes a reference to an enactment, amendment or consolidated statute and any enactment substituted for the enactment and all legislation and statutory instruments issued under, such legislation or provision.

(o) Words and expressions defined in the *Corporations Act 2001* (Cth) as at the date of this Agreement have the meanings given to them in the *Corporations Act 2001* (Cth) at that date.

(p) Any provision in this Agreement stating that a Party 'must' do something or 'must' not do something should be read and construed as an agreement by that Party to do or not to do the matter or thing referred to.

(q) Each clause in this Agreement is not, except where expressly provided, limited in meaning or effect by any other clause in this Agreement.

(r) A reference to writing includes typewriting, printing, lithography, photography and any other method of representing or reproducing words, figures or symbols in a permanent and visible form.

(s) Any agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty entered into by a Party for or with another person binds them jointly and severally and an agreement, covenant, obligation, representation, undertaking, indemnity, guarantee or warranty in favour of a Party for or with another person is for the benefit of them jointly and severally. A release given to the other person shall not release the Party from any other obligation. The granting of time or another indulgence to another person will not release the Party of its obligations under this Agreement.

(t) If the day on which:

  (i) anything, other than a payment, is to be done is not a Business Day, that thing shall be done on the preceding Business Day;

  (ii) a payment is to be made is not a Business Day it shall be made on the next Business Day but if the next Business Day falls in the next calendar month it shall be made on the preceding Business Day; and

  (iii) if an act, other than a payment or the giving of a communication, is required to be done on a particular day and the act is done after 5pm on that day, it will be deemed to have been done on the following day.

Hynes Legal Pty Ltd © 2024

Schedule 2 - Duties

Attachment B: Fontana Gardens
Draft Caretaker Specific Duties List

The specific duties are to be performed at the frequency intervals set out in the list, and at such additional times as may reasonably be required by the Body Corporate or the circumstances. Those intervals are:

D = daily (5 days per week unless specified, **excluding public holidays**, expectation is performed once per day)

W = weekly

M = monthly

Q = quarterly

B = bi-annually (i.e. every six months)

A = annually

The assigned frequencies for tasks are averaged estimates. An example of this would be the following task in Management Administrative Services designated monthly – *'Check and endorse any accounts operated on behalf of the Committee (includes forwarding accounts to treasurer for approval then forwarding to Strata)'* An assigned frequency of monthly suggests that on average this should be performed once per month but may be required by circumstance to be performed more regularly.

If the duty is noted with **[Supervisory duty, performed at the cost of the BC],** this duty is a supervisory duty for the Caretaker and they are remunerated only for arranging and co-ordinating any external repairs/service. Any duty not found with this clause is duty for the Caretaker or their representative to complete and is considered a 'do' duty.

The Caretaker may engage staff or contractors at their cost to complete any 'do' duty required to be performed.

Terms:

There are several terms which will appear in the duties list which have specific meanings:

"as directed by the Committee" – The Committee will determine whether this duty will be undertaken as it is at their discretion. These duties are always supervisory in nature for the Caretaker.

"Check/clean" – This requires the Caretaker to check the area the duty describes as per the frequency and clean it, as necessary. This is often the case with recreational areas which are not always dirty but require checking frequently.

"Arrange" - This requires the Caretaker to organise or co-ordinate on behalf of the Committee as a supervisory function of external contractors.

Hynes Legal Pty Ltd © 2024

"/" – Means 'or' at the discretion of the Caretaker in the description of the duty. If a duty is referenced to be performed on days such as Tue/Wed/Thu this indicates cleaning to be completed on each day.

Minor Works Industry Accepted Standard Definition

As a generally accepted standard, "Minor Works" under a Caretaking/Management Agreement generally includes:

- Works that will not exceed 60 minutes (one hour) to complete;
- Works that do not involve specialist hand or power tools;
- Works that need not be undertaken from a ladder or any elevated platform;
- Works that are not of an aesthetic nature (e.g.: painting, plastering, rendering, etc) so as not to detract from the appeal of the Common Property;
- Works that are not related to licensed services (e.g.: hydraulic, mechanical, structural, chemical, electrical or fire protection);
- Works that could potentially place the Manager in any psychological or physical danger.

Specialist Equipment means equipment that –

a. Cannot be operated lawfully by a person unless that person has a certificate of competence, licence, permission or authority from the relevant government or industry body; or
b. Is infrequently used in Duties and would require frequent use or substantial experience to operate efficiently and in a good and workmanlike manner, or
c. Equipment that because of its size or expense and infrequent use would not normally be provided by the Body Corporate or Caretakers, having regard to the practice of other bodies corporate and caretakers operating

Specialist Work means work that –

a. Requires specialist equipment for it to be carried out in an efficient and good and workmanlike manner.
b. Requires a certificate of competence, qualification, licence, permission or authority from a government body for it to be performed lawfully
c. Cannot be performed efficiently or safely without specialist equipment.
d. Exceeds a fall height of two meters in accordance with the Workplace Health and Safety Regulations
e. Can only be properly carried out by a skilled tradesman and would not usually be carried out by the Caretaker having regard to the practice of other caretakers.

Emergency means –

Attendance is required at the scheme for any matters that affect personal injury or safety to the occupants. Additionally, any matters that potentially would create resultant damage to the scheme such as a burst pipe or flooding would constitute emergency attendance.

Hynes Legal Pty Ltd © 2024

BCM1.0	**Management Administrative Services**	**D**	**W**	**M**	**Q**	**B**	**A**
BCM1.01	Assist in the preparation of the Administrative and Sinking Fund budgets for the next financial year						**X**
BCM1.02	Attend Committee, extraordinary and annual general meetings				**X**		
BCM1.03	Be available to liaise with Committee and Strata via email, telephone and attend to common property issues		**X**				
BCM1.04	Carry out regular complex inspections and prepare reports including building maintenance issues for any committee meetings.			**X**			
BCM1.05	Check and endorse any accounts operated on behalf of the Committee		**X**				
BCM1.06	Maintain a log of any security issues and by-law breaches across the month.			**X**			
BCM1.07	Prepare a quarterly managers report for review by the committee and body corporate (progressively updated monthly)			**X**			
BCM1.08	Monitor the observance of the by-laws by those using the common property. [7 days per week]	**X**					
BCM1.10	Order, purchase and collect consumables for common property requirements across the month.			**X**			
BCM1.11	Submit invoice for reimbursement of out-of-pocket expenses			**X**			
BCM1.12	Source quotations that are requested by the Committee, when requested across the month.			**X**			

Hynes Legal Pty Ltd © 2024

IAS1.0	Infrastructure and Administrative Services	D	W	M	Q	B	A
IAS1.01	Arrange the testing of installed water back-flow devices [Supervisory duty, arranged at BC cost], if installed.						X
IAS1.02	Obtain a Certificate of Compliance for swimming pool						X
IAS1.03	Maintain a register of available building plans and specifications				X		
IAS1.04	Provide access and record the testing and tagging of common property electrical cords [Supervisory duty, arranged at BC cost]						X
IAS1.05	Arrange and supervise the testing of the Residual Current Devices as directed by the committee [Supervisory duty, arranged at BC cost]						X
IAS1.06	Arrange and coordinate the servicing of the entrance pedestrian vehicle gates as directed by the committee [Supervisory duty, arranged at BC cost]						X
IAS1.09	Arrange and supervise the professional testing of the fire hydrants [Supervisory duty, arranged at BC cost]						X
IAS1.10	Obtain a certificate of fire compliance from the fire contractor.						X

BBQ1.0	BBQ area (if installed)	D	W	M	Q	B	A
BBQ1.01	Check/clean the BBQ hot plates [Mon-Fri]	X					
BBQ1.02	Check the correct operation of all controls.		X				
BBQ1.03	Empty fat trays and check gas supplies		X				
BBQ1.04	Check/clean the floor areas of the BBQ across the week		X				

Hynes Legal Pty Ltd © 2024

CPD1.0	Car Parks, Driveways and Entrances	D	W	M	Q	B	A
CPD1.01	Blowervac all street entrance, driveway and car parking areas		X				
CPD1.02	Check the correct operation of the vehicle and pedestrian gates, across the week. Arrange any repairs as necessary.		X				
CPD1.03	Pick up Rubbish and littler throughout roadway areas and visitor car parks and dispose [Mon to Fri] (combine this duty with the daily garden rubbish walk)	X					
CPD1.04	Spot clean driveway and car park wet oil and grease spills and drips			X			
CPD1.05	Monitor regularly all residents and visitors vehicle parking and security [7 days per week]	X					
CPD1.06	Spray all driveways/roadways for weeds progressively over the month (combine duty with garden spraying)			X			

GEN1.0	General Areas	D	W	M	Q	B	A
GEN1.01	Check/inspect all fences and retaining walls and report any issues to the Committee.			X			
GEN1.02	Check/clean the vehicle and pedestrian entry gates			X			
GEN1.03	Check the correct operation of any EV charging stations, and arrange repairs as necessary. [if installed]			X			

LIG1.0	Common Area Lighting	D	W	M	Q	B	A
LIG1.01	Adjust light and power timers when necessary to meet required lighting times and following power failures				X		
LIG1.02	Arrange and supervise the replacement of inaccessible lighting on the common property [Supervisory duty, arranged at BC cost]				X		

Hynes Legal Pty Ltd © 2024

LIG1.03	Check/clean accessible lights to remove any insect or cob web build-up			X			
LIG1.04	Inspect all common area lights, during night time and replace accessible faulty bulbs/tubes as required		X				

LAG1.0	**Lawns and Gardens**	**D**	**W**	**M**	**Q**	**B**	**A**
LAG1.01	Arrange and co-ordinate contractors for the pruning and cutting back of large trees/palms [Supervisory duty, arranged at BC cost]						X
LAG1.03	Check all lawn and garden areas (including roadside external), pick up litter and dispose [Mon to Fri]	X					
LAG1.04	Fertilise all common area lawns as necessary					X	
LAG1.05	Hand fertilise selected gardens, plants, shrubs and palms as required					X	
LAG1.06	Mow all internal lawns and trim edges on the common property (36 times per year, 7-10 day schedule in summer, 2-3 week schedule in winter)		X				
LAG1.07	Mow all external council lawns and trim edges (36 times per year, 7-10 day schedule in summer, 2-3 week schedule in winter)		X				
LAG1.08	Prepare all garden beds, and mulch as directed by the committee						X
LAG1.09	Trim and shape all accessible trees, hedges and shrubs, clean up and dispose of all rubbish. [11 times per year] (all hedges progressively trimmed over the month)			X			
LAG1.10	Complete seasonal pruning for all accessible plants and shrubs				X		
LAG1.11	Replace/replant damaged plants, shrubs or trees (minor replacements only and not refurbishments of gardens)						X
LAG1.12	Spray all plants and shrubs for pests and diseases					X	
LAG1.13	Spray and control weeds in all common area gardens and along fence lines, paved areas, etc (all areas progressively sprayed over the month)			X			

Hynes Legal Pty Ltd © 2024

LAG1.14	Treat lawns for the eradication of bindii, clover and other weed growths as required					X	
LAG1.15	Hand weed all common garden areas which cannot be sprayed across the month.			X			
LAG1.16	Check lawn areas and spot top dress any holes or undulations.						X

MNT1.0	**Maintenance and Repairs**	**D**	**W**	**M**	**Q**	**B**	**A**
MNT1.01	Arrange and co-ordinate access for the common area pest control as directed by the committee [Supervisory duty, arranged at BC cost]						X
MNT1.02	Arrange and co-ordinate the cleaning of the residential lot gutters as directed by the committee.					X	
MNT1.03	Maintain an Asset and Service register for all Body Corporate assets requiring regular maintenance.						X
MNT1.04	Arrange and co-ordinate the high pressure cleaning of driveways, walkways, entrances and paved areas as directed by the committee [Supervisory duty, arranged at BC cost]						X
MNT1.05	Arrange any urgent repairs that are required on behalf of the body corporate.			X			
MNT1.06	Carry out minor repairs to common property that do not require the services of a skilled tradesperson		X				
MNT1.07	Check, clear and ensure all garden and roadway storm water drains and gutters are clear and free			X			
MNT1.08	Carry out inspections and prepare a report on any noticeable deterioration of the building or associated plant and equipment [Supervisory duty, arranged at BC cost]			X			
MNT1.09	Arrange and co-ordinate the servicing of the vehicle and pedestrian entry gates as directed by the committee.						X
MNT1.10	Instruct and liaise with contractors/tradesmen when on-site for repair work on behalf of Body Corporate		X				

Hynes Legal Pty Ltd © 2024

MNT1.11	Arrange and co-ordinate the line marking and painting of visitor car spaces at the direction of the committee [Supervisory duty, arranged at BC cost]						X

OSP1.0	Outdoor Swimming Pools and Associated Areas	D	W	M	Q	B	A
OSP1.01	Check and ensure the correct operation of all pool filtration equipment including the automatic chlorinator [Mon to Fri]	X					
OSP1.02	Check/de-web the poolside enclosures			X			
OSP1.03	Check/clean the pump filter baskets. Test for any leaks after cleaning.			X			
OSP1.04	Check/clean the automatic chlorinators fortnightly			X			
OSP1.05	Check and empty pool skimmer baskets and hose out as necessary across the week.		X				
OSP1.06	Check filter pressure and backwash pool filters, empty basket as necessary		X				
OSP1.07	Top up the pool level as necessary and backwash excess water in heavy weather situations			X			
OSP1.08	Check pool fencing, test and check gate mechanisms		X				
OSP1.09	Check, clean and update pool safety signage			X			
OSP1.10	Maintain shade sails in a clean and tidy condition, check and ensure safety of sail mounting points				X		
OSP1.11	Maintain the equipment shed and chemical storage facility in a clean and tidy condition		X				
OSP1.12	Remove floating matter from pools using scoop net [Mon to Fri]	X					
OSP1.13	Manually vacuum the swimming pool		X				
OSP1.14	Check/clean the pool furniture [if installed] [Mon to Fri]	X					
OSP1.15	Scrub swimming pool waterline to remove build-up			X			
OSP1.16	Brush side of pools and step areas to remove marks and stains		X				

Hynes Legal Pty Ltd © 2024

OSP1.17	Sweep, hose and clean pool surrounds, pickup and remove rubbish across the week as observed.		X				
OSP1.18	Take pool water sample to the pool shop for comprehensive testing, adjust/add chemicals as instructed			X			
OSP1.19	Test, record and adjust swimming pool chemical balance (chlorine & pH only) [7 days per week]	X					
RUB1.0	**Rubbish Collection**	**D**	**W**	**M**	**Q**	**B**	**A**
RUB1.01	Clean up spillage or refuse left from all garbage collections		X				
RUB1.02	Place out common property rubbish and recycling bins for collection and return [2 bins]		X				
RUB1.03	Take green waste to the tip using the Body Corporate supplied trailer.			X			
RUB1.04	Arrange for the removal of excess items by an external contractor as directed by the committee [Supervisory duty, arranged at BC cost]			X			

SEC1.0	**Security and Emergency**	**D**	**W**	**M**	**Q**	**B**	**A**
SEC1.01	Complete an annual audit of master keys and security keys						X
SEC1.02	Attend to any disturbances or emergencies across the week as necessary		X				
SEC1.03	Complete a morning check of the complex and facilities and identify any issues such as graffiti or damage (combine with daily rubbish check) [7 days per week]	X					
SEC1.04	Re-code gate access to the residents phone number and maintain a log		X				
SEC1.05	Maintain a register of master keys and keys under management			X			
SEC1.06	Monitor and ensure the ongoing operation of the CCTV security system and cameras [7 days per week]	X					
SEC1.07	Review CCTV security system to identify incidents, download images as requested and liaise with police/owners as necessary.			X			

Hynes Legal Pty Ltd © 2024

SEC1.08	Re program the general access code to all entry gates as directed by the Body Corporate						**X**

WHS1.0	**Workplace Health and Safety**	**D**	**W**	**M**	**Q**	**B**	**A**
WHS1.01	Record a log of any accidents or incidents			**X**			
WHS1.02	Complete a site induction for all Body Corporate Contractors			**X**			
WHS1.03	Ensure all Contractors that undertake services to the Body Corporate to sign "in" and "out" when entering the site as per the requirement under the workplace health and safety act [Mon to Fri]	**X**					
WHS1.04	Arrange a licensed/qualified consultant to review and update the Body Corporate's "Safety audit" [Supervisory duty, arranged at BC cost]						**X**
WHS1.05	Ensure the First Aid materials for emergencies are in stock			**X**			
WHS1.06	Complete a register of all chemicals used and stored on-site and ensure that Safety Data Sheets are in position next to the chemicals.				**X**		
WHS1.07	Report all identified hazards to the Committee for further instructions, take remedial action where necessary		**X**				

Hynes Legal Pty Ltd © 2024

Schedule 3 - Occupation Authority Plan

(PLAN TO BE INCLUDED)

Hynes Legal Pty Ltd © 2024