CARETAKING AND LETTING AGREEMENT

THIS AGREEMENT is made this 31 day of July 2019

BETWEEN

WHEREAS:

B. The Body Corporate is desirous of providing for the better caretaking, maintenance and repair of the Common Property including the care and maintenance of the gardens and grounds.

C. It has been agreed by and between the parties ("the Agreement") that the Body Corporate will engage a Caretaker and the Caretaker will accept such engagement for the purpose of performing certain duties on behalf of the Body Corporate as set out in this Agreement.

D. The Body Corporate has also agreed that the Caretaker may provide letting services for the owners of Lots in the Community Titles Scheme.

E. It has been acknowledged by the parties that this Agreement is not an Agreement entered into pursuant to Section 119(2) of the *Body Corporate and Community Management Act 1997* ("BCCM") and no authorisation of the Body Corporate's powers, authorities, duties and functions are made pursuant to this Agreement.

1. Appointment of Caretaker

(a) The Body Corporate appoints the Caretaker as the Caretaker of the said Development for a period of ten years certain to commence on 19 July 2019 and expiring on 18 July 2029 and the Caretaker hereby accepts such appointment upon the terms and conditions set out in this Agreement.

(b) **Where Caretaker is a Corporation**

(i) Where at any time the Caretaker shall be a corporation of any kind whatever, it shall be the responsibility of the Caretaker to ensure at all times an adequate number of its officers, Caretakers, servants or agents are available at the Property to carry out the Caretaker's duties and functions. Such persons used by the Caretaker to carry out the Caretaker's duties and functions, where they not be the principal shareholders and/or directors of the Caretaker, shall require the approval of the Committee of the Body Corporate. It shall be the responsibility of the Caretaker, where necessary, to seek such approval and such approval shall not be unreasonably withheld. When seeking any such approval the Caretaker shall provide to the Committee of the Body Corporate sufficient information concerning the persons involved to enable the Committee of the Body Corporate to make a reasonable determination;

(ii) Where at any time the Caretaker is a corporation of any kind whatever, and there is any alteration to the board of

directors or any alteration in the beneficial ownership or issue of further shares in the share capital of the Caretaker or any holding company of the Caretaker which in the reasonable opinion of the Committee of the Body Corporate alters the effective control of the Caretaker from the control thereof at the date hereof, such change in control of the Caretaker shall be deemed to be an assignment of this Agreement and the provisions set out in this Agreement relating to assignments shall apply.

(c) **Occupation Authority Areas**

Pursuant to the Standard Module and this Agreement, the Body Corporate grants to the Caretaker the exclusive right to occupy and use the areas of Common Property detailed in Schedule "C" as OA1 and OA2 (the Occupation Authority Areas) provided that:

(i) the use does not interfere to an unreasonable extent with the use and enjoyment of a lot or the Common Property by an Owner or occupier of a lot;
(ii) the caretaker keeps the Occupation Authority Areas clean and tidy at all times; and
(iii) the caretaker occupies the Occupation Authority Areas at the sole risk of the caretaker.

2. Remuneration of Caretaker

In consideration of the due and punctual performance by the Caretaker of its duties as set out in this Agreement, the Body Corporate shall pay to the Caretaker remuneration on the basis set out in Schedule "A" and paid by instalments as set out in that Schedule. The Body Corporate and the Caretaker acknowledge and agree that no part of the remuneration paid in respect of this Agreement is paid in respect of the carrying out by the Caretaker of any letting function.

3. Caretaker's Leave

The Caretaker shall have the right to appoint a suitable replacement for the person responsible in accordance with this Agreement for the performance of the Caretaker's duties and obligations pursuant to this Agreement for a period of, or an aggregate of periods, up to FOUR (4) weeks per annum, for the purpose of allowing the Caretaker a holiday or holidays for that period or aggregate of periods each year. On each occasion, details of the proposed replacement shall be provided to the Body Corporate at least ONE (1) calendar month prior to the commencement of the Caretaker's proposed holiday, and the Body Corporate shall as soon as reasonably practicable by notice to the Caretaker advise the Caretaker of its approval or otherwise of the proposed replacement PROVIDED THAT such details need only be provided twenty-four (24) hours prior to any proposed holiday for urgent business, family or personal reasons. Such approval shall not be unreasonably withheld. It shall be a matter for the Caretaker to ensure that the replacement from time to time adequately performs the duties and obligations of the Caretaker pursuant to this Agreement. Any breach of this Agreement on the part of such replacement shall be deemed to be a breach of the agreement by the Caretaker. Any remuneration payable to such replacement shall be the responsibility of the Caretaker.

4. Duties of Caretaker

The Caretaker shall by its employees contractors or agents:

(a) Maintain and care for the Development and attend to the gardening, cleaning and maintenance of the Body Corporate assets, the Common Property and any improvements thereon and in so doing, it shall use its best endeavours to maintain the Common Property of the Development to the same standard as applies as at the date of this Agreement.

(b) Use its best endeavours to see that the Development and any improvements on the Common Property are kept in good order and repair;

(c) Supervise the observance of the by-laws of the Body Corporate by the owners and/or the occupiers including their guests and licensees for the time being of the lots in the said Plan and provide any assistance necessary to the Body Corporate to deter any person creating a nuisance or annoyance on the Development or

committing any breach of the by-laws of the Body Corporate;

(d) At the request of the Body Corporate advise the Body Corporate concerning the performance of the duties of the Caretaker and provide other advice which the Body Corporate shall request relative to the maintenance and care of the Development;

(e) The Caretaker shall not be required to reside on scheme property but shall ensure that the Caretaker or its approved representative is contactable by telephone number between 8.30am to 5.00pm Monday to Friday and after hours in an emergency.

(f) Keep in its possession the master key or keys for the services and buildings under the control of the Body Corporate and the residents of the Development so far as individual owners shall permit PROVIDED HOWEVER that the possession of those keys shall be surrendered to no other person other than an authorised representative appointed by the Committee of the Body Corporate or the individual owner concerned but the Caretaker shall allow a lawfully authorised person in the course of his duties free access to any part of the building so authorised at all reasonable times;

(g) Report promptly on all things requiring repair and on all matters creating a hazard or danger and take remedial action where practicable;

(h) Where requested by the Body Corporate arrange and supervise contracts with skilled tradesmen to be entered into by and at the expense of the Body Corporate for all work of a specialist nature required for services to the Common Property for work to be carried out to the Common Property including specialist repairs and maintenance of the Common Property, specialist cleaning of any special floor surfaces, cleaning of external windows not easily accessible;

(i) So far as this duty may be consistent with the intentions of the parties to this Agreement, and subject to the approval of the Body Corporate from time to time, make contracts for water, electricity, gas, fuel, telephone and other necessary services or such of them as the Body Corporate deems advisable and place orders for such equipment, tools, appliances, materials and supplies as are necessary to properly maintain the Body Corporate assets, the Common Property and any improvements thereon and all machinery and appurtenances thereto and the Caretaker shall be under a duty to secure for and credit to the Body Corporate any discounts, commissions or rebates obtained as a result of such purchases;

(j) At all times ascertain and be aware of the general condition of the building on the Common Property and all machinery and appurtenances contained in the Common Property and building so that at all times the Caretaker is able to keep informed the representative of the Body Corporate in respect of such condition;

(k) To the best of its ability the Caretaker shall caretake the Development and any building on the Common Property and the Pontoon and endeavour to ensure that they are kept in first class order and repair and to protect the interest in the Development of the Body Corporate and of the owners of the lots in the Development;

(l) As far as the Caretaker is reasonably able and lawfully capable of so doing to keep order on the Development and take such precautions as it sees fit to safeguard the whole of the Development against unlawful entry or accident or damage;

(m) The Body Corporate shall furnish to the Caretaker a set of plans of the Development and with the aid of these documents and inspection made by competent personnel the Caretaker will inform itself with the layout, construction, location, character plan and operation of the power, lighting, security, plumbing, ventilating systems and other mechanical equipment installed in the building of the Common Property and shall advise the Body Corporate generally on the condition from time to time and shall recommend to the representative of the Body Corporate should the Caretaker consider it necessary for any changes or modifications to be made in respect of any matters in relation to these items;

(n) To perform such other acts and things as are reasonably necessary and proper in the discharge of its duties under this Agreement;

(o) To carry out the written instructions of the Body Corporate regarding specific matters or regarding permanent policies or procedures to be observed in the conduct of the business PROVIDED HOWEVER that the Caretaker may refer any such directions to arbitration in the manner provided in Clause 13;

(p) Generally cause the building on the Common Property and the appurtenances and grounds and all plant and equipment to be properly maintained at all times;

(q) Comply with and carry out all reasonable directions from time to time given by the Body Corporate to the Caretaker in and about the maintenance and care of the building and Common Property;

(r) Regularly inspect the fire fighting equipment installed within the Development, arrange for the inspection of such equipment by the Chief Fire Officer at least once in every period of twelve (12) months and arrange for any maintenance or other works necessary to keep such equipment in efficient working condition PROVIDED HOWEVER that the charges relative to such inspection and the out-of-pocket expenses required to keep the said equipment in order shall be borne by the Body Corporate;

(s) Regularly (and at least once per week) inspect all drainage, sewerage and septic systems servicing the building and if necessary arrange the rectification of any problems, the cost of which rectification shall be borne by the Body Corporate;

(t) Regularly (at least once per week) clean and start the motors to any auxiliary system (if any) and to arrange for maintenance or other works necessary to keep them in efficient working condition PROVIDED HOWEVER that the Body Corporate shall pay the cost of any parts and professional maintenance so incurred;

(u) Regularly inspect the electric or electronic security or other systems in the Development and arrange for maintenance or other works necessary to keep them in efficient working condition at the expense of the Body Corporate;

(v) Ensure that all common electrical apparatus including lighting is kept fully functional throughout the Development and arrange for maintenance or other works necessary to keep such apparatus in efficient working condition by a duly qualified person PROVIDED HOWEVER that the cost of any light globes, tubes, fuses and maintenance and other works shall be borne by the Body Corporate;

(w) At reasonable times, hose all walkways and access areas and other appropriate parts of the Common Property and clean and tidy all stairways, foyers and passages;

(x) As required, clean all glass and windows in all common areas (excluding the inside and outside of lot windows);

(y) Maintain and clean the swimming pool, gym and Multi-Purpose Room on a daily basis using equipment and materials supplied by, and at the cost of, the Body Corporate and, when necessary, arrange for the pool to be resurfaced at the cost of the Body Corporate.

(z) Operate, inspect and arrange maintenance of any waste disposal system;

(aa) Remove all rubbish and waste material daily to the point of disposal;

(ab) Mow the lawns surrounding the buildings and the adjacent footpath and maintain the gardens and shrubs to a high standard;

(ac) Effect minor repairs and maintenance to Common Property of such nature as not to require the services of a skilled tradesman;

(ad) Account promptly and faithfully to the Body Corporate and to Lot owners, as the case may be, for all their funds or other property (if any) in the possession or custody of the Caretaker;

(ae) Supervise the car parking arrangements as directed by the Body Corporate and maintain

the car parking areas on Common Property in a clean and tidy condition;

(af) Carry out all duties with equipment and materials supplied by, and at the cost of, the Body Corporate;

(ag) Generally carry out the work described in the Schedule B;

(ah) Perform such further duties as agreed to between the parties;

(ai) In addition to being onsite to fulfil completion of the duties, the Manager must meet with the Body Corporate Committee's representative when reasonably required and given sufficient notice to discuss the building and common property and the duties.

(aj) Arrange a professional to carry out periodic termite inspections, at the cost of the Body Corporate, on the dates recommended by the licensed contractor in the permanent notice which has been fixed to the Building (in the meter box) and within seven (7) days of such inspection dates report in writing to the Body Corporate on:

- the results of such inspections and whether or not there is any evidence of any termite activity;
- any recommended action required to maintain the Termite Protection; and
- any other matter relating to Termite Protection.

(ak) In the event the Body Corporate, after receiving the periodic termite inspection report from the Caretaker, instructs the Caretaker to take any action recommended in such reports then the Caretaker must carry out such action expeditiously or carry out the supervision of such action as required by the Body Corporate.

(al) Manage and operate a booking system for and monitor Owners and occupiers removalist activities as reasonably directed by the Committee.

(am) Monitor any electronic keycard system for access and security issues at the direction of the Body Corporate issue and retrieve cards and keep appropriate records of all cards and collect and account to the Body Corporate for payments for holding deposits in relation to access cards.

(an) If required, oversee the use by owners or occupiers of the use of the Pontoon and to keep the area clean and tidy subject to the requirements in the by-laws by owners and occupiers.

Where the Caretaker is a Natural Person

Where the Caretaker is a natural person, the Caretaker's duties hereunder shall be duly and punctually performed by the Caretaker personally PROVIDED THAT any of the Caretaker's duties hereunder may be performed under the supervision of the Caretaker by an assistant to the Caretaker if such assistant and assistant's responsibilities are previously approved in writing by the Committee of the Body Corporate. It shall be the responsibility of the Caretaker, where necessary, to seek such approval and such approval shall not be unreasonably withheld. When seeking any such approval the Caretaker shall provide to the Committee of the Body Corporate sufficient information concerning the persons involved to enable the Committee of the Body Corporate to make a reasonable determination. Any breach of this Agreement on the part of such an assistant shall be deemed to be a breach of this Agreement by the Caretaker. Any remuneration payable to such replacement shall be the responsibility of the Caretaker.

Where the Caretaker is a Corporation

Where the Caretaker is a corporation, the Caretaker's duties hereunder shall be only performed personally by those persons automatically authorised or who are approved by the Committee of the Body Corporate.

5. Staffing

(a) The Caretaker shall employ at the Caretaker's expense such staff as is necessary to keep the said development in good and proper order and repair PROVIDED HOWEVER that the engagement and dismissal of such staff shall be in the hands of the Caretaker and at the sole discretion of the Caretaker;

(b) The Caretaker may at its discretion sub-contract part or all of the duties of the

Caretaker hereunder PROVIDED HOWEVER that any sub-contract shall not diminish the obligations and responsibility of the Caretaker as herein contained.

6. Expenditure

(a) The Caretaker shall be entitled to pledge the credit of the Body Corporate (within the limits previously approved by 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 Caretaker pursuant hereto and the Carektaker shall be reimbursed for the expenses incurred in accordance with this Clause 6(a) PROVIDED THAT any major or extraordinary expenditure shall not be incurred without the prior approval of the Body Corporate or its representative authorised pursuant to Clause 14;

(b) Everything done by the Caretaker under the provisions of this Agreement shall be done as agent of the Body Corporate and all obligations or expenses incurred shall be on account of the Body Corporate;

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

7. Appointment of Letting Agent

(a) The Caretaker may conduct the business of letting residential accommodation units in the Development for those owners who require such services together with all associated services commonly rendered in connection in the Gold Coast area, other than the provision of food and beverages.

(b) The Caretaker as Letting Agent may maintain and staff the Occupation Authority areas at such times as are found to be necessary for the due provision of the letting business on the Common Property.

(c) The Caretaker as Letting Agent shall supervise the accommodation of tenants of all lettings arranged by it and shall ensure so far as practicable that no nuisance is created in the Development and that the building and Lots are not brought into disrepute.

(d) The Caretaker as Letting Agent may use its best endeavours to improve and expand the letting business and to increase the goodwill of the business.

(e) In so far as is lawful, the Caretaker as Letting Agent shall erect or procure the erection of signs in or about the Development (of a size type and design and in locations approved by the Body Corporate) for the purpose of promoting and fostering the letting business.

(f) The Caretaker as Letting Agent shall, at its own expense, obtain all necessary permits or consents or licences required by any local authority to enable it to conduct in the building the letting business and the Caretaker as Letting Agent covenants that it will at all times conduct the letting business in accordance with, and shall comply with, all statutes, regulations and by-laws or ordinances in any way relating to the letting business in a manner so as not unduly to interfere with the quiet enjoyment and occupation of the building and units and will comply with every by-law of the Body Corporate.

(g) The Caretaker as Letting Agent shall not be responsible for the cost of any alterations or additions to any part of the building or units which may be sought or required by lawful authority.

(h) The Caretaker as Letting Agent shall at all times comply with the requirements of the BCCM.

8. Duties of the Body Corporate

(a) The Body Corporate shall not, to the extent it is lawful to do so without the Caretaker's written consent, lease or agree to lease or grant any licence in respect of any part of the Common Property, or grant or agree to grant any right, to any person other than the Caretaker for the purpose of conducting any

business or service of the same or similar nature as any aspect of the letting business.

(b) It is acknowledged by the Caretaker as Letting Agent that the owners and occupiers are free agents and that while the Body Corporate will take all reasonable steps to ensure that there is no interference with the Caretaker as Letting Agent in the provision of such said services during the currency of this Agreement it is not within the scope of the Body Corporate to interfere with the ordinary exercise of choice of such services available to individual occupiers from suppliers of such services operating from outside the building.

9. Assignment

Permitted assignment by Caretaker:

(a) The Caretaker shall, on having given reasonable prior notice in writing to the Committee of the Body Corporate, be entitled to assign its interests in this Agreement in accordance with the terms of the Agreement and any purported assignment not made in accordance with those terms shall not bind the Body Corporate and shall not pass any interest in this Agreement to the purported assignee;

(b) The Caretaker may only assign its interest in this Agreement with and subject to the written consent of the Committee of the Body Corporate;

(c) The Committee of the Body Corporate shall not withhold its consent to a proposed assignment arbitrarily or capriciously but shall be entitled to require prior to giving its consent:-

(i) satisfactory evidence that the proposed assignee is a reputable responsible respectable person capable of satisfactorily performing the duties of the Caretaker pursuant to this Agreement;

(ii) Bank and business references for the proposed assignee;

(iii) information detailing the proposed borrowings of the proposed assignee in the Assignment;

(iv) that the proposed assignee execute in favour of the Body Corporate a Deed of Covenant binding the proposed assignee to observe the terms of this Agreement as if named in this Agreement as Caretaker. Such Deed of Covenant shall be settled prepared and stamped by the solicitors for the Body Corporate at the expense of the Caretaker;

(v) that in the event of a corporate assignee the principal shareholders and directors of the assignee shall provide personal guarantees of the obligations of the assignee in a form required by the solicitors for the Body Corporate and at the expense in all things of the assignee.

(d) Any change in the principal shareholding altering the effective control of the Caretaker shall be deemed an assignment of this Agreement and will require the consent of the Body Corporate .

(e) If the Committee of the Body Corporate refuses its consent to a proposed assignment the Caretaker may refer the matter to arbitration as provided in Clause 13 of this Agreement.

10. Termination by Body Corporate

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

(i) In the event of the Caretaker assigning or attempting to assign its interest in this Agreement contrary to the terms of this Agreement;

(ii) If the Caretaker without good reason shall fail or neglect to carry out its duties pursuant to this Agreement and such failure or neglect shall continue for a further period of fourteen (14) days after notice in writing shall have been given to the Caretaker specifying the duty which the Caretaker has failed or neglected to carry out and calling upon the Caretaker to perform such duty;

(iii) engages in misconduct, or is grossly negligent, in carrying out, or failing to carry out:

A. functions required under the engagement; or
B. obligations (if any) under the authorisation,

(iv) If an order is made or a resolution is passed for the winding up of the Caretaker or it is placed under Official Management under the Corporations Law as amended or it ceases or threatens to cease to carry on business or a receiver of any of its property is appointed or if any execution is levied against any of the property of the Caretaker;

(v) If a creditor's petition in bankruptcy is presented against the Caretaker or the Caretaker presents a petition in bankruptcy against himself or there happens any event referred to in Section 40 of the *Bankruptcy Act 1966* as amended which with the happening or failure to happen of any subsequent event referred to would result in the commission by the Caretaker of an act of bankruptcy or any document the execution of which by the Caretaker would result in the commission by him of an act of bankruptcy or any Deed of Assignment or Deed of Arrangement as prepared by or for or presented to the Caretaker for execution by him or of any executions levied against any of the property of the Caretaker or if the Caretaker enters into a scheme of arrangement or composition for the benefit of creditors;

(vi) is convicted (whether or not a conviction is recorded) of an indictable offence involving fraud or dishonesty;

(vii) is convicted (whether or not a conviction is recorded) on indictment of an assault or an offence involving an assault;

(viii) carries on a business involving the supply of services to the body corporate, or to owners or occupiers of lots, and the carrying on of the business is contrary to law.

(ix) the Caretaker as Letting Agent failed to comply with a code contravention notice;

(x) if the Body Corporate reasonably believes the Caretaker as Letting Agent after being given the notice, contravened a provision of the code of conduct for:
A. letting agents; or
B. body corporate managers and caretaking service contractors.

(b) If a Financier (as defined by the BCCM) of the Caretaker acts in place of the Caretaker or a Controller (as defined by the *Corporations Act 2001*) is appointed by a Financier of the Caretaker in respect of this Agreement and acts in place of the Caretaker the rights of the Body Corporate to terminate this Agreement as set out in Clauses 10(iv) and 10(v) above do not apply PROVIDED THAT if the Financier or a Controller, acting in place of the Caretaker, breach this Agreement after the Financier or the Controller commence so to act, then the Body Corporate may terminate this Agreement by:
(i) giving the Financier or Controller twenty-one (21) days' notice in writing of the breach together with details of the breach; and
(ii) The Financier or Controller do not remedy the breach within this twenty-one (21) day notice period.

11. Termination Otherwise

(a) Subject to the provisions of the BCCM in the event of either party to this Agreement being in default hereunder and such default continuing after the other party shall have given fourteen (14) days notice in writing to the party in default specifying the default not having been remedied within the period of fourteen (14) days as aforesaid then the party giving such notice may forthwith by further notice in writing determine this Agreement.

(b) In the event the Body Corporate terminates this Agreement pursuant to Clause 10(a)(ix) or clause 10(x) the Body Corporate must comply with the requirements of the BCCM.

12. Notices

(a) A notice, demand, waiver, approval, consent, communication or other document in connection with this Agreement ("Notice"):

(i) may be given by an authorised officer of the relevant party; and

(ii) must be given in writing; and

(iii) must be left at the address of the addressee, or sent by prepaid ordinary post (airmail if outside Australia) to the address of the addressee or facsimile transmission to the facsimile number of the addressee which is specified below or if the addressee notifies, in writing, another address or facsimile number then to that address or facsimile number.

(b) Unless a later time is specified in it a Notice takes effect from the time it is actually received or taken to be received.

(c) A Notice sent by post or facsimile is taken to be received:

(i) in the case of a letter, on the 6th business day after posting; and

(ii) in the case of a facsimile report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the recipient notified for the purpose of this clause if produced before 5.00 p.m. on a business day otherwise on the next business day.

13. Arbitration

In the event of any dispute arising between the Caretaker and the Body Corporate touching upon any matter arising under the terms of this Agreement or incidental to this Agreement or relative to the interpretation of any of the provisions of this Agreement which is not subject to Chapter 6 of the BCCM 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 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* or any statutory modification or re-enactment thereof for the time being in force PROVIDED THAT if any trivial vexatious or unreasonable applications are made the arbitrator may require that the party bringing such application bear the costs.

14. Instructions from Body Corporate to Caretaker

(a) The Committee of the Body Corporate shall from time to time authorise one of its members to give instructions to and communicate with the Caretaker on behalf of the Body Corporate and not more than one member of the Body Corporate at any time shall be given such authority;

(b) The Caretaker will confer fully and freely with the representative of the Body Corporate if so requested relative to the performance of the duties of the Caretaker set forth and shall at the request of the representative of the Committee of the Body Corporate attend by its authorised representative meetings of the Committee of the Body Corporate. The representative of the Caretaker shall be entitled to be heard on any relevant question or matter at any such meeting.

15. Costs and Stamp Duty

Each party hereto shall bear their own costs but all stamp duty assessed on, applicable to or in any way connected with this Agreement shall be borne by the Caretaker.

16. Transfer by Death

It is agreed and acknowledged by the Body Corporate that should a natural person or persons be the Caretaker pursuant to this Agreement by way of assignment to them, then those person or persons shall have the right upon their death to transfer their interest by way of Will or operation of law to a person persons or corporation of their choice. The Body Corporate shall execute all documents necessary to acknowledge the Transfer by Death, such document shall be prepared at the cost of the Caretaker or the Caretaker's estate executor.

17. Severance of Unlawful Provisions

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 evidences of these presence, so as to uphold the legality, validity and enforceability of the remaining provisions hereof.

18. Goods and Services Tax

(a) In this clause, GST refers to Goods and Services Tax under *A New Tax System (Goods and Services) Act 1999* "GST Act" and the terms used have the meanings as defined in the GST Act.

(b) It is agreed that all amounts agreed to be paid by the Body Corporate to the Caretaker, being the consideration for the supply expressed in this Agreement are exclusive of GST.

(c) In respect of any liability of the Caretaker for GST under this Agreement, and the renewal or extension of this Agreement, including all remuneration and reimbursement of expenses or any consideration for any other taxable supply the Body Corporate covenants to pay to the Caretaker at the same time as any payment is made involving the Caretaker in GST liability, the additional amount of GST, together with the payment to which it relates.

(d) The Body Corporate's liability under clause 18(c) is to reimburse the full amount of GST, disregarding and excluding the Caretaker's entitlement to input tax credits or other credits or reimbursements for GST.

(e) Notwithstanding clause 18(d), if the Caretaker is entitled to an input tax credit in relation to any amount recoverable from the Body Corporate under clause 18(c), the amount payable by the Body Corporate shall be reduced by the amount of the input tax credit which the Caretaker has received or claims and is entitled to receive.

(f) In respect of each payment by the Body Corporate under clause 18(c), the Caretaker agrees to deliver to the Body Corporate as required under the GST Act, tax invoices in the form which complies with the GST Act, and the regulations, to enable the Body Corporate to claim input tax credits in respect of the taxable supply.

19. Non-Exclusive

The Caretaker shall not be required to provide caretaking services exclusively to the Body Corporate and shall be permitted to carry out similar caretaking servicers to any other property or development.

20. Honesty, fairness and professionalism

(a) The Caretaker must act honestly, fairly and professionally in performing the Caretaker's Duties and the functions of the Caretaker under this Agreement.

(b) The Caretaker must act to the best interests of the Body Corporate unless it is unlawful to do so.

(c) The Caretaker must not engage in fraudulent or misleading conduct in performing the Caretaker's Duties and the functions of the Caretaker under this Agreement.

21. Unconscionable Conduct

The Caretaker must not engage in unconscionable conduct in performing the Caretaker's functions and the Caretaker's Duties under this Agreement.

Examples of unconscionable conduct:

(a) taking unfair advantage of the person's superior knowledge relative to the Body Corporate;

(b) requiring the Body Corporate to comply with conditions that are unlawful or not reasonably necessary;

(c) exerting undue influence on, or using unfair tactics against, the Body Corporate or an Owner of a lot in the Community Titles Scheme.

SCHEDULE "A"

The Body Corporate will pay a fee to the Caretaker:

1. The fee payable to the Caretaker shall be:
   (a) an amount of $50,000.00 per annum for a period of the first twelve (12) months.

   (b) The said sum shall be payable calendar monthly in arrears, the first payment being due and payable one (1) calendar month from the date of registration of the plan as aforesaid and subsequent payments calendar monthly thereafter.

2. The remuneration of the Caretaker shall be reviewed annually for each next ensuing twelve (12) month period during the currency of this Agreement and any extension or renewal thereof and shall be as mutually agreed to by the parties and, failing such agreement, at such remuneration as shall be determined by a nominee appointed for that purpose by the President for the time being of the Queensland Law Society Incorporated PROVIDED HOWEVER that such remuneration for each annual period shall not be less than the rate paid for the immediately preceding twelve (12) month period plus an adjustment equal to the proportion that the Index Number at the commencement of the relevant twelve (12) month period bears to the Index Number at the commencement of the immediately preceding twelve (12) months.

In this Clause the words "Index Number" shall mean the All Groups Consumer Price Index at Brisbane published from time to time by the Australian Bureau of Statistics PROVIDED THAT should the Consumer Price Index be discontinued or abolished then an appropriate price index nominated by the Australian Statistician (or failing him the principal officer of the Body Corporate's Bank in Brisbane or some other responsible officer of such bank) shall be substituted.

PROVIDED FURTHER that if it becomes impossible to determine the remuneration at any time during the term hereof by reason of any change after the date hereof in any of the methods used to compile the said Index or if any dispute shall arise between the parties hereto with respect to the amount of additional remuneration or with respect to the construction or effect of this clause the determination of the additional remuneration or other matter in dispute shall be made by the President for the time being of the Queensland Law Society Incorporated or by his nominee.

PROVIDED FURTHER that at the expiration of each three (3) year period, the remuneration of the Caretaker shall be reviewed to market by agreement between the parties, and failing agreement, by an arbitrator appointed by the method and with the provisos referred to earlier in this clause and the same conditions relating to arbitration as set out in this clause shall apply.

PROVIDED FURTHER under no circumstances shall the arbitrator determine that the remuneration shall be less than the remuneration for the previous annual period increased by a percentage equal to the percentage that the Index Number at the commencement of the relevant twelve (12) month period bears to the Index Number for the immediately preceding twelve (12) month period.

SCHEDULE "B"

Without derogating from the generality of the Caretaker's duties above, the Caretaker shall be responsible for the following duties (which may be performed by the Caretaker or his assistant or delegate).

CLEANING AND GROUNDS MAINTENANCE - DAILY ROUTINE

Outdoor Recreational Areas	Check all recreational areas are clean and tidy.
Pool	Vacuum pool and clean (where provided) skimmer baskets
	Remove all floating and suspended matter from pool with skimmer nets.
	Check water temperature in pool.
	Empty filter baskets in filter/plant room.
	Check pool for chlorine and PH levels.
	Check that automatic chlorinators are working correctly (report when chlorine switch is low).
	N.B Pool to be ready for use prior to 7.00a.m. daily. Report any malfunction.
Multi-Purpose Room	Clean and vacuum daily
	Take bookings from Owners and occupiers for the use of the Multi-Purpose Room and collect such hire fee (if any) as determined by the Body Corporate from time to time.
	Account to the Body Corporate for all hire fees received (if any).
	Clean any toilet facilities
Gym	Clean (by vacuum or mop with detergent and/or disinfectant as necessary) and tidy equipment and carry out a visual inspection of equipment and report to the Body Corporate any matter which the Caretaker considers may need attention by a specialist contractor or the equipment supplier.
Security	Check security doors to buildings, pool, Multi-Purpose Room and Common Areas.
	Attend to reasonable Body Corporate phone call enquiries regarding security matters (to the extent reasonably consistent with the duties).
	Maintain liaison with the security operator (if any) (and maintain a log about security matters in a form approved of by the Body Corporate).
	Where reasonably practicable turn out for all fire alarms to ascertain in the first instance if alarm is genuine or a repair call as required.

	Monitor Security Devices (being any plant, equipment, device, cameras or other thing that monitors or records people or vehicle movement (or both) from and to the scheme property or over any part of the scheme property) and arrange for the storage of recorded data from Security Devices. Ensure that the Security Devices are maintained and kept in good working order so that they are fully functional.

CLEANING AND GROUNDS MAINTENANCE - WEEKLY ROUTINE

Barbecue area	Mop over floors with cleanser/ deodoriser. Check LPG gas cylinders, spare to be full at all times. Report empty cylinders. Check operation of barbecue controls/jets and light fittings. Clean out drip tray and renew sand.
Fire Safety	Check fire hoses in accordance with requirements specified in the Australian Fire Safety regulations.
Grounds/Footpath	Sweep all pathways and hose clean. Hose clean and scrub where necessary all outdoor furniture to remove dirt stains. Cut grass and trim edges including all footpaths adjoining the said Development - all clippings are to be mulched and spread on garden beds. Weed lawns and gardens, as necessary. Wash out all bins with disinfectant/cleanser. **N.B.** Report any repair/replacement requirements to the Body Corporate Manager within twenty-four hours.
Pool	Clean and replace pool (where provided)filter pads (as necessary). Replace filter powder (as necessary). Check pumps and motors for serviceability and report any damage or malfunction. Clean out plant rooms and leave in a neat and tidy condition.
Garbage Bin Area	Scrub out bin area with disinfectant/cleanser. Thoroughly wash down and wipe clean all door surfaces with a disinfectant/cleanser.
Multi-Purpose Room	Wash any hard floors, check all light fittings and replace when necessary.

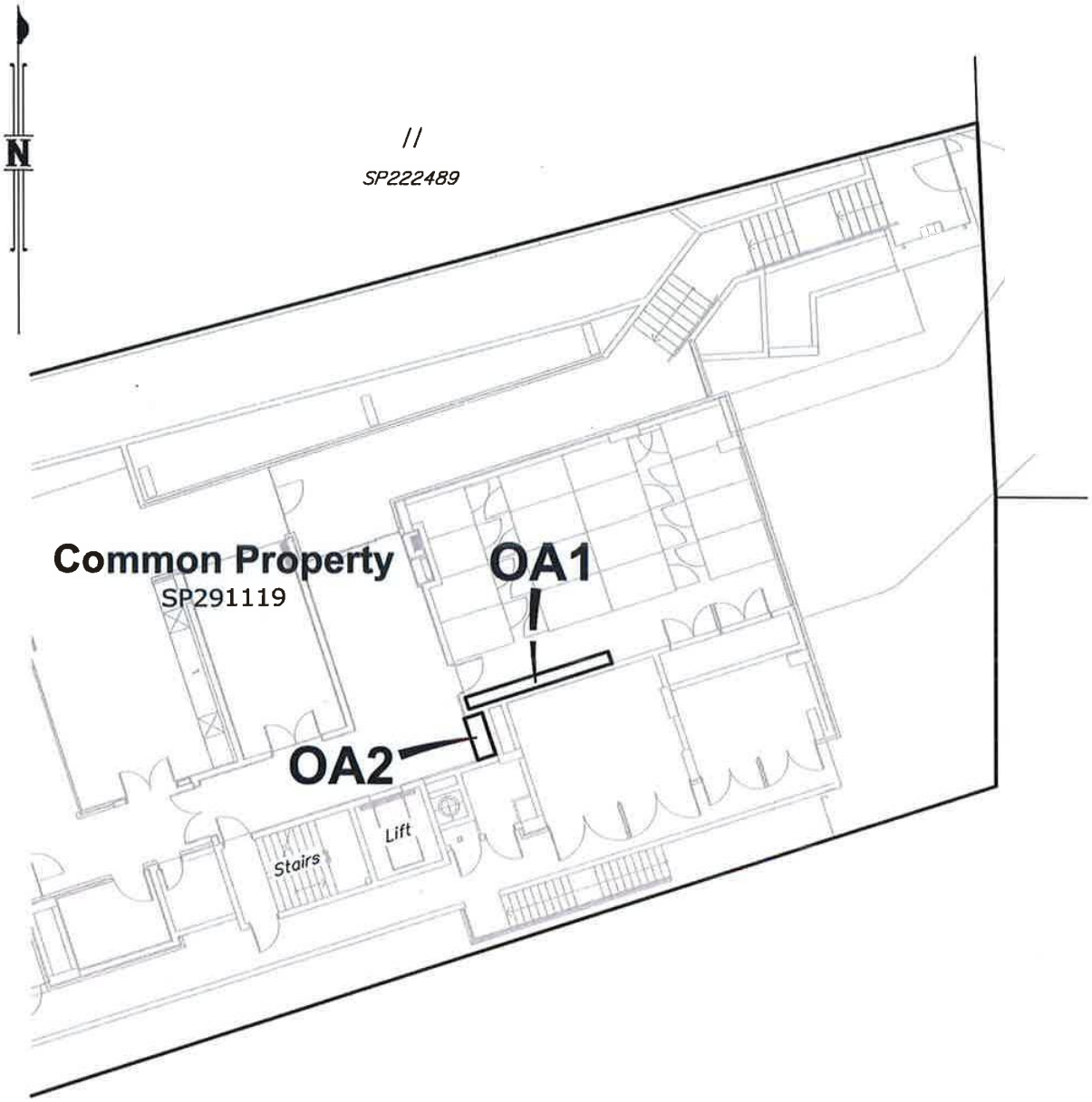
CLEANING AND GROUNDS MAINTENANCE - MONTHLY ROUTINE

Grounds/Footpath	Trim hedges, fertilise all lawns and gardens (seasonally). Check condition of soil in gardens and replenish if necessary. Spray control chemicals to prevent damage to plants from insects, pests and blights. Treat lawns seasonally for eradication of Bindi, Clover, and other weed growths. Replace sections of turf as necessary

	(damaged by oils, wear, etc.). Aerate all gardens with a garden fork or similar. **NB:** All rubbish, garden and grass clippings etc collected by the Caretaker pursuant to his duties shall be removed at the Body Corporate's expense.
Multi-Purpose Room	Report any maintenance items to Body Corporate and carry out any maintenance and repairs unless such maintenance and repairs requires a specialist contractor.

SCHEDULE "C"
Occupation Authority Areas Plan

OCCUPATION AUTHORITY PLAN



NOTE!

This is a draft occupation authority plan and the final plan may be subject to change. The proposed lots have not been defined on site, and Bennett & Bennett Consulting Surveyors accepts no responsibility for any amendments to location, areas, or shape that may occur during the development process. This plan has been prepared for the purpose of identifying the approximate location and size of registrable interests, and has been derived from information supplied by others. This note is an integral part of this plan and no part of the plan may be reproduced without this note.

Notes:
1. Drawn to Scale on A4 sheet
2. OA Areas bounded by internal face of wall unless noted otherwise.

Scale 1:200

0m 5 10 15 20

Chairperson Signature

Secretary Signature