

CARETAKING AGREEMENT

THIS AGREEMENT is made by way of Deed this 1st day of June 2011

BETWEEN: BODY CORPORATE FOR LC COMMUNITY TITLES SCHEME 199999 a body corporate formed under the Body Corporate and Community Management Act 1997 ("the Act") of 48LRT, Queensland ("the Body Corporate")

AND: RTJM of Unit 1, LC, 48LRT, Queensland ("the Caretaker")

INTRODUCTION:

A.The Body Corporate wishes to provide for the control and management of the Complex and the maintenance, caretaking and repair of the Common Property.

B.The Body Corporate will appoint the Caretaker which will accept such appointment to so assist the Body Corporate as a service contractor and to perform the Caretaking Duties.

C.The Caretaker is a service contractor as that term is defined in the Act.

IT IS AGREED: -

1. DEFINITIONS

1.1 In this Agreement except where inconsistent with the context words used which are defined in the Act will have the meaning so defined and the following terms will have the following meanings -

(a) "Associate" - if the Caretaker is a company, its directors, substantial shareholders and its management staff, or if the Caretaker is a partnership, the partners and management staff of the partnership;

(b) "Caretaker's Unit" - Lot 1 in the Scheme;

(c) "Caretaking Duties" - those duties which the Caretaker must perform under this agreement;

(d) "Commencement Date" - July 1, 2011;

(e) "Complex" - the Lots and Common Property comprised in the Scheme and being the complex known as LC situated at 48LRT, Queensland;

(f) "Common Property" - the common property as defined by the Act and which is the responsibility of the Body Corporate to maintain, and includes all property of the Body Corporate located on the common property, but does not include any Exclusive Area;

- (g) "Committee" - the committee of the Body Corporate elected or appointed under the Act;
- (h) "Controller" - the natural person or persons who in the reasonable opinion of the Body Corporate hold effective control of the relevant company;
- (i) "C.P.I." - the Consumer Price Index All Groups for Brisbane published by the Australian Bureau of Statistics, or if that is suspended or discontinued, then the Queensland male basic wage applicable in Brisbane;
- (j) "Exclusive Area" - any part of the Common Property in respect of which any person, Owner or Lot, has a lease, licence or exclusive use;
- (k) "Front Yards" - the front yard of each Lot in the Scheme comprising the area between the front building line and the front boundary of the Lot;
- (l) "Gardening Service" - Is limited to -
- (i) in relation to the Front Yards, mowing and edging of lawns, maintaining garden beds and shrubs, operating any watering systems (where lawful), fertilising and weed controlling, and arranging for mulching and top dressing; and
- (ii) in relation to the Nature Strips, mowing and edging of lawns;
- however, it does not include -
- (iii) maintenance of any high maintenance plants like roses, landscaping or other features in the Front Yards; or
- (iv) maintenance of any lawns, garden beds, plants or landscapes in areas between dwellings or immediately adjacent to the side of dwellings; or
- (v) maintenance of any areas behind a fence on a Lot or courtyards at the rear of dwellings.
- (m) "Lots" - lots in the Scheme;
- (n) "Management Rights" has the meaning given to the term "management rights" in the Act;

- (o) "Maximum Expenditure" - the amount agreed upon by the Body Corporate and the Caretaker from time to time;
- (p) "Nature Strips" - the nature strips immediately adjacent to LC on LR and EB street and the Brisbane City Council Reserve west of LC between the boundary fence and the bicycle pathway, which are not Common Property;
- (q) "Nominee" - the person nominated by the Body Corporate under Clause 7.1;
- (r) "Owners" - registered owners of Lots and includes mortgagees in possession;
- (s) "Remuneration" - \$9999999 (plus GST) for the first year of the Term and after that as calculated under this Agreement;
- (t) "Scheme" - the Community Titles Scheme for the Complex and under which the Body Corporate was created;
- (u) "Term" - 10 years from the Commencement Date, terminating on the Termination Date; and
- (v) "Termination Date" - June 30, 2021.

2. INTERPRETATION

In the interpretation of this Agreement unless the context otherwise requires: -

- (a) Words denoting any gender include all other genders.
- (b) Words denoting persons include all bodies, associations, trusts, partnerships, instrumentalities, and entities corporate or unincorporate, and vice versa.
- (c) References to any of the parties include in the case of a person, their personal representatives and permitted assigns, and in other cases their successors and permitted assigns.
- (d) Any obligation on the part of two or more persons is deemed to bind or benefit as the case may be, any two or more of them jointly and each of them severally.

- (e) Words expressing the singular include the plural and vice versa.
- (f) Headings are included for convenience only and do not affect the interpretation of this Agreement.
- (g) References to Sections, Clauses, Recitals, Schedules and Annexures are to Sections and Clauses of and Recitals, Schedules and Annexures to this Agreement.
- (h) References to this Agreement are to this Agreement as amended supplemented or varied from time to time.
- (i) References to any document or agreement includes all references to such document or agreement as amended, novated, supplemented, varied or replaced from time to time.
- (j) Expressions cognate with expressions defined in clause 1 are to be construed accordingly.
- (k) References to dates and times are to Brisbane time.
- (l) References to "\$" and "dollars" are to Australian dollars.
- (m) Recitals to this Agreement are to be read as and form part of this agreement
- (n) References to writing include typing, telex, facsimile and all other means of reproducing words in a permanent and visible form.
- (o) References to any legislation includes any legislative provision which amends, extends, consolidates or replaces it and any orders, regulations, instruments, proclamations or other subordinate legislation made under it.
- (p) References to institutes, associations, bodies and authorities whether statutory or otherwise will, if it ceases to exist or is reconstituted, renamed or replaced or its powers or functions are transferred to refer to the institute, association, body or authority established or constituted in its place or which substantially succeeds to its powers or functions.
- (q) No rule of construction will apply to the disadvantage of a party because that party was responsible for the drafting of this Agreement or any part of it.
- (r) Unless application is mandatory by law, any legislation present or future will not apply to this Agreement so as to abrogate, extinguish, impair, delay or otherwise prejudicially affect the exercise or enjoyment of any rights given or accruing to any party.

3. APPOINTMENT AND TERM

3.1 The Body Corporate appoints the Caretaker for the Term to look after the Common Property and perform the Caretaking Duties from the Commencement Date.

3.2 The Caretaker -

- (a) accepts the appointment;
- (b) will look after the Common Property as required by this Agreement;
- (c) will perform the Caretaking Duties; and
- (d) is an independent contractor of the Body Corporate.

4. REMUNERATION

4.1 The Remuneration will be increased on each anniversary of the Commencement Date during the Term by the same percentage of the previous year's Remuneration as the last percentage increase in the C.P.I. for one year as last recorded by the Commonwealth Statistician immediately before the year in which the Remuneration is to be reviewed.

4.2 The Body Corporate must pay the Remuneration to the Caretaker by equal monthly instalments in arrears, the first payment one calendar month from the Commencement Date, and monthly after that,

4.3 The Body Corporate must pay to the Caretaker in addition to the Remuneration a further amount equal to the Remuneration multiplied by the statutory rate of GST (as defined in the A New Tax System (Goods and Services Tax) Act 1999) prevailing at the time of payment.

4.4 The Remuneration is paid only for the Caretaking Duties, subject to clause 5.7, and not for any letting or ancillary services which the Caretaker or any other entity provides.

5. CARETAKING DUTIES

5.1 In addition to any specific duties set out in any schedule to this Agreement, the Caretaker must as reasonably required (and where lawful) in order to keep the Common Property to the current high standard -

- (a) hose or otherwise clean all walkways, access areas and other areas of the Common Property that require cleaning.
- (b) keep clean, tidy and maintained all parts of the Common Property;
- (c) maintain and clean any swimming pool, spa and common area toilet and shower facility.
- (d) clean any storm water drains and gutters on Common Property.
- (e) mow and trim the edges of the lawns.
- (f) maintain the lawns, gardens and shrubs, which duty includes maintaining and operating any watering systems, fertilizing, weed control, and arranging mulching and top dressing; and
- (g) effect minor repairs and maintenance to the Common Property where the services of a skilled tradesperson or specialist contractor are not required.

5.2 The Caretaker must arrange contracts between the Body Corporate and independent Contractors for all work of a specialist nature required for any of those things referred to in Clause 5.1 or for any services to, or work to be carried out to, the Common Property including without limitation -

- (a) specialist cleaning, repairs, maintenance, landscaping, or other work in relation to the Common Property.
- (b) cleaning of external windows or parts of the Complex not easily accessed; and
- (c) the provision of water, electricity, gas, fuel, telephone and other necessary services as required by the Body Corporate.

Such contracts with independent contractors will only be entered into with the prior consent of the Body Corporate, but the Body Corporate must not unreasonably withhold such consent.

5.3 The Caretaker must -

- (a) regularly ensure the correct operation and, if necessary, arrange for expert specialist maintenance of -
 - (i) any waste disposal system.
 - (ii) all Common Property electrical apparatus.
 - (iii) any pumps and auxiliary motors.
 - (iv) any security systems; and
 - (v) all other parts of the Common Property where inspection and/or maintenance is required.
- (b) arrange all appliances, equipment, material and supplies necessary to carry out the Caretaking Duties and to generally maintain the Common Property.
- (c) promptly report and account to the Body Corporate for -
 - (i) matters requiring repair or creating a hazard or danger that involves expenditure of money in excess of the Maximum Expenditure.
 - (ii) use by the Caretaker of any Body Corporate funds; and
 - (iii) use by the Caretaker of any other property of the Body Corporate in carrying out the Caretaking Duties.
- (d) monitor the observance of the by-laws of the Body Corporate by Owners and occupiers of Lots (including their guests and licensees) for the time being. The Caretaker is authorized by the Body Corporate, to the extent if any that such authority can be given, to evict or deal with any person creating a nuisance or annoyance on the Common Property or committing any breach of the By-laws of the Body Corporate to the same extent that the Body Corporate itself may do. Further, the Caretaker is authorized, to the extent if any that such authority can be given and so far as the Caretaker is reasonably able and lawfully capable of so doing, to keep order in the Complex and to take such precautions as the Caretaker thinks fit to safeguard the Complex against unlawful entry or accident or damage.

- (e) monitor the use of any recreational areas including without limitation any swimming pool and spa;
- (f) advise the Body Corporate of compliance or non-compliance with any relevant laws concerning the maintenance and operation of the Common Property.
- (g) notify the Body Corporate of any alteration of the fire safety requirements.
- (h) regularly inspect the firefighting equipment on Common Property, arrange any requisite inspections by the relevant officer when required and, at the expense of the Body Corporate, arrange for maintenance necessary to maintain the firefighting equipment in an efficient working condition.
- (i) maintain and keep open an office as a reception for the caretaking business during such hours as the Caretaker reasonably considers necessary;
- (j) maintain and supervise car parking arrangements on the appropriate areas of the Common Property;
- (k) keep possession of all keys for any Common Property areas and keys of any Owners who provide them to the Caretaker; and
- (l) keep the lighting of Common Property operating efficiently.

5.4 The Caretaking Duties may be carried out by the Caretaker, its delegates or its employees.

5.5 The Caretaker's duties under this Agreement are limited to those that do not reasonably require the services of a skilled or specialist tradesperson or contractor whose services, if and when required, will be arranged by the Caretaker at the direction and expense of the Body Corporate. Without limitation, these would include duties to be carried out in an area that exceeds a fall height of two meters as per the Workplace Health and Safety Regulation (Part 20 Sections 316 - 325, working from heights and working from ladders).

5.6 Subject to clause 5.7, the Caretaking Duties relate only to the Common Property and not to any Lots, to any Exclusive Areas nor to any external surfaces (or things on such surfaces) of Lots that are or are in the nature of townhouses or the like (even where such surfaces or things thereon are Common Property).

5.7 The Caretaker and the Body Corporate agree, that in relation to the Front Yards and the Nature Strips -

(a) The Caretaker shall provide a Gardening Service -

(i) with respect to the Nature Strips; and

(ii) to the Front Yards for such of the owners or occupiers of Lots in the Scheme who require that service.

(b) No part of the remuneration under this Agreement relates to the Gardening Service, and the Caretaker shall perform the Gardening Service at no additional cost to the Body Corporate, or the owners/occupiers;

(c) Should any owner or occupier not require the Caretaker to perform the Gardening Service in respect of their Front Yard, there shall be no reduction in the Remuneration in respect of that; and

(d) Should any owner or occupier wish to engage the Caretaker to provide any additional services in respect of their lot, (for example, to maintain the rear courtyard) they are entitled to do so separately, at a rate to be agreed upon between that person and the Caretaker.

6. EXPENSES

6.1 All of the Caretaking Duties must be carried out at the cost and expense of the Caretaker unless this Agreement provides that they are to be carried out at the expense of the Body Corporate.

6.2 The Body Corporate must pay all costs and expenses of -

(a) all work of a specialist nature;

(b) all external maintenance agreements and other contracts or agreements with independent contractors;

(c) all fuels, appliances, materials, equipment and supplies necessary to enable the Caretaker to perform the Caretaking Duties; and

(d) all out-of-pocket costs for repair and maintenance of the Common Property.

6.3 The Caretaker can spend up to the Maximum Expenditure for each individual item of expenditure from monies of the Body Corporate in carrying out the Caretaking Duties.

6.4 The Body Corporate must reimburse the Caretaker for any of the Caretaker's monies spent under Clause 6.3 within 14 days of the Caretaker providing written evidence of the expenditure.

7. INSTRUCTIONS

7.1 The Body Corporate must -

- (a) nominate one person to communicate with the Caretaker on its behalf; and
- (b) notify the Caretaker in writing of the appointment of that Nominee or its replacement.

7.2 The Caretaker must -

- (a) confer with the Nominee concerning the Caretaking Duties; and
- (b) attend any general meeting or Committee meeting of the Body Corporate if requested and given reasonable notice by the Nominee

8, ASSIGNMENT ANO DEALING

8.1 The Caretaker must not assign its Interest in this Agreement unless it obtains the Body Corporate's consent.

8.2 The Body Corporate must -

- (a) not unreasonably, arbitrarily or capriciously refuse or delay giving its consent to any proposed assignment; and
- (b) give its consent or refusal to any proposed assignment within 30 days of the Caretaker giving to it the information reasonably necessary for the Body Corporate to properly consider the proposed assignment.

8.3 Before giving its consent to any proposed assignment, the Body Corporate will be entitled to require -

(a) satisfactory evidence that the proposed assignee and any Associates who will be carrying out the Caretaking Duties are financially sound and reputable¹ responsible, respectable and capable of satisfactorily performing the Caretaking Duties; and

(b) two business references and two personal references of the proposed assignee and any Associates who will be carrying out the Caretaking Duties.

8.4 As a condition of giving its consent to any assignment, the Body Corporate will be entitled to require -

(a) that the proposed assignee execute in favours of the Body Corporate a Deed of Covenant to comply with the terms of this Agreement;

(b) that the Caretaker pay to the Body Corporate all reasonable legal costs incurred by it in giving its consent;

(c) if the proposed assignee is a company, other than a public company, personal guarantees from the working directors and principal shareholders; and

(d) that the assignee, or if it be a company it or its Controller becomes the registered owner of, or otherwise acquires the right to occupy, the Caretaker's Unit.

8.5 Subject to the Act, the Body Corporate must not require or receive any premium, payment or benefit for any request to consent or consent given under this clause, except as provided in Clause 8.4(b).

8.6 Where it is proposed that one or more of the natural persons that make up the Controller at any time are to cease to do so or are to be replaced, that will be regarded as an assignment requiring approval under this Clause 8.

8.7 Upon an 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 The Body Corporate may terminate this Agreement if the Caretaker -

(a) is convicted of an indictable offences involving fraud or dishonesty.

(b) is guilty of gross misconduct or gross negligence in performing or failing to perform the Caretaking Duties.

(c) is in breach of this Agreement, and that breach continues at the end of 21 days after notice in writing delivered by the Body Corporate to the Caretaker requiring that breach to be remedied.

(d) if a company, becomes subject to any form of external administration referred to in the Corporations Law; or

(e) if an individual, is bankrupt or makes any assignment for the benefit of creditors or enters into any composition or scheme of arrangement.

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

(a) 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;

(b) If the Body Corporate shall fail to pay the Manager any remuneration payable to the Manager 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 by the Manager.

10. NOTICES

10.1 All notices and other communications between the parties may be sent by certified post with postage prepaid or by hand delivery to the party at the address shown in this Agreement or by facsimile transmission to the facsimile number of the party or to such other address or person as either party may specify by notice in writing to the other.

10.2 All such notices or communications will be deemed to have been duly given or made

(a) if by mail 2 business days after being deposited in the mail with postage prepaid;

(b) if delivered by hand at the time of delivery; and

(c) if sent by facsimile transmission, when the sender's transmission record indicates that the same was received without error.

11. CARETAKER'S UNIT

11.1 The Caretaker must, or If it is a company It or its Controller must, reside in the Caretaker's Unit.

11.2 If, under Clause 11.1, the registered owner of the Caretaker's Unit is some person or persons other than the Caretaker, the Caretaker must if requested by the Body Corporate procure such person or persons to enter into a Deed of Covenant with the Body Corporate (to be prepared by the Body Corporate at the expense of the Caretaker) to be bound by the terms of this Agreement as far as they relate to the Caretaker's Unit.

11.3 if the Body Corporate gives Its consent under Clause 8 to an assignment of the Caretaker's interest in this Agreement, the Caretaker or the owner of the Caretaker's Unit will be permitted to sell the Caretakers Unit so that upon such assignment and sale, there will be compliance with Clause 11.1.

12. COSTS

12.1 Each party must pay their own costs in relation to the preparation and execution of this agreement, however the Caretaker will pay any stamp duty on it.

13. SEVERANCE

13.1 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, or any of the Caretaking Duties are beyond the power of the Body Corporate to engage the Caretaker to perform, 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. The remainder of the provisions of this Agreement (including the Remuneration) will remain in full force and effect unless the basic purposes of this Agreement are defeated.

13.2 It is not the intention of the parties that any of the Caretaking Duties should constitute the Caretaker a body corporate manager pursuant to Section 14 of the Act. If

any of the Caretaking 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 Caretaking Duties constitute the Caretaker a body corporate manager, that duty or duties shall be read down or omitted so that the Caretaker is not a body corporate manager; and

(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.

13.3 If as a result of the operation of this Clause 13 or otherwise, there is a material change to the nature or extent of the Caretaking Duties, the Caretaking Duties shall be determined by an adjudicator pursuant to the dispute resolution provisions of the Act and this Agreement shall be amended accordingly.

14. FURTHER ASSURANCE

14.1 The parties agree and agree to procure every other person as required to sign all documents and otherwise do all such acts, matters and things as may be necessary or desirable to give full force and effect to this Agreement.

15. GOVERNING LAW

15.1 This Agreement will be construed in accordance with the law of Queensland and the parties submit to the non-exclusive jurisdiction of the Queensland Courts notwithstanding the domicile or residence of any party or the occurrence of any act, matter or thing outside of Queensland.

16. WARRANTY OF AUTHORITY

16.1 Each person signing this Agreement -

(a) as attorney for any party, warrants to the other parties that at the date of execution by him or her, he or she has not received any notice or information of the revocation of the power of attorney appointing him or her; and

(b) as an authorised officer, agent or trustee of any party, warrants to the other parties that at the date of execution by him or her, he or she has full authority to execute this Agreement in that capacity.

17, SURRENDER OF PREVIOUS AGREEMENT

The parties acknowledge and agree that as and from the Commencement Date, the Caretaking and Letting Agreement dated March 30, 1994 between the Body Corporate and Southpine Pty Ltd as trustee for the Sismey Family Trust as amended, to which the Caretaker is now a party, is surrendered and terminated.

EXECUTED AS A DEED

Name: (block letters)