

Deed of Engagement

**Body Corporate for Richlands
Rise Community Titles Scheme
42188**

**H.S.L.C Pty Ltd ACN 136 649 226
as trustee for The Hou Shih
Family Trust**

Paul Po-Hsin Shih

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THIS DEED dated _____ day of March 2021.

BETWEEN

Body Corporate for Richlands Rise Community Titles Scheme 42188 c/- BCSystems, PO Box 743
Morningside Qld 4170
("Body Corporate")

AND

H.S.L.C Pty Ltd ACN 136 649 226 as trustee for The Hou Shih Family Trust c/- Bugden Allen Lawyers,
GPO Box 2624 Brisbane Qld 4001
("Manager")

AND

Paul Po-Hsin Shih c/- Bugden Allen Lawyers, GPO Box 2624 Brisbane Qld 4001
("Guarantor")

RECITAL

- A. The Body Corporate and the Manager are parties to the Agreement.
- B. The Manager has requested the Body Corporate to enter into this Engagement, which will adopt the terms and conditions of the Agreement with certain variations as set out in this Deed.
- C. The Body Corporate has resolved to enter into this Engagement at a general meeting subject to the terms of this Engagement.
- D. The parties have agreed to enter into this Engagement to record the arrangements between them.
- E. In consideration of the Body Corporate entering into this Engagement at the request of the Guarantor, the Guarantor guarantees the obligations of the Manager under this Engagement.

OPERATIVE PART

1. Interpretation

- 1.1 This Deed is governed by the laws of Queensland, Australia and the parties submit to the non-exclusive jurisdiction of the courts of that state.
- 1.2 In the interpretation of this Deed:
 - (a) references to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;

- (b) words –
 - (i) denoting the singular include the plural and vice versa;
 - (ii) denoting individuals or persons include bodies corporate and vice versa;
 - (iii) referring to documents or agreements also mean those documents or agreements as changed, novated or replaced; and
 - (iv) denoting one gender include all genders;
- (c) grammatical forms of defined words or phrases have corresponding meanings;
- (d) parties must perform their obligations on the dates and times fixed by reference to Brisbane, Queensland;
- (e) reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
- (f) if the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in Brisbane, Queensland, then it must be done on the next business day;
- (g) references to a party are intended to bind their executors, administrators and permitted transferees; and
- (h) obligations under this Deed affecting more than one party bind them jointly and each of them severally.

2. Definitions

In this Deed, unless the context otherwise requires:

Agreement means the management agreement entered into between the Body Corporate and Derek Malcolm Sye and Ailsa Mary Sye as trustees for the Sye Family Trust dated 21 January 2011, as subsequently assigned to the Manager, a copy of which is annexed as Annexure A;

Commencement Date means 17 March 2021;

Deed means this deed between the Body Corporate and Manager;

Engagement means the engagement provided for in this Deed;

ETA means the *Electronic Transactions (Queensland) Act 2001*;

Law means includes any requirement of statute, rule, regulation, proclamation, ordinance, by-law present or future and whether state, federal or otherwise; and

PDF means portable document format.

3. Engagement

3.1 The Body Corporate engages the Manager as a service contractor for the Scheme from the Commencement Date on the same terms and conditions as set out in the Agreement.

3.2 Notwithstanding clause 3.1, the terms of the Agreement is varied as follows for the Engagement:

(a) clauses 2.1 is replaced with the following:

"The term of this Agreement shall be for 25 years commencing from 17 March 2021 to 16 March 2046.";

(b) sub-clause 1. in Schedule One is replaced with the following:

"At the rate of \$67,530.24 per annum inclusive of GST payable monthly in arrears.";

(c) a new clause 7.5 is inserted as follows:

"7.5 Waiver of Termination Rights

(a) *In this clause, the following terms have the following meanings unless the context otherwise requires:*

Financier: *a financier as that term is defined in the Act from which the Manager has obtained finance on the security of the Agreement;*

Receivership: *where the Financier is acting in place of the Manager or the Financier has appointed a receiver or receiver and manager for the Agreement; and*

Specific Termination Provisions: *clause 7.1(c), 7.1(d), 7.1(f) and 7.2(a) in the Agreement.*

(b) *During any Receivership, the Body Corporate waives its rights to:*

(i) *terminate the Agreement under the Specific Termination Provisions; and*

(ii) *refuse the exercise of an option because of a default under the Specific Termination Provisions."*

(d) a new clause 9 is inserted as follows:

"9. Occupation Authority

9.1 *The Manager has a right of exclusive occupation of the areas shown on the plans in Annexure B ("**Occupied Areas**") for the purpose of facilitating the performance of the duties and provision of the letting services.*

9.2 *The Manager also has a non-exclusive occupation authority for any part of*

the Common Property that is a plant room or other common storage rooms not included in clause 9.1 for the purpose of performing its duties.

Conditions

9.3 *The occupation authority conferred by clause 9.1 shall be subject to the following conditions:*

- (a) the Manager shall be responsible for keeping the Occupied Areas in a clean and tidy state; and*
- (b) the Body Corporate is entitled, upon reasonable notice (which shall be determined having regard to the urgency of the situation at the time), to access the Occupied Areas for the purpose of:*
 - (i) repairing or maintaining the Common Property or utility infrastructure; or*
 - (ii) inspecting the Common Property or utility infrastructure to determine any repair and maintenance requirements.”.”*

4. Trustee Provision

4.1 If the Manager enters into this Engagement as a trustee of any trust or at any time holds this Agreement as a trustee of a trust (“**Manager’s Trust**”) then, whether or not the Body Corporate has any notice (actual or constructive) of the Manager’s Trust, the following applies:

- (a) the Manager warrants that it has full power under the Manager’s Trust to enter into and perform its obligations under this Engagement;
- (b) the obligations and liabilities of the Manager under this Engagement extend to the fund and any other assets of the Manager’s Trust (“**Trust Fund**”);
- (c) the Manager shall on the written demand or direction of the Body Corporate exercise all rights of indemnity that the Manager may at any time have against the Trust Fund and any beneficiaries or unit holder of the Manager’s Trust or any of the same for the benefit of the Body Corporate;
- (d) the Manager is liable under this Engagement both in its personal capacity, and as a trustee of the Manager’s Trust;
- (e) the Manager shall produce to the Body Corporate the original stamped trust deed (or a photocopy certified by an accountant or solicitor) and all other documents evidencing the Manager’s Trust and the Trust Fund within fourteen days of written request for the same by the Body Corporate.

5. Guarantee & Indemnity

- 5.1 In consideration of the Body Corporate, at the request of the Guarantor, consenting to the entry into this Engagement with the Manager, the Guarantor hereby agrees with the Body Corporate as follows:
- (a) The Guarantor guarantees:
 - (i) the performance by the Manager of its obligations under this Engagement and this guarantee; and
 - (ii) the payment of all loss and damage recoverable by the Body Corporate from the Manager including the Body Corporate's legal and other expenses incurred in enforcing the obligations of the Manager under this Engagement and the obligations of the Guarantor under this guarantee and indemnity.
 - (b) This guarantee extends to claims by the Body Corporate payable in the terms of this Engagement:
 - (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 Manager 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 Manager;
 - (ii) any alterations or variations to the rights and obligations of either the Body Corporate or the Manager;
 - (iii) the granting of any time or other indulgence or forbearance by the Body Corporate to the Manager or the Guarantor;
 - (iv) the making of any composition with or waiver of any breach or default by the Manager; and/or
 - (v) the neglect or forbearance of the Body Corporate to enforce the provisions of this Engagement or those of this guarantee.

- (d) 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 Manager.
 - (e) The obligations of the Guarantor will not merge or be deemed to have merged in any judgment obtained by the Body Corporate against the Manager.
 - (f) If any term of the Engagement is not enforceable against the Manager 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 was solely or principally liable as Manager under this Engagement.
 - (g) The Guarantor waives in favour of the Body Corporate, the Manager and any other person any estate or assets so far as necessary to give effect to anything contained in this guarantee.
- 5.2 As a separate and independent obligation and for the consideration referred to the Guarantor hereby indemnifies and keeps indemnified the Body Corporate from all claims suffered or incurred by the Body Corporate by reason of the Manager's default in observing or performing the Manager's obligations under this Engagement and the preceding provisions of this guarantee will apply to this indemnity.

6. Notices

- 6.1 A communication required by this Deed, by a party to another, must be in writing and may be given to them by being:
- (a) delivered personally;
 - (b) posted to their address specified in the Deed, or as later notified by them, in which case it will be treated as having been received on the fifth business day after posting; or
 - (c) sent by email to their email address specified in the Deed, when it will be treated as received when it enters the recipient's information system.
- 6.2 The addresses and contact details of the parties for the purpose of this clause are those in the Deed.

7. Formation of deed by electronic dealings

- 7.1 This clause 7 specifies a procedure for entering into this Deed, on the terms of this Deed, by fax or e-mail.
- 7.2 The procedure specified in this clause 7 is not intended to be the only method by which the parties may enter into this Deed.
- 7.3 The parties acknowledge that Chapter 2 Parts 2 and 3 of the ETA apply to this Deed.

- 7.4 Offer and acceptance of the terms contained in this Deed may be communicated by fax or e-mail if:
- (a) the offer includes a full and legible copy of this Deed showing the signature of the offeror; and
 - (b) the acceptance includes a full and legible copy of this Deed showing the signature of the party accepting.
- 7.5 For the purposes of clause 7.4, “copy” includes an electronic file in PDF containing a scanned image of this Deed.
- 7.6 A fax and e-mail referred to in this clause may be sent or received by a party’s agent.
- 7.7 Acceptance by fax or e-mail:
- (a) constitutes consent by the accepting party to the Deed being formed by electronic communication; and
 - (b) occurs at the time the acceptance is received by the offeror, as determined by the ETA.
- 7.8 In relation to this Deed, each party agrees that they will:
- (a) sign and exchange the Deed by electronic or digital means;
 - (b) not object to such form of signature or exchange;
 - (c) be bound in the same way as if a paper form of the Deed had been signed by them and documents physically exchanged; and
 - (d) not repudiate or dispute such form of signature or exchange.
- 7.9 The parties agree to do such further acts and sign all necessary documents to give effect to the intentions expressed in this clause.
- 7.10 The parties and the parties’ solicitors and their agents consent to the transmission of documents by electronic communication methods including e-mail and facsimile transmission pursuant to the ETA.

8. Counterparts

- 8.1 This Deed may be executed in any number of counterparts each of which will be considered an original but all of which will constitute one and the same instrument.
- 8.2 A party who has executed a counterpart of this Deed may deliver it to, or exchange it with, another party by:
- (a) faxing; or

- (b) e-mailing a PDF copy of,
the executed counterpart to that other party.

9. Whole agreement

This Deed:

- (a) is the entire agreement and understanding between the parties relating to the subject matter of this Deed; and
- (b) supersedes any prior agreement, representation (written or oral) or understanding on anything connected with that subject matter.

10. Legal effect

Each party acknowledges and agrees for the benefit of each other party that this Deed is intended to take effect as a deed. Each party executes this Deed with the intention that it will be immediately legally bound by this document.

11. Severability

- 11.1 If the whole or any part of a provision of this Deed is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction.
- 11.2 The remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected.
- 11.3 This clause has no effect if the severance alters the basic nature of this Deed or is contrary to public policy.

12. Costs

- 12.1 The Manager must pay the Body Corporate's costs of an incidental to the negotiation and entry into this Deed including the legal costs incurred by the Body Corporate, with respect to:
 - (a) receiving advice on this Engagement; and
 - (b) negotiating its terms.
- 12.2 Further the Manager must pay:
 - (a) the costs of convening and holding an EGM;
 - (b) the costs of preparing and distributing the EGM minutes;
 - (c) the costs of retaining a returning officer; and

- (d) any duty assessed on this Engagement.

13. Exercise of rights

A party may exercise a right, power or remedy at its discretion, and separately or concurrently with another right, power or remedy. A single or partial exercise of a right, power or remedy by a party does not prevent a further exercise of that or of any other right, power or remedy. Failure by a party to exercise or delay in exercising a right, power or remedy does not prevent its exercise.

14. Waiver and variation

A provision of or a right created under this Deed may not be:

- (a) waived except in writing executed by the party granting the waiver; or
- (b) varied except in writing signed by the parties.

15. Further assurances

Each party agrees, at its own expense, on the request of another party, to do everything reasonably necessary to give effect to this Deed and the transactions contemplated by it, including but not limited to, the execution of documents.

Annexure A

Copy

2011

DATE

**BODY CORPORATE FOR "RICHLANDS RISE"
COMMUNITY TITLES SCHEME 42188**

MANAGEMENT AGREEMENT

**Legal Department
Philip Usher Constructions Pty Ltd
P.O. Box 1536
Browns Plains Qld 4118**

**Tel: (07) 3800 1666
Fax: (07) 3800 1740**

MANAGEMENT AGREEMENT

THIS AGREEMENT is made the

21

day of

January

2011

BETWEEN:

BODY CORPORATE FOR "RICHLANDS RISE" COMMUNITY TITLES SCHEME 42188 a body corporate formed pursuant to the Act at 15 James Edward Street, Richlands, Qld 4077.

("Body Corporate")

AND:

DEREK MALCOLM SYE and AILSA MARY SYE as Trustees for the Sye Family Trust of 37 Laricina Circuit, Forest Lake, Queensland

("Manager")

RECITALS:

- A. The Body Corporate is desirous of providing for the better administration, control and management of the Property and for the better exercise and performance of its powers and duties in relation thereto. In particular, the Body Corporate is desirous of providing for the better maintenance and repair of the Property.
- B. The Body Corporate has by ordinary resolution in general meeting authorised the entering into and execution of this Agreement.
- C. The Manager for the consideration hereinafter appearing has agreed with the Body Corporate on the terms and conditions herein set forth to perform the duties herein set forth.

OPERATIVE PROVISIONS:

1. INTERPRETATION

1.1 Definitions

In this Agreement the following expressions have the following meanings:

"**Act**" means the Body Corporate and Community Management Act 1997 and a reference to the Act includes a reference to the particular regulation module applicable to the Community Titles Scheme in question;

"**Common Property**" means so much of the Community Titles Scheme as from time to time is not comprised in any lot, but excluding any area of common property over which exclusive use has been granted, and shall include where appropriate any easement(s) and any property shared between members of the relevant body corporate and any other person (whether by way of easement, lease or otherwise);

"**Committee of the Body Corporate**" means the Committee of the Body Corporate pursuant to the Act;

"**Community Titles Scheme**" means "**Richlands Rise**" Community Titles Scheme 42188.

“Building” means the building erected on the Property;

“Body Corporate’s Representative” means the person appointed by the Committee of the Body Corporate from time to time pursuant to sub-clause 5.1;

“Property” means the Common Property together with any improvements the maintenance of which is, pursuant to the Act, the responsibility of the Body Corporate;

“Term” has the meaning ascribed by sub-clause 2.1.

1.2 Interpretation

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

- (a) Headings have been inserted for guidance only and shall not form part of nor affect the interpretation hereof;
- (b) References to clauses, sub-clauses, paragraphs and sub-paragraphs are references to clauses, sub-clauses, paragraphs and sub-paragraphs hereof;
- (c) References to a person include corporations, natural persons and all other entities capable of suing and being sued;
- (d) References to a statute include all statutory provisions amending, consolidating or replacing same and all by-laws, orders in council, ordinances, proclamations, regulations, rules and other authorities made thereunder;
- (e) References to writing including typing, lithography, photocopying, telex, facsimile and any other means of producing or reproducing words in a visible form;
- (f) Words importing the singular number include the plural and vice versa;
- (g) This instrument shall operate to bind the administrators, executors, successors and permitted assigns (as the case may be) of each person who is a party hereto;
- (h) Words importing any particular gender include all genders.
- (i) Where two (2) or more persons are named herein (or are encompassed herein) as the Manager:
 - (i) the expression “the Manager” shall be a reference to those persons jointly as well as to each of them severally; and
 - (ii) this instrument and the obligations and agreements on their part therein contained or implied shall bind those persons jointly as well as each of them severally.
- (j) Where any provision hereof requires the doing of any act by the Body Corporate, that act shall be sufficiently done if done by a member of the Committee of the Body Corporate or any duly authorised managing agent of the Body Corporate or any other duly authorised person.
- (k) Where any provision hereof requires a determination to be made by the Body Corporate (other than by a special resolution of the Body Corporate), that determination shall be sufficiently made if done by the Committee of the Body Corporate or any duly authorised managing agent of the Body Corporate; and

- (l) Unless otherwise defined herein, words and expressions defined in the Act shall have that meaning when used herein.

2. APPOINTMENT OF MANAGER

2.1 Appointment

Subject to the provisions of this Agreement, the Body Corporate appoints the Manager as the manager of the Property for a term of ten (10) years commencing on 20.... and expiring on20... ("Term") together with an option on the part of the manager for a further term of fifteen (15) years from the expiry date of the term. Such option shall be exercised by written confirmation to the Body Corporate no earlier than six (6) calendar months and no later than three (3) calendar months immediately prior to the expiry date and shall be subject to the same terms and conditions as for the initial term excluding an option. The remuneration in the first year of the option shall be determined by reference to paragraph 2 of Schedule One, applying the CPI increase to the remuneration that was payable during the last year of the expired term. The figure so derived shall then be taken to be the remuneration in year one, with reviews to occur in accordance with clause 2 for the succeeding years. The Manager hereby accepts the appointment on the terms of this deed.

2.2 Where Manager is a Corporation

Where at any time the Manager is a corporation of any kind whatever, it shall be the responsibility of the Manager to ensure at all times an adequate number of its officers, managers, servants or agents or persons appointed by the Manager from time to time to carry out its duties and functions pursuant hereto are available to carry out the Manager's duties and functions pursuant hereto.

3. REMUNERATION AND OTHER CONDITIONS

3.1 Remuneration

In consideration of the due and punctual performance by the Manager of its obligations hereunder, the Body Corporate shall pay to the Manager remuneration on the basis set out in **Schedule One**.

3.2 Leave

The Manager shall have the right to appoint a suitable replacement for the person responsible in accordance with this Agreement for the performance of the Manager'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 Manager 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) month prior to the commencement of the Manager's proposed holiday, and the Body Corporate shall as soon as reasonably practicable by notice to the Manager advise the Manager of its approval or otherwise of the proposed replacement provided that such details need only be provided 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 Manager to ensure that the replacement from time to time adequately performs the duties and obligations of the Manager pursuant to this Agreement. Any remuneration payable to such replacement shall be the responsibility of the Manager.

3.3 Duties

- (a) The Manager shall duly and punctually perform the duties listed in **Schedule Two**.

- (b) Where the manager is a natural person, the Manager's duties hereunder shall be performed by the Manager personally or by the servants or agents of the Manager. Any breach of this Agreement on the part of such servant or agent shall be deemed to be a breach of this Agreement by the Manager. Any remuneration payable to such replacement shall be the responsibility of the Manager.
- (c) Where the Manager is a corporation, the Manager's duties hereunder shall be only performed personally by those persons previously authorised by the Body Corporate.
- (d) It is fundamental to this Agreement that the Manager must carry out all its duties or engage persons to carry out such duties on its behalf at its cost other than those duties that require a skilled tradesman or similar tradesman or similar person to carry out such duties. If a skilled tradesman or similar person is required, he will be engaged by the Manager after prior approval by the Body Corporate as agent for the Body Corporate and the Body Corporate will be responsible for the cost of such tradesman or person.

3.4 **Expenditure**

- (a) The Manager shall be entitled to incur an expense on its own behalf in respect of any individual transaction for an amount not exceeding one thousand dollars (\$1,000.00) or such amount as the committee of the Body Corporate may from time to time authorise in writing and the Body Corporate shall reimburse the manager on demand in respect of such expense provided that such expense is incurred for the purpose of obtaining goods or services used in the proper performance of the duties of the manager pursuant hereto or the employees of the owner or for such other purpose as are necessary or incidental.
- (b) The Manager will check and verify accounts for goods and services payable by the Body Corporate relative to matters which are the responsibility of the Manager under this Agreement and will notify the Body Corporate's Representative as to whether such accounts are in order for payment.

4. **MANAGER'S OBLIGATIONS**

4.1 **Manager to Obtain Permits etc.**

The Manager at its own expense shall obtain all necessary permits, consents or licences required by law or by any lawful authority to enable the Manager perform its duties and functions pursuant hereto.

4.2 **Manager's Covenants**

The Manager covenants with the Body Corporate as follows:-

- (a) The Manager will at its own expense from time to time and at all times during the continuation of this Agreement or any extension or renewal thereof duly and punctually comply with the provisions of:
 - (i) all statutes; and
 - (ii) all by-laws and rules of the Body Corporate pursuant to the Act; relating to the operation of the Manager's Caretaking and Letting business.
- (b) The Manager will not without the consent of the Body Corporate or its Committee do anything whereby the policy or policies of insurance effected in respect of the Property shall become prejudiced or be rendered void or voidable or which may cause the rate of insurance to be increased and in the event of any breach of this paragraph in addition to any other liability or penalty the Manager will pay all damage suffered by the Body Corporate and all increases of insurance premiums.

5. FURTHER OBLIGATIONS OF BODY CORPORATE

5.1 Body Corporate's Representative

- (a) The Committee of the Body Corporate shall from time to time appoint a member of the Committee of the Body Corporate to give instructions to and to communicate with the Manager on behalf of the Body Corporate. Not more than one such person shall be appointed at any one time.
- (b) The Manager shall confer from time to time fully and freely with the Body Corporate's Representative (if so requested by the Body Corporate's Representative) relative to the performance by the Manager of its duties and other obligations hereunder. If the Body Corporate's Representative or the Committee of the Body Corporate acting reasonably so requests, the Manager shall attend (where it is a corporation, by its representative) meetings of the Committee of the Body Corporate or of the members of the Body Corporate. If the Manager is requested to attend any such meeting, the Manager shall be entitled to be heard on any relevant questions or matter at any such meeting. After being so heard, the Manager may be requested to leave such meeting if it is not otherwise entitled to attend.

5.2 Plans

The Body Corporate shall furnish to the Manager a set of plans of the Property to assist the Manager in performing its duties pursuant hereto. Such plans shall remain the property of the Body Corporate. Such plans shall be returned to the Body Corporate upon the expiration or sooner determination of this Agreement. The Manager will use such plans with care so as to avoid any damage thereto or loss thereof.

5.3 Equipment and Materials

All tools, equipment and materials required for cleaning, grounds maintenance and security shall be provided by the Body Corporate, shall remain the property of the Body Corporate and shall be used exclusively for the benefit of the Body Corporate.

5.4 Staff

The Manager shall at its expense employ such staff as is necessary to carry out the Manager's duties under this Agreement.

6. ASSIGNMENT

6.1 Where permitted

The Manager may assign its interest in this Agreement with the prior consent in writing of the Committee of the Body Corporate which consent shall not be unreasonably withheld if:

- (a) at the time at which such consent is to be given, the Manager is not in default under this Agreement entitling the Body Corporate to terminate this agreement;
- (b) the Manager gives at least one (1) month's written notice to the Committee of the Body Corporate of the proposed assignment which notice shall include all pertinent details of the proposed assignee and shall provide at least two (2) character references (or in the case where the proposed assignee is a corporation, at least two (2) character references of the principal directors) and at least two (2) business references and a bank opinion in respect of such assignee;
- (c) the Manager proves to the reasonable satisfaction of the Committee of the Body Corporate that the proposed assignee is a respectable, responsible and financially sound person capable of adequately performing and observing the provisions of this Agreement;

- (d) the proposed assignee has entered into a deed with the Manager and the Body Corporate in a form reasonably required by the Committee of the Body Corporate, which deed contains a covenant by the proposed assignee to be bound by and to observe and perform the provisions hereof as if the proposed assignee were the original manager named herein;
- (e) the Manager pays to the Body Corporate all proper and reasonable costs and expenses incurred by the Body Corporate of and incidental to any enquiries which may be made by or on behalf of the Body Corporate as to the respectability, responsibility and financial status of or otherwise relating to the proposed assignee;
- (f) the Manager pays to the Body Corporate all proper and reasonable costs and expenses incurred by the Body Corporate in respect of the assignment (including without limitation solicitor's professional costs and outlays in the preparation negotiation execution and stamping of any document relating to the assignment); and
- (g) if the proposed assignee is a corporation and if required by the Committee of the Body Corporate the directors and principal shareholders (as the Committee of the Body Corporate may elect) of such corporation shall have guaranteed the covenants and agreements on the part of the proposed assignee such guarantee to be prepared by the Body Corporate's solicitors.

7. TERMINATION

7.1 Events of Default by the Manager

Any of the following events shall constitute a default by the Manager:

- (a) if the Manager fails to duly and punctually perform or observe any of the provisions of this Agreement or if the Manager fails to duly and punctually perform or observe any of the provisions of this Agreement to the reasonable satisfaction of the Body Corporate;
- (b) if the Manager shall be guilty of gross negligence or gross misconduct or gross dishonesty in the observance or performance of any provision of this Agreement;
- (c) If the Manager is a corporation and an order is made or resolution is effectively passed for the appointment of a receiver, receiver and manager, provisional liquidator or liquidator or for the winding up of the Manager (other than for the purpose of an amalgamation or reconstruction) or if any other form of external administration is implemented or if the Manager ceases or threatens to cease to carry on business;
- (d) if the Manager is a corporation and the Manager enters into a scheme of arrangement for creditors or any class thereof or an official manager of the Manager is appointed or a receiver or a receiver and manager of its property or assets or any of them is appointed or an inspector is appointed pursuant to the Corporations Law of any State or Territory;
- (e) if the Manager is an individual and is convicted upon indictment of any criminal charge; or
- (f) if the Manager enters into a scheme of arrangement for creditors or any class thereof or has a sequestration order made against him.

7.2 Body Corporate's rights upon default of Manager

If the Manager has made a default hereunder the Body Corporate may at its option only do all or any of the following things:-

- (a) if such default occurs by reason of any of the circumstances described in paragraphs 7.1(c) to (e) inclusive, with or without any prior notice to the Manager, by notice to the Manager, terminate this Agreement;

- (b) if the default occurs by reason of circumstances other than those referred to in the preceding paragraph, by notice to the Manager specifying the particular default complained of, require the Manager to remedy such default within fourteen (14) days of the notice being served AND if at the expiration of that period the default complained of has not been remedied, terminate this Agreement by further notice to the Manager.

7.3 **Termination by the Manager**

If the Body Corporate is in default hereunder, the Manager by notice to the Body Corporate specifying the particular default complained of, may require the Body Corporate to remedy such default within fourteen (14) days of the notice being served AND if at the expiration of that period the default complained of has not been remedied, the Manager may terminate this Agreement by further notice to the Body Corporate.

7.4 **Termination by the Body Corporate**

Where the Manager under a separate agreement has also been appointed as the authorised Letting Agent for this Community Management Scheme and that Letting Agreement is terminated the Body Corporate may then terminate this agreement.

8. **MISCELLANEOUS**

8.1 **Notices**

- (a) Any notice, demand or other document authorised or required to be given or served pursuant hereto shall be dated the date upon which it is despatched and shall be sufficiently given or served if given or served:
 - (i) by delivering the same personally to the addressee;
 - (ii) by posting same to the addressee by prepaid ordinary post as a letter addressed to the addressee at the addressee's usual or last known place of abode or, if the addressee is in business as a principal, at his usual or last known place of business;
 - (iii) in the case of a corporation by leaving same, or by posting same by prepaid ordinary post, as a letter addressed in either case to the corporation at its registered office or principal place of business in Queensland;
 - (iv) in accordance with the procedures set out in Section 257 of the Property Law Act 1974; or
 - (v) in any other manner recognised by law.
- (b) A notice, demand or other document which is posted shall be deemed to have been served, unless the contrary is shown, at the time when by ordinary course of post same would be delivered.

8.2 **Severance**

- (a) The provisions of all statutes and laws now or hereafter in force whereby or in consequence whereof (either or both) any of the obligations powers remedies and rights of any person hereunder may be curtailed defeated extinguished postponed or suspended shall not apply hereto and are expressly excluded by only so far as this may legally be done.

- (b) If at any time any provision hereof is or becomes illegal invalid unenforceable or void in any respect that provision shall be ignored read down or severed restrictively so as to uphold the legality validity and enforceability of the remaining provisions hereof.

8.3 **No Waiver**

- (a) Nothing herein nor in any document executed pursuant hereto shall be construed as a waiver neglect forbearance omission or delay in respect of any antecedent breach hereof or any of the obligations arising hereunder.
- (b) All the powers remedies and rights of each party pursuant hereto shall remain and continue in full force notwithstanding any apparent or valid waiver neglect forbearance omission or delay in the enforcement thereof on any prior occasion for any reason whatsoever.

8.4 **No Merger**

No act done or document or paperwriting executed pursuant to or in connection herewith shall operate or prevent any provision or part thereof of this instrument to which effect has not been fully given thereby from continuing to have full force and effect or as a merger of any of the powers rights and remedies of the parties pursuant hereto to which effect has not been fully given thereby.

8.5 **Costs**

- (a) Each party should bear its own costs relating to the preparation, negotiation and execution of this Agreement. Stamp duty assessed on the Agreement must be paid by the Manager.
- (b) Where a party is in default under the Agreement it must pay any reasonable costs (including legal costs on a solicitor and own client basis) incurred by the other party in connection with the default. This includes:-
 - (i) costs incurred in gaining legal advice;
 - (ii) the attempted exercise of a power, remedy or right; or
 - (ii) the institution of legal proceedings
 in regard to the default.

8.6 **Disputes**

Any dispute arising under the provisions of this Agreement or in relation to performance of this Agreement will be referred for determination in accordance with the dispute resolution provisions of the Act.

SCHEDULE ONE

(Refer to sub-clause 3.1)

REMUNERATION

The Body Corporate will pay a management fee to the manager as follows:

1. At the rate of \$1100.00 per annum per registered lot (inclusive of GST) payable monthly in arrears.
2. For the second year and each subsequent year thereafter the remuneration shall be calculated by increasing the previous years remuneration by the percentage increase (if any) in the Brisbane all groups consumer price index figure published for that quarter immediately preceding the beginning of each successive year of this agreement and that quarter immediately preceding the end of the previous year of this agreement.
3. Should the manager exercise its option pursuant to clause 2 the remuneration shall be determined between the parties prior to the end of the original term or failing agreement then as provided in clause 2 of this schedule.

SCHEDULE TWO

(Refer to sub-clause 3.2)

MANAGER'S DUTIES

1. General Duties

The Manager shall have the following general duties:

- 1.1 Supervise any agents, contractors or employees of the Body Corporate or the Manager engaged in gardening, cleaning, building maintenance or any other work whatsoever upon the Property.
- 1.2 Use its best endeavours to see that the Property (other than the interior of lots) is kept in good order and repair clean and neat and to protect the interests in relation thereto of the Body Corporate and the owners of lots therein.
- 1.3 Monitor the observance of the by-laws and rules (if any) of the Body Corporate and as far as reasonably possible within the law and the Manager's powers deal with any nuisance or annoyance on the common property and bring to the attention of the Body Corporate those breaches of the By-Laws and rules if any that require enforcement by the Body Corporate.
- 1.4 At the request of the Body Corporate to advise the Body Corporate concerning the duties of the Manager and to provide such other advice which the Body Corporate shall request relating to the management and care of the Property.
- 1.5 Reside, or if the Manager is a corporation ensure that the person performing the duties of the Manager pursuant to this Agreement resides, in a lot forming part of the Community Titles Scheme.
- 1.6 Keep in its possession the master key or keys for all property and lots under the control of the Body Corporate and owners lots so far as individual lot owners shall permit PROVIDED HOWEVER that the possession of those keys shall be surrendered to no person other than a fully authorised representative of the Body Corporate or the individual lot owner concerned but the Manager shall allow a lawfully authorised person in the course of his duties free access to any part of the Property as authorised at all reasonable times.
- 1.7 Report promptly on all things requiring repair and on all matters creating a hazard or danger and take remedial action where applicable.
- 1.8 To arrange for the appointment and supervision of contractors (as required by the Body Corporate) for the provision of maintenance services including plant and equipment maintenance, fire protection equipment maintenance, pest control, electrical equipment maintenance, maintenance of drainage pumps, flood gates and valves and other services or such of them as the Manager shall deem advisable provided that all contracts shall be subject to the prior approval of the Body Corporate.
- 1.9 Comply with and carry out all reasonable directions from time to time given by the Body Corporate to the Manager in or about the administration and management of the Property and the performance by the Body Corporate of its lawful obligations and duties.
- 1.10 At all times ascertain and be aware of the general condition of the Property and all systems, machinery and appurtenances thereto so that the Manager is able to keep informed the Body Corporate's Representative in respect thereof.

- 1.11 As far as the Manager is reasonably able and lawfully capable of so doing to keep order on the Property and take such precautions as it sees fit to safeguard the whole of the Property against unlawful entry or accident.
- 1.12 With the aid of the plans issued to the Manager pursuant to this Agreement and (where necessary) inspection made by competent personnel the Manager will inform itself of the layout construction, location, character, plan and operating of the lighting, heating, plumbing, ventilating systems, drainage pumps and associated electrical equipment, flood gates, valves and other mechanical equipment installed in the Property and shall advise the Body Corporate generally on the condition thereof from time to time and shall recommend to the Body Corporate's Representative should the Manager consider it necessary any changes or modifications to be made in respect of any matters in relation to the aforesaid.
- 1.13 To perform such other acts and things as are reasonably necessary and proper in the discharge of its duties under this Agreement.
- 1.14 To carry out the reasonable written actions of the Body Corporate regarding specific matters or regarding permanent policies or procedures to be observed in the conduct of the Property.
- 1.15 Generally, to manage the Property and to ensure that it is kept in good order and repair and to protect the interest in the Property of the Body Corporate and the owners of lots therein and in these respects to cause the Property appurtenances and grounds and all plant and equipment used in connection therewith to be properly maintained at all reasonable times.
- 1.16 To ensure that at all reasonable times the landscaped grounds (lawns, trees, shrubs and plants) and pool area and facilities are maintained to a standard appropriate to a development of this type and quality. Should any dispute arise between the parties as to the definition of such standard then a Landscape Architect shall be appointed by the Body Corporate to determine such standard, independent of the Body Corporate's and Manager's instructions.

2. **SPECIFIC DUTIES**

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

2.1 **Cleaning and Grounds Maintenance – where necessary**

Area	Work Description
Barbecue Area	Sweep area clean and empty all rubbish bins. Wipe clean all outdoor furniture and report any damaged or missing. Clean off all fats/greases from BBQ plate and facing. Report any malfunction/damage. Refill gas bottle.
Grounds	Water as required plants, shrubs and planter boxes not covered by automatic sprinkler. Check all access paths and sweep where necessary.
Carpark Visitors' Carpark/	Check complete car park area, pick up any rubbish lying around (nails, papers, wrappers and any other material dangerous to car tyres) and empty all rubbish bins.
Footpaths and Access Roads, inc. planters etc	Sweep area clean, remove all rubbish and papers.

Garbage Removal	To cause and ensure that the wheelie bins are moved by the occupier to the main collection area for each garbage collection by Brisbane City Council. The garbage is to be collected and disposed of by the said Council and the wheelie bins are to be returned by the occupier to their respective area as soon as possible after collection by the Council. The maintenance and cleanliness of the wheelie bins remains the responsibility of each respective resident occupier.
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2.2 **Cleaning and Grounds Maintenance – weekly routine where necessary**

Area	Work Description
Barbecue Area	Maintain total facility areas (barbecue, pool toilets, etc) in a thoroughly clean condition. Check proper function of barbecues and report any malfunctions.
Grounds	Sweep all pathways and hose clean if necessary. Hose clean and scrub where necessary all outdoor furniture to remove dirt stains. When appropriate cut grass and trim edges and suitably dispose of clippings. Weed lawns and gardens and cut back any dead plant growth. Ensure that the sprinkler system for watering the gardens and lawns is fully operational. Report any problems in the sprinkling system or the maintenance of the grounds as soon as possible.
Gym & Gym Equipment	To keep the gym and gym equipment maintained in a good and clean order and should any gym equipment become unsafe to ensure that same is removed from use as soon as practically possible pending repair or replacement.
Garbage Collection Points and Areas	Ensure that the Body Corporate bin collection points and area are swept out and kept clean (by hosing and/or mopping with detergent and disinfectant) other than at those times when the bins are waiting for collections.
Fire Safety	Check fire hoses in accordance with requirements specified in the Australian Fire Safety regulations.

2.3 **Cleaning and Grounds Maintenance - monthly routine as necessary**

Area	Work Description
Grounds	Trim hedges and prune any shrubs, trees or plants as necessary. Remove any dead palm fronds and any dead plants. 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/blights. Treat lawns seasonally for eradication of "Bindi, clover and other weeds". Replace sections of turf as necessary (damaged by oils, wear, etc.)

Car Park

Clean insects out of all light fittings.

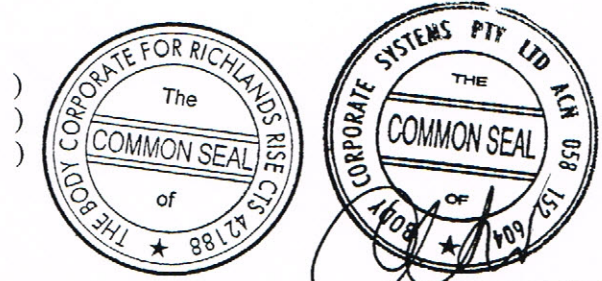
3. EXCLUSIONS

Notwithstanding the above the Manager shall not be obliged to perform any of the following specific duties:

Body Corporate Secretary, secretarial work and treasury work.

IN WITNESS WHEREOF this Agreement has been signed as at the date specified at the commencement of this Agreement.

The common seal of the Body Corporate for
"Richlands Rise" Community Titles Scheme
42188 is affixed in the presence of:



~~Chairman~~

(name printed)

KEREN ARTHUR

~~Secretary~~

(name printed)

Signed by the Manager

in the presence of:

)
)
)

Director

(name printed)

Director/Secretary

(name printed)

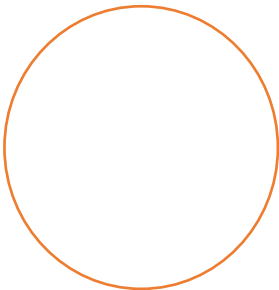
Annexure B

The shed next to building E identified on survey plan 240103.

EXECUTION

EXECUTED by the parties as a deed:

THE COMMON SEAL of the Body Corporate)
was affixed pursuant to a resolution of the)
Body Corporate in the presence of two)
officers who certify that they are the proper)
officers of the Body Corporate to affix that)
seal



.....
Signature

.....
Print Name of Signatory

.....
Office Held

.....
Signature

.....
Print Name of Signatory

.....
Office Held

EXECUTED BY H.S.L.C Pty Ltd ACN 136 649 226)
as trustee for The Hou Shih Family Trust in)
accordance with section 127 of the)
Corporations Act 2001

.....
Signature

.....
Signature

.....
Print Name of Signatory

.....
Print Name of Signatory

.....
Office Held

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Office Held

SIGNED SEALED AND DELIVERED by Paul Po-)
Hsin Shih as Guarantor in the presence of:)
)

.....
Signature of witness

.....
Signature

.....
Print Name of witness