

Lot 42 on Strata Plan 38996

“The Alderney on Hay”

193 Hay Street, East Perth

(“the Property”)

MANAGEMENT AGREEMENT

Ref: 961322/030711 JMG

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“Building” means the improvements erected upon the land the subject of Strata Plan 38996 and the common property relating thereto.

“Building Insurance” means the insurances provided for in clause 10.1.

“Business Day” means any day on which banks are open for business in Western Australia, but shall not include a Saturday or Sunday.

“Capital Expenditure” means any expenditure of a capital nature under Australian Accounting Standards and generally accepted accounting principles on structural repairs, alterations or changes to the Property or extraordinary repairs to or replacement of any major item forming part of Furniture and Equipment or Operating Equipment which is required at any time during the term of this Agreement to maintain the Property in good operating condition or by reason of any laws, ordinances, rules or regulations now or hereafter in force, or by order of any governmental or municipal power, department, agency, authority or officer, or otherwise, or because the Manager and the Proprietor jointly agree upon the desirability thereof.

“Commencement Date” means the 1st day of July 2013.

“CPI” means the All Groups Consumer Price Index for Perth published by the Australian Statistician in respect of a quarter provided that if the Australian Statistician publishes an index number in respect of a quarter in substitution for an index number previously published by the Australian Statistician in respect of that quarter, the publication of the later index number shall be disregarded but if the Australian Statistician changes the reference base for the Consumer Price Index, then regard shall only be had to index numbers published in terms of the new reference base.

“Effective Date” means the date upon which this Agreement is signed.

“Extended Term” means the period of time provided for in clause 3.2.

“Furniture and Equipment” means all furniture furnishings and equipment reasonably required by the Manager to furnish and equip the Property (but excluding Operating Equipment).

“Gross Operating Profit” means Total Revenue less Operating Costs.

“Housekeeping Costs” means those costs incurred by the Manager for the cleaning and servicing of the Property.

“Incentive Fee” means an amount equal to 4% of gross operating profit per month in excess of \$1190 (Exclusive of GST)

“Initial Term” means the period of time provided for in clause 4.1.

“Management Fee” means an amount equal to 1.5% of Total Revenue and 2% of Gross Operating Profit up to \$1190 and in excess of \$1190 the fee increases to 4% for each month plus GST amount on this.

“Month” means calendar month.

Proprietor means the apartment owner.

“Operating Account” means a bank account, including a cheque account or a cash management account, of the Manager, in the name of the Manager, to be operated by the Manager exclusively for the operation of the Property and other premises in the Building managed by the Manager.

“Operating Costs” as used in this Agreement shall mean all costs and expenses which would be operating costs under Australian Accounting Standards and generally accepted accounting principles and shall include the entire cost and expense of maintaining, operating and supervising the operations of the Property and without limiting in any way the generality of the foregoing shall include the following:

- (a) the Management Fee;
- (b) administration and marketing expenses incurred in respect of the Property;
- (c) the cost to the Manager of service contracts, maintenance and repairs effected by the Manager pursuant to the terms of this Agreement;
- (d) the cost of electricity and other fuels or energy sources supplied to the Property;
- (e) premiums on all insurances effected by the Manager pursuant to this Agreement (including stamp duties and all other statutory imposts of any kind whatsoever payable on such insurance) as well as premiums on loss of profits insurance covering the Proprietor and the Manager in respect of the Property;
- (f) the Housekeeping Costs incurred by the Manager in the operation of the Property;
- (g) all other costs, charges and expenses for services or requirements furnished or supplied to the Property, including in particular any costs and fees incurred in negotiating any leases, licences or enforcing any lease, licence, or occupation agreement, or any fees in the nature of royalties, commissions, memberships or like charges paid to any person or organisation providing services or facilities to or in relation to the Property;
- (h) all costs and expenses deemed to accrue from time to time (in accordance with generally accepted accounting principles) in relation to the performance by the Manager of its duties under this Agreement;
- (i) any other expense reasonably incurred by the Manager in the operation and management of the Property;
- (j) the cost of replacement of all items of equipment and fittings not chargeable as items of Capital Expenditure;
- (k) but Operating Costs shall **not** include the following:
 - (l) Capital Expenditure;
 - (m) the repair component of any major refurbishment;

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- (n) any interest paid or payable by the Proprietor in respect of the cost of the Property or rental paid or payable by the Proprietor pursuant to any equipment or other lease whether financial or operating;
 - (o) income tax;
 - (p) depreciation and amortisation;
 - (q) council rates, water rates and land tax;
 - (r) Building Insurance;
 - (s) audit, legal and other professional or special fees;
 - (t) Incentive Fee; and
 - (u) Strata levies.

“Op erating Equipment” means all equipment reasonably required by the Manager for the day to day operation of the Property for accommodation purposes such as chinaware, glassware, silverware, crockery and cutlery necessary for the service of food and beverages, and all other utensils, linen requisites and other similar items necessarily required to satisfactorily operate the Property including such items bearing the Manager’ s name or identifying characteristics as the Manager shall consider appropriate.

“Op erating Supplies” means consumable items used in the operation of the Property such as soap, cleaning materials, matches, stationery and all other similar items.

“Op erating Term” means the Initial Term and the Extended Term.

“P roperty” means your lot number on Strata Plan 38996 being the whole of the land contained in Certificate of Title Volume 2204 Folio 872 which comprises an apartment in the Building together with all Furniture and Equipment located therein.

“S trata Plan” means Strata Plan 38996 a copy of which is annexed hereto and marked “A ”.

“Total Revenue” as used in this Agreement shall mean all amounts exclusive of GST unless the owner advises us of his GST registration details in writing which would be considered to form part of total revenue under Australian Accounting Standards and generally accepted accounting principles and shall include all revenues and income of any kind actually collected or received in respect of the Property and derived directly or indirectly from the operation of the Property and without limiting in any way the generality of the foregoing shall include the following:

- (a) Accommodation rental revenue;

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- (n) any interest paid or payable by the Proprietor in respect of the cost of the Property or rental paid or payable by the Proprietor pursuant to any equipment or other lease whether financial or operating;
 - (o) income tax;
 - (p) depreciation and amortisation;
 - (q) council rates, water rates and land tax;
 - (r) Building Insurance;
 - (s) audit, legal and other professional or special fees;
 - (t) Incentive Fee; and
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- (a) Accommodation rental revenue;

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- (b) all deposits taken and instalments received on account of credit sales and accommodation and not refunded to customers provided that these amounts shall not be brought into Total Revenue until the Property is entitled to retain the relevant revenue;
 - (c) sales made or services provided as part of the Property;
 - (d) all rents, telephone revenue and other occupancy payments paid to the Manager by third persons in respect of the Property;
 - (e) all other receipts properly attributable to the Property.
 - (f) but Total Revenue shall **not** include the following:
 - (g) the net amount of discounts actually allowed to any customer and which are reasonably and properly allowed in the usual course of business;
 - (h) deposits and instalments received on account of accommodation or credit sales which are refunded to customers;
 - (i) refunds on merchandise or services the costs of which have been included in Total Revenue; and
 - (j) uncollectable credit accounts to the extent that the same are written off by the Manager provided that if any such accounts are subsequently recovered then the amount recovered shall be included within Total Revenue for the Accounting Period in which they were recovered.

2. THE APPOINTMENT

- 2.1 The Proprietor appoints the Manager to be the sole and exclusive manager of the Property during the Operating Term with such rights in relation to the Property as are necessary or reasonably incidental to the performance by the Manager of its obligations under this Agreement.
- 2.2 Nothing herein shall constitute or be construed to be or to create a partnership, joint venture or other fiduciary relationship between the Proprietor and the Manager and the right of the Proprietor to receive financial returns based on the operation of the Property shall not (except as herein provided) be deemed to give the Proprietor any control or discretion in the operation of the Property.
- 2.3 The Proprietor warrants that the Building shall at all times be known and designated as “The Starwest Apartments Alderney on Hay”. Nothing in this Agreement entitles the Proprietor, its successors and assigns or any other manager of the Building to use the name or the trade marks, emblems, insignia or distinctive characteristics of the Manager or any of its subsidiaries or affiliates. (The Manager will use the Starwest Apartments & Hotels Brand to promote the property)

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- 2.4 The Proprietor shall with all reasonable diligence (subject to delays beyond the reasonable control of the Proprietor) prior to the Commencement Date cause the Property to be equipped with the Furniture and Equipment and Operating Equipment.
- 2.5 The Manager has no objections if any mortgages taken over the property by the owner through a financial institution.
- 2.6 The Proprietor shall at its sole expense obtain and keep in full force and effect all necessary licences and permits as may be required for the operation of the Property.
- 2.7 The Manager undertakes to comply with any conditions set out in any such licences and permits and at all times to operate and manage the Property in accordance with those conditions.
- 2.8 The Manager will comply with all requirements and requisitions of any local or governmental authority or other competent body in respect of the Property or any business being carried on therein and in default the Proprietor shall be entitled to enter and carry out such requirements and requisitions without undue interference with the occupation and use of the Property by the Manager and by the occupants of the Property.
- 2.9 The Manager will perform and observe the obligations of the Proprietor or any occupier in connection with any drainage or electrical matter affecting the Property and in connection with any easement or other obligation of any kind for the time being affecting the Property (whether as dominant or servient tenement).

3. OPERATING TERM

- 3.1 The Initial Term shall commence on the Commencement Date and shall expire at midnight on the last day of the month first occurring after the expiration of 2 years calculated from the Commencement Date unless sooner terminated by either party in accordance with the provisions of this Agreement.
- 3.2 The Parties shall be deemed to have automatically extended the term of this Agreement for further periods of 2 years duration from the expiration of the Initial Term or any extension thereof, whichever shall have last occurred and such extended term the exercise of such extension, shall continue upon and be subject to the same covenants, agreements and provisions as are contained herein including this clause 3.2 unless sooner terminated by either party in accordance with the provisions of this Agreement.

4. OPERATION OF THE PROPERTY

- 4.1 The Manager shall operate the Property in accordance with a standard consistent with that generally maintained by apartments comparable to the Property and, in so far as is feasible and in its opinion advisable, the Manager shall conduct such operations in accordance with local custom and shall,

subject to the terms of this Agreement, have absolute control and discretion in the operation of the Property.

- 4.2 The control and discretion of the Manager shall include, but shall not be limited to:
- (a) the use of the Property for all customary purposes;
 - (b) terms of admittance;
 - (c) charges for rooms;
 - (d) the maintenance of the bank accounts;
 - (e) all phases of promotion and publicity relating to the Property;
 - (f) the provision of discounts or other benefits to any person or groups of persons;
 - (g) the supervision of legal actions and the retaining of solicitors on behalf of the Proprietor in matters relating to the operation of the Property; and
 - (h) all such other acts and things which the Manager deems necessary or conducive for the efficient management and operation of the Property.
- 4.3 For the purposes of enabling the Manager to operate the Property, the Manager may in its own name enter into such contracts as shall be reasonably necessary for the operation of the Property in accordance with the obligations of the Manager under this Agreement **PROVIDED HOWEVER** that all contracts for the acquisition of goods, services or assets and any goods, services or assets so purchased shall be held by the Manager as agent for the Proprietor.
- 4.4 All costs and expenses properly incurred by the Manager on behalf of the Proprietor in the performance of its obligations pursuant to this Agreement shall be paid from the Operating Account. These charges may be directly from the property, AWA Hotels Pty Ltd or Starwest Apartments & Hotel promotions.
- 4.5 All management personnel engaged by the Manager in connection with the Property (shall, at the Manager's discretion, be employed by the Manager and the full remuneration and other benefits (if any) and direct costs of employment of such management personnel together with reasonable provisions for the cost of long service leave and other benefits to which such management, including: reception, administration and accounting staff whose expenses shall be deemed to be Operating Expenses. shall be charged by the Manager as an expense of the operation of the Property. For cost saving and more effective operation purpose some staff wages may be split among a few properties or some services will be out sourced.

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- 4.6 The Manager shall accord to duly authorised officers, accountants, employees, agents and attorneys of the Proprietor the right to enter the Property at all reasonable times during the Operating Term for the purpose of examining or inspecting the Property or for any other purpose which the Proprietor, in its discretion shall deem necessary or advisable, but the same shall be done with as little disturbance to the operation of the Property as is possible.
- 4.7 The Proprietor shall do all things necessary to enable the Manager to fully and effectively manage and operate the Property and perform its obligations under this Agreement and without limiting the generality of the foregoing the Proprietor shall:
- (a) promptly transmit or deliver to the Manager all assessments demands and notices which require action by the Manager under this Agreement; and
 - (b) sign or execute all notices papers and documents reasonably required by the Manager to enable the Manager to carry out its obligations and functions under this Agreement.
- 4.8 Notwithstanding any other provision in this Agreement if there occurs an event which is beyond the reasonable control of the Manager and which materially and substantially interferes with the efficient operation of the Property the Manager shall not be liable for any delay or failure in the performance of its obligations under this Agreement attributable to such event. Any compensation received by the Proprietor in respect of such event shall insofar as it relates to lost revenue of the Property be deemed to be part of Total Revenue.

5. DETERMINATION OF GROSS OPERATING PROFIT

- 5.1 The Manager shall keep full and adequate books and records reflecting the results of the operation of the Property and shall record all other information relevant or necessary for the purpose of this Agreement. Such books and records shall, if required by the Proprietor in writing, be audited annually at the cost of the Proprietor by an auditor nominated by the Manager and approved by the Proprietor (which approval shall not be unreasonably withheld) and be kept in all material respects in accordance with the Manager's system of accounts and notwithstanding the foregoing it is agreed that:
- (a) the Manager shall comply with any reasonable direction or request made by such auditor for the purpose of keeping such accounts and the manner of their preparation; and
 - (b) the Proprietor or the auditor shall be entitled to inspect the financial records and books of account of the Manager in so far as they relate to the Property and its operation and the Manager will at the request of the Proprietor make such books of account and records available for inspection at the Property or elsewhere as may be reasonably directed by the Proprietor.

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- 5.2 In determining Gross Operating Profit for any Accounting Period no adjustment shall be made for or on account of any deficiency in the Gross Operating Profit of any prior Accounting Period.

6. REVENUE, EXPENSES AND FEES

- 6.1 The budget for the Accounting Period from 1 July 2013 to 30 June 2014 is annexed hereto and marked "C".
- 6.2 At least 50 days before the commencement of each subsequent Accounting Period or by such later date that the Manager and the Proprietor agree upon, the Manager shall prepare and submit to the Proprietor a budget for the ensuing Accounting Period. Such budget shall outline in reasonable detail all such matters that should be properly contained in a budget for an apartment of a similar nature to the Property including details of all estimated revenue and income and all estimated outgoings and expenditure.
- 6.3 The Proprietor shall have the right to approve or disapprove the budget. The Proprietor shall advise the Manager within 30 days after receiving the budget whether it approves the budget or, in the event of its disapproval, the items of which it disapproves. If the Proprietor and the Manager are unable to agree on any specific item in the budget within 14 days after disapproval by the Proprietor either the Proprietor or the Manager shall be entitled to request the senior partner in Perth of either KPMG or PricewaterhouseCoopers (provided the selected firm is not the auditor of either the Proprietor or the Manager) to appoint a partner or employee in his firm experienced in assessing the management of apartments to settle the issues in dispute. Each party shall be entitled to make submissions in writing. A copy of any submissions made by a party shall be given to the other party. In settling the issues in dispute the person so appointed shall take into consideration prevailing market conditions, occupancy rates, and tariffs in competitive apartment hotels, the necessity for the Property to be placed on an even footing competitively with those comparable apartment hotels with which it competes and all other relevant matters. In settling the issues in dispute, the person so appointed shall be deemed to be acting as an expert and not as an arbitrator. The decision of the person so appointed shall be final and binding on the Proprietor and the Manager. If the issues in dispute have not been resolved prior to the commencement of the Accounting Period for which the budget has been prepared, the Manager may proceed to implement so much of the budget as has been approved and may implement those items which have not been approved after allowing, where appropriate, for cost increases over the immediately preceding approved budget equal to the percentage increase in Total Revenue budgeted for in the non-approved budget.
- 6.4 If during any Accounting Period there are material changes to any market conditions or circumstances arise which were unforeseen when the budget was settled which substantially impact on the settled budget for such Accounting Period including, but not limited to, a reduction in the number of lots in the Building actually managed by the Manager from time to time from the number of lots in the Building estimated by the Manager in the preparation of the budget over which the Manager anticipated that the

Manager could achieve economies of scale on expenses, the Manager shall prepare and submit to the Proprietor a supplementary budget and the provisions of clause 6.3 shall apply, mutatis mutandis, in respect of such supplementary budget.

6.5 During the Operating Term, the Manager shall be entitled to charge as an expense of the operation of the Property and retain the Management Fee.

6.6 The Total Revenue shall be credited to or paid into the Operating Account and all payments on account of Operating Costs shall be made from the Operating Account.

6.7 The parties agree that in relation to the operation of the Property and for the purpose of meeting the respective obligations of the parties hereto in accordance with the terms of this Agreement, the following sequence or order of payments shall be made, namely:

Firstly: Total Revenue and Operating Costs (other than amounts payable to the Manager) in relation to the operation of the Property shall be made to and from the Operating Account;

Secondly: The Manager shall at the end of each month pay to itself the Management Fee and the Incentive Fee for such month;

Thirdly: The Manager shall pay all costs and expenses incurred by the Manager on behalf of the Proprietor (other than Operating Costs) in the performance of its obligations pursuant to this Agreement;

Fourthly: Within 50 days of the end of each month the Manager shall pay to the Proprietor the available cash surplus for that month.

7. ALTERATIONS, REPAIRS & CHANGES TO THE PROPERTY

7.1 The Manager shall not without the prior written consent of the Proprietor pull down, alter, remove or add to the Property or any part thereof provided that the Manager may in the interests of more properly operating the Property make minor non-structural alterations or improvements to the Property as it thinks fit at the cost and expense of the Proprietor provided the general appearance and value of the Property is not impaired or lessened and provided that such alterations or improvements have been approved by the Proprietor, which shall not withhold its approval unreasonably.

7.2 The Manager shall, as an Operating Cost, keep and maintain the Property in good order, repair and condition in a clean and tidy state consistent with the operation of an apartment of similar standard (wear and tear excepted).

7.3 The Proprietor shall meet the costs of all Capital Expenditure provided that the Proprietor shall have the right to contest the need for any Capital Expenditure required by any law, ordinance, regulation or order of

governmental authority and may postpone compliance therewith, if so permitted by law, but in each such event the Proprietor shall protect the Manager from any loss, cost, damage or expense which may result there from and the Proprietor hereby agrees to indemnify and keep the Manager indemnified in respect thereof.

8. SERVICES AND BENEFITS

- 8.1 The Manager shall provide administrative functions including:
- (a) The services of an operations manager to control, direct and supervise the general manager of the Property.
 - (b) The review by an operations manager of monthly and weekly reports on the performance of the Property.
 - (c) The preparation and collation of results from guest surveys to measure level of guest satisfaction.
 - (d) The services of accounting staff to compile financial statements, reconcile bank accounts and provide other offsite controls to supplement the onsite accounting and control systems.
 - (e) The preparation of annual operating and capital budgets.
 - (f) Negotiation of price and selection of suppliers for all recurrent purchase requirements usual at a hotel for food, beverage, guest requisites, cleaning supplies, electricity, credit card commissions and other like expenses.
 - (g) Appropriate independent internal audit visits and reports.
 - (h) Travel to and from the property for any administration staff employed by the Manager.
 - (i) Postage, fax and telephone charges
 - (j) The use of computer software and hardware to produce financial statements.
- 8.2 The Manager shall provide sales and marketing services and benefits including:
- (a) Preparation of an annual sales plan to 30 June in each year.
 - (b) Monthly report of sales and promotional activity by the Manager relevant to the Property.

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- (c) Inclusion in electronic advertising (Internet) where all hotels managed by the Manager or hotels of identical brand are displayed.
 - (d) Presentation of the Property to key clients and business providers in Australia by sales managers from head office.
 - (e) Representation by sales managers wherever in Australia the Manager maintains a sales office.
 - (f) Use of display booths and other common sales material provided for the use of all sales managers.
 - (g) The services of senior sales managers in monitoring the performance of the Property and developing appropriate tactical sales and marketing responses to changing market conditions.
 - (h) Negotiations of room rates and space allotments with major inbound operators, wholesalers and airlines in respect of forward bookings and package programmes for the Property by senior sales managers.
 - (i) Representation in Australia at major travel trade shows, meeting and other relevant consumer travel shows.
 - (j) The provision of computer hardware at the Manager's central reservations system office.
 - (k) The services of a senior reservations manager at the Manager's central reservations system office to coordinate the distribution of information about the availability of the Property.
 - (l) Inclusion in wholesale programmes directed at both domestic and international markets.
 - (m) Representation by membership of the Manager in relevant and appropriate industry associations. For example: Tourism Council of Australia; Australian Federation of Travel Agents (AFTA) allied member; Property, Property and Accommodation Association (HMAA) and Meetings Industry Association of Australia (MIAA).

8.3 The Manager shall be entitled to and paid by the Proprietor the Management Fee and the Incentive Fee for providing the services and benefits set out in this Agreement and all costs associated in performing tasks for the benefit of the property.

8.4 The Manager shall be entitled to book rent and use the Property on a free of charge basis from time to time for promotional purposes and any Housekeeping Costs incurred in connection therewith shall be deemed to be sales and marketing expenses in respect of the Property and charged as an expense to the Proprietor.

9. REPORTS

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- 9.1 The Manager shall deliver to the Proprietor within 45 days after the end of each month a profit and loss statement showing the results of the operation of the Property for the said month and the Accounting Period to date, and containing a computation of the Gross Operating Profit and such other information as may be reasonably required by the Proprietor. The figures contained in such statement shall be taken from the books of account maintained by the Manager.
- 9.2 Within 4 months after the end of each Accounting Period the Manager shall deliver to the Proprietor a profit and loss statement audited, if required in writing within 1 month after the end of each Accounting Period by the Proprietor, by the auditors referred to in clause 5.1 showing the results of the operation of the Property during the previous Accounting Period, containing a computation of the Gross Operating Profit and the Incentive Fee.
- 9.3 If the Proprietor shall not present objections to the profit and loss statement for any Accounting Period within 60 days after the receipt by the Proprietor of such statement from the Manager such profit and loss statement shall be deemed correct and conclusive for all purposes.

10. INSURANCE

- 10.1 The Proprietor shall at its expense at all times during the Operating Term procure and maintain adequate property insurance fully protecting both the Proprietor and the Manager against loss of or damage to the Property and its contents from fire, boiler explosion and such other risks and casualties for which insurance is customarily provided for apartments of similar character to the Property as well as loss of profits insurance covering both the Proprietor and the Manager. The Proprietor shall prior to each annual renewal of such insurance cover advise the Manager of the level of cover it proposes to obtain and if the Manager considers the level of cover to be insufficient, the Proprietor shall increase the level of cover to that reasonably determined by the Manager as being appropriate to properly protect the interests of the Proprietor and the Manager. Whenever so required by the Manager, the Proprietor shall produce to the Manager certificates of currency in respect of all insurances provided for by this clause.
- 10.2 The Manager shall maintain at all times as an Operating Cost during the Operating Term the following insurances if available on usual terms and at customary rates:
- (a) Public liability insurance, insurance against theft of or damage to guests' property in such amounts as the Manager shall deem necessary; and
 - (b) Worker's compensation employers' liability or other insurance as may be required under applicable laws or which the Manager may deem advisable.
- 10.3 The insurance policies referred to above may contain provisions for deductibility and the Manager may elect to maintain all or part of the

insurances effected under an arrangement insuring one or more hotels operated by the Manager in which event the cost of such insurance shall be allocated by the Manager on a proportionate and reasonable basis.

- 10.4 The Manager and the Proprietor shall furnish to each other satisfactory evidence of all insurance maintained by them respectively pursuant to their obligations hereunder. If either party considers the amount or period of any such insurances inadequate, it shall have the right to notify the other party of this fact and if the parties cannot agree upon the manner in which the cover should be extended then either party may refer such matter to arbitration under the provisions of this Agreement.
- 10.5 The Proprietor warrants to the Manager that the Strata Company will at all times maintain proper and adequate public liability insurance in respect of the common area on the Strata Plan.

11. TERMINATION

- 11.1 The following events shall constitute defaults under this Agreement entitling the non-defaulting party to terminate this Agreement:
- (a) The failure of either party to make payment properly due to the other or provided for herein for a period of 28 days after written demand for such payment is made;
 - (b) The passing of any resolution for the voluntary winding up of either party or the beginning of an administration of either party in accordance with Part 5.3A of the Corporations Act or the approval by the Court of a compromise or arrangement in respect of either party under Part 5.1 of the Corporations Act;
 - (c) If a controller, as defined in Section 9 of the Corporations Act, is appointed to or acts in respect of all or any substantial portion of the property of either party;
 - (d) The entering of an order by any court of competent jurisdiction for the winding up of a party or, if that party is an individual, adjudicating the party as bankrupt or insolvent;
 - (e) The failure by either party (after 28 days notice has been given by the other party) to perform or observe any of the agreements or obligations contained or implied in this Agreement which on the part of the relevant party are or ought to be performed or observed; and
 - (f) The failure of the Manager to maintain, use and operate the Property at the standards in accordance with its obligations **PROVIDED HOWEVER** that such failure shall not constitute default, unless and until such failure to maintain, use and operate the Property is not remedied within 60 days of notice in writing to the Manager from the Proprietor detailing the terms of such failure to maintain, use and operate the Property **PROVIDED HOWEVER** that nothing in this



clause shall affect the right of the Manager to have any dispute or disagreement between the Proprietor and the Manager relating to any such failure by the Manager arbitrated in accordance with the provisions hereof.

11.2 If any party shall be in default and the non-defaulting party desires to terminate this Agreement whilst such default exists, the non-defaulting party shall give to the defaulting party 14 days notice in writing of termination of this Agreement.

11.3 Upon receipt of a notice under clause 11.2 the defaulting party shall promptly cure the default or take reasonable action to cure such default (if such default is capable of being cured within the said 14 day period) and if so cured or reasonable action is taken to cure, then such notice shall be of no force and effect.

11.4 The rights granted hereunder shall not be in substitution for but shall be in addition to any and all rights and remedies for breach of contract granted or allowable by law.

11.5 Notwithstanding the foregoing neither party shall be deemed to be in default under this Agreement if a bona fide dispute with respect to any of the foregoing events of default has arisen between the parties and such dispute has been submitted to arbitration.

11.6  Either party may terminate the agreement at any time ~~other than during the Initial Term~~ without cause by giving 4 months notice in writing of termination of this Agreement. 

11.7 The Manager may terminate this Agreement at any time by giving 28 days notice to the Proprietor if the Manager ceases to manage at least 40 lots within the Building.

11.8 The Manager may terminate the agreement at anytime giving 60 days notice if the property rating drops below 3 1/2 stars.

12. ARBITRATION

12.1 In the event of any dispute in connection with this Agreement (other than any dispute in relation to which provision is made in this Agreement for resolution by referral to an expert), its interpretation, implementation, breach, termination or otherwise the same shall first be submitted to arbitration in accordance with and subject to the Institute of Arbitrators Australia Rules for the Conduct of Commercial Arbitration. Any award made by the Arbitrator shall be final and binding on both parties and neither party shall be entitled to commence or maintain any action or other proceedings upon the dispute until that matter has been determined as hereinbefore provided. The costs of the submission reference and award, together with the apportionment thereof, shall be in the discretion of the Arbitrator.

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- 12.2 Pending any dispute being resolved the parties agree that they will continue and maintain their obligations to each other provided for in this Agreement.

13. SUCCESSORS AND ASSIGNS

- 13.1 The Manager shall have the right to assign this Agreement to any subsidiary or affiliated of the Manager PROVIDED HOWEVER the assignee enjoys the benefits of the Manager organisation in the same degree as the Manager.
- 13.2 The Proprietor shall not assign this Agreement or sell, convey, transfer, lease or otherwise alienate the Property or the Land unless such sale, conveyance, transfer, lease or other alienation is subject to the purchaser conveyee transferee lessee or other alienee, as the case may be, contemporaneously entering into a Deed with the Manager (which shall be prepared and stamped by the Manager's solicitors at the cost and expense of the Proprietor and be in such form as the Manager shall require) acknowledging adopting and accepting the terms and conditions of this Agreement as if such party were named as an original party to this Agreement in lieu of the Proprietor.
- 13.3 Notwithstanding anything to the contrary here in contained or implied, there shall be no obligation on the Manager to enter into any Deed contemplated by clause 13.3 if the Manager, in its reasonable discretion, determines that it is not in the Manager's interests to do so provided that the Manager shall not unreasonably exercise its discretion. If the Manager so determines and provided that 2 years of the Initial Term has elapsed, then the Manager shall, in lieu of entering into such a Deed, release the Proprietor from this Agreement and in consideration for such release the Manager shall receive from the Proprietor an amount equivalent to the Management Fee earned by the Manager for the immediately preceding full Accounting Period during which the Property was operated.

14. EVENTS UPON TERMINATION

- 14.1 Upon termination of this Agreement for any cause:
- (a) the Proprietor shall not hold itself out as being in any way associated with the Manager, or continue the operation of the Property with a name or logo in any way similar to that utilised by the Manager and should it do so the Manager may enter the Land and the Building and may remove all signs, furnishings, printed materials, emblems, slogans or other distinguishing characteristics which are now or hereafter may be connected or identified with that name; and
 - (b) the Proprietor shall not use a name or logo in any way similar to that utilised by the Manager on termination of this Agreement in the name of any partnership or corporation or any other business entity in which it has an interest.

15. NOTICES

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- 15.1 All notices, requests, demands or other communications to or upon the respective parties to this Agreement shall be deemed to be duly given or made:
- (a) in the case of delivery in person or by e-mail, when delivered; or
 - (b) in the case of facsimile, on the day such facsimile is sent provided the same is sent by the sender before 4.00 p.m. (local time) on a Business Day in the place to which such notice, request, demand or other communication is sent, and if after such time it shall be deemed to have been received at the commencement of business on the next following Business Day in such place; or
 - (c) in the case of a letter, provided the same is sent by prepaid post, 3 days after the date of posting, to the party to which such notice, request, demand or other communication is required or permitted to be given under this Agreement addressed to its address as first written above, or to such other address as the relevant addressee may specify for such party to the other party hereto by notice in writing.

16. GENERAL

Proprietor May Perform Manager's Obligations

- 16.1 If the Manager should fail after due notice to make payment or perform any act to be performed pursuant to this Agreement, the Proprietor may without waiving or releasing the Manager from any obligations under this Agreement make such payment or perform such act. All sums so paid by the Proprietor and all necessary incidental costs and expenses in connection with the performance of any such act by the Proprietor together with interest at the rate of 2% per annum above the rate of interest then being charged by the Commonwealth Bank of Australia for overdrafts in excess of \$100,000.00 from the date of the Proprietor making such expenditure shall be payable to the Proprietor upon demand from the Operating Account.

Manager may perform Proprietor's obligations

- 16.2 If the Proprietor should fail after due notice to make payment or perform any act to be performed pursuant to this Agreement, the Manager may without waiving or releasing the Proprietor from any obligations under this Agreement make such payment or perform such act. All sums so paid by the Manager and all necessary incidental costs and expenses in connection with the performance of any such act by the Manager together with interest at the rate of 2% per annum above the rate of interest then being charged by the Commonwealth Bank of Australia for overdrafts in excess of \$100,000.00 from the date of the Manager making such expenditure shall be payable to the Manager upon demand.

Governing Law

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- 16.3 The proper law governing the interpretation and enforcement of this Agreement including all substantive rights and obligations hereunder and the manner mode and method of performance shall be the law of the State of Western Australia and of the Commonwealth of Australia and the parties submit to the non-exclusive jurisdiction of the appropriate Courts of the State of Western Australia and of the Commonwealth of Australia in respect of any dispute of any nature whatsoever arising pursuant to or in connection with the provisions of this Agreement.

Severability

- 16.4 If any provision of this Agreement shall be determined by any statute, court or statutory authority having jurisdiction in relation thereto to be illegal, invalid, void or voidable the legality or validity of the remainder of this Agreement shall not be affected and the illegal, invalid, void or voidable provision shall be deemed deleted herefrom to the same extent and effect as if never incorporated herein but the remainder of this Agreement shall continue in full force and effect.

Variation

- 16.5 This Agreement may not be varied except by written instrument executed by the parties.

Liability for Expenses

- 16.6 Each party shall bear its own legal costs and expenses of and incidental to this Agreement. All stamp duty (including fines and penalties, if any) payable in respect of this Agreement, any instrument created pursuant to this Agreement and performance hereunder shall be borne by the Proprietor and the Proprietor hereby indemnifies and undertakes to keep indemnified the Manager in respect of all claims demands actions proceedings costs expenses and liabilities relating to such stamp duty (including fines and penalties).

Counterparts

- 16.7 This Agreement may be executed in any number of duplicate originals or counterparts and all of such duplicate originals or counterparts taken together shall be deemed to constitute one and the same instrument.

Inconsistency

- 16.8 Notwithstanding anything contained herein it is hereby agreed and declared that the special provisions set out in the Schedule (if any) shall apply and in the case of any inconsistency between the other provisions herein contained and the special provisions contained in the Schedule, the provisions of the Schedule shall prevail to the extent of such inconsistency.

Entire Agreement

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- 16.9 The provisions of this Agreement contain the entire understanding between the parties in relation to the subject matter of this Agreement and there are no conditions, warranties, promises, representations or obligations written or oral express or implied in relation thereto other than those expressly stated herein or necessarily implied by law.

Confidentiality

- 16.10 The Proprietor and the Manager hereby mutually warrant and declare that they and each of them shall not nor shall they allow suffer permit or cause or any other person during the currency of this Agreement or at any time thereafter except as authorised by the other party or properly required by its duties hereunder or by Act, statute, regulation or legal requirement (State or Commonwealth), to reveal to any person any of the trade secrets, secret or confidential operations, processes or dealings or any information concerning the organisation business finances transactions or affairs of the other of them which may come to its knowledge during the currency of this Agreement and shall keep with complete secrecy all confidential information entrusted to it and shall not use or attempt to use or make publish or issue any statement or report concerning any such information in any manner which may injure or cause loss either directly or indirectly to the other of them or which may be likely so to do.

GST

- 16.11 Total Revenue shall (unless the Proprietor notifies the Manager in writing of the proprietors GST registration details) be charged and collected by the Manager on behalf of the Proprietor on a GST exclusive basis and all expenses shall be paid and incurred by the Manager on behalf of the proprietor (apartment owner) on a GST inclusive basis.
- 16.12 Unless the proprietor (apartment owner) or the representative of the owner has notified the Manager in writing of the apartment owner's GST registration details pursuant to the previous clause, the apartment owner acknowledges that all invoices rendered by the Manager in respect of revenue derived from the use of the Property for and on behalf of the apartment owner are on a GST exclusive basis. It is the sole responsibility of the proprietor (apartment owner) to advise the manager of their GST requirements..
- 16.13 If the proprietor advises the manager on his / her GST implications the manager is to organise the payment of GST and claim input credits. The financial statement produced by the manager to the proprietor will include the total GST collected and input credits claimed on behalf of the proprietor.

17. WARRANTIES BY PROPRIETOR

- 17.1 The Proprietor warrants and covenants with the Manager that:

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- (a) The Proprietor has not committed or omitted to do any act or thing the commission or omission of which is or which could be in contravention of any Act, order, regulation or the like statutory requirement nor is the Proprietor a party to any contracts arrangement or understanding which is in breach of the Trade Practices Act 1974 (as amended) nor does it engage in any conduct or practice which is in breach of that Act.
 - (b) The Proprietor is not engaged in any prosecution, litigation, dispute or arbitration proceedings in respect of the Property and there are no such proceedings pending or threatened against or affecting the Proprietor in respect of which verbal or written communication has been given or received either by or against the Proprietor nor are there any facts or disputes which may or might give rise to any such proceedings.
 - (c) The Proprietor has all necessary licences (including statutory licences) and consents, planning permissions, authorities and permits for the proper carrying on of business at the Property at the date hereof and the Proprietor knows of no factors that might in any way prejudice the continuance or renewal of those licences and consents, permissions authorities or permits and the Proprietor is not restricted by deed or arrangements from carrying on any activity in relation to the Property.
 - (d) All income tax, land tax, group tax, capital gains tax, withholding tax, municipal rates, water sewerage and drainage rates, stamp duties and other charges and levies assessed or imposed by an governmental or semi-governmental or statutory body which has been assessed or are lawfully assessable upon the Proprietor or the Property and which are due and payable have been or will be promptly paid by the Proprietor.
 - (e) There are no covenants restrictions burdens stipulations or outgoings affecting the Property which are of an onerous or unusual nature.
 - (f) The current use of the Property is both authorised under or pursuant to any relevant legislation and such authorisation is unconditional and permanent and no development has been carried out in relation to the Property which would require any consent under or by virtue of any relevant legislation without such consent having been properly obtained and any conditions or restrictions imposed therein have been fully observed and performed and no other breach of any relevant legislation has been committed in relation to the Property.
 - (g) At the date hereof the Proprietor has not received any notices affecting the Property from any competent authority or from any third party and so far as it is aware there are no proposals made or intended to be made by any competent authority concerning the compulsory acquisition of the whole or any part of the Property or which would adversely affect the same or any part thereof.
 - (h) All buildings and other improvements comprising and forming part of the Property are in such condition and state of repair as to be fit for the purpose of carrying on business at the Property.

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- (i) The Proprietor has full power and authority (corporate and other) to execute this Agreement and to perform and observe all the terms and provisions hereof.
 - (j) All corporate action on the part of the Proprietor, its directors or members necessary for the authorisation, execution and performance of this Agreement has been duly taken.
 - (k) This Agreement has been duly executed by the Proprietor and is a legal, valid and binding Agreement and enforceable against it in accordance with the terms hereof.
 - (l) Neither the Constitution of the Proprietor nor the provisions of any obligations, agreement or arrangement to which the Proprietor is a party or by which it is bound or any statute, rule or regulation or any judgment, decree or order of any court or agency binding the Proprietor has been or will so far as the Proprietor is aware be contravened by the execution, delivery and performance of this Agreement.

18. ACKNOWLEDGEMENTS

- 18.1 The Proprietor acknowledges and agrees that the Manager is entitled to manage other lots in the Building on behalf of the owners thereof.
- 18.2 The Manager undertakes and agrees with the Proprietor to use its reasonable endeavours to ensure that occupancy of lots in the Building managed by the Manager will be distributed amongst such lots in the Building on a reasonably fair and equitable basis.

19. INTERPRETATION

- 19.1 References to clauses, sub-clauses, paragraphs, sub-paragraphs, annexures and schedules are references to clauses, sub-clauses, paragraphs, sub-paragraphs, annexures and schedules of or to this Agreement.
- 19.2 Headings are inserted in this Agreement for convenience only and do not affect the interpretation or construction of this Agreement.
- 19.3 Throughout this Agreement unless the context otherwise requires:
 - (a) whenever the singular number is used it includes the plural number and vice versa;
 - (b) each gender includes the other two genders;
 - (c) the word “**person**” means a natural person and any body or entity whether corporate or unincorporate;
 - (d) the word “**month**” means calendar month and the word “**year**” means 12 calendar months;

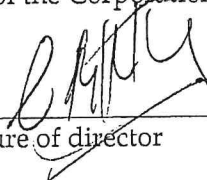
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- (e) the words “**in writing**” are deemed to include any communication sent by letter, facsimile transmission or e-mail;
 - (f) where any word or phrase is given a defined meaning, any other part of speech or other grammatical form of that word or phrase shall have a corresponding meaning;
 - (g) a reference to any statute, proclamation, rule, regulation or ordinance shall include any amendment, consolidation, modification, re-enactment or reprint thereof or any statute, proclamation, rule, regulation or ordinance replacing it and a reference to a specified section, clause, paragraph, schedule or item (or a subsidiary provision thereof) of any statute, proclamation, rule, regulation or ordinance shall mean a reference to the equivalent section of the statute, proclamation, rule, regulation or ordinance which is for the time being in force; and
 - (h) all dollar amounts are in the lawful currency of the Commonwealth of Australia.

*This agreement is subject to finance Approval
& Sales on the buyers name*

A handwritten signature in black ink, appearing to be 'D. H. G.', written over a horizontal line.


EXECUTED as an agreement.

EXECUTED BY AWA HOTELS PTY LTD
(ACN 105 266 064) in accordance with Section
127(1) of the Corporations Act by:



Signature of director
Conganage Roshan Jayantha Anthony

Name of director



Signature of director/secretary
Conganage Roshan Jayantha Anthony

Name of director/secretary

For Companies:

EXECUTED BY
_____ in
accordance with Section 127(1) of the
Corporations Act by: []

Signature of director

Name of director

Signature of director/secretary

Name of director/secretary

For Individuals:

SUNIL KARWASRA
ATF SIDIKAR FAMILY TRUST.

SIGNED by the said

Sunil

in the presence of:

Witness Signature:

DMWhite

Witness Address:

193 Hay Street East Perth.

Witness Occupation:

Hsk Manager

SIGNED by the said

DMWhite DMW

in the presence of:

Witness Signature:

Witness Address:

Witness Occupation:

Annexure

"A"

Strata Plan 38996
