



THIS IS ANNEXURE A TO THE REQUEST (FORM 11R) (Amendment to BMS)

APPLICANT: INFRASTRUCTURE NSW

Date:

(H)

Executed by Infrastructure NSW as registered proprietor of Certificate of Title Folio Identifiers:

1. 201/1204948
2. 202/1204948
3. 203/1204948
4. 204/1204948
5. 205/1204948
6. 207/1211553
7. 208/1211553
8. 211/1217691
9. 213/1221076
10. 214/1221076

I certify that I am an eligible witness and that the person(s) signing opposite, signed this instrument in my presence [see \* note below].

Signature of witness:

Name of witness:

Address of witness:

Certified correct for the purposes of the Real Property Act 1900 by a delegate of Infrastructure NSW named below.

Signature of delegate:

Delegate's name:

Authority of delegate:

Signing on behalf of: **Infrastructure NSW**

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\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.  
ALL HANDWRITING MUST BE IN BLOCK CAPITALS

Executed by **Lendlease IMT (LLITST ST) Pty Ltd** as lessee under registered leases:

1. AJ821221 (in respect of Certificate of Title Folio Identifier 201/1204948)
2. AJ821222 (in respect of Certificate of Title Folio Identifier 202/1204948)
3. AJ821223 (in respect of Certificate of Title Folio Identifier 203/1204948)
4. AJ821224 (in respect of Certificate of Title Folio Identifier 204/1204948)
5. AJ821225 (in respect of Certificate of Title Folio Identifier 205/1204948)
6. AK445148 (in respect of Certificate of Title Folio Identifier 211/1217691)
7. AM341169 (in respect of Certificate of Title Folio Identifier 214/1221076)
8. AM341170 (in respect of Certificate of Title Folio Identifier 214/1221076)
9. AM341171 (in respect of Certificate of Title Folio Identifier 214/1221076)
10. AP703273 (in respect of Certificate of Title Folio Identifier 214/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Signed sealed and delivered for **Lendlease IMT (LLITST ST) Pty Ltd** by

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Lendlease IMT (OITST ST) Pty Ltd** as lessee under registered leases:

1. AJ821222 (in respect of Certificate of Title Folio Identifier 202/1204948)
2. AJ821223 (in respect of Certificate of Title Folio Identifier 203/1204948)
3. AJ821224 (in respect of Certificate of Title Folio Identifier 204/1204948)
4. AJ821225 (in respect of Certificate of Title Folio Identifier 205/1204948)
5. AK854995 (in respect of Certificate of Title Folio Identifier 213/1221076)
6. AP703273 (in respect of Certificate of Title Folio Identifier 214/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Signed sealed and delivered for **Lendlease IMT (OITST ST) Pty Ltd** by

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Lendlease (Barangaroo South Co-owner) Pty Ltd** as lessee under registered leases:

1. AJ821222 (in respect of Certificate of Title Folio Identifier 202/1204948)
2. AJ821223 (in respect of Certificate of Title Folio Identifier 203/1204948)
3. AJ821224 (in respect of Certificate of Title Folio Identifier 204/1204948)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **Lendlease (Barangaroo South Co-owner) Pty Ltd** in accordance with section 127 of the Corporations Act 2001:

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Lendlease (Daramu House) Pty Ltd** as lessee under registered leases:

1. AP605886 (in respect of Certificate of Title Folio Identifiers 205/1204948 and 214/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **Lendlease (Daramu House) Pty Ltd** in accordance with section 127 of the Corporations Act 2001:

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Lendlease Retail (Barangaroo) R8/R9 Pty Ltd** as lessee under registered leases:

1. AJ939823 (in respect of Certificate of Title Folio Identifier 208/1211553)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **Lendlease Retail (Barangaroo) R8/R9 Pty Ltd** in accordance with section 127 of the Corporations Act 2001:

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Lendlease Retail (Barangaroo) R7 Pty Ltd** as lessee under registered leases:

1. AK839017 (in respect of Certificate of Title Folio Identifier 214/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **Lendlease Retail (Barangaroo) R7 Pty Ltd** in accordance with section 127 of the Corporations Act 2001:

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Lendlease IMT (LLISTST ST) Pty Ltd** as lessee under registered leases:

1. AN102843 (in respect of Certificate of Title Folio Identifier 214/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **Lendlease IMT (LLISTST ST) Pty Ltd** in accordance with section 127 of the Corporations Act 2001:

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **Hualong Investment Pty Ltd** as lessee under registered leases:

1. AM979139 (in respect of Certificate of Title Folio Identifier 214/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **Hualong Investment Pty Ltd** in  
accordance with section 127 of the Corporations Act  
2001:

Signature:

Name (printed):

Office held: Director

Signature:

Name (printed):

Office held: Director/Secretary

draft

Executed by **The Owners – Strata Plan No. 91649** as lessee under registered leases:

1. AJ997635 (in respect of Certificate of Title Folio Identifier 207/1211553)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

The seal of The Owners - Strata Plan No 91649 was affixed on \_\_\_\_\_ in the presence of the following person(s) authorised by section 273 *Strata Schemes Management Act 2015* to attest the affixing of the seal.

Signature:

Name (printed):

Authority:

Signature:

Name (printed):

Authority:

draft

Executed by **CBA Corporate Services (NSW) Pty Ltd** as mortgagee under registered mortgages

1. AK855043 (in respect of registered lease AJ821222 in Certificate of Title Folio Identifier 202/1204948)
2. AK855044 (in respect of registered lease AJ821223 in Certificate of Title Folio Identifier 203/1204948)
3. AK855045 (in respect of registered lease AJ821224 in Certificate of Title Folio Identifier 204/1204948)
4. AK855046 (in respect of registered lease AJ821225 in Certificate of Title Folio Identifier 205/1204948)
5. AK855042 (in respect of registered lease AK854995 in Certificate of Title Folio Identifier 213/1221076)

Certified correct for the purposes of the Real Property Act 1900 (NSW).

Executed by **CBA Corporate Services (NSW) Pty Ltd**  
by its attorney pursuant to registered power of attorney  
Book                      No                      who states that no  
notice of revocation of the power of attorney has been  
received, and in the presence of:

Witness:

Name (printed):

Attorney:

Name (printed):

draft

**THIS IS ANNEXURE B TO REQUEST (FORM 11R) (Amendment to BMS)**

APPLICANT: INFRASTRUCTURE NSW

Date:

The Building Management Statement filed with DP1204948 ("**BMS**") is amended as follows:

1. Adding a new clause 91 to the BMS as follows:

**"91 Application of Annexure C – Hotel Resort: Management Statement**

91.1 Application

- (a) On and from the date a Strata Plan is registered in respect of the Residential Lot, the Hotel Resort Members must comply with the provisions set out in Annexure C.
- (b) Prior to the date a Strata Plan is registered in respect of the Residential Lot, Annexure C is not operative.
- (c) Except for the Hotel Resort Members, no other Member:
  - (i) is bound by, or required to observe or comply with, the provisions set out in Annexure C; and
  - (ii) has any rights in respect of:
    - (A) the matters the subject of Annexure C, and
    - (B) the carrying out of, or failure to carry out, obligations in relation to matters the subject of Annexure C.

91.2 Definitions

In this clause 91:

- (a) **Hotel Resort Members** has the meaning given to that term in Annexure C.
- (b) **Residential Lot** has the meaning given to that term in Annexure C.
- (c) **Strata Plan** has the meaning given to that term in Annexure C.

2. Schedule 1 – Shared Facilities Table (Barangaroo South) is amended by:

- a. In Part A – Definitions, additional item 17 is added as follows "17. H1 Residential Means the H1 Residential Owner".
- b. In Part B – Shared Facilities Table - Throughout the table where the word "H1" is used, the word "H1" is replaced with the words "H1 and H1 Residential".
- c. At Note 6: Car Space numbers of Part B:

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i. the word “TBC” in the table in relation to H1 is deleted and replaced with the number “[#]”; and **[Note: number of car spaces in Hotel Lot to be confirmed]**

ii. a new line is added to the table as follows:

Lot	Car Spaces
H1 Residential	<b>[Note: number of car spaces for Residential stratum lot to be confirmed.]</b>

d. In Part C – GFA:

i. the words “Note: GFA for this Lot is to be included upon subdivision and granting of the relevant Ground Lease” in the table in relation to H1 is deleted and replaced with the number “[#]”; and **[Note: GFA of Hotel Lot to be confirmed]**

ii. new line is added to the table as follows:

Lot	GFA (in sq m)
H1 Residential	<b>[Note: GFA for Residential stratum lot to be confirmed.]</b>

3. In Schedule 7 – Indicative list of components in Barangaroo South, the following line is inserted after the H1 Component in the table:

Component	Description	Member
H1 Residential	A stratum lot containing residential apartments which will be further subdivided by the Subdivision Legislation	H1 Residential Owner

4. Adding a new “Annexure C – Hotel Resort: Management Statement” to the BMS in the form of Annexure C to this Request (Form 11R).

\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.  
ALL HANDWRITING MUST BE IN BLOCK CAPITALS

THIS AND THE FOLLOWING # PAGES COMPRISE OF ANNEXURE C TO REQUEST (FORM 11R)  
(Amendment to BMS)

APPLICANT: INFRASTRUCTURE NSW

Date:

## Annexure C – Hotel Resort: Management Statement

Annexure C of this management statement applies only to that part of Barangaroo South comprising Lot 501 in DP[INSERT] (and any future subdivision of that lot). ***[Note: To be updated once deposited plan number is known.]***

# Introduction

- A The Hotel/Retail Lot and Residential Lot comprise Hotel Resort.
- B The purpose of Annexure C of this management statement is to regulate the Hotel Resort Members, Owners and Occupiers of the Hotel Resort Building in respect of the control, management and maintenance of the components of the Hotel Resort Building. It requires the Hotel Resort Members to create a Hotel Resort Building Management Committee to manage the Hotel Resort Shared Facilities and attend to other administrative matters.
- D The Hotel Resort Members are the Owners of the different components of the Hotel Resort Building. At One Barangaroo, the Hotel Resort Members on registration of the amendment to the Building Management Statement to incorporate this Annexure C are the:
- (a) Residential Lot Owner; and
  - (b) Hotel/Retail Lot Owner.

- E When complete, the Hotel Resort Building will have two components, set out and described in the table below:

Component	Description	Hotel Resort Member
Residential Lot	A residential strata scheme comprising apartments and associated car parking spaces and storage spaces and Common Property.	Residential Lot Owner
Hotel/Retail Lot	A hotel stratum lot comprising a hotel, speciality retail lots and associated car parking spaces and storage space	Hotel/Retail Lot Owner

- F The Hotel Resort Developer has reserved to itself certain rights to enable it to complete the development (see **Part 7** of this Annexure C).
- G The governance regime to ensure the Hotel Resort Building and its facilities (including the Hotel Resort Shared Facilities) are maintained to a standard commensurate with a six-star luxury hotel resort includes the Hotel/Retail Lot

Owner reserving to itself certain rights, controls and discretions in relation to the use, operation, maintenance and upgrades for the Hotel Resort Building or parts of the Hotel Resort Building, including in relation to the Hotel Resort Shared Facilities and areas of Common Property.

- H A defining feature of Hotel Resort – Crown Residences will be the governance arrangements designed to ensure the Hotel Resort Building and its facilities (including the Hotel Resort Shared Facilities) are maintained and upgraded over time to ensure a standard commensurate with a six-star luxury hotel resort applies and that, as a consequence, the value of the Hotel Resort Building is enhanced on completion and in the future.
- I Hotel Resort Members are required to contribute to the costs of the use, operation, maintenance and upgrades for the Hotel Resort Building and parts of the Hotel Resort Building, including in relation to the Hotel Resort Shared Facilities and areas of Common Property in accordance with the provisions of this Annexure C.
- J This Annexure C is divided into eight parts:
- Part 1 – Definitions and Interpretation
  - Part 2 – Hotel Resort Members' and Occupiers' obligations
  - Part 3 – Hotel Resort Building Management Committee and Managers
  - Part 4 – Hotel Resort Shared Facilities and Special Areas
  - Part 5 – Maintenance, Repair and Upgrading
  - Part 6 – Architectural Code and Works
  - Part 7 – Construction Period
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# PART 1: DEFINITIONS AND INTERPRETATION

## 1 Definitions and Interpretation

### 1.1 Statutory Definitions

In Annexure C, a word has the meaning given to it in the Act if:

- (a) it is defined in the Act; and
- (b) used but not defined in Annexure C .

### 1.2 Building Management Statement Definitions

Where a word is capitalised but not defined in this Annexure C, it has the meaning set out in clause 89 of the Building Management Statement.

### 1.3 Further Definitions

In this Annexure C:

**Act** means the Development Act or the Management Act or all of them as the context requires.

**Administration Manager** means the licensed strata managing agent appointed under **clause 6** of this Annexure C.

**Administration Management Fee** means the fee for the Administration Manager under **clause 6** of this Annexure C (and payable in the proportions set out in the Hotel Resort Shared Facilities Schedule).

**Annexure C** means this Annexure C of the Building Management Statement.

**Application** means each application lodged or to be lodged with the relevant Authority for Approvals.

**Approvals** means all consents, approvals, registrations, certifications, licences, permits or authorities from any Authority with respect to all or part of the Land.

**Architectural Code** means the architectural code for the Hotel Resort Building set out in **Part 6** of this Annexure C.

**Authority** means any government or semi government authority or instrumentality, statutory or judicial authority, including Council and the ILGA.

**Bio-ethanol** means the fuel derived from biomass materials.

**Bio-ethanol Protocol** means the protocol for the use, storage and transportation of Bio-ethanol into and within the Hotel Resort Building as may be updated from time to time, a copy of which is available from the Building Manager.

**BOH Area** means that area within a BOH Lot adjacent to the service lift (known as Lift B2) allowing access from that lift to an area within the BOH Lot, commonly referred to as the 'Back of House' area, typically adjacent to a pantry or similar within a BOH Lot and comprising of, amongst other things, storage loading, communications facilities and the like.

**BOH Lot** means Lots 46, 70, 71, 72, 73 and 74 in the Plan and the Villas located on levels 67, 68 and 69 of the Hotel Resort Building.

**BMS Shared Facility** means a shared facility as defined in and the subject of this management statement excluding the Hotel Resort Shared Facilities.

**Building Management Statement** means this management statement, as may be amended or substituted from time to time.

**Building Manager** means a person who the Hotel Resort Building Management Committee for the time being appoints as Building Manager under **clause 7** of this Annexure C, which may be the Hotel/Retail Lot Owner or a Related Body Corporate of the Hotel Resort Developer or may be the same as the Hospitality Services Supplier.

**Building Manager Agreement** means an agreement between Building Manager and the Hotel Resort Building Management Committee and if the Building Manager is the Hospitality Services Supplier, may be the same as the Hospitality Services Agreement.

**Building Manager Fee** means the fee for the Building Manager under **clause 7** of this Annexure C and as set out in the Building Manager Agreement.

**Business Day** means a day which is not a Saturday, Sunday or public holiday in Sydney.

**CCTV Security System** means the CCTV security system for the Hotel Resort Building which is a Hotel Resort Shared Facility the subject of **clause 21** of this Annexure C.

**Chairperson** means the person appointed by the Hotel Resort Building Management Committee as chairperson from time to time under **clause 4.1(a)** of this Annexure C.

**Common Accessways** means the areas the subject of the Easement for Access.

**Common Property** means the common property created on registration of a Strata Plan.

**Concierge** means the concierge appointed as part of the provision of the Hospitality Services.

**Construction Period** means the period starting on the date of registration of the amendment to the Building Management Statement to incorporate this Annexure C and ending on the later of the date:

- (a) a final occupation certificate issued for a Hotel/Retail Lot; and
- (b) a final occupation certificate issued for the Residential Lot.

**Construction Works** means all works which are considered, in the absolute discretion of the Hotel Resort Developer, necessary or desirable for the Hotel Resort Developer to construct the Hotel Resort Building and install Services in and under the Hotel Resort Building and on the Lots and complete the Hotel Resort Building including:

- (a) building and demolition works;
- (b) installation, augmentation, relocation, connection and temporary disconnection of Services and Hotel Resort Shared Facilities;
- (c) placing in the Hotel Resort Building anything in connection with (a) and (b) above including temporary signs, structures, building materials, fences, cranes and other equipment;

- (d) if necessary, to make an Application (even if an Approval in respect of the subject matter of that Application has already been granted);
- (e) applying to, varying or appealing an Approval;
- (f) dedicating those parts of the Land to be Dedicated;
- (g) engaging contractors and consultants to construct the Hotel Resort Building and install the Services; and
- (h) subdividing (including strata subdividing) and consolidating of one or more Stratum Lots.

**Contractor** means a person who provides services to the Hotel Resort Building Management Committee who is not the Administration Manager, the Building Manager or the Hospitality Services Supplier.

**Dedicate** includes dedicate or transfer with or without consideration.

**Defaulting Member** has the meaning stated in **clause 38.5** of this Annexure C.

**Defaulting Party** has the meaning stated in **clause 11.5(c)** of this Annexure C.

**Development Act** means the *Strata Schemes Development Act 2015* (NSW).

**Easement for Access** means the Easement for Access (B) numbered 6 on the Stratum Plan.

**Easement to Access Hotel Resort Shared Facilities and Areas** means the Easement to Access Hotel Resort Shared Facilities and Areas (Whole of Lot) numbered 4 on the Stratum Plan.

**Easements** means the any easements, restrictions on use or positive covenants which benefit or burden the Land from time to time.

**Emergency Repairs** means any repairs that require immediate rectification due to the nature of the fault and the impact on the operation, use, or enjoyment of the Hotel Resort Building (or any part) or the work health and safety of any Occupiers or visitors to the Hotel Resort Building.

**Expert** means a person appointed under **clause 42.2(b)** of this Annexure C.

**External Facing Areas** means:

- (a) those areas of the Residential Lot that are visible from outside the Residential Lot (including that part of the Hotel Resort Building façade located on the Residential Lot) or are areas within the Residential Lot that may be lawfully accessed by guests and patrons of the Hotel: and
- (b) those areas of the Hotel/Retail Lot that are visible from outside the Hotel/Retail Lot (including that part of the Hotel Resort Building façade located on the Hotel/Retail Lot) or are areas within the Hotel/Retail Lot that may be lawfully accessed by guests and patrons of the Hotel.

**Facade Cleaning and Maintenance Plan** means the façade cleaning and maintenance plan prepared by the Hotel Resort Developer and adopted by the Hotel Resort Building Management Committee as amended from time to time and the subject of **clause 30.5** of this Annexure C.

**Good Faith** means to act:

- (a) honestly;
- (b) reasonably, having regard to the terms of this Annexure C;

- (c) not capriciously;
- (d) without the primary purpose of causing harm; and
- (e) with respect for the intent of the parties' bargain as a matter of substance, and not only form,

but any obligation to act in Good Faith under this Annexure C does not create and is not intended to give rise to any fiduciary relationship between the parties and does not require a party to take into account the interest of the other party.

**Governmental Agency** means any government, semi-government, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or other entity created by a government.

**Green Travel Plan** means the green travel plan published by the Hotel Resort Developer as amended from time to time and the subject of **clause 26** of this Annexure C.

**Gym** means the gym and yoga deck located on level 4 of the Hotel/Retail Lot and the subject of **clause 15** of this Annexure C.

**Hospitality Services** means the services to be provided by the Hospitality Services Supplier in accordance with the scope set out in the Hospitality Services Agreement and may include:

- (a) concierge services;
- (b) pool/gym attendant services;
- (c) door person services
- (d) valet services;
- (e) dock services; and
- (f) building manager services.

**Hospitality Services Agreement** means an agreement between the Hospitality Services Supplier and the Hotel Resort Building Management Committee which provides for:

- (a) Hospitality Services to the Owners and Occupiers in the Residential Lot and the Hotel/Retail Lot (including the Villas); and
- (b) anything else which the Hotel Resort Building Management Committee agrees is necessary or desirable.

**Hospitality Services Fee** means the fee for the Hospitality Services Supplier providing the Hospitality Services and as set out in the Hospitality Services Agreement.

**Hospitality Services Supplier** means the company appointed by the Hotel Resort Building Management Committee to provide the Hospitality Services, which may be the Hotel/Retail Lot Owner or a Related Body Corporate of the Hotel/Retail Lot Owner and is the subject of **clause 9** of this Annexure C.

**Hotel** means the hotel resort located on the Hotel/Retail Lot, which at the date of the amendment to the Building Management Statement to incorporate this Annexure C is known as "Crown Sydney".

**Hotel Amenities** the amenities located on the Hotel/Retail Lot, including the spa (including sauna and steam room), hotel pool on level 3 and tennis court, which are the subject of **clause 16** of this Annexure C.

**Hotel Lease** means the ground lease for a term of 99 years in respect of the property granted by INSW to the Hotel/Retail Lot Owner.

**Hotel/Retail Lot** means lot 1 in the Stratum Plan and includes the Villas.

**Hotel/Retail Lot Owner** means either:

- (a) the registered proprietor of the Hotel/Retail Lot; or
- (b) the Owners Corporation created on registration of a Strata Plan for the Hotel/Retail Lot.

**Hotel Resort Annexure** means this Annexure C.

**Hotel Resort Building** means the improvements erected or intended to be erected on part of the Land.

**Hotel Resort Building Management Committee** means the committee the subject of **clause 3** of this Annexure C.

**Hotel Resort Developer** means Crown Sydney Property Pty Ltd ABN 12 166 326 861 and includes any transferee and assignee.

**Hotel Resort Members** means those persons described in **clause 3.2** of this Annexure C.

**Hotel Resort Shared Costs** means the following expenses:

- (a) in relation to a Hotel Resort Shared Facility:
  - (i) repair, maintenance, cleaning and operating costs (including energy and water usage);
  - (ii) renewal or replacement costs; and
  - (iii) any amount payable to a contractor under any maintenance agreement;
- (b) costs of Insurance;
- (c) the fees and administrative costs in relation to this Annexure C, the Hotel Resort Building Management Committee, Administration Manager, the Building Manager and the Hospitality Services Supplier; and
- (d) any amount determined by Unanimous Resolution to be Hotel Resort Shared Costs.

**Hotel Resort Shared Facilities** means:

- (a) the services, facilities, machinery and equipment referred to in the Hotel Resort Shared Facilities Schedule;
- (b) any alterations, additions or replacement of those items;
- (c) any pipes, wires, cables and ducts connected to or forming part of these items but not those parts exclusively serving a Hotel Resort Member's Lot or Common Property;
- (d) any items necessary to operate or service the facilities, such as cleaning equipment and materials;
- (e) any area in which the Hotel Resort Shared Facilities are located; and
- (f) any services, facilities, machinery and equipment which the Hotel Resort Building Management Committee determines by Unanimous Resolution are Hotel Resort Shared Facilities.

**Hotel Resort Shared Facilities Schedule** means the schedule of Hotel Resort Shared Facilities attached to this Annexure C in **schedule 1**.

**Hotel Services** those services of the Hotel that the Hotel/Retail Lot Owner makes available to Owners and Occupiers of the Residential Lot and the Hotel Lot from time to time, including [room service, car wash, room cleaning and dry cleaning], which are the subject of **clause 16** of this Annexure C.

**ILGA** means the New South Wales Independent Liquor and Gaming Authority or its successor.

**Insurance** means the insurances taken out by the Hotel Resort Building Management Committee under **clause 40.1** of this Annexure C.

**Land** means the land contained in lot 501 in deposited plan [insert].

**Law** includes:

- (a) the provisions of a statute, rule, regulation, proclamation, ordinance or by-law, present or future, whether state, federal or otherwise; and
- (b) a requirement, notice, order or direction received from or given by a statutory, public or other competent authority.

**Loading Dock** means the shared loading dock located on the Hotel/Retail Lot which is a Hotel Resort Shared Facility and the subject of **clause 20** of this Annexure C and the Loading Dock Easement.

**Loading Dock Easement** means the Easement to Use the Loading Dock (D) numbered 8 on the Stratum Plan.

**Loading Dock Management Plan** means the loading dock management plan for the use of the Loading Dock, a copy of which is available from the Building Manager.

**Lot** means a Stratum Lot or a lot in a Strata Plan within the Hotel Resort Building.

**Luxury Standard** means the physical and operational standards of an operator of international luxury hospitality projects with at least 15 years of history and experience in managing and servicing guests at resorts with third party accreditation such as Forbes 5 star.

**Management Act** means the *Strata Schemes Management Act 2015* (NSW).

**Membrane** means that part of the Hotel Resort Building being the waterproofing membrane, which is a BMS Shared Facility.

**Occupier** means a person in lawful occupation of a Lot and includes guests and patrons of the Hotel.

**Officer** means a Secretary, Chairperson and/or Treasurer of the Hotel Resort Building Management Committee or other officer as determined by the Hotel Resort Building Management Committee under **clause 4.1(b)** of this Annexure C.

**Owner** means the registered proprietor of a Stratum Lot or a lot in a Strata Plan within the Hotel Resort Building.

**Owners Corporation** means the owners corporation constituted upon registration of a Strata Plan.

**Party** means a party bound by this Annexure C as stated in **clause 2.2**.

**Plan** means strata plan 101520.

**Plant** means all pipes, connections, junctions, pumps, filters, fans, ducts, coils, mechanical and electrical equipment and ancillary plant and equipment located in the Plant Areas.

**Plant Areas** means those areas of the Hotel Resort Building designated for Plant.

**Proxy Form** means a form in or to the effect of the form in **schedule 3** of this Annexure C.

**Refuse Room** means the refuse room located on the Hotel/Retail Lot which is a Hotel Resort Shared Facility and the subject of **clause 24** of this Annexure C and the Refuse Room Easement.

**Refuse Room Easement** means the Easement to Use Refuse Room (F) numbered 10 on the Stratum Plan.

**Related Body Corporate** has the meaning given to that term in the *Corporations Act 2001* (Cth).

**Representative** means a representative of a Hotel Resort Member appointed under **clause 3.3** of this Annexure C from time to time.

**Residential Garbage Room** means the residential garbage room located on the Common Property of the Residential Lot.

**Residential Lot** means lot 2 in the Stratum Plan.

**Residential Lot Owner** means

the Owners Corporation created on registration of a Strata Plan over the Residential Lot.

**Secretary** means the person appointed by the Hotel Resort Building Management Committee as secretary from time to time under **clause 4.1(a)** of this Annexure C.

**Security/Building Manager's Room** means the Security/Building Manager's Room located on the Hotel/Retail Lot which is a Hotel Resort Shared Facility.

**Service** means:

- (a) the supply of water, gas, electricity, artificially heated or cooled air or heating oil;
- (b) the provision of sewerage and drainage;
- (c) transmission by telephone, radio, television, satellite or other means;
- (d) the provision of security systems; and
- (e) any other facility, supply or transmission.

**Shared Lift B2** means the lift within the easement site of the Shared Lift B2 Easement which is a Hotel Resort Shared Facility and the subject of **clause 23** of this Annexure C.

**Shared Lift B2 Easement** means the Easement to Use Shared Lift B2 (C) numbered 7 on the Stratum Plan.

**Strata Lot** means a lot within a Strata Scheme.

**Strata Plan** means a strata plan under the Act.

**Strata Scheme** means a strata scheme created on registration of a Strata Plan.

**Stratum Lot** means:

- (a) a lot in the Stratum Plan which has not been subdivided by a Strata Plan; or
- (b) a stratum lot created on registration of a further stratum plan subdividing a Lot.

**Stratum Lot Owner** means the registered proprietor of a Stratum Lot.

**Stratum Plan** means deposited plan 1264173.

**Substitute Representative** means a person appointed by a Hotel Resort Member to represent them for the purpose of this Annexure C as a substitute for their Representative.

**Treasurer** means the person appointed by the Hotel Resort Building Management Committee from time to time as Treasurer under **clause 4.1(a)** of this Annexure C.

**Tribunal** means the NSW Civil and Administrative Tribunal established by the *Civil and Administrative Tribunal Act 2013*.

**Unanimous Resolution** means a resolution which is passed at a meeting of the Hotel Resort Building Management Committee against which no vote is cast.

**Villas** means the villas and super villas located on levels 29 to 32 (inclusive) and 67 to 69 of the Hotel/Retail Lot.

**VIP Pool** means the VIP Pool located on level 4 of the Hotel/Retail Lot and the subject of **clause 14** of this Annexure C.

**VIP Shared Lifts** means the three VIP lifts located within the easement site of the VIP Shared Lifts Easement which are a Hotel Resort Shared Facility and the subject of **clause 22** of this Annexure C.

**VIP Shared Lifts Easement** means the Easement to Use VIP Shared Lifts (A) numbered 5 on the Stratum Plan.

**Year** means any of the following (as the context requires):

- (a) Year 1; and
- (b) a successive 12 month period commencing on the day after the end of Year 1.

**Year 1** means the period commencing on the date of registration of this Annexure C and ending on the Year End which may not be a period of 12 months.

**Year End** means the year end for accounting purposes determined by the Hotel Resort Building Management Committee in accordance with **clause 38.3(a)** of this Annexure C.

## 1.4 Interpretation

Unless expressed to the contrary, in this Annexure C:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it; and

- (f) a reference to:
- (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
  - (v) a body or authority means, if that body or authority has ceased to exist, the body or authority which then serves substantially the same objects as that body or authority;
  - (vi) a right includes a benefit, remedy, discretion or power;
  - (vii) time is to local time in Sydney;
  - (viii) "\$" or "dollars" is a reference to Australian currency;
  - (ix) this or any other document includes the Statement as novated, varied or replaced and despite any change in the identity of the parties;
  - (x) writing includes:
    - (A) any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions; and
    - (B) words created or stored in any electronic medium and retrievable in perceivable form;
  - (xi) this Annexure C includes all schedules and annexures to it; and
  - (xii) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this Annexure C.

## **1.5 Operation**

This Annexure C is operative and binds the Hotel Resort Members on and from the date a Strata Plan is registered in respect of the Residential Lot.

## **1.6 Parties Bound Jointly and Individually**

A covenant, representation, warranty or an agreement between more than one person binds them jointly and severally.

## **1.7 Hotel Resort Shared Costs binding on successor in title**

The parties acknowledge and agree that following any sale, transfer or other dealing with a Lot any unpaid Hotel Resort Shared Cost which is due and payable by a Hotel Resort Member including interest under **clause 38.6** will remain binding on the Hotel Resort Member selling, transferring or otherwise dealing with a Lot and will also be binding upon the Hotel Resort Member's successors in title.

## **1.8 Headings**

Headings do not affect the interpretation of this Annexure C.

## **1.9 Business Day**

- (a) If anything is required to be done under this Annexure C on a day which is not a Business Day then it must be done on the next Business Day.
- (b) If an event occurs on a day which is not a Business Day, or occurs later than 5.00 pm local time at the place that the event occurs the event is deemed to have occurred on the next Business Day in the place that the event occurs.
- (c) A reference to a day is a reference to a time period which begins at midnight and ends 24 hours later.
- (d) A reference to a period of time unless specifically written otherwise, excludes the first day of that period.

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# **PART 2: HOTEL RESORT MEMBERS' AND OCCUPIERS' OBLIGATIONS**

## **2 Parties Bound and General Obligations**

### **2.1 Hotel Resort Members**

- (a) The Hotel Resort Building has two components, being the:
  - (i) Residential Lot; and
  - (ii) Hotel/Retail Lot.
- (b) The Owners of the two components are the Hotel Resort Members and together form the Hotel Resort Building Management Committee. They are the:
  - (i) Residential Lot Owner; and
  - (ii) Hotel/Retail Lot Owner.

### **2.2 Parties Bound**

This Annexure C has effect as an agreement under seal binding the Hotel Resort Members and every Owner, lessee, Occupier or mortgagee in possession of a Lot in the Hotel Resort Building.

### **2.3 General Obligations**

The Hotel Resort Members must:

- (a) promptly comply with their obligations under this Annexure C and the Act;
- (b) promptly pay their contributions for amounts they owe the Hotel Resort Building Management Committee under this Annexure C and the Act;
- (c) implement decisions of the Hotel Resort Building Management Committee;
- (d) comply with the Easements;
- (e) comply with the provisions of the Building Management Statement;
- (f) comply with the provisions of the Barangaroo Management Plan; and
- (g) if a Hotel Resort Member is an Owners Corporation, comply with the by-laws for that Strata Scheme.

### **2.4 Strata by-laws**

- (a) The by-laws of a Strata Scheme must not conflict with this Annexure C and the provisions of this Annexure C apply to the extent of any inconsistency.
- (b) If a by-law of a Strata Scheme conflicts with the provisions of this Annexure C, the Owners Corporation must at its own cost amend or repeal the inconsistent by-law.

### **2.5 Further amendment to the Building Management Statement on registration of Strata Plan**

- (a) A Party must not object to, and is taken to have given its consent to:

- (i) an application with an Authority to subdivide (including by Strata Plan or other plan of subdivision) one or more of the Stratum Lots;
  - (ii) the registration of any Strata Plan or other plan of subdivision which subdivides one or more of the Stratum Lots; and
  - (iii) the registration of any plan of consolidation of one or more of the Stratum Lots; and
  - (iv) an amendment to the Building Management Statement to be registered with a Strata Plan or other plan of subdivision set out in **clause 2.5(a)(i)** replacing or amending the Building Management Statement provided that the provisions of the amendment to the Building Management Statement referred to in this **clause 2.5(a)(iv)**:
    - (A) are substantially similar to the provisions of the Building Management Statement and this Annexure C; and
    - (B) do not materially adversely affect a Party's rights under this Annexure C; and
    - (C) do not affect the Party's interest in their Stratum Lot Land.
- (b) Each Hotel Resort Member must:
- (i) execute a Strata Plan or other plan of subdivision or consolidation which subdivides or consolidates one or more of the Stratum Lots within 30 days of being required to do so by a Stratum Lot Owner;
  - (ii) execute an amendment to the Building Management Statement referred to in **clause 2.5(a)(iv)** within 30 days of being required to do so by a Stratum Lot Owner;
  - (iii) promptly procure the consent of any mortgagee, chargee, covenant chargee, lessee or caveator of their Lot to the registration of a Strata Plan or other plan of subdivision and the amendment to the Building Management Statement contemplated by **clause 2.5(a)**; and
  - (iv) promptly do anything else reasonably necessary to give effect to the registration of a Strata Plan or other plan of subdivision and the amendment to the Building Management Statement contemplated by **clause 2.5(a)**.

## **2.6 Amending this Annexure C**

Unless otherwise provided in this Annexure C, this Annexure C can only be amended in accordance with the relevant provisions of the Building Management Statement, Development Act and any other Laws as may be in force from time to time which set out the manner in which this Annexure C can be amended.

## **2.7 Unanimous Resolutions of the Hotel Resort Building Management Committee**

Unless otherwise stated in this Annexure C, a Unanimous Resolution passed by the Hotel Resort Building Management Committee, or the subject matter of a Unanimous Resolution, is definitive and must not be the subject of expert determination.

## **2.8 Building Management Statement**

- (a) The Hotel Resort Members under this Annexure C are also Members of the Committee under the Building Management Statement and bound by the terms of the Building Management Statement.
- (b) If there is an inconsistency between the provisions of this Annexure C and the provisions of the Building Management Statement, the provisions of the Building Management Statement prevail to the extent of any inconsistency.

## **2.9 Barangaroo Management Plan**

- (a) The Hotel Resort Members under this Annexure C are also bound by the terms of the Barangaroo Management Plan.
- (b) If there is an inconsistency between the provisions of this Annexure C and the provisions of the Barangaroo Management Plan, the provisions of the Barangaroo Management Plan prevail to the extent of any inconsistency.

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# **PART 3: HOTEL RESORT BUILDING MANAGEMENT COMMITTEE AND MANAGERS**

## **3 Hotel Resort Building Management Committee**

### **3.1 Establishing the Hotel Resort Building Management Committee**

- (a) The Hotel Resort Members must establish the Hotel Resort Building Management Committee within three months after the registration of the amendment to the Building Management Statement to incorporate this Annexure C.
- (b) The Hotel Resort Building Management Committee cannot be dissolved while this Annexure C is in force.

### **3.2 Members of the Hotel Resort Building Management Committee**

The members of the Hotel Resort Building Management Committee are the:

- (a) Residential Lot Owner; and
- (b) Hotel/Retail Lot Owner.

### **3.3 Representatives**

- (a) Each Hotel Resort Member must:
  - (i) appoint a Representative;
  - (ii) give to each other Hotel Resort Member notice of the name, address, email address (if applicable) and telephone number of the Representatives; and
  - (iii) serve notice on the other Hotel Resort Members each time their contact details change.
- (b) Each Hotel Resort Member may:
  - (i) change its Representative at any time; and
  - (ii) appoint a Substitute Representative for a particular meeting or meetings.
- (c) The Representative or Substitute Representative of a Hotel Resort Member who is an Owners Corporation must be appointed by or selected in accordance with a Unanimous Resolution or a by-law made by the Hotel Resort Member.
- (d) If a Hotel Resort Member is the registered proprietor of more than one Stratum Lot, the Hotel Resort Member may appoint one Representative to represent the member for both Stratum Lots.
- (e) A Hotel Resort Member may authorise the Representative or Substitute Representative to appoint a proxy to represent and vote for that member at meetings of the Hotel Resort Building Management Committee.

### **3.4 Functions**

The functions of the Hotel Resort Building Management Committee are to:

- (a) make decisions about matters delegated to the Hotel Resort Building Management Committee under this Annexure C;
- (b) determine and levy contributions for the administrative fund and the sinking fund under **clause 38**;
- (c) operate, maintain, renew, replace and control the use of Hotel Resort Shared Facilities;
- (d) change or add to or extend Hotel Resort Shared Facilities;
- (e) change or add to or adjust Hotel Resort Shared Costs;
- (f) effect the Insurances;
- (g) appoint and supervise any Contractor or agent, including the Administration Manager, Building Manager and Hospitality Services Supplier engaged by the Hotel Resort Building Management Committee;
- (h) monitor the performance by Owners and Occupiers of their obligations under the Act and this Annexure C;
- (i) register any variation to this Annexure C;
- (j) comply with this Annexure C and the Act; and
- (k) decision making.

### **3.5 Decision making**

The Hotel Resort Building Management Committee can only make decisions in accordance with this Annexure C and at a meeting by Unanimous Resolution.

## **4 Officers of the Hotel Resort Building Management Committee**

### **4.1 Appointment of Officers**

The Hotel Resort Building Management Committee:

- (a) must appoint a Chairperson, Treasurer and Secretary as Officers;
- (b) may appoint any other Officer who the Hotel Resort Building Management Committee considers necessary; and
- (c) must immediately appoint a replacement Officer if an Officer vacates his or her position.

### **4.2 Eligibility for Office**

Officers must be a Representative, Substitute Representative or the Administration Manager and one person may hold more than one office bearer position.

### **4.3 Appointment of Officers**

- (a) The Hotel Resort Building Management Committee must, by Unanimous Resolution, appoint Officers within three months after the registration of this Annexure C.
- (b) The Hotel Resort Building Management Committee may, by Unanimous Resolution, appoint new officers at any time.

- (c) The Hotel Resort Building Management Committee may delegate the functions of its Officers to the Administration Manager and/or the Building Manager in accordance with **clause 6.3**.

#### **4.4 Vacating Office**

An Officer will have vacated their position if:

- (a) they are no longer a Representative or the Administration Manager;
- (b) the Hotel Resort Building Management Committee, by Unanimous Resolution:
  - (i) dismisses the Officer from their position; and
  - (ii) appoints a replacement Officer to that position; or
- (c) an Officer submits their resignation in writing stating the date which their resignation will become effective.

#### **4.5 Performing functions**

An Officer must perform his or her functions according to the Act, this Annexure C and the directions of the Hotel Resort Building Management Committee.

#### **4.6 Functions of Secretary**

The functions of the Secretary are to perform the administrative, bookkeeping and secretarial functions of the Hotel Resort Building Management Committee including:

- (a) answer communications sent to the Hotel Resort Building Management Committee;
- (b) perform administrative and secretarial functions for the Hotel Resort Building Management Committee;
- (c) convene meetings and prepare and distribute notices, agendas and minutes for those meetings;
- (d) serve notices on behalf of the Hotel Resort Building Management Committee;
- (e) keep records (other than records which the treasurer must keep) for the Hotel Resort Building Management Committee; and
- (f) make the records of the Hotel Resort Building Management Committee available for inspection.

#### **4.7 Functions of the Treasurer**

The functions of the Treasurer are to:

- (a) prepare budgets;
- (b) prepare financial statements;
- (c) send out notices for, collect and bank contributions to the administrative fund and the sinking fund;
- (d) prepare outstanding levy certificates;
- (e) arrange for the preparation of audit reports;
- (f) pay accounts; and

- (g) keep the accounting records of the Hotel Resort Building Management Committee.

#### **4.8 Functions of the Chairperson**

The functions of the Chairperson are to preside at those meetings of the Hotel Resort Building Management Committee which the Chairperson attends. The Chairperson may appoint the Administration Manager to chair meetings of the Hotel Resort Building Management Committee in the Chairpersons absence or as desired by the Chairperson from time to time.

#### **4.9 Other Appointees**

If the Hotel Resort Building Management Committee appoints an Officer under **clause 4.1(b)**, it must clearly define the duties of the Officer.

### **5 Meetings and voting**

#### **5.1 Holding of Meetings**

The Hotel Resort Building Management Committee must hold a meeting:

- (a) if a Hotel Resort Member requests by notice in writing;
- (b) at least once annually from the date of the first meeting of the Hotel Resort Building Management Committee;
- (c) if the Hotel Resort Building Management Committee is otherwise required to do so under this Annexure C; or
- (d) if the Administration Manager determines to hold a meeting.

#### **5.2 Request for Meeting**

- (a) A request for a meeting must be made to the Secretary and must state the issue or proposal for the meeting.
- (b) The Hotel Resort Building Management Committee is not obliged to hold a meeting if the Hotel Resort Member requesting it is a Defaulting Member.

#### **5.3 Notice of Meetings**

- (a) The Secretary of the Hotel Resort Building Management Committee must normally give at least five Business Days' notice of a meeting to each Hotel Resort Member.
- (b) In the case of an emergency or with the consent of each Hotel Resort Member, the Hotel Resort Building Management Committee may give a shorter notice.
- (c) A notice of a meeting must include:
  - (i) the time, date and place for the meeting; and
  - (ii) an agenda for the meeting.
- (d) An agenda for a meeting must include:
  - (i) the terms of the motions for resolution at the meeting;
  - (ii) a reference to whether a Unanimous Resolution is required for each resolution;

- (iii) the matters requested by notice in writing to be considered at the meeting by Hotel Resort Members, Owners or Occupiers;
  - (iv) a copy of the minutes of the last meeting; and
  - (v) a motion to adopt the minutes of the last meeting.
- (e) In the case of an emergency meeting a notice is not required to include the matters set out in **clause 5.3(d)(iv) to (v)** above.
  - (f) If the levying of contributions is an item on the agenda for a meeting, then the notice must include a copy of a budget and audited financial statements for the financial period just ended in accordance with **clause 38.7** prepared by the Hotel Resort Building Management Committee.

#### **5.4 Quorum**

- (a) At any meeting of the Hotel Resort Building Management Committee, a quorum consists of a Representative of each Hotel Resort Member.
- (b) If a quorum is not present within half an hour from the time appointed for a meeting, the meeting is adjourned to a time and place determined by the chairperson at the meeting.
- (c) If a meeting is adjourned, the person who convened the meeting must give notice of the adjournment to each member at least two business days before the adjourned meeting is to be held.
- (d) The quorum for the adjourned meeting is that number of Representatives present at the time appointed for the adjourned meeting.
- (e) At an adjourned meeting, whilst the Hotel Resort Developer or a Related Entity of the Hotel Resort Developer is the Hotel/Retail Lot Owner, the Hotel/Retail Lot Owner must be present to constitute a quorum.

#### **5.5 Voting**

- (a) At each meeting of the Hotel Resort Building Management Committee, each Hotel Resort Member through any of its Representatives is entitled to exercise one vote.
- (b) A Defaulting Member is not entitled to vote.
- (c) The Chairperson does not have a casting vote at meetings of the Hotel Resort Building Management Committee.
- (d) If the Hotel Resort Building Management Committee decide on a matter, it must be decided by a Unanimous Resolution.
- (e) In the event that a vote results in a deadlock between the Hotel Resort Members, the motion will be lost.
- (f) In the event this Annexure C is amended at any time to include new Hotel Resort Members, the proportional voting entitlement of the Member for the Hotel/Retail Lot will not be less than 50% of the total voting entitlement.

#### **5.6 Meetings held in writing**

The Hotel Resort Building Management Committee may hold a meeting in writing and representatives may vote in writing if:

- (a) the person who convenes the meeting serves notice of the meeting according to this Building Management Statement;

- (b) the person who convenes the meeting provides each member with a voting paper with the notice for the meeting and see the required members or number of members approved emotions in the agenda, complete their voting paper and return to the person who convened the meeting before the meeting is due to commence.

## **5.7 Appointing a proxy**

- (a) A person may appoint a proxy if that person is:
  - (i) a Hotel Resort Member; or
  - (ii) a Representative or Substitute Representative if the Hotel Resort Member which appointed a person has authorised that person in writing to appoint a proxy according to **clause 3.3(e)**.
- (b) A proxy must be a natural person.
- (c) Subject to this **clause 5.7**, a person may appoint a proxy at any time provided that:
  - (i) the person makes the appointment on a Proxy Form; and
  - (ii) the person and the proxy sign the Proxy Form; and
  - (iii) the person delivers the signed Proxy Form to the Hotel Resort Building Management Committee prior to the commencement of the meeting at which the proxy may vote.
- (d) A person may include in the Proxy Form instructions to their proxy about how to vote. A vote by a proxy in contravention of their instructions is invalid.
- (e) A person's proxy cannot vote at a meeting if the Hotel Resort Member (or their Representative or Substitute Representative) cast a vote.

# **6 Appointment of an Administration Manager**

## **6.1 Appointment of an Administration Manager**

- (a) The Hotel Resort Building Management Committee may appoint an Administration Manager to assist the Hotel Resort Building Management Committee in performing its functions, in particular its financial and secretarial functions.
- (b) When appointing an Administration Manager, the Hotel Resort Building Management Committee may (but is not obliged to) appoint the same person as a strata manager appointed by an Owners Corporation.
- (c) Any appointment must:
  - (i) be in writing;
  - (ii) be signed by each Hotel Resort Member;
  - (iii) be for a term permitted under the Management Act with rights for early determination by either the Hotel Resort Building Management Committee or the Administration Manager; and
  - (iv) reserve to the Hotel Resort Building Management Committee the power to continue exercising any or all of the functions delegated to the Administration Manager.

- (d) The Hotel Resort Building Management Committee must monitor the performance of the Administration Manager.

## **6.2 Administration Management Fee**

If an Administration Manager is appointed, the Hotel Resort Members must contribute to the Administration Management Fee in the proportions set out in the Hotel Resort Shared Facilities Schedule.

## **6.3 Delegation of functions**

- (a) Subject to **clause 6.3(b)**, the Hotel Resort Building Management Committee may delegate its functions and the functions of its officers to the Administration Manager and/or the Building Manager.
- (b) The Hotel Resort Building Management Committee may not delegate functions to the Administration Manager or the Building Manager which the Hotel Resort Building Management Committee may only exercise by Unanimous Resolution or functions which the Hotel Resort Building Management Committee determines by Unanimous Resolution may only be exercised by the Hotel Resort Building Management Committee.

## **6.4 Administration Manager's Duties**

The Administration Manager's duties may include to:

- (a) effect and maintain Insurance on behalf of the Hotel Resort Members in accordance with relevant Law;
- (b) implement decisions made by the Hotel Resort Building Management Committee;
- (c) undertake secretarial and other functions arising from this Annexure C;
- (d) maintain taxation and other statutory records, provide a public office and obtain an Australian Business Number for the Hotel Resort Building Management Committee, and ensure compliance with all legal obligations with respect to taxation;
- (e) enter into contracts, as Administration Manager or as agent for Hotel Resort Members, for cleaning, caretaking, inspection, maintenance, minor repairs, replacements and services to the Hotel Resort Shared Facilities and any personal property vested in the Hotel Resort Building Management Committee;
- (f) comply with any obligations of the Hotel Resort Building Management Committee under the Management Act or this Annexure C; and
- (g) comply with any other duties determined by Unanimous Resolution, as directed by the Hotel Resort Building Management Committee.

# **7 Appointment of a Building Manager**

## **7.1 Appointment of a Building Manager**

- (a) The Hotel Resort Building Management Committee must enter into an agreement with a Building Manager to manage the Hotel Resort Building and the facilities within the Hotel Resort Building (including the Hotel Resort Shared Facilities) to the Luxury Standard in accordance with the scope and terms set out in the Building Manager Agreement.

- (b) The Building Manager may be the Hotel/Retail Lot Owner or a person nominated by the Hotel/Retail Lot Owner (which may be a Related Body Corporate of the Hotel Resort Developer) or may be the Hospitality Services Supplier.

## **7.2 Building Manager Fee**

The Hotel Resort Members must:

- (a) contribute to the Building Manager Fee in the same proportions as set out in the Hotel Resort Shared Facilities Schedule for the Building Manager Fee for services for the Hotel Resort Building Management Committee; and
- (b) pay the whole cost of services provided for a Hotel Resort Member pursuant to **clause 7.2(a)**.

## **7.3 General provisions regarding the Building Manager**

- (a) At the expiration of the Building Manager Agreement and pursuant to **clause 7.1** the Hotel Resort Building Management Committee must enter into a further agreement on terms substantially similar to the Building Manager Agreement.
- (b) The Hotel Resort Building Management Committee may not without the written consent of the Building Manager enter into an agreement with respect to the subject matter of the Building Manager Agreement.
- (c) A Hotel Resort Member and any Owner or Occupier of a Lot must not:
  - (i) interfere with or obstruct the Building Manager from performing his or her duties under an agreement entered into under **clause 7.1**;
  - (ii) interfere with or obstruct the Building Manager from using any part of the Hotel Resort Shared Facilities.

# **8 Appointment of Hospitality Services Supplier**

## **8.1 Appointment of the Hospitality Services Supplier**

- (a) The Hotel Resort Building Management Committee must enter into an agreement with a Hospitality Services Supplier for the provision of the services the subject of the Hospitality Services Agreement to the Luxury Standard.
- (b) The Hospitality Services Supplier may be the Hotel/Retail Lot Owner or a person nominated by the Hotel/Retail Lot Owner (which may be a Related Body Corporate of the Hotel Resort Developer).

## **8.2 Hospitality Services Fee**

The Hotel Resort Members must:

- (a) contribute to the Hospitality Services Fee in the same proportions as set out in the Hotel Resort Shared Facilities Schedule for the Hospitality Services Fee for services for the Hotel Resort Building Management Committee; and
- (b) pay the whole cost of services provided for a Hotel Resort Member pursuant to **clause 8.1**.

### **8.3 General provisions regarding the Hospitality Services Supplier**

- (a) At the expiration of the Hospitality Services Agreement and pursuant to **clause 8.1**, the Hotel Resort Building Management Committee must enter into a further agreement on terms substantially similar to the Hospitality Services Agreement.
- (b) The Hotel Resort Building Management Committee may not without the written consent of the Hospitality Services Supplier enter into an agreement with respect to the subject matter of the Hospitality Services Agreement.
- (c) A Hotel Resort Member and any Owner or Occupier of a Lot must not:
  - (i) interfere with or obstruct the Hospitality Services Supplier from performing his or her duties under an agreement entered into under **clause 8.1**; or
  - (ii) interfere with or obstruct the Hospitality Services Supplier from using any part of the Hotel Resort Shared Facilities.

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## **PART 4: ONE BARANGAROO SHARED FACILITIES AND SPECIAL AREAS**

### **9 Hotel Resort Shared Facilities and Hotel Resort Shared Costs**

#### **9.1 Hotel Resort Shared Facilities**

- (a) The Hotel Resort Shared Facilities are facilities and services which are used by more than one Hotel Resort Member or are located on the land of a Hotel Resort Member but used by another Hotel Resort Member.
- (b) A list of the Hotel Resort Shared Facilities is set out in the Hotel Resort Shared Facilities Schedule.
- (c) The Parties acknowledge that as at the date this Annexure C is registered, not all of the Hotel Resort Shared Facilities listed in the Hotel Resort Shared Facilities Schedule may be constructed and available for use by the Parties.
- (d) This **clause 9** is subject to the rights of the Hotel Resort Developer under **clause 12**.

#### **9.2 Use of Hotel Resort Shared Facilities**

- (a) The Hotel Resort Shared Facilities Schedule specifies which Hotel Resort Members, Owners and Occupiers are entitled to use each Hotel Resort Shared Facility. If the Hotel Resort Shared Facilities Schedule does not specify entitlement, each Hotel Resort Member is entitled to use and enjoy the Hotel Resort Shared Facility unless a specific provision of this Annexure C provides otherwise.
- (b) Access to and use of a Hotel Resort Shared Facility by a Hotel Resort Member, Owner or Occupier is subject to the provisions of **clause 11.5**.
- (c) Each Party must use the Hotel Resort Shared Facilities only for their intended purpose and follow the directions of the Hotel Resort Building Management Committee.
- (d) Unless otherwise specified in this Annexure C, the Hotel Resort Building Management Committee may make rules in relation to the use of any Hotel Resort Shared Facility.
- (e) Any rules made by the Hotel Resort Building Management Committee in relation to the use of any Hotel Resort Shared Facility are definitive and must not be the subject of expert determination.

#### **9.3 Maintenance of Hotel Resort Shared Facilities**

- (a) Except as otherwise specified in this Annexure C (including in Part 5 of this Annexure C), the Hotel Resort Building Management Committee must carry out or arrange for the carrying out of maintenance, repair, operation, renovation, upgrade and replacement of the Hotel Resort Shared Facilities.
- (b) The Hotel Resort Building Management Committee intends that the Building Manager appointed pursuant to the terms of this Annexure C will manage the maintenance, repair, operation, renovation, upgrade and replacement of

the Hotel Resort Shared Facilities in accordance with the terms of the Building Manager Agreement.

- (c) The Hotel Resort Building Management Committee must, when carrying out or arranging for the carrying out of maintenance, repair, operation, renovation, upgrade and replacement of the Hotel Resort Shared Facilities:
  - (i) ensure that the Hotel Resort Shared Facilities are maintained:
    - (A) in accordance with the manufacturers recommendations provided to the Hotel Resort Building Management Committee (if any);
    - (B) in a manner so that the Hotel Resort Shared Facilities are in a state of repair and condition no worse than existing at the date of this Annexure C; and
    - (C) to the Luxury Standard;
  - (ii) comply with the Architectural Code in undertaking such works, to ensure that the works are in keeping with the aesthetics and architecture of the Hotel Resort Building; and
  - (iii) ensure any works do not affect the waterproofing integrity of the Hotel Resort Building (including the Membrane).

#### **9.4 Damage to Hotel Resort Shared Facilities**

A Party must:

- (a) immediately notify the Hotel Resort Building Management Committee about damage to or a defect in a Hotel Resort Shared Facility; and
- (b) pay the costs of repair for any damage to the Hotel Resort Shared Facilities caused by that Party.

#### **9.5 Hotel Resort Shared Costs**

- (a) It is the intention of the Hotel Resort Members that Hotel Resort Shared Costs under this Annexure C are (and remain) apportioned as between the Hotel Resort Members in a fair, transparent and equitable manner based on clear calculation methodologies based on the methods of gross floor area, estimated usage and as otherwise as indicated in the Hotel Resort Shared Facilities Schedule.
- (b) Subject to **clause 9.8**, the Hotel Resort Building Management Committee must apportion the Hotel Resort Shared Costs of a Hotel Resort Shared Facility using the apportionment stated in the Hotel Resort Shared Facilities Schedule.
- (c) If there is any change to the Hotel Resort Shared Facilities including the addition or removal of any Hotel Resort Shared Facilities, the allocation in the Hotel Resort Shared Facilities Schedule must be immediately amended including to ensure the apportionment is fair, transparent and equitable based on the appropriate calculation as set out in **clause 9.5(a)** and the Hotel Resort Shared Facilities Schedule.
- (d) The Hotel Resort Building Management Committee must advise each Hotel Resort Member of its proportion of the Hotel Resort Shared Costs and must levy Hotel Resort Members for contributions in accordance with **clause 38**.

- (e) Each Hotel Resort Member must pay its proportion of the Hotel Resort Shared Costs.
- (f) The Hotel Resort Building Management Committee may recover from a Hotel Resort Member costs associated with a Hotel Resort Member's unauthorised use of a Hotel Resort Shared Facility for a purpose that is not the intended purpose for the Hotel Resort Shared Facility set out in the Hotel Resort Shared Facilities Schedule.

## **9.6 Review of Hotel Resort Shared Costs**

- (a) The Hotel Resort Building Management Committee must review the Hotel Resort Shared Costs and Hotel Resort Shared Facilities Schedule:
  - (i) immediately following any change to the Hotel Resort Shared Facilities in accordance with **clause 10**;
  - (ii) at least once in every five years in accordance with **clause 9.8**; and
  - (iii) annually where a Hotel Resort Shared Cost has been calculated on the basis of usage in accordance with **clause 9.7**,for the purpose of confirming that the Hotel Resort Shared Costs remain fair, transparent and equitable.
- (b) If following a review under **clause 9.6(a)** results in a variation, modification or addition to the Hotel Resort Shared Facilities or Hotel Resort Shared Costs or both of them, the Parties must vote in favour of a Unanimous Resolution to amend the Hotel Resort Shared Facilities or Hotel Resort Shared Costs or both of them under **clause 9.6(a)** of this Annexure C so that they are fair, transparent and equitable.

## **9.7 Review of Hotel Resort Shared Facilities - Usage**

- (a) Where a review of usage is undertaken in accordance with **clause 9.6(a)(iii)** by the Hotel Resort Building Management Committee, the review must confirm that the percentage cost allocation in the Hotel Resort Shared Facilities Schedule substantially reflects the actual usage by the respective Hotel Resort Member.
- (b) If the actual usage of a Hotel Resort Member is substantially different to the percentage cost allocation in the Hotel Resort Shared Facilities Schedule the Parties must adjust the percentage cost allocation in the Hotel Resort Shared Facilities Schedule to accord with the percentages of actual use. Any adjustment of the percentage cost allocation in the Hotel Resort Shared Facilities Schedule under this clause will not apply retrospectively.
- (c) The Hotel Resort Building Management Committee may recover from a Hotel Resort Member costs associated with a Hotel Resort Member's unauthorised use of a Hotel Resort Shared Facility for a purpose that is not the intended purpose for the Hotel Resort Shared Facility set out in the Hotel Resort Shared Facilities Schedule.
- (d) Any review of the Hotel Resort Shared Costs by the Hotel Resort Building Management Committee under **clause 9.6(a)** is definitive and must not be the subject of expert determination.

## 9.8 Review of Hotel Resort Shared Costs at 5 year Intervals

- (a) The Hotel Resort Building Management Committee must cause a review of Hotel Resort Shared Costs to be conducted in accordance with this **clause 9.8** at least once in any five year period.
- (b) The Hotel Resort Building Management Committee must appoint a suitably qualified person to conduct the review pursuant to **clause 9.8(a)** to ensure Hotel Resort Shared Costs remain fair, transparent and equitable.
- (c) If each Hotel Resort Member cannot agree to and jointly appoint a suitably qualified person to conduct the review pursuant to **clause 9.8(b)**, any of them may request the President of the Law Society of New South Wales to appoint a suitably qualified person to conduct the review having regard to the nature and subject of the review.
- (d) If, following a review under **clause 9.8(a)**, the actual usage of a Hotel Resort Member differs by more than 5% from the percentage cost allocation in the Hotel Resort Shared Facilities Schedule:
  - (i) the Parties must vote in favour of a Unanimous Resolution to adjust the Hotel Resort Shared Costs so that the percentage cost allocation in the Hotel Resort Shared Facilities Schedule accords with the percentages of actual use determined in the review under **clause 9.8(a)**;
  - (ii) the adjustment of the percentage cost allocation in the Hotel Resort Shared Facilities Schedule under **clause 9.8(d)** must not apply retrospectively; and
  - (iii) the Hotel Resort Building Management Committee is responsible for the costs incurred appointing a suitably qualified person under **clause 9.8(b)** or **clause 9.8(c)** as the case may be.
  - (iv) If following a review under **clause 9.8(a)**, it is found that the actual usage of a Hotel Resort Member differs by less than 5% from the percentage cost allocation in the Hotel Resort Shared Facilities Schedule the percentage cost allocation in the Hotel Resort Shared Facilities Schedule must remain unchanged.
- (e) A decision of the suitably qualified person under this **clause 9.8** is, in the absence of a manifest error, final and binding on the Parties.

## 9.9 Government Agency Compliance

The Hotel Resort Building Management Committee must:

- (a) arrange for the inspection of Hotel Resort Shared Facilities if required by a Government Agency; and
- (b) obtain any certification of the Hotel Resort Shared Facilities required by Law.

## 10 Amending Hotel Resort Shared Facilities and Hotel Resort Shared Costs

- (a) Subject to **clauses 9.5(a)**, **10(c)** and **12**, the Hotel Resort Building Management Committee may by Unanimous Resolution:
  - (i) vary, modify, add a new facility, repair, renew or replace the Hotel Resort Shared Facilities; and

- (ii) add Hotel Resort Shared Costs or adjust the division of Hotel Resort Shared Costs if required.
- (b) A Unanimous Resolution of the Hotel Resort Building Management Committee is required to:
  - (i) change, add to or remove Hotel Resort Shared Facilities other than for a decision to repair Hotel Resort Shared Facilities or to renew or replace minor items; and
  - (ii) change, add to or adjust Hotel Resort Shared Costs, unless otherwise specified in this Annexure C.
- (c) If the Hotel Resort Building Management Committee passes a Unanimous Resolution to vary the Hotel Resort Shared Costs and Hotel Resort Shared Facilities, Hotel Resort the Shared Facilities Schedule is automatically varied at the time the Chairperson signs the minutes which record the Unanimous Resolution and provide each Hotel Resort Member with the revised Hotel Resort Shared Facilities Schedule.
- (d) A Unanimous Resolution passed in relation to the matters set out in this **clause 10** is definitive and must not be the subject of expert determination.

## 11 Access

### 11.1 Access to Hotel Resort Shared Facilities

- (a) Subject to **clause 11.5**, each Party must give the Hotel Resort Building Management Committee and other Parties:
  - (i) access to and from the Hotel Resort Shared Facilities by the means reasonably determined by that party provided access does not unreasonably interfere with that Party's lawful use of the area;
  - (ii) access to use the Hotel Resort Shared Facilities located within that Party's Lot in accordance with the provisions of this Annexure C and the Easement to Access Hotel Resort Shared Facilities and Areas; and
  - (iii) access to operate, maintain, repair, renovate and replace the Hotel Resort Shared Facilities.
- (b) Appropriate means of access to a Hotel Resort Shared Facility does not include:
  - (i) access through a Strata Lot without the prior consent of the Occupier of that Strata Lot (which consent must not be refused if it is the only practical means of access); and
  - (ii) any other means of access prohibited under this Annexure C.
- (c) Reasonable notice must be given to a Party affected by the proposed means of access under **clause 11.1(a)** if access is required to maintain, repair or replace Hotel Resort Shared Facilities.

### 11.2 Access to Plant

- (a) Subject to **clause 11.5**, each Party must give the Hotel Resort Building Management Committee and other Parties:

- (i) access to and from the Plant Areas and Plant by the means reasonably determined by that party provided access does not unreasonably interfere with that Party's lawful use of the area; and
  - (ii) access to operate, maintain, repair, renovate and replace the Plant.
- (b) Appropriate means of access to the Plant Areas and Plant does not include:
- (i) access through a Strata Lot without the prior consent of the Occupier of that Strata Lot (which consent must not be refused if it is the only practical means of access); and
  - (ii) any other means of access prohibited under this Annexure C.
- (c) Reasonable notice must be given to a Party affected by the proposed means of access under **clause 11.2(a)** if access is required to maintain, repair or replace Hotel Resort Shared Facilities.

### 11.3 Right to Access

If a Party accesses parts of the Hotel Resort Building in accordance with their rights set out in this Annexure C that Party must not unreasonably interfere with the other Party's lawful use of the Hotel Resort Building.

### 11.4 Emergency Access

In an emergency, each Party must give to all Parties access to all exit routes in the Hotel Resort Building.

### 11.5 Conditions of Access and Use of Hotel Resort Shared Facilities and Plant

- (a) This **clause 11.5** does not apply in cases of an emergency or in relation to Hotel Resort Shared Facilities or Plant that provide essential services to a Lot.
- (b) It is a condition of a Party being granted access to and use of a Hotel Resort Shared Facility and Plant that a Party:
  - (i) comply with the provisions of this Annexure C regarding the access and use of a Hotel Resort Shared Facility or Plant;
  - (ii) comply with all rules and conditions for access and use of a Hotel Resort Shared Facility or Plant made from time to time by:
    - (A) the Hotel Resort Building Management Committee; and
    - (B) a Party affected by the proposed means of access, including rules regarding the times and reasonable terms of access (including requisite behaviour of a Party and reimbursement of costs) under this **clause 11**; and
  - (iii) is not in default of that Party's obligation to pay any amount required to be paid by that Party under this Annexure C.
- (c) If a Party fails to comply with the conditions for access and use of a Hotel Resort Shared Facility or Plant set out in **clause 11.5(b) (Defaulting Party)** the Hotel Resort Building Management Committee or the Hotel Resort Member affected by the proposed means of access may (without limiting any rights or remedies that the Hotel Resort Building Management Committee or Hotel Resort Member may have) whilst that Party remains a Defaulting Party:

- (i) deny access to and use of a Hotel Resort Shared Facility or Plant by the Defaulting Party; and
  - (ii) procure the removal of the Defaulting Party from the Hotel Resort Shared Facility or Plant.
- (d) If any damage to the Hotel Resort Shared Facilities or Plant occurs in connection with the exercise of rights granted to Defaulting Hotel Resort Member, the Hotel/Retail Lot Owner, may procure rectification of such damage and the costs of carrying out such work will be a debt payable by the Defaulting Owner to the Hotel Resort Building Management Committee on demand.
- (e) The obligations of a Defaulting Party to comply with the conditions under **clause 11.5(b)** (including the obligation to pay any monies due and payable) continue irrespective of whether the Hotel Resort Building Management Committee or any Hotel Resort Member affected by the proposed means of access takes any of the actions under **clause 11.5(c)**.

## 12 BOH Area and BOH Lot

### 12.1 Access

Access to the BOH Areas is:

- (a) restricted to:
  - (i) the relevant Owner or Occupier of the BOH Lot adjoining the BOH Area;
  - (ii) Hotel staff, security, maintenance personnel and emergency service providers; and
  - (iii) others who have the prior consent of the Owner or Occupier of the BOH Lot adjoining the BOH Area; and
- (b) by controlled access (security key / card), which also provides access into each BOH Lot.

### 12.2 Emergency Evacuation

- (a) In the case of a fire alarm activation, Hotel Resort Building power failure or other circumstance requiring an emergency evacuation from the Hotel Resort Building, the entry doors between the BOH Area and the rear of the BOH Lot will automatically unlock to allow evacuation from the BOH Area via the BOH Lot.
- (b) Owners and Occupiers of a BOH Lot must be inducted in relation to the emergency evacuation procedures from the BOH Area (**BOH Emergency Evacuation Procedures**).
- (c) Other people entitled to access the BOH Area must either be:
  - (i) inducted in relation to the BOH Emergency Evacuation Procedures; or
  - (ii) be accompanied by a person who has been inducted in relation to the BOH Emergency Evacuation Procedures.
- (d) All doors to the BOH Area must be kept clear of all obstruction at all times.
- (e) Any replacement door to the BOH Area must:

- (i) be of the same quality as the door existing at the date of registration of this Annexure C;
  - (ii) be designed such that the door opens into the BOH Area with access by controlled access (security key / card);
  - (iii) comply with all relevant Authority requirements, including in relation to fire rating; and
  - (iv) must not be installed without the prior written consent of the Hotel/Retail Lot Owner (not to be unreasonably withheld if the door otherwise satisfies the requirements of this **clause 12**).
- (f) Exit signage and emergency lighting must be maintained throughout the BOH Lot, including within the BOH Area and lobby areas adjacent to the passenger lifts, in accordance with any relevant Authority requirements (including in relation to fire rating) and any relevant Australian Standard (which as at the date of this Annexure C is Australian Standard 2293.1:2005).
  - (g) Owners and Occupiers must not obstruct or remove any exit signage or emergency lighting maintained in the Hotel Resort Building, including in the BOH Lot, BOH Area and lobby areas.
  - (h) The Hotel/Retail Lot Owner may, on reasonable notice to the relevant Owner or Occupier, carry out inspections of the BOH Area to ensure compliance with this **clause 12**.

### **12.3 Amendments**

This By Law cannot be amended without the prior written consent of:

- (a) City of Sydney Council; and
- (b) Fire and Safety New South Wales.

## **13 Additional Hotel Resort Shared Facilities**

### **13.1 Additional Hotel Resort Shared Facilities**

The Hotel Resort Developer may (acting reasonably) request the Parties to vary this Annexure C at any time to:

- (a) include additional Hotel Resort Shared Facilities, including specifying those Hotel Resort Members entitled to use those additional Hotel Resort Shared Facilities;
- (b) vary a Hotel Resort Member's entitlement to use an existing Hotel Resort Shared Facility as a result of the creation of the additional Hotel Resort Shared Facilities; and
- (c) change, add to or adjust the division of Hotel Resort Shared Costs to take into account the inclusion of the additional Hotel Resort Shared Facilities and each Hotel Resort Member's entitlement to use those additional Hotel Resort Shared Facilities.

### **13.2 Consent**

A Party must, if requested by the Hotel Resort Developer under **clause 13.1**:

- (a) consent to the creation of the additional Hotel Resort Shared Facilities;

- (b) vote in favour of a Unanimous Resolution to vary this Annexure C; and
- (c) execute all necessary documentation and do all things necessary to register an amendment to this Annexure C,

unless the rights of that Party will be materially detrimentally affected by the variation to this Annexure C.

## 14 VIP Pool

### 14.1 Conditions

Access and use of the VIP Pool is subject to compliance with the conditions of **clause 11.5**.

### 14.2 Use of the VIP Pool

The VIP Pool is a Hotel Resort Shared Facility for use by:

- (a) Hotel Resort Members, Owners and Occupiers of the Residential Lot: and
- (b) Hotel/Retail Lot Owner and Occupiers of the Villas.

### 14.3 Access

Access to the VIP Pool can be obtained by use of security keys in accordance with the provisions of **clause 17**.

### 14.4 Hours

- (a) The VIP Pool may be used during the hours determined by the Hotel/Retail Lot Owner from time to time.
- (b) The VIP Pool may:
  - (i) be closed for periods of time for repair and maintenance; and
  - (ii) used by the Hotel/Retail Lot Owner outside usual opening hours for purposes associated with the Hotel/Retail Lot,provided reasonable notice of such closures or proposed use by the Hotel/Retail Lot Owner is given to all Hotel Resort Members, Owners and Occupiers entitled to use the VIP Pool.
- (c) The VIP Pool is adjacent to areas of the Hotel/Retail Lot that will be used for functions and other events and noise and odours from those functions and events may be audible or noticeable by Hotel Resort Members, Owners and Occupiers using the VIP Pool.

### 14.5 Rules and rights

- (a) The Hotel/Retail Lot Owner may, from time to time in its absolute discretion, make rules and impose conditions in relation to the use of the VIP Pool.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel/Retail Lot Owner in its absolute discretion.
- (c) Rules made by the Hotel/Retail Lot Owner under this **clause 14** may not be the subject of expert determination or an appeal by any Party.
- (d) An Owner and Occupier entitled to use the VIP Pool must (and must ensure that any invitee and patron does):

- (i) ensure that any guest does not use the VIP Pool or its immediate surrounds unless accompanied by an Owner or Occupier;
  - (ii) ensure that children are not in or around the VIP Pool unless accompanied by an adult Owner or Occupier exercising effective control over them;
  - (iii) exercise caution at all times and not run or splash or behave in any manner that is likely to interfere with the use of the VIP Pool by other persons;
  - (iv) not, without proper authority, operate, adjust or interfere with the operation of any equipment associated with the VIP Pool or add any chemical or other substance to any water in the VIP Pool;
  - (v) at all times be adequately clothed so as not to be likely to offend any other persons using the VIP Pool or the immediate surrounds;
  - (vi) be adequately dry when leaving or entering the VIP Pool and its immediate surrounds;
  - (vii) not smoke, eat, drink or consume alcohol in the VIP Pool and otherwise only in accordance with signage and any rules of the Hotel/Retail Lot Owner;
  - (viii) not use balls, boogie boards or large inflated objects in the VIP Pool without the prior approval of the Hotel/Retail Lot Owner; and
  - (ix) comply with any rules (including any amendment or substitution of those rules) that the Hotel/Retail Lot Owner may make from time to time with respect to the VIP Pool and the immediate surrounds.
- (e) The Hotel/Retail Lot Owner, acting reasonably may remove (or refuse entry to) any persons from the VIP Pool if that person:
- (i) is not adequately clothed;
  - (ii) is drunk or under the influence of drugs;
  - (iii) loiters or causes excessive noise;
  - (iv) behaves in a manner that is unlawful or reasonably likely to cause harm, offence, embarrassment or inconvenience to others; or
  - (v) does not comply with any rules made under this Annexure C.

#### **14.6 Cleaning and Repairs**

All Owners and Occupiers entitled to use the VIP Pool , following their use of the VIP Pool, must:

- (a) dispose of any rubbish;
- (b) clean any surfaces requiring cleaning as a consequence of Owners or Occupier's use of the VIP Pool; and
- (c) otherwise leave the VIP Pool in a good state of repair.

#### **14.7 Amendment**

Notwithstanding any other provision in this Annexure C, the Hotel Resort Building Management Committee may not propose to amend or repeal this **clause 14** without the prior consent of the Hotel/Retail Lot Owner.

## 15 Gym

### 15.1 Conditions

Access and use of the Gym is subject to compliance with the conditions of **clause 11.5**.

### 15.2 Use of the Gym

The Gym is a Hotel Resort Shared Facility for use by:

- (a) Hotel Resort Members, Owners and Occupiers of the Residential Lot: and
- (b) the Hotel/Retail Lot Owner and guests of the Hotel (including Owners and Occupiers of the Villas).

### 15.3 Access

Access to the Gym can be obtained by use of security keys in accordance with the provisions of **clause 17**.

### 15.4 Hours

- (a) The Gym may be used during the hours determined by the Hotel/Retail Lot Owner from time to time.
- (b) The Gym may:
  - (i) be closed for periods of time for repair and maintenance; and
  - (ii) used by the Hotel/Retail Lot Owner outside usual opening hours for purposes associated with the Hotel/Retail Lot,provided reasonable notice of such closures or proposed use by the Hotel/Retail Lot Owner is given to all Hotel Resort Members, Owners and Occupiers entitled to use the Gym.
- (c) The Gym is adjacent to areas of the Hotel/Retail Lot that will be used for functions and other events and noise and odours from those functions and events may be audible or noticeable by Hotel Resort Members, Owners and Occupiers using the Gym.

### 15.5 Rules and rights

- (a) The Hotel/Retail Lot Owner may, from time to time in its absolute discretion, make rules and impose conditions in relation to the use of the Gym.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel/Retail Lot Owner in its absolute discretion.
- (c) Rules made by the Hotel/Retail Lot Owner under this **clause 15** may not be the subject of expert determination or an appeal by any Party.
- (d) The Hotel/Retail Lot Owner or any other operator of the Gym may offer particular classes and personal training services associated with the Gym. Those classes and personal training services are not included in the Hotel Resort Shared Costs associated with the Gym and will be charged on a user pays basis in accordance with the terms and conditions for the provision of those services advised to Owners and Occupiers entitled to use the Gym at the relevant time.
- (e) An Owner and Occupier entitled to use the Gym must (and must ensure that any invitee and patron does):

- (i) ensure that any guest does not use the Gym or its immediate surrounds unless accompanied by an Owner or Occupier;
  - (ii) if the Hotel/Retail Lot Owner permits children to enter the Gym, ensure those children are not in or around the Gym unless accompanied by an adult Owner or Occupier exercising effective control over them;
  - (iii) exercise caution at all times and not behave in any manner that is likely to interfere with the use of the Gym by other persons;
  - (iv) not, without proper authority, operate, adjust or interfere with the operation of any equipment associated with the Gym;
  - (v) at all times be adequately clothed so as not to be likely to offend any other persons using the Gym or the immediate surrounds;
  - (vi) not smoke, eat, or consume alcohol in the Gym and the immediate surrounds; and
  - (vii) comply with any rules (including any amendment or substitution of those rules) that the Hotel/Retail Lot Owner may make from time to time with respect to the Gym and the immediate surrounds.
- (f) The Hotel/Retail Lot Owner, acting reasonably may remove (or refuse entry to) any persons from the Gym if that person:
- (i) is not adequately clothed;
  - (ii) is drunk or under the influence of drugs;
  - (iii) loiters or causes excessive noise;
  - (iv) behaves in a manner that is unlawful or reasonably likely to cause harm, offence, embarrassment or inconvenience to others; or
  - (v) does not comply with any rules made under this Annexure C.

## 15.6 Cleaning and Repairs

All Owners and Occupiers entitled to use the Gym, following their use of the Gym, must:

- (a) dispose of any rubbish;
- (b) clean any surfaces requiring cleaning as a consequence of Owners or Occupier's use of the Gym; and
- (c) otherwise leave the Gym in a good state of repair.

## 15.7 Amendment

Notwithstanding any other provision in this Annexure C, the Hotel Resort Building Management Committee may not propose to amend or repeal this **clause 15** without the prior consent of the Hotel/Retail Lot Owner.

## 16 Hotel Amenities and Hotel Services

The Hotel Amenities and Hotel Services are not a Hotel Resort Shared Facility and Owners and Occupiers of the Residential Lot and Hotel Lot who wish to use the Hotel Amenities and Hotel Services will be permitted to do so at the discretion of the Hotel/Retail Lot Owner.

## 16.1 Hotel Amenities

- (a) The Hotel/Retail Lot Owner may, from time to time in its absolute discretion, make rules and impose conditions in relation to the use of the Hotel Amenities, including:
  - (i) hours of operation;
  - (ii) fees that may be charged for access and use of the Hotel Amenities; and
  - (iii) such other rules relating to the use and operation of the Hotel Amenities as considered desirable or necessary by the Hotel/Retail Lot Owner.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel/Retail Lot Owner in its absolute discretion.
- (c) If any damage to the Hotel Amenities occurs in connection with the exercise of rights granted to Hotel Resort Members, Owners and Occupiers under this **clause 16.1**, the Hotel/Retail Lot Owner may procure rectification of such damage and the costs of carrying out such work will be a debt payable by the relevant Hotel Resort Member, Owner or Occupier to the Hotel Resort Building Management Committee on demand.

## 16.2 Hotel Services

- (a) The Hotel/Retail Lot Owner may, from time to time in its absolute discretion, make rules and impose conditions in relation to the Hotel Services that are made available by the Hotel/Retail Lot Owner, including:
  - (i) those Hotel Services that are available for use by Owners and Occupiers of the Residential Lot and Hotel Lot from time to time;
  - (ii) arrangements for ordering Hotel Services;
  - (iii) fees that may be charged for Hotel Services; and
  - (iv) such other rules relating to the Hotel Services as considered desirable or necessary by the Hotel/Retail Lot Owner.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel/Retail Lot Owner in its absolute discretion.
- (c) The provision of Hotel Services to the Owners and Occupiers of the Residential Lot requires employees and contractors of the Hotel/Retail Lot Owner access those parts of the Residential Strata Scheme reasonably necessary for the provision of the Hotel Services and Owners and Occupiers of the Residential Lot consent to those employees and contractors of the Hotel/Retail Lot Owner accessing the Residential Lot for the provision of Hotel Services.
- (d) The Hotel/Retail Lot Owner must ensure that its employees and contractors, when accessing the Residential Lot for the provision of Hotel Services, cause as little inconvenience as is reasonably possible to Owners and Occupiers of the Residential Lot.
- (e) Without limiting any other provision of this Annexure C, damage to any part of the Residential Lot caused directly by an employee or contractor of the Hotel/Retail Lot Owner must be made good by and at the cost of the Hotel/Retail Lot Owner in a proper and workmanlike manner.

## 17 Security Key/Card

- (a) Owners and Occupiers of the Hotel Resort Building will be issued security keys/cards by the Building Manager to access those parts of the Hotel Resort Building permitted to be accessed by that Owner or Occupier.
- (b) The security keys/cards will not give Owners and Occupiers access to all areas in the Hotel Resort Building.
- (c) The Hotel/Retail Lot Owner and the Residential Owners Corporation may at any time recode security keys/cards to restrict access to parts of the Hotel/Retail Lot and Residential Lot.
- (d) An Owner, Occupier or other person authorised by the Hotel Resort Building Management Committee must:
  - (i) take all reasonable steps not to lose security keys/cards;
  - (ii) return security keys/cards to the Building Manager if an Owner, Occupier or other person authorised by the Building Manager does not need them or if an Owner or Occupier is no longer an Owner or Occupier in the Building; and
  - (iii) notify the Building Manager if an Owner or Occupier loses a security key/card.
- (e) An Owner or Occupier must not:
  - (i) copy a security key/card; or
  - (ii) give a security key/card to someone who is not an Owner or Occupier.
- (f) If an Owner or Occupier loses a security key/card, the Building Manager may replace the security key/card. The Owner or Occupier must reimburse the Building Manager the actual cost of replacing any lost security keys/cards, including an administration fee as agreed by the Hotel Resort Building Management Committee for replacing the lost security keys/cards.
- (g) An Owner or Occupier must comply with instructions that the Building Manager may make about security keys/cards and, in particular, instructions about recoding and returning security keys/cards.
- (h) The Hotel Resort Building Management Committee may make rules from time to time about issuing additional and replacement security keys/cards.

## 18 Common Accessways

### 18.1 Hotel Resort Shared Facility

The Common Accessways are a Hotel Resort Shared Facility for use by the Hotel Resort Members and their respective Owners and Occupiers.

### 18.2 Construction Period

During the Construction Period:

- (a) this clause only applies to so much of the Common Accessways as have been completed and are available for general use by more than one Hotel Resort Member, subject to **clause 37.1**;
- (b) the Hotel Resort Developer may without the prior consent of the Hotel Resort Building Management Committee, from time to time, vary the position of the

Common Accessways provided the variation of position still allow Hotel Resort Members to access the Hotel Resort Building; and

- (c) areas of the Common Accessways may be closed.

## 19 The Hotel/Retail Lot

### 19.1 Consents

- (a) If required, the Hotel Resort Members must consent to an Owner or Occupier of the Hotel/Retail Lot or a part of the Hotel/Retail Lot lodging an application with an Authority relating to all or part of the Hotel/Retail Lot, including an application with respect to:
- (i) fitout, occupation and use of the Hotel/Retail Lot or a part of the Hotel/Retail Lot;
  - (ii) the erection of any advertisements or advertising structures on the Hotel/Retail Lot or a part of the Hotel/Retail Lot; or
  - (iii) obtaining a liquor or gaming licence for the Hotel/Retail Lot or a part of the Hotel/Retail Lot,

**(Hotel/Retail Application)** and must, if required, provide the Owner or Occupier of the Hotel/Retail Lot with a written authority addressed to the relevant Authority to make any Hotel/Retail Application.

- (b) If the Hotel/Retail Lot has the benefit of an Easement or of a Hotel Resort Shared Facility and the consent of the Residential Lot Owner and any other Owner of the Hotel/Retail Lot or a part of the Hotel/Retail Lot is required by an Authority for the purposes of lodging a Hotel/Retail Application, the Residential Lot Owner and any other Owner of the Hotel/Retail Lot or a part of the Hotel/Retail Lot must provide the Owner or Occupier of the Hotel/Retail Lot or a part of the Hotel/Retail Lot with a written authority addressed to the relevant Authority to make any Hotel/Retail Application.
- (c) The Hotel Resort Members must not, and must not direct or assist any third party to, object to the Owners or Occupier of the Hotel/Retail Lot or a part of the Hotel/Retail Lot lodging a Hotel/Retail Application with an Authority and must, on request of the relevant Owner or Occupier provide any assistance reasonably required to assist the Owners or Occupier in obtaining the Authority's consent to the Hotel/Retail Application.
- (d) The Owners Corporation must not unreasonably withhold its consent to an Owner or Occupier of the Hotel/Retail Lot or a part of the Hotel/Retail Lot accessing the Common Property to carry out works the subject of an Authority's consent to a Hotel/Retail Application.
- (e) The matters set out in this **clause 19.1** must not be the subject of expert determination under **clause 42** of this Annexure C.

### 19.2 Future Services

- (a) Owners and Occupiers of the Hotel/Retail Lot may from time to time be required to install new Services in the Hotel Resort Building but outside the Hotel/Retail Lot for the purpose of carrying out a business in the Hotel/Retail Lot.

- (b) Hotel Resort Members must not object to an Owner or Occupier of the Hotel/Retail Lot installing new Services within the Hotel Resort Building but outside the Hotel/Retail Lot, if:
- (i) the Owner or Occupier of the Hotel/Retail Lot seeking to install the Service has development consent to occupy and use the Hotel/Retail Lot;
  - (ii) the proposed Service is required by the Owner or Occupier of the Hotel/Retail Lot to carry out the approved business under the development consent;
  - (iii) the location of the proposed Service cannot be located in any existing Easement; and
  - (iv) the location and nature of the proposed Service does not unreasonably interfere with the use and enjoyment of a Hotel Resort Member's Lot, damage the structure of the Hotel Resort Member's Lot and must be concealed.

### **19.3 Amendment**

Notwithstanding any other provision in this Annexure C, the Hotel Resort Building Management Committee may not propose to amend or repeal this **clause 19** without first obtaining the prior written consent of the Hotel/Retail Lot Owner.

## **20 Loading Dock**

### **20.1 Conditions**

Access and use of the Loading Dock is subject to compliance with the conditions of **clause 11.5**.

### **20.2 Hotel Resort Shared Facility**

- (a) The Loading Dock is a Hotel Resort Shared Facility for use by Hotel Resort Members and their respective Owners and Occupiers of the Lots.
- (b) Hotel Resort Members, Owners and Occupiers entitled to use the Loading Dock acknowledge that:
  - (i) the Loading Dock is essential for the operation of the businesses being undertaken on the Hotel/Retail Lot, including the operation of the Hotel;
  - (ii) any interference with the operation of the Loading Dock, other than as stated in this Annexure C, may have material detrimental effect on the operation of the businesses being undertaken on the Hotel/Retail Lot, including the operation of the Hotel;
  - (iii) use of the Loading Dock by Owners and Occupiers of the Residential Strata Scheme is subject to the priority of use of the Loading Dock by Owners and Occupiers of the Hotel/Retail Lot;
  - (iv) notwithstanding **clause 20.2(b)(iii)** but subject to **clause 20.3(d)**, the Hotel/Retail Lot Owner must ensure that Owners and Occupiers of the Residential Strata Scheme have reasonable access to and use of the Loading Dock in accordance with the terms of this **clause 20**.

### 20.3 Appointments

- (a) The Loading Dock will be available for use by Hotel Resort Members, Owners and Occupiers by appointment.
- (b) Either the Building Manager or Concierge will be responsible for taking bookings and making all necessary arrangements for the use of the Loading Dock. The Building Manager must establish and maintain a booking schedule and the Concierge may assist in the implementation of the booking schedule.
- (c) Hotel Resort Members, Owners and Occupiers entitled to use the Loading Dock must only use the Loading Dock at those times booked with the Building Manager.
- (d) The Hotel/Retail Lot Owner and the Building Manager may deny other Owners and Occupiers use of the Loading Dock when the Loading Dock is required for the operation of the businesses being undertaken on the Hotel/Retail Lot during peak periods, including the operation of the Hotel.

### 20.4 Rules

- (a) The Hotel/Retail Lot Owner and the Building Manager may, from time to time, make rules and impose conditions in relation to the use of the Loading Dock, including:
  - (i) the hours in which access is permitted;
  - (ii) the manner in which large objects or deliveries to and from the Loading Dock and the Lots are to be transported;
  - (iii) the use of protective covers for surfaces forming part of the Hotel Resort Building during such times as large objects or deliveries are transported to and from the Loading Dock and the Lots;
  - (iv) prohibitions on the use of trolleys or other moving devices; and
  - (v) insurance requirements,provided that such rules will not have a material adverse impact on the use and operation of the Lots and are, to the extent relevant, consistent with:
  - (A) this Annexure C;
  - (B) the Loading Dock Easement;
  - (C) the Loading Dock Management Plan;
  - (D) the provisions of the Building Management Statement;
  - (E) any conditions of a development consent applicable to the Land; and
  - (F) any Law applicable to the Land.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel/Retail Lot Owner in its absolute discretion. The Building Manager may at any time amend or substitute any rules made by the Building Manager. Any rules made by the Building Manager (as amended or substituted from time to time) must not be inconsistent with any rules made by the Hotel/Retail Lot Owner (as amended or substituted from time to time).
- (c) Rules made by the Hotel/Retail Lot Owner under this **clause 20** may not be the subject of expert determination or an appeal by any Party.

- (d) All Hotel Resort Members, Owners and Occupiers entitled to use the Loading Dock must:
  - (i) use the Loading Dock only as stated in this Annexure C, the Loading Dock Management Plan, the Loading Dock Easement and in accordance with any rules determined by the Building Manager and Hotel/Retail Lot Owner from time to time;
  - (ii) not use the Loading Dock in a manner that breaches the conditions of any development consent, permit or authorisation or any Law applicable to the Land;
  - (iii) promptly clean up any spills in the Loading Dock or the Hotel Resort Building; and
  - (iv) switch off vehicles during loading/unloading and waiting times whilst in the Loading Dock.
- (e) If any damage to the Hotel Resort Building occurs in connection with the exercise of rights granted to Hotel Resort Members, Owners and Occupiers under this **clause 20**, the Hotel/Retail Lot Owner, may procure rectification of such damage and the costs of carrying out such work will be a debt payable by the Owner or Occupier to the Hotel Resort Building Management Committee on demand.

## **20.5 Compliance with Loading Dock Easement and Loading Dock Management Plan**

The Building Manager must procure compliance with the terms of the Loading Dock Easement and Loading Dock Management Plan.

## **20.6 Loading Dock Management Plan**

- (a) The Hotel Resort Building Management Committee and the Building Manager must keep copies of the Loading Dock Management Plan and provide a current copy to an Owner or Occupier on request.
- (b) Subject to **clause 20.6(c)**, the Hotel Resort Building Management Committee may by Unanimous Resolution amend the Loading Dock Management Plan from time to time.
- (c) While the Hotel Resort Developer is the registered proprietor of a Lot, the Hotel Resort Building Management Committee cannot pass a Unanimous Resolution to amend the Loading Dock Management Plan without first obtaining the consent of the Hotel Resort Developer.

## **20.7 Amendment**

Notwithstanding any other provision in this Annexure C, the Hotel Resort Building Management Committee may not propose to amend or repeal this **clause 20** without the prior consent of the Hotel/Retail Lot Owner.

# **21 CCTV Security System**

## **21.1 Hotel Resort Shared Facility**

- (a) The CCTV Security System is a Hotel Resort Shared Facility for the benefit of Hotel Resort Members and their respective Owners and Occupiers subject to all laws (including the *Privacy Act 1988*) and regulatory requirements.

- (b) Hotel Resort Members and their respective Owners and Occupiers acknowledge that the Hotel Resort Building is subject to 24 hour security surveillance of some public areas in the Hotel Resort Building.

## **21.2 Access to CCTV Footage**

- (a) The CCTV Security System may monitor the car park, lifts, lift lobbies, corridors, fire stairs, Loading Dock and public spaces within the Hotel Resort Building and is managed by the Hotel/Retail Lot Owner or a Related Body Corporate of the Hotel/Retail Lot Owner.
- (b) The Hotel/Retail Owner (or a Related Body Corporate of the Hotel/Retail Lot Owner) will determine those parties that may review the CCTV footage in its absolute discretion, taking into account all applicable Laws (which may include the Building Manager, the police and other Authorities having jurisdiction).
- (c) The proper storage, disclosure and use of footage is to be determined by the Hotel/Retail Lot Owner (or Related Body Corporate of the Hotel/Retail Lot Owner) in accordance with the *Privacy Act 1988* and other relevant Law.

## **21.3 CCTV Footage**

Notwithstanding **clause 21.2**:

- (a) the CCTV Security System will provide 24 hour security surveillance of some public areas in the Hotel Resort Building. However, the Hotel Resort Building Management Committee and any Hotel Resort Member is not obliged to provide security services to all areas in the Hotel Resort Building; and
- (b) the CCTV Security System footage may be reviewed by those persons authorised to review the footage under **clause 21.2(b)** from time to time. However, the CCTV Security System will not be monitored 24 hours a day, 7 days a week.

## **22 VIP Shared Lifts**

### **22.1 Hotel Resort Shared Facility**

The VIP Shared Lifts are a Hotel Resort Shared Facility for use by:

- (a) Hotel Resort Members, Owners and Occupiers of the Residential Lot and their guests;
- (b) Owners and Occupiers of the Villas and their guests;
- (c) VIP patrons of the Hotel/Retail Lot and the VIP restaurant located on the Hotel/Retail Lot; and
- (d) personnel and invitees required to access the Executive Level Offices located on the Hotel/Retail Lot.

### **22.2 Rules**

- (a) The Hotel/Retail Lot Owner may, from time to time, make rules and impose conditions in relation to the use of the VIP Shared Lifts provided that such rules will not adversely impact on the use and operation of the Lots and are, to the extent relevant, consistent with:
  - (i) the terms of the VIP Shared Lifts Easement;

- (ii) the provisions of this Annexure C;
  - (iii) any conditions of a development consent applicable to the Land; and
  - (iv) any Law applicable to the Land.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel Resort Building Management Committee in its absolute discretion.
- (c) Rules made by the Hotel/Retail Lot Owner under this **clause 22.2** may not be the subject of expert determination or an appeal by any Party.
- (d) All Hotel Resort Members, Owners and Occupiers entitled to use the VIP Shared Lifts must use the VIP Shared Lifts in accordance with this Annexure C, the VIP Shared Lifts Easement and the rules determined by the Hotel/Retail Lot Owner from time to time.
- (e) The VIP Shared Lifts must only be used by Owners and Occupiers of a Lot (including their invitees) to access their Lot. However, the VIP Shared Lifts must not be used:
- (i) for the transportation of materials, bulky objects, furniture, stock, trolleys and other retail goods and materials;
  - (ii) by tradespeople undertaking works on a Lot; or
  - (iii) by any person delivering goods and materials to a Lot.
- (f) The Building Manager is responsible for the cleaning and maintenance of the VIP Shared Lifts in accordance with the terms of this Annexure C and the Building Manager Agreement.
- (g) If any damage to the Hotel Resort Building occurs in connection with the exercise of rights granted to Hotel Resort Members, Owners and Occupiers under this **clause 22.2**, the Hotel/Retail Lot Owner may procure rectification of such damage and the costs of carrying out such work will be a debt payable by the Owner or Occupier to the Hotel Resort Building Management Committee on demand.

### **22.3 Compliance with VIP Shared Lifts Easement**

The Building Manager must procure compliance with the terms of the VIP Shared Lifts Easement.

### **22.4 Amendment**

Notwithstanding any other provision in this Annexure C, the Hotel Resort Building Management Committee may not propose to amend or repeal this **clause 22** without the prior consent of the Hotel/Retail Lot Owner.

## **23 Shared Lift B2**

### **23.1 Hotel Resort Shared Facility**

- (a) The Shared Lift B2 is a Hotel Resort Shared Facility for the benefit of Hotel Resort Members and their respective Owners and Occupiers.
- (b) The Shared Lift B2 may also be used by invitees of the Hotel/Retail Lot Owner to access the publicly accessible observation deck located on the Hotel/Retail Lot.

## 23.2 Rules

- (a) The Hotel/Retail Lot Owner may, from time to time, make rules and impose conditions in relation to the use of the Shared Lift B2 provided that such rules will not adversely impact on the use and operation of the Lots and are, to the extent relevant, consistent with:
  - (i) the terms of the Shared Lift B2 Easement;
  - (ii) the provisions of this Annexure C;
  - (iii) any conditions of a development consent applicable to the Land; and
  - (iv) any Law applicable to the Land.
- (b) The Hotel/Retail Lot Owner may at any time amend or substitute any rules made by the Hotel/Retail Lot Owner in its absolute discretion.
- (c) Rules made by the Hotel/Retail Lot Owner under this **clause 23** may not be the subject of expert determination or an appeal by any Party.
- (d) All Hotel Resort Members, Owners and Occupiers entitled to use Shared Lift B2 must use Shared Lift B2 in accordance with this Annexure C, the VIP Shared Lifts Easement and the rules determined by the Hotel/Retail Lot Owner from time to time.
- (e) The Shared Lift B2 must be used:
  - (i) for the transportation of materials, bulky objects, furniture, stock, trolleys and other retail goods and materials;
  - (ii) by tradespeople undertaking works on a Lot; or
  - (iii) by any person delivering goods and materials to a Lot.
- (f) The Building Manager is responsible for the cleaning and maintenance of Shared Lift B2 in accordance with the terms of this Annexure C and the Building Manager Agreement.
- (g) If any damage to the Hotel Resort Building occurs in connection with the exercise of rights granted to Hotel Resort Members, Owners and Occupiers under this **clause 23**, the Building Manager may procure rectification of such damage and the costs of carrying out such work will be a debt payable by the Owner or Occupier to the Hotel Resort Building Management Committee on demand.

## 23.3 Compliance with Shared Lift B2 Easement

The Building Manager must procure compliance with the terms of the Shared Lift B2 Easement.

## 23.4 Amendment

Notwithstanding any other provision in this Annexure C, the Hotel Resort Building Management Committee may not propose to amend or repeal this **clause 23** without the prior consent of the Hotel/Retail Lot Owner.

# 24 Refuse Room

## 24.1 Use of the Refuse Room

- (a) The Refuse Room is a Hotel Resort Shared Facility for use by:

- (i) the Building Manager to store garbage collected from the Residential Garbage Room; and
  - (ii) the Hospitality Services Supplier to store garbage (including bulky garbage) collected from the Strata Scheme.
- (b) The Refuse Room is to be managed by the Building Manager.
- (c) Owners and Occupiers of the Hotel Resort Building are not permitted to access the Refuse Room.

## **24.2 Rules**

- (a) The Hotel Resort Building Management Committee may, from time to time, make rules and impose conditions in relation to the use of the Refuse Room provided that such rules will not adversely impact on the use and operation of the Lots and are, to the extent relevant, consistent with:
- (i) the terms of the Refuse Room Easement;
  - (ii) the provisions of this Annexure C;
  - (iii) any conditions of a development consent applicable to the Land; and
  - (iv) any Law applicable to the Land.
- (b) These rules and conditions may include:
- (i) the manner in which large objects to and from the Refuse Room and the Residential Garbage Room are to be transported;
  - (ii) the use of protective covers for surfaces forming part of the Refuse Room during such times as large objects or deliveries are transported to and from the Refuse Room and the Residential Garbage Room;
  - (iii) prohibitions on the use of trolleys or other moving devices; and
  - (iv) insurance requirements.
- (c) The Hotel Resort Building Management Committee may at any time amend or substitute any rules made by the Hotel Resort Building Management Committee in its absolute discretion.
- (d) The Building Manager and Hospitality Services Supplier must:
- (i) use the Refuse Room only as stated in this Annexure C and in accordance with any rules determined by the Hotel Resort Building Management Committee from time to time;
  - (ii) not use the Refuse Room in a manner that breaches the provisions of this Annexure C, the conditions of any development consent, the terms of the Refuse Room Easement, or the conditions of any permit or authorisation or any Law applicable to the Land; and
  - (iii) promptly clean up any spills in the Refuse Room or the Hotel Resort Building.
- (e) The Building Manager is responsible for the cleaning and maintenance of the Refuse Room and all bins located in the Refuse Room.

## 25 Balcony Doors

- (a) In the event that a balcony door of a Lot or Villa is left open during a period of high winds or inclement weather, an alarm will be triggered to alert:
  - (i) the Owner or Occupier of the Lot or Villa (as the case may be); and
  - (ii) the Hotel/Retail Lot Owner, or a person nominated by the Hotel/Retail Lot Owner (which may be the Building Manager or Concierge).
- (b) Upon receiving an alert that a balcony door is open:
  - (i) the Owner or Occupier of the Lot or Villa (as the case may be); or
  - (ii) the nominee of the Hotel/Retail Lot Owner,must take steps as are reasonably required to procure the balcony door is closed.
- (c) The steps that may be reasonably required to be taken by the nominee of the Hotel/Retail Lot Owner to procure a balcony door is closed in circumstances where the balcony door alarm system is triggered may include:
  - (i) contacting the Owner or Occupier of the Lot or Villa (as the case may be) to request the balcony door is closed promptly; and
  - (ii) in circumstances where the Owner or Occupier of the Lot or Villa (as the case may be) cannot be contacted within a reasonable period of time, accessing the Lot to ensure the balcony door is closed promptly.

## 26 Green Travel Plan

The Hotel Resort Building Management Committee must keep copies of the Green Travel Plan and provide a current copy to an Owner or Occupier on request.

## 27 Sustainability Initiatives

The Residential Lot Owner and Hotel/Retail Lot Owner acknowledge their respective obligations in the Building Management Statement to:

- (a) enter into Supply Agreements with Suppliers; and
- (b) comply with the Barangaroo Management Plan,

in order to ensure the environmental objectives set out in the Building Management Statement are met.

## 28 Signage

- (a) The Hotel Resort Members acknowledge that the Hotel/Retail Lot Owner has the rights of signage of the building, including naming rights, under the terms of the Hotel Lease.
- (b) The Residential Lot Owner and Owners and Occupiers of the Residential Lot must not erect any signage that may be visible from the outside of the Residential Lot without the prior consent of the Hotel Resort Building Management Committee.

## 29 Bio-ethanol

- (a) Owners and Occupiers must comply with the Bio-ethanol Protocol regarding the use, storage and transportation of bio-ethanol into and within the Hotel Resort Building, including within that Owner and Occupier's Lot.
- (b) The Hotel/Retail Lot Owner may, from time to time, update the Bio-ethanol Protocol provided that the terms of the Bio-ethanol Protocol will not adversely impact on the use and operation of the Lots and are, to the extent relevant, consistent with:
  - (i) the provisions of this Annexure C;
  - (ii) any conditions of a development consent applicable to the Land;
  - (iii) any requirements of the insurer in respect of the Hotel Resort Building; and
  - (iv) any Law applicable to the Land.
- (c) Owners and Occupiers must comply with this Annexure C, the Bio-ethanol Lift Protocol and the rules regarding storage of bio-ethanol in the Hotel Resort Building determined by the Hotel/Retail Lot Owner from time to time.

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## PART 5: MAINTENANCE, REPAIR AND UPGRADING

### 30 Maintenance, Repair and External Appearance

#### 30.1 Owners Corporation

- (a) An Owners Corporation who is a Hotel Resort Member must carry out its obligations under Section 106 of the Management Act.
- (b) An Owners Corporation who is a Hotel Resort Member must not make a determination under Section 106(3) of the Management Act without the consent of the Hotel Resort Building Management Committee.
- (c) If an Owners Corporation makes a determination in breach of **clause 30.1(b)**, the Owners Corporation must still maintain, renew, replace or repair the particular item which is the subject of the determination.
- (d) The obligations of a Stratum Lot Owner under **clause 30.1(a)** commence on creation of an Owners Corporation with respect to the relevant Stratum Lot.

#### 30.2 Stratum Lot Owners

- (a) If a Hotel Resort Member is not an Owners Corporation, the Hotel Resort Member must properly maintain and keep in a state of good and serviceable repair that part of the Hotel Resort Building within the relevant Hotel Resort Member's Lot.
- (b) The obligations of a Stratum Lot Owner under **clause 30.2(a)** commences upon the date being the date of first issue of occupation certificate with respect to the relevant Stratum Lot after the date of this Annexure C.

#### 30.3 Building Manager

- (a) The Building Manager must:
  - (i) manage the operation of the Hotel Resort Building and its facilities (including the Hotel Resort Shared Facilities):
    - (A) to a Luxury Standard; and
    - (B) in a proper and businesslike manner; and
    - (C) otherwise in accordance with the terms of the Building Manager Agreement; and
  - (ii) manage the carrying out all repairs and maintenance so as to maintain the Hotel Resort Building (including the Hotel/Retail Lot and Common Property, but excluding the Strata Lots) and all facilities (including the Hotel Resort Shared Facilities) in a state of repair and condition no worse than existing at the date of this Annexure C.
- (b) The Luxury Standard will continue to change to reflect changes in market conditions and technology as determined by the Hotel/Retail Lot Owner (acting reasonably and having regard to industry standards for hotels comparable to the Hotel and the standard of the Hotel/Retail Lot from time to time).

### 30.4 Access into other Hotel Resort Members' areas

- (a) Each Hotel Resort Member and that member's respective Owners and Occupiers must allow the other Hotel Resort Members, Owners and Occupiers and the Building Manager at reasonable times on reasonable notice to access that Hotel Resort Member, Owner or Occupier's Lot, or if the Hotel Resort Member is an Owners Corporation, the Common Property of the relevant Strata Scheme, in order to have access to:
- (i) items within that Hotel Resort Member, Owner or Occupier's Lot; or
  - (ii) the Common Property of the relevant Strata Scheme; or
  - (iii) the site of any Easement,
- to carry out repairs, maintenance, inspections, tests, renewals and replacements where alternative access is not reasonably available for is likely to be substantially more costly.
- (b) Each Hotel Resort Member and the Hotel Resort Member's respective Owners and Occupiers must allow the Hotel Resort Building Management Committee and the Building Manager at reasonable times on reasonable notice to access that Hotel Resort Member, Owner or Occupier's Lot (including the balcony of that Lot) for the purposes of cleaning the exterior of the Hotel Resort Building (including windows).

### 30.5 Facade Cleaning and Maintenance Plan

- (a) The Hotel Resort Building Management Committee must adopt the Façade Cleaning and Maintenance Plan prepared by the Hotel Resort Developer.
- (b) The Hotel Resort Building Management Committee and the Hotel/Retail Lot Owner may update the Façade Cleaning and Maintenance Plan from time to time. The Hotel Resort Building Management Committee and the Hotel/Retail Lot Owner must act reasonably in updating the Façade Cleaning and Maintenance Plan having regard to the Luxury Standard to be maintained for the Hotel Resort Building.
- (c) If the Hotel Resort Building Management Committee or the Hotel/Retail Lot Owner makes any amendments to the Facade Cleaning and Maintenance Plan pursuant to **clause 30.5(b)** then the Hotel Resort Building Management Committee or the Hotel/Retail Lot Owner (as the case may be) must provide the amended Facade Cleaning and Maintenance Plan to the Administration Manager to be available for inspection by Owners and Occupiers.
- (d) The Hotel Resort Building Management Committee, the Building Manager, Hotel Resort Members and their respective Owners and Occupiers must comply with the Facade Cleaning and Maintenance Plan when carrying out any repairs and maintenance or cleaning on the facades of the Hotel Resort Building.
- (e) Each Hotel Resort Member and the Hotel Resort Member's respective Owners and Occupiers must allow the Hotel Resort Building Management Committee and the Building Manager at reasonable times on reasonable notice to access that Hotel Resort Member, Owner or Occupier's Lot (including the balcony of that Lot) for the purposes of complying with the Façade Cleaning and Maintenance Plan.

### **30.6 Repair of items impacting Hotel Resort Shared Facilities**

Each Hotel Resort Member must properly operate, repair and maintain and whenever reasonably necessary renew or replace any fixtures or fittings owned or controlled by it which may if not properly operated, repaired, maintained, renewed or replaced, have an adverse impact on the proper functioning of the Hotel Resort Shared Facilities or have an adverse impact on the Hotel Resort Shared Facilities being operated and maintained to the Luxury Standard.

### **30.7 Obligations**

The obligations of each Hotel Resort Member under **clauses 30.1** and **30.2** extend to:

- (a) maintaining the structures, conduits, machinery, equipment and other thing or service integral to the proper operation and the support of any part of the Hotel Resort Building (to the extent those structures, conduits, machinery, equipment and other things or services are located within the relevant Hotel Resort Member's Lot) at all times by, amongst other things, ensuring that those structures, conduits, machinery, equipment and any other thing or service are regularly inspected, maintained, repaired and kept in a sound structural and fully operational and working condition and, to the extent relevant, operating and maintained to the Luxury Standard; and
- (b) properly operate and repair, and whenever reasonably necessary renew or replace any fixtures or fittings which may if not properly operated, repaired, renewed or replaced, having an adverse impact on the proper functioning of the Hotel Resort Shared Facilities or have an adverse impact on the Hotel Resort Shared Facilities being operated and maintained to the Luxury Standard.

### **30.8 Exclusion**

**Clauses 30.1, 30.2, 30.3, 30.5** and **30.7** do not apply to the Hotel Resort Shared Facilities.

## **31 Failure of Hotel Resort Member to carry out its obligations**

### **31.1 Obligations**

- (a) If a Hotel Resort Member does not carry out its obligations under **clause 30**, the Hotel Resort Building Management Committee may do anything reasonably necessary for the purpose of exercising the requirements of **clause 30**, including:
  - (i) carrying out work on the Hotel Resort Member's Lot to do anything the Hotel Resort Member has failed to do under **clause 30**; and
  - (ii) enter the Hotel Resort Member's Lot with or without tools and equipment and remain there for the period of time for that purpose.
- (b) In exercising its rights under this **clause 31**, the Hotel Resort Building Management Committee must:
  - (i) ensure that all work is done properly and, where applicable, to the Luxury Standard;

- (ii) ensure that all works are in keeping with the aesthetics and architecture of the Hotel Resort Building;
  - (iii) ensure any works do not affect the waterproofing integrity of the Hotel Resort Building;
  - (iv) cause as little interference as practical to any Occupier of the Hotel Resort Member's Lot;
  - (v) cause as little damage as practical to the Hotel Resort Member's Lot and any improvements on that Hotel Resort Member's Lot; and
  - (vi) if damage is caused by the Hotel Resort Building Management Committee, restore the Hotel Resort Member's Lot as nearly as practicable to the condition it was in before the damage occurred.
- (c) Except where urgent work is required, the Hotel Resort Building Management Committee must:
- (i) before exercising its rights under **clause 31**, give the Hotel Resort Member written notice specifying a reasonable period of time for that member to carry out its obligation under **clause 30**, having regard to the nature of the obligation not performed; and
  - (ii) give the Hotel Resort Member reasonable notice of the Hotel Resort Building Management Committee's intention to enter the member's Lot.

### **31.2 Access**

If the Hotel Resort Building Management Committee must do work on or in a Lot under **clause 31.1**, the Hotel Resort Member must give the Hotel Resort Building Management Committee or persons authorised by it to access the Lot.

### **31.3 Costs**

The direct and indirect costs of carrying out any work under this **clause 31** will be a debt payable by the Hotel Resort Member to the Hotel Resort Building Management Committee on demand.

## **32 External Facing Areas**

### **32.1 Acknowledgement**

Each Party acknowledges that:

- (a) the Hotel/Retail Lot Owner has a particular interest to ensure the External Facing Areas are maintained to the Luxury Standard and a failure to maintain the External Facing Areas may have a detrimental impact on the reputation of the Hotel, the operation of the Hotel and the businesses conducted by the Owners and Occupiers of the Hotel/Retail Lot and any part of the Hotel/Retail Lot; and
- (b) the Residential Owners Corporation and Owners and Occupiers of the Residential Strata Scheme have a particular interest to ensure the External Facing Areas are maintained to the Luxury Standard so that the Hotel Resort Building remains a premium place of residence.

## 32.2 Obligations

- (a) Notwithstanding **clause 31**, if the Residential Owners Corporation or the Building Manager does not carry out its obligations under **clause 30** in respect to External Facing Areas, the Hotel/Retail Lot Owner may do anything reasonably necessary for the purpose of exercising the requirements of **clause 30**, including:
- (i) carrying out work in the Hotel Resort Building (including on the Residential Lot but excluding a Strata Lot) to do anything the Residential Owners Corporation or the Building Manager has failed to do under **clause 30** in respect to External Facing Areas; and
  - (ii) enter any part of the Hotel Resort Building (including the Residential Lot but excluding a Strata Lot) with or without tools and equipment and remain there for the period of time for that purpose.
- (b) In exercising its rights under this **clause 32**, the Hotel/Retail Lot Owner must:
- (i) ensure that all work is done properly and, where applicable, to the Luxury Standard;
  - (ii) ensure that all works are in keeping with the aesthetics and architecture of the Hotel Resort Building;
  - (iii) ensure any works do not affect the waterproofing integrity of the Hotel Resort Building;
  - (iv) cause as little interference as practical to any Occupier of the Residential Lot;
  - (v) cause as little damage as practical to the Residential Lot and any improvements on that Residential Lot; and
  - (vi) if damage is caused by the Hotel/Retail Lot Owner, restore the Residential Lot as nearly as practicable to the condition it was in before the damage occurred.
- (c) Except where urgent work is required, the Hotel/Retail Lot Owner must:
- (i) before exercising its rights under **clause 32**, give the Residential Lot Owner written notice specifying a reasonable period of time for that Residential Lot Owner to carry out the Residential Lot Owner's obligation under **clause 30** in respect to External Facing Areas, having regard to the nature of the obligation not performed; and
  - (ii) give the Residential Lot Owner reasonable notice of the Hotel/Retail Lot Owner's intention to enter the Residential Lot.

## 32.3 Access

If the Hotel/Retail Lot Owners must do work on or in a Lot under **clause 32.2**, the Residential Lot Owner must give the Hotel/Retail Lot Owner or persons authorised by it access to the Residential Lot.

## 32.4 Costs

The direct and indirect costs of carrying out any work on the Residential Lot under this **clause 32** will be a debt payable by the Residential Lot Owner to the Hotel/Retail Lot Owner on demand.

## 33 Emergency Repairs

### 33.1 Rights of access

- (a) The Hotel Resort Building Management Committee and persons authorised by the Hotel Resort Building Management Committee can enter and remain in all parts of the Hotel Resort Building in order to carry out Emergency Repairs to the Hotel Resort Building.
- (b) The Hotel Resort Building Management Committee must cause as little inconvenience as is reasonable to Hotel Resort Members, Owners and Occupiers in carrying out its rights under this clause given the type of emergency.
- (c) The Hotel Resort Building Management Committee and persons authorised by the Hotel Resort Building Management Committee must carry out the Emergency Repairs to the Building within 24 hours or being notified of the emergency.
- (d) If the Hotel Resort Building Management Committee fails to carry out the Emergency Repairs within 24 hours as required under **clause 33.1(c)** a Hotel Resort Member, an Owner or an Occupier may procure the carrying out of the Emergency Repairs and that Hotel Resort Member, Owner or Occupier will be entitled to be reimbursed for reasonable costs incurred in procuring the Emergency Repairs.

### 33.2 Damage by Hotel Resort Member

If the Emergency Repairs carried out by the Hotel Resort Building Management Committee are required as a result of damage occasioned by a Hotel Resort Member, Owner or an Occupier, that Hotel Resort Member, Owner or Occupier is responsible to reimburse the Hotel Resort Building Management Committee for those costs.

### 33.3 Emergency Call Out Fees

The Hotel Resort Building Management Committee may pass on the cost of any false alarm call out fee charged by Fire and Rescue NSW to the relevant Hotel Resort Member.

## 34 Upgrading, Redevelopment and other Works

### 34.1 Works

- (a) Each Party acknowledges that upgrading and redevelopment works may be carried out in the Hotel Resort Building, including to Common Property or to Lots.
- (b) Subject to the provisions of this **clause 34**, each Party agrees to act reasonably and, if applicable, to not unreasonably withhold their consent in connection with any proposal by a Hotel Resort Member to upgrade or redevelop all or part of the Hotel Resort Building owned by that Hotel Resort Member.

### 34.2 Hotel/Retail Lot Works

- (a) The Hotel/Retail Lot Owner must provide reasonable notice to the Hotel Resort Building Management Committee of any scheduled upgrading and redevelopment works within the Hotel/Retail Lot.

- (b) The Parties must allow the Hotel/Retail Lot Owner and any Occupier of any part of the Hotel/Retail Lot and their respective employees, contractors and consultants to carry out works in any part of the Hotel/Retail Lot on and from the date of this Annexure C without any need for the approval of the Parties, but subject to the terms of any Easements and covenants, and to the requirements of any Laws.
- (c) A Party must consent to, and must execute all documentation and do all things necessary to provide consent to, any plans and documents (including the creation of any easements and covenants) as required by the Hotel/Retail Lot Owner and any Occupier of any part of the Hotel/Retail Lot for the carrying out of works in any part of the Hotel/Retail Lot.

### 34.3 Upgrading Common Property

- (a) If the Residential Lot Owner intends to undertake upgrading or redevelopment works on the Common Property (other than to renew or replace minor items), the Residential Lot Owner must:
  - (i) first obtain the written consent of the Hotel/Retail Lot; and
  - (ii) procure that those upgrading or redevelopment works on the Common Property:
    - (A) are undertaken so that the Common Property, on completion of those works, is commensurate with the Luxury Standard;
    - (B) are undertaken in a proper and workmanlike manner with minimal noise and disturbance to the operation of the Hotel, the Occupiers of the Hotel and the operation of any other businesses being undertaken on the Hotel/Retail Lot;
    - (C) will not, when complete, have any adverse impact on the Hotel/Retail Lot and the operation of the Hotel or any other businesses being undertaken on the Hotel/Retail Lot.
- (b) The Residential Lot Owner must provide the Hotel/Retail Lot Owner such information as is reasonably required by the Hotel/Retail Lot Owner to provide its consent to the proposed upgrade and redevelopment works to the Common Property.
- (c) The Hotel/Retail Lot Owner will not unreasonably withhold its consent to the Residential Lot Owner undertaking upgrading or redevelopment works on the Common Property provided that the proposed upgrade or redevelopment works on the Common Property comply with the requirements of **clause 34.3(a)(ii)**.

### 34.4 Upgrading required by the Hotel/Retail Lot Owner

- (a) To ensure the Hotel Resort Building as a whole is at all times maintained to the Luxury Standard, at any time the Hotel/Retail Lot Owner determines that the Hotel/Retail Lot Owner will redevelop works within the Hotel/Retail Lot in accordance with **clause 34.2**, the Hotel/Retail Lot Owner may by notice to the Residential Lot Owner require the upgrade and redevelopment of the Common Property in the Residential Lot so that the Common Property is:
  - (i) if required by the Hotel/Retail Lot Owner, aesthetically consistent with the Hotel as upgraded and redeveloped in accordance with **clause 34.2**; and

- (ii) otherwise commensurate with the Luxury Standard.
- (b) If the Hotel/Retail Lot Owner makes a request pursuant to **clause 34.4(a)**, the Residential Lot Owner must work together with the Hotel/Retail Lot Owner in Good Faith to agree:
  - (i) the design for the upgrade and redevelopment of the Common Property so that the Common Property is upgraded and redeveloped:
    - (A) in a manner that complies with the requirements of **clause 34.4(a)(i)** and **clause 34.4(a)(ii)**; and
    - (B) within the construction timetable for upgrading and redeveloping the Hotel/Retail Lot; and
  - (ii) by contractors that are suitably qualified to undertake the upgrade and redevelopment of the Common Property (which may or may not be the same contractors engaged by the Hotel/Retail Lot Owner to undertake the upgrade and redevelopment of the Hotel/Retail Lot).
- (c) The Residential Lot Owner must, when determining budgets for its administration fund and sinking fund, take into account the likely costs to be incurred by the Residential Lot Owner to comply with this **clause 34.4**. The Hotel/Retail Lot Owner must provide all reasonable assistance to the Residential Lot Owner to undertake this analysis of likely costs.

### **34.5 Right to Access**

The Parties will allow the Hotel/Retail Lot Owner and any Occupier of any part of the Hotel/Retail Lot and their respective employees, contractors and consultants to access all parts of the Hotel Resort Building which a Hotel/Retail Lot Owner and any Occupier of any part of the Hotel/Retail Lot reasonably requires to access for the purpose of:

- (a) carrying out any works;
- (b) connecting, installing, extending, augmenting, maintaining or accessing any existing Services;
- (c) connecting, installing, extending, augmenting, maintaining or accessing any future Services; and
- (d) carrying out any work relating to the temporary propping or structural support of the Hotel Resort Building.

### **34.6 Repair**

A Hotel/Retail Lot Owner and any Occupier of any part of the Hotel/Retail Lot must repair without delay any damage caused to any other part of the Hotel Resort Building (including to Common Property and Lots) as a result of a Hotel/Retail Lot Owner or any Occupier of any part of the Hotel/Retail Lot and their respective employees, contractors and consultants carrying out the works described in **clause 34.5**.

## PART 6: ARCHITECTURAL CODE AND WORKS

**[Note: To be updated with specific architectural code requirements prior to registration of this Annexure C]**

### 35 Architectural Code and carrying out works

#### 35.1 Purpose of Architectural Code

The purpose of the Architectural Code is to protect the architectural integrity of the Hotel Resort Building by controlling building works and the external appearance of the Building.

#### 35.2 Compliance with the Architectural Code

Hotel Resort Members, Owners and Occupiers must comply with the Architectural Code and obtain all consents required under it.

#### 35.3 Obligations before carrying out works

Before carrying out any building or other works in the Hotel Resort Building, Hotel Resort Members, Owners and Occupiers must obtain all necessary consents:

- (a) from the Hotel Resort Building Management Committee and if applicable, the relevant Owners Corporation, under the Architectural Code; and
- (b) from the Owners Corporation under the by-laws for the relevant Strata Scheme; and
- (c) from Authorities.

### 36 Carrying out Works

#### 36.1 Works in Stratum Lots

Unless otherwise provided in this Annexure C (including under **clause 34**), Hotel Resort Members, Owners and Occupiers may carry out works in a Stratum Lot without the consent of the Hotel Resort Building Management Committee consent provided that:

- (a) all necessary consents from Authorities are obtained for the works;
- (b) the works comply with the Architectural Code; and
- (c) the works do not affect Hotel Resort Shared Facilities.

#### 36.2 Works in Strata Lots

Unless otherwise provided in this Annexure C (including under **clause 34**), Hotel Resort Members, Owners and Occupiers may carry out works in a Strata Lot without consent from the Hotel Resort Building Management Committee provided that:

- (a) all necessary consents from Authorities are obtained for the works;

- (b) all necessary consents are obtained from the relevant Owners Corporation (if required under the terms of the by-laws for the Strata Scheme or under the Act);
- (c) the works comply with the Architectural Code; and
- (d) the works do not affect Hotel Resort Shared Facilities or Common Property.

### **36.3 Consenting to applications**

Each Hotel Resort Member must not unreasonably withhold consent to an application by another Hotel Resort Member to an Authority for approval to carry out works.

### **36.4 Works affecting Hotel Resort Shared Facilities**

- (a) Hotel Resort Members, Owners and Occupiers must obtain consent from the Hotel Resort Building Management Committee before carrying out any works which affect (or may affect) Hotel Resort Shared Facilities (including the installation of signage on Hotel Resort Shared Facilities).
- (b) The Hotel Resort Building Management Committee must consent to work which is approved under a development consent.
- (c) Hotel Resort Members, Owners and Occupiers acknowledge that use of a Hotel Resort Shared Facility and rights under any Easement may be suspended during a redevelopment of a component. If Hotel Resort Members, Owners and Occupiers carry out works within a Lot or the Common Property that requires the suspension of a Hotel Resort Shared Facility, Hotel Resort Members, Owners and Occupiers must:
  - (i) minimise any disruption relating to the use of the Hotel Resort Shared Facility by other Hotel Resort Members; and
  - (ii) compensate Hotel Resort Members for any reasonable actual loss suffered as a result of the suspension.

### **36.5 Amending the Architectural Code**

The Hotel Resort Building Management Committee may amend, add to or repeal parts of the Architectural Code by Unanimous Resolution.

### **36.6 Construction Period**

During the Construction Period, the Hotel Resort Developer is not:

- (a) bound by the provisions of this **Part 6** or the Architectural Code; or
- (b) required to obtain consent under the Architectural Code to carry out the development of the Stratum Lots.

## PART 7: CONSTRUCTION PERIOD

### 37 Construction Period

#### 37.1 Construction Period

During the Construction Period, the Parties must allow the Hotel Resort Developer and the Hotel Resort Developer's employees, contractors and consultants to carry out the Construction Works in any part of the Hotel Resort Building on and from the date of this Annexure C without any need for the approval of the Parties, but subject to the terms of any Easements and covenants and to the requirements of any Laws.

#### 37.2 Consent

A Party must consent to, and must execute all documentation and do all things necessary to provide consent to, any plans and documents (including the creation of any Easements and covenants) as required by the Hotel Resort Developer for the carrying out and successful completion of the Construction Works.

#### 37.3 Right to Access

The Parties must allow the Hotel Resort Developer and the Hotel Resort Developer's employees, contractors and consultants during the Construction Period to access all parts of the Hotel Resort Building which the Hotel Resort Developer reasonably requires to access for the purpose of:

- (a) carrying out the Construction Works for the relevant stage;
- (b) connecting, installing, extending, augmenting, maintaining or accessing any existing Services;
- (c) connecting, installing, extending, augmenting, maintaining or accessing any future Services; and
- (d) carrying out any work relating to the temporary propping or structural support of the Hotel Resort Building.

#### 37.4 Repair

The Hotel Resort Building Management Committee must procure the Hotel Resort Developer to:

- (a) repair without delay any damage caused to the Common Property or other parts of the Hotel Resort Building as a result of the Hotel Resort Developer and the Hotel Resort Developer's employees, contractors and consultants carrying out the works described in **clause 37.3**; and
- (b) not cause unreasonable inconvenience to the Parties as a result of the Hotel Resort Developer and the Hotel Resort Developer's employees, contractors and consultants carrying out the works described in **clause 37.3**.

#### 37.5 Enforcement

The Hotel Resort Building Management Committee may procure enforcement of this **clause 37** on behalf of the Hotel Resort Developer.

## **PART 8: FINANCIAL MATTERS AND INSURANCE**

### **38 Financial Affairs**

#### **38.1 Administrative and Sinking Fund**

- (a) The Hotel Resort Building Management Committee must establish an administrative fund and a sinking fund within three months of registration of this Annexure C.
- (b) Until such time as a sinking fund report is completed and received by the Hotel Resort Building Management Committee, the sinking fund may be determined by the Hotel Resort Building Management Committee to be a nominal amount or NIL.
- (c) As soon as practicable after the sinking fund report is completed and received by the Hotel Resort Building Management Committee, the Hotel Resort Building Management Committee must determine the contribution of each Hotel Resort Member to the sinking fund, having regard to the Hotel Resort Shared Facilities and to the recommendations of the sinking fund report.
- (d) The administrative fund and sinking fund must be maintained by the Administration Manager or if no Administration Manager is appointed, by the Hotel Resort Building Management Committee.
- (e) The administrative fund must be used to pay the costs of:
  - (i) operating, maintenance, repair and compliance of the Hotel Resort Shared Facilities (including energy and water usage);
  - (ii) Insurance;
  - (iii) administration; and
  - (iv) any other costs which are not amounts which are to be paid from the sinking fund.
- (f) The Hotel Resort Building Management Committee must use the sinking fund to pay the costs of renewal or replacement of the Hotel Resort Shared Facilities.

#### **38.2 Budget**

- (a) The Hotel Resort Building Management Committee must determine a budget for each 12 month period.
- (b) The budget must be based on an estimate of the costs and expenditures to:
  - (i) pay Hotel Resort Shared Costs;
  - (ii) pay any Building Manager Fees, Hospitality Services Fee and Administration Management Fees;
  - (iii) effect the Insurances; and
  - (iv) satisfy any obligation of the Hotel Resort Building Management Committee under this Annexure C or the Management Act.
- (c) The budget must contain details of:

- (i) each item or matter, including Hotel Resort Shared Costs, for which a Hotel Resort Member is responsible;
  - (ii) each Hotel Resort Member's proportion of a particular matter or item;
  - (iii) the amount of that proportion to be paid into the sinking fund and administrative fund (if applicable); and
  - (iv) the amount and date of each payment which a Hotel Resort Member must make.
- (d) The budget must reflect that until the completion of the Hotel Resort Building, only some of the Hotel Resort Shared Facilities will be operational.

### **38.3 Year End**

- (a) The Hotel Resort Building Management Committee must determine the Year End for accounting purposes.
- (b) The budget must be for the relevant Year.

### **38.4 Notice of Payment to Hotel Resort Members**

The budget must be submitted to each Hotel Resort Member together with a notice advising:

- (a) the total expenditure for the 12 month period to which the budget relates;
- (b) the amount that each Hotel Resort Member must pay in the 12 month period to the administrative and sinking funds in accordance with the budget; and
- (c) the date each payment is due.

### **38.5 Payment by Hotel Resort Members**

- (a) The Hotel Resort Building Management Committee must levy Hotel Resort Members for contributions it will need for its administrative fund and sinking fund based on the budget for each Year.
- (b) A Hotel Resort Member must pay each amount owed on the date the payment is due.
- (c) If a Hotel Resort Member fails to pay an amount owing when it is due and payable, that Hotel Resort Member becomes a Defaulting Member.

### **38.6 Interest for Late Payment**

- (a) A Defaulting Member must pay interest on each amount not paid on time from and including the date on which the payment was due until the date it is paid.
- (b) The Hotel Resort Building Management Committee must calculate interest on daily balances at the rate equal to 2% per annum above the overdraft rate quoted by the Hotel Resort Building Management Committee's bank, building society or credit union at the time of default.
- (c) A certificate from the Hotel Resort Building Management Committee's bank, building society or credit union stating the interest rate is final and binding on a Hotel Resort Member.
- (d) The Hotel Resort Building Management Committee may at their absolute discretion elect to waive the payment of interest by a Defaulting Member.

### **38.7 Financial Statement**

As soon as practicable, but no later than three months, after the expiration of each 12 month period, the Hotel Resort Building Management Committee must provide each Hotel Resort Member with an audited financial statement for the funds of the Hotel Resort Building Management Committee.

### **38.8 Additional Amounts Payable**

If the amounts payable or paid into one or both of the funds are insufficient, the Hotel Resort Building Management Committee can by notice require each Hotel Resort Member to pay an additional amount to enable the Hotel Resort Building Management Committee to carry out its obligations under this Annexure C and the Management Act.

### **38.9 Deposit of Moneys**

The Hotel Resort Building Management Committee must:

- (a) deposit all amounts received from Hotel Resort Members into its administrative fund and sinking fund as applicable;
- (b) apply all amounts towards the payment of all invoices, statements and accounts of the Hotel Resort Building Management Committee; and
- (c) if the deposit moneys accrue interest, credit the interest to the account of the Hotel Resort Building Management Committee.

### **38.10 Dispute**

- (a) If there is a dispute about the payment of an amount, before resolution of the dispute, each Hotel Resort Member must pay the amounts advised.
- (b) After resolution of the dispute, the Hotel Resort Building Management Committee must make an appropriate adjustment or payment.

### **38.11 Surplus Funds**

The Hotel Resort Building Management Committee may decide to distribute surplus funds to the Hotel Resort Members by Unanimous Resolution (having regard to the proportions in which the Hotel Resort Members contributed the surplus funds).

## **39 Books and Records**

### **39.1 Obligations of the Hotel Resort Building Management Committee**

- (a) The Hotel Resort Building Management Committee must:
  - (i) keep records and books of account of all the amounts payable and payments made under this Annexure C;
  - (ii) enter all matters and transactions usually entered in books of account kept by property managers;
  - (iii) keep a copy of this Annexure C;
  - (iv) keep copies of all agendas, motions and minutes;
  - (v) hold the executed agreement with the Administration Manager, Hospitality Services Supplier and Building Manager and any other

agreements it has entered into in relation to Hotel Resort Shared Facilities;

- (vi) keep the details of Representatives and Substitute Representatives in accordance with **clause 3.3**;
  - (vii) keep audit reports and budgets;
  - (viii) keep notices served on the Hotel Resort Hotel Resort Building Management Committee and notices served by the Building Management Committee; and
  - (ix) keep Insurance records.
- (b) The Hotel Resort Building Management Committee must retain all records, agreements and books of account for a period of six years.

## **39.2 Inspection of Books and Records**

- (a) Hotel Resort Members and persons authorised by Hotel Resort Members may inspect the Hotel Resort Building Management Committee's records by:
- (i) applying in writing to the Hotel Resort Building Management Committee; and
  - (ii) paying the Hotel Resort Building Management Committee a fee (determined in accordance with the Management Act).
- (b) Copies may be taken by persons inspecting the records under **clause 39.2(a)** so long as the Hotel Resort Building Management Committee is reimbursed for any costs incurred.

# **40 Insurances**

## **40.1 Insurances**

- (a) The Hotel Resort Building Management Committee must:
- (i) effect building insurance in accordance with the Act;
  - (ii) effect machinery breakdown insurance for Hotel Resort Shared Facilities (which are not covered under warranty);
  - (iii) effect public liability insurance for Hotel Resort Shared Facilities; and
  - (iv) effect any other type of insurance which the Hotel Resort Building Management Committee determines by Unanimous Resolution (such as office bearers liability insurance or workers compensation insurance).
- (b) Each Hotel Resort Member must have a current public liability insurance policy at all times and, if requested, provide a current valid copy to the Hotel Resort Building Management Committee.

## **40.2 Insurance Policies**

The Hotel Resort Building Management Committee must take out each policy in the joint names of each Hotel Resort Member.

## **40.3 Review Insurances**

The Hotel Resort Building Management Committee must:

- (a) review the Insurances at least once every 12 months;
- (b) have the Hotel Resort Building valued for insurance purposes by a qualified valuer at least once every 24 months; and
- (c) immediately effect new insurance or adjust existing Insurances if there is an increase in or a new risk to the Hotel Resort Building.

#### **40.4 Payment of Premiums**

The Hotel Resort Building Management Committee must ensure that the Hotel Resort Members pay the premiums in the proportions set out in Section 84(4) of the Management Act or as determined by an adjudicator under section 84(5) of the Management Act.

#### **40.5 Affect Insurances**

- (a) A Party must not at any time do anything that might:
  - (i) void or prejudice the Insurances; or
  - (ii) increase the Insurance premiums,except with the consent of the Hotel Resort Building Management Committee.
- (b) If a Party does anything to increase an Insurance premium, that Party must pay the increased amount.

### **41 Use by a Party of property**

If a Party is permitted to occupy or use or have access to or from any part of another Party's property in the Hotel Resort Building, that Party:

- (a) does so at its own risk; and
- (b) releases the other Party from any:
  - (i) claim and demand of any kind; and
  - (ii) liability which may arise from any accident or damage to property or death of or injury to any person in or near that other Party's property or the Hotel Resort Building,

unless the damage, death or injury is caused by that Party.

## PART 9: GENERAL DISPUTES AND NOTICES

### 42 Disputes

#### 42.1 Notice of Dispute

- (a) Hotel Resort Members must endeavour in Good Faith to resolve a dispute about this Annexure C before they take action under this **clause 42**.
- (b) A Hotel Resort Member may at any time notify the other Hotel Resort Members of a dispute in connection with this Annexure C.
- (c) A notice advising of a dispute must:
  - (i) identify the subject matter of the dispute;
  - (ii) state the facts upon which the Hotel Resort Member relies;
  - (iii) identify the provisions of the Statement relevant to the dispute;
  - (iv) have attached copies of all correspondence and background information relevant to the dispute in the possession or control of the Hotel Resort Member giving the notice; and
  - (v) contain any particulars of the amount in dispute (if any).
- (d) Hotel Resort Members must use all reasonable endeavours to resolve a dispute within ten Business Days after a notice is served under **clause 42.1(c)**.
- (e) If the dispute is not resolved within ten Business Days from the time of receipt of the notice referred to in **clause 42.1(b)**, a Hotel Resort Member may by written notice request the Hotel Resort Building Management Committee to convene a meeting to discuss whether to:
  - (i) refer the dispute to the Tribunal under Management Act;
  - (ii) refer the dispute for mediation under the Management Act; or
  - (iii) if the dispute is not appropriate for mediation, apply for an order under the Management Act.

#### 42.2 Appointment of an Expert

- (a) Unless otherwise stated in this Annexure C, if the meeting decides not to refer the dispute for mediation or apply for an order or makes no decision, a Hotel Resort Member may within a period of five Business Days from the meeting, submit the dispute for decision by an Expert.
- (b) If each Hotel Resort Member cannot agree to and jointly appoint an Expert, the Expert will be selected by the [International Centre for Expertise in accordance with the provisions for the appointment of experts under the Rules for Expertise of the International Chamber of Commerce] having regard to the nature and subject of the dispute.
- (c) The following must not be the subject of any dispute to be referred to an Expert for a decision:
  - (i) if the nature and subject of the dispute is related in any way to:
    - (A) the operation of the Hotel;

- (B) the meaning of Luxury Standard;
- (C) whether the Hotel Resort Building and its facilities (including the Hotel Resort Shared Facilities) or any part of the Hotel Resort Building are commensurate with the Luxury Standard;
- (ii) any rules made by the Hotel Resort Building Management Committee, Building Manager, Concierge or any Hotel Resort Member in accordance with this Annexure C;
- (iii) a Unanimous Resolution passed by the Hotel Resort Building Management Committee, or the subject matter of a Unanimous Resolution;
- (iv) any review of the Hotel Resort Shared Costs by the Hotel Resort Building Management Committee under **clause 9.6(a)** of this Annexure C;
- (v) a dispute contemplated by **clause 9.8(c)**; and
- (vi) any of the matters set out in **clause 19.1** of this Annexure C.
- (d) The Expert must be an independent, internationally recognised consulting firm or individual with at least 10 years of international experience in the Hotel industry and qualified to resolve the issue in question.
- (e) The Expert acts as an expert and not as an arbitrator.
- (f) Except as to matters of Law, the Expert's decision including any decision about an expense arising from the dispute, is final and binding on each Hotel Resort Member.
- (g) The appointment must require the Expert to make a decision within 20 Business Days of the appointment.
- (h) The Expert may appoint consultants as the Expert thinks necessary to advise on any aspect of the dispute.
- (i) Each Hotel Resort Member may make written submissions to the Expert about the dispute and costs.

### **42.3 Submission to Expert**

- (a) If a Hotel Resort Member makes a submission, that member must:
  - (i) submit it within ten Business Days of the appointment of the Expert; and
  - (ii) provide the other Hotel Resort Members with a copy of submissions within 24 hours of submission to the Expert.
- (b) A Hotel Resort Member who makes a submission must:
  - (i) co-operate with the Expert; and
  - (ii) as required by the Expert, promptly provide the Expert with information in the possession or control of that person and relevant to the matter to be determined.
- (c) **Clause 42.3(b)** does not apply if the information would be subject to a claim for privilege if the matter were the subject of legal proceedings.

- (d) Within 20 Business Days of the Expert's appointment, the Expert must determine the matters in dispute having regard to the written submissions, this Annexure C and the Expert's own enquiries.

#### **42.4 Expert's Determination**

The Expert must:

- (a) give reasons for the determination; and
- (b) determine how the cost of any determination is paid.

#### **42.5 Commencement of Action**

- (a) A Hotel Resort Member is only entitled to commence or maintain an action, either by way of legal proceedings or arbitration for a dispute if that person has first referred the dispute for determination under this **clause 42**.
- (b) When a dispute concerns a matter that falls within the jurisdiction of the Tribunal, legal proceedings must, in the first instance, be commenced in the Tribunal.

### **43 Notices and Service**

#### **43.1 Notices**

- (a) A notice or communication under this Annexure C must be in writing in English.
- (b) A notice or communication under this Annexure C may be given:
  - (i) by hand;
  - (ii) by email (but only to an email address provided by the recipient for the purposes of this clause); or
  - (iii) by security post.
- (c) A notice is deemed to be given:
  - (i) if sent by hand, at the time of delivery;
  - (ii) if sent by email, at the time a delivery confirmation report is received by the sender, which records the time that the email was delivered to the addressee's last notified email address and is prima facie evidence of its receipt by the addressee; and
  - (iii) if sent by security post, at the time that the recipient or its agent acknowledges receipt.

#### **43.2 Service by Email**

**Clause 43.1(c)(ii)** does not apply if the sender receives a delivery failure notification, indicating that the electronic mail has not been delivered to the addressee.

#### **43.3 Address**

- (a) Each Hotel Resort Member must address a notice to the Representative of a Hotel Resort Member as notified under **clause 3.3(d)**.

- (b) Anything done by a Representative of a Hotel Resort Member appointed to the Hotel Resort Building Management Committee has the same effect as if the Hotel Resort Member did it.

#### **43.4 Notices to the Hotel Resort Building Management Committee**

A notice (or other document) may be served on the Hotel Resort Building Management Committee in accordance with this **clause 43** to the Administration Manager appointed under **clause 6**, or if no Administration Manager is appointed, the Chairperson.

## **44 General**

### **44.1 Waiver**

A provision of or right created under this Annexure C may only be:

- (a) waived if the waiver is in writing and signed by the Hotel Resort Member granting the waiver; or
- (b) varied if the variation is in writing and signed by each Hotel Resort Member.

### **44.2 Exercise of a right**

- (a) A Hotel Resort Member may exercise a right:
  - (i) at the Hotel Resort Member's discretion: and
  - (ii) separately or together with another right.
- (b) If a Hotel Resort Member exercises a single right or only partially exercises a right, that member may still exercise that right or any other right later.
- (c) If a Hotel Resort Member fails to exercise a right or delays in exercising a right, that member may still exercise that right later.

### **44.3 Severance**

- (a) Subject to **clause 44.3(b)**:
  - (i) if a provision of this Annexure C is void or voidable, unenforceable or illegal but would not be void, voidable, unenforceable or illegal if it were read down and it is capable of being read down, the provision must be read down;
  - (ii) if, despite **clause 44.3(a)(i)**, a provision is still void, voidable, unenforceable or illegal and the provision would not be void, voidable, unenforceable or illegal if words were severed, those words must be severed; or
  - (iii) in any other case, the whole provision must be severed.
- (b) If an event under **clause 44.3(a)** occurs, the remainder of this Annexure C continues in full force and effect.

### **44.4 Consent**

Subject to an express provision in this Annexure C, a Hotel Resort Member may in that member's absolute discretion:

- (a) give the Hotel Resort Member's consent conditionally or unconditionally; or
- (b) withhold the Hotel Resort Member's consent.

**44.5 Entire Statement**

This Statement constitutes the entire agreement of each Hotel Resort Member and supersedes all prior discussions, undertakings and agreements.

**44.6 To the extent the Law permits**

The terms of this Annexure C apply to the extent the Law permits.

**44.7 Cumulative rights**

The rights of a Hotel Resort Member under this Annexure C are in addition to the rights of the Hotel Resort Members at Law.

**44.8 Further assurances**

Each Hotel Resort Member, at that member's own expense, must:

- (a) do everything reasonably necessary to give effect to:
  - (i) this Annexure C; and
  - (ii) the transactions contemplated by this Annexure C, including the execution of documents; and

make a reasonable effort to cause relevant third parties to do likewise.

draft

# Schedule 1

## Hotel Resort Shared Facilities Schedule

***[Note: Draft Hotel Resort Shared Facilities Schedule to be updated prior to registration of this Annexure C. The methodology for the allocation of Shared Costs is not anticipated to change. However, the final percentages may change based on actual GFA of each component in the Building.]***

draft

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draft

# Schedule 2

## Plan of Hotel Resort Shared Facilities

***[Note: To be inserted prior to registration of this Annexure C.]***

draft

# Schedule 3

## Proxy Form

### Proxy Form

Date	
Name of member, representative or substitute representative	
Name of member who appointed representative or substitute representative	
Name of proxy	
Address of proxy	

I/we,....., appoint ..... as my/our proxy for the purpose of Meetings and Emergency Meetings of the Hotel Resort Building Management Committee (including adjourned Meetings and Emergency Meetings)

Period or number of meetings for which appointment of my/our is valid for .....  
\*months/\*meetings

\* This form authorises the proxy to vote on my/our behalf on all matters **OR** \* This form authorises the proxy to vote on my/our behalf on the following matters only and in the manner specified below:

Signature or execution by member (if proxy appointed by member) .....

Signature or representative or substitute representative (if proxy appointed by them) .....

Signature of proxy .....

**Notes**

1. The proxy appointed by this form must be a natural person.
2. This form is effective only if it is signed by the member, representative or substitute representative (as appropriate) and the proxy.
3. This form does not authorise voting on a matter if the representative or substitute representative of the member is present at the relevant meeting or emergency meeting and personally votes on the matter.
4. This form is ineffective unless it is given to the secretary of the Hotel Resort Building Management Committee at or before the first meeting in relation to which it is to operate and it contains the date on which it was made.
5. This form will be revoked by a later proxy appointment form delivered to the secretary of the Hotel Resort Building Management Committee.
6. A vote by the proxy which does not comply with the directions to vote given by the member, representative or substitute representative who appointed the proxy is void.

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