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**"The Elizabeth", "The Rum Store"**  
**Mount Street Walk, Pyrmont**

## Strata Management Statement

**COUDERT BROTHERS**  
Solicitors and International Attorneys  
Level 8, Gateway  
1 Macquarie Place  
Sydney NSW 2000 Australia

Telephone: (61-2) 9930-7500  
Facsimile: (61-2) 9930-7600  
Ref. SFE/983578

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## Introduction

- A. Jacksons Landing Development Pty Ltd is the registered proprietor of the Land.
- B. Lots 23 and 24 in the Community Plan are respectively the commercial component and the residential component of the building known as "The Elizabeth" situated at 2-4 Mount Street Walk, Pyrmont.
- C. Lot 25 in the Community Plan is the residential building known as "The Rum Store" situated at 4-6 Mount Street Walk, Pyrmont.
- D. The Members are the:
  - (a) Elizabeth Owners Corporation;
  - (b) Elizabeth Commercial Owner; and
  - (c) Rum Store Owner.
- E. This Statement is required by the Freehold Act and regulates the Members in respect of the use, control, management and maintenance of the Building.

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1. **Definitions and Interpretation**

1.1 **Statutory Definitions**

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 this Statement.

1.2 **Further Definitions**

In this Statement, these terms mean:

**"Act"** the Freehold Act or the Management Act or both as the context requires.

**"Architectural Standards"** the meaning given to that term in the Community Management Statement.

**"Building"** the Elizabeth Building and the Rum Store Building.

**"Building Management Committee"** the committee required by the Freehold Act and the subject of clause 3.

**"Business Day"** a day on which banks in NSW are open for business but does not include a Saturday, Sunday or public holiday.

**"Community Management Statement"** the community management statement registered with the Community Plan.

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

**"Community Plan"** deposited plan 270215.

**"Defaulting Member"** has the meaning stated in clause 4.6.

**"Dockmaster"** the person the Elizabeth Commercial Owner appoints to manage the operation of the Loading Dock notice of which is given to the Elizabeth Owners Corporation.

**"Elizabeth Building"** the building erected on the Land comprising Lots 23 and 24 in the Community Plan.

**"Elizabeth Commercial Lot"** Lot 23 in the Community Plan or if this lot is subdivided by registration of a Strata Plan, the Strata Scheme created by the subdivision.

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**"Elizabeth Commercial Owner"** either:

- (a) the registered proprietor of the Elizabeth Commercial Lot; or
- (b) the Owners Corporation created on registration of a Strata Plan subdividing the Elizabeth Commercial Lot.

**"Elizabeth Commercial Owner's GFA Percentage"** the proportion expressed as a percentage that the GFA of the Elizabeth Commercial Lot bears to the GFA of the Building.

**"Elizabeth Common Property"** the Common Property of the Elizabeth Strata Scheme.

**"Elizabeth Owners Corporation"** the owners corporation created on registration of this Statement.

**"Elizabeth Owners Corporation GFA Percentage"** the proportion expressed as a percentage that the GFA of Lot 24 in the Community Plan bears the GFA of the Building.

**"Elizabeth Strata Scheme"** the strata plan registered with this Statement subdividing Lot 24 in the Community Plan.

**"Expert"** a person appointed under clause 9.6.

**"Freehold Act"** the Strata Schemes (Freehold Development) Act 1973.

**"GFA"** gross floor area as that term is defined in the Environmental Planning and Assessment Act Model Provisions Regulation expressed in square metres.

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

**"Insurance"**:

- (a) each insurance which the Building Management Committee must effect under the Management Act and this Statement; and
- (b) any other insurance which the Building Management Committee determines to effect.

**"Land"** the land contained in Lots 23, 24 and 25 in the Community Plan.

**"Landscaped Area"** the landscaped area forming part of the Common Property.

**"Law"** includes:

- (a) the provisions of a statute, rule, regulation, proclamation, ordinance or by-law, present or future, whether state, federal or otherwise; and

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(b) a requirement, notice, order or direction received from or given by a statutory, public or other competent authority.

"Loading Dock" the loading dock situated in the Elizabeth Commercial Lot.

"Manager" a person who the Building Management Committee for the time being appoints as manager under clause 10.

"Management Act" the Strata Schemes Management Act 1996.

"Management Fee" the fee for the Manager under clause 10 (and the proportion payable set out in Schedule 1).

"Member" the Elizabeth Owners Corporation or the Elizabeth Commercial Owner or the Rum Store Owner or all of them as the context requires.

"Owners Corporation" an owners corporation created upon registration of a Strata Plan.

"Parties" the parties bound by this Statement as stated in clause 2.1.

"Rum Store Building" the building erected on the Land comprising lot 25 in the Community Plan.

"Rum Store Lot" lot 25 in the Community Plan or if this lot is subdivided by registration of a Strata Plan, the Strata Scheme created by the subdivision.

"Rum Store Owner" either:

- (a) the registered proprietor of the Rum Store Lot; or
- (b) the Owners Corporation created on registration of a Strata Plan subdividing the Rum Store Lot.

"Rum Store Owners Corporation" the Common Property created on registration of a strata plan subdividing the Rum Store Lot;

"Rum Store Owner's GFA Percentage" the proportion expressed as a percentage that the GFA of the Rum Store Lot bears to the GFA of the Building.

"Services Contractor" is the party providing services to the Building Management Committee in accordance with the services agreement referred to in clause 6.5.

"Shared Costs" the following expenses in relation to a Shared Facility:

- (a) the maintenance, repair and operating costs including any amount payable to a contractor under any maintenance agreement;
- (b) renovation or replacement costs; and
- (c) any amount which the Building Management Committee determines by Unanimous Resolution is Shared Costs.

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## "Shared Facilities":

- (a) the services, facilities, machinery and equipment referred to in Schedule 1;
- (b) any alterations, additions or replacement of those items;
- (c) any services, facilities, machinery and equipment which the Building Management Committee determines by Unanimous Resolution are Shared Facilities; and
- (d) any pipes, wires, cables and ducts connected to or forming part of these items.

"Statement" this Strata Management Statement.

"Strata Scheme" a strata scheme created on registration of a Strata Plan under the Freehold Act .

"Strata Plan" a strata plan under the Act.

"Unanimous Resolution" a resolution of the Building Management Committee for which each Member either votes in favour of or does not cast a vote.

## 1.3 Interpretation

In this Statement, a reference to:

- (a) the singular includes the plural and vice versa;
- (b) any gender includes all other genders;
- (c) a defined word or phrase, then other parts of speech and grammatical forms of that word or phrase have a corresponding meaning;
- (d) month or monthly means calendar month or calendar monthly;
- (e) quarter means calendar quarter;
- (f) a person includes:
  - (1) a corporation, partnership, joint venture and government body;
  - (2) the legal representatives, successors and assigns of that person; and
  - (3) where the context permits, the employees, agents, contractors and invitees of that person;
- (g) a document includes a reference to that document as amended or replaced;
- (h) a thing includes a part of that thing and includes a right;
- (i) a part, clause, annexure, exhibit or schedule is a reference to an item of that type in this Statement;

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- (j) a by-law, attachment or annexure means a by-law, schedule of, or an attachment or annexure to this Statement;
- (k) a Party to the Statement includes a reference to that party's successors and permitted assigns;
- (l) a Law includes all laws amending or replacing them;
- (m) a document is a reference to a document of any kind including an agreement in writing, a certificate, a notice, or an instrument;
- (n) a provision of this Statement is not to be construed against a Party solely on the ground that the Party is responsible for the preparation of this Statement or a particular provision;
- (o) an asset includes all property of any nature including a business, a right, a revenue and a benefit;
- (p) 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;
- (q) "including" and similar expressions are not words of limitation.

## 1.4 Parties Bound Jointly and Individually

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

## 1.5 Headings

Headings and bolding are for guidance only and do not affect the construction of this Statement.

## 1.6 Business Day

- (a) If anything is required to be done under this Statement 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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## 2. Parties Bound and General Obligations

### 2.1 Parties Bound

This Statement has effect as an agreement under seal binding:

- (a) the Elizabeth Owners Corporation;
- (b) the Elizabeth Commercial Owner;
- (c) the Rum Store Owner;
- (d) an owner, lessee, occupier or mortgagee in possession of a lot in the Elizabeth Strata Scheme;
- (e) a lessee, occupier or mortgagee in possession of the Elizabeth Commercial Lot; and
- (f) a lessee, occupier or mortgagee in possession of the Rum Store Lot.

### 2.2 General Obligations

The Members must:

- (a) promptly comply with their obligations under this Statement and the Act;
- (b) obey the directions of the Building Management Committee;
- (c) make sure that the Building Management Committee is constituted in accordance with this Statement and the Freehold Act;
- (d) make sure the Insurances are effected and maintained; and
- (e) implement decisions of the Building Management Committee

### 2.3 Emergency Access

In an emergency, each member must give to all parties access to all exit routes in the Building.

### 2.4 Inconsistency

The by laws of a Strata Scheme must not conflict with this Statement and the provisions of this Statement apply to the extent of any inconsistency.

## 3. Building Management Committee

### Composition

- 3.1 The Building Management Committee comprises no more than 2 representatives being a natural person of each Member.

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3.2 The Members must establish the Building Management Committee within 1 month after the registration of this Statement.

## Representatives

3.3 Each Member must:

- (a) appoint representatives; and
- (b) give to each other Member notice of the name, address and telephone number of the representatives and notify each other about any changes.

3.4 Each Member may:

- (a) change its representatives at any time; and
- (b) appoint a casual representative for a particular meeting or meetings.

3.5 The representative or casual representative of a Member who is an Owners Corporation must be appointed by or selected in accordance with a special resolution or a by law made by the Member.

## Functions

3.6 The functions of the Building Management Committee are to:

- (a) make decisions about matters delegated to the Building Management Committee under this Statement;
- (b) operate, maintain, renew, replace and control the use of Shared Facilities;
- (c) change or add to or extend Shared Facilities;
- (d) change or add to or adjust Shared Costs;
- (e) effect the Insurances;
- (f) supervise any contractor or agent, including the Manager, engaged by the Building Management Committee; and
- (g) comply with this Statement and the Act.

3.7 The Building Management Committee:

- (a) must appoint one of the Building Management Committee's Members to act as chairperson for each meeting; and
- (b) may appoint any other office bearer, who the Building Management Committee considers necessary.

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## Meetings

3.8 The Building Management Committee must hold a meeting if:

- (a) requested by notice in writing by a Member;
- (b) no other meeting has been held in the preceding 12 month period on each anniversary of the date of this Statement; or
- (c) the Building Management Committee is otherwise required to do so under this Statement.

## Request for Meeting

3.9 A request for a meeting must state the issue or proposal for the meeting.

3.10 The Building Management Committee is not obliged to hold a meeting if the Member requesting it is a Defaulting Member.

## Notice of Meetings

3.11 The Building Management Committee must normally give at least 5 Business Days' notice of a meeting to each Member.

3.12 In the case of an emergency or with the consent of each Member, the Building Management Committee may give a shorter notice.

## Quorum

3.13 At any meeting of the Building Management Committee, a quorum consists of a representative of each Member.

3.14 If a quorum is not present within half an hour from the time appointed for a meeting, the meeting is adjourned for 2 Business Days.

3.15 The Building Management Committee must hold the adjourned meeting at the same time and at the same place notified for the original meeting.

3.16 The quorum for the adjourned meeting is that number of representatives present at the time appointed for the adjourned meeting.

3.17 At an adjourned meeting, one person may constitute a quorum.

## Voting

3.18 At each meeting of the Building Management Committee each Member through any of its representatives is entitled to exercise 1 vote.

3.19 A Defaulting Member is not entitled to vote.

3.20 The chairperson does not have a casting vote at meetings of the Building Management Committee.

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- 3.21 If the Building Management Committee decide on a matter, it must be decided by:
- (a) a resolution for which a majority of the Members present vote in favour; or
  - (b) if required, by an Unanimous Resolution.
- 3.22 The matters that the Building Management Committee must decide by Unanimous Resolution are:
- (a) amending this Statement;
  - (b) changing, adding to or extending Shared Facilities; and
  - (c) changing, adding to or adjusting Shared Costs.

## 4. Financial Affairs

### Budget

- 4.1 The Building Management Committee must determine a budget for each 12 month period.
- 4.2 The budget must be based on an estimate of the costs and expenditures to:
- (a) pay Shared Costs;
  - (b) pay any management fees;
  - (c) effect the Insurance; and
  - (d) satisfy any obligation of the Building Management Committee under this Statement or the Management Act.
- 4.3 The budget must contain details of:
- (a) each item or matter, including Shared Costs, for which a Member is responsible;
  - (b) each Member's proportion of a particular matter or item including any amount under clause 4.2;
  - (c) the amount of that proportion; and
  - (d) the amount and date of each payment which a Member must make.

### Notice of Payment to Members

- 4.4 The budget must be submitted to each Member together with a notice advising:
- (a) the total expenditure for the 12 month period to which the budget relates;

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- (b) the amount that each Member must pay in the 12 month period to which the budget relates; and
- (c) the date each payment is due.

### Payment by Members

- 4.5 A Member must pay each amount on the date the payment is due.
- 4.6 If a Member fails to pay an amount owing when it is due and payable, that Member becomes a Defaulting Member.

### Interest for Late Payment

- 4.7 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.
- 4.8 The Building Management Committee must calculate interest on daily balances at the rate equal to 2% per annum above the overdraft rate quoted by the Building Management Committee's bank, building society or credit union at the time of default.
- 4.9 A certificate from the Building Management Committee's bank, building society or credit union stating the interest rate is final and binding on a Member.

### Financial Statement

- 4.10 As soon as practicable, but no later than 3 months, after the expiration of each 12 month period, the Building Management Committee must provide each Member with an audited financial statement for the funds of the Building Management Committee.

### Additional Amounts Payable

- 4.11 If the amounts payable or paid under clause 4.4 are insufficient, the Building Management Committee can by notice require each Member to pay an additional amount to enable the Building Management Committee to carry out its obligations under this Statement and the Management Act.

### Deposit of Moneys

- 4.12 The Building Management Committee must:
- (a) deposit all amounts received from Members into its bank, building society or credit union account or a trust account maintained by a licensed strata managing agent;
  - (b) apply all amounts towards the payment of all invoices, statements and accounts of the Building Management Committee; and

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(c) if the deposit moneys accrue interest, credit the interest to the account of the Building Management Committee.

**Dispute**

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

**5. Shared Facilities and Shared Costs**

**Shared Facilities**

- 5.1 A list of the Shared Facilities is set out in Schedule 1.

**Shared Costs**

- 5.2 The Building Management Committee must apportion the Shared Costs of a Shared Facility using the apportionment stated in Schedule 1.
- 5.3 The Building Management Committee must advise each Member of its proportion of the Shared Costs.
- 5.4 Each Member must pay its proportion of the Shared Costs.

**Amending Shared Facilities**

- 5.5 The Building Management Committee may vary, modify, add a new facility, repair, renew or replace the Shared Facilities.
- 5.6 The Building Management Committee may add Shared Costs or adjust the division of Shared Costs if required.
- 5.7 If the Building Management Committee passes a Unanimous Resolution to vary the Shared Costs and Shared Facilities, Schedule 1 is automatically varied at the time the chairperson signs the minutes which record the Unanimous Resolution.

**Maintenance**

- 5.8 The Building Management Committee must carry out or arrange for the carrying out of maintenance, repair, operation, renovation and replacement of the Shared Facilities.
- 5.9 The Building Management Committee at its discretion may enter into maintenance agreements with contractors to maintain the Shared Facilities.

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**5.10 Each Party must:**

- (a) use the Shared Facilities only for their intended purposes and following the directions of the Building Management Committee;
- (b) immediately notify the Building Management Committee about damage to or a defect in a Shared Facility; and
- (c) pay the costs of repair for any damage to the Shared Facilities caused by that Party.

5.11 Each Party must give the Building Management Committee access to operate, maintain, repair, renovate and replace the Shared Facilities.

**Government Agency Compliance**

5.12 The Building Management Committee must:

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

**6. Insurances and Release**

**Insurances**

6.1 The Building Management Committee must:

- (a) effect the Insurances; and
- (b) take out each policy:
  - (1) in the joint names of each Member; and
  - (2) if applicable, in the name of a mortgagee under a mortgage for that person's respective rights and interests.

**Review Insurances**

6.2 The Building Management Committee must:

- (a) review the Insurances at least once every 12 months;
- (b) have the 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 Building.

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### Payment of Premiums

- 6.3 The Building Management Committee must ensure that the Members pay the premiums in the proportions set out in Section 84(4) of the Management Act.

### Affect Insurances

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

### Use by a Party of property

- 6.6 If a Party is permitted to occupy or use or have access to or from any part of another Party's property in the Buildings, that Party:
- (a) does so at its own risk; and
  - (b) releases the other Party from any:
    - (1) claim and demand of any kind; and
    - (2) 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 Buildings.

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

## 7. Maintenance, Repair and External Appearance

### Owners Corporation

- 7.1 An Owners Corporation who is a Member must carry out its obligations under with Section 62 of the Management Act.
- 7.2 An Owners Corporation who is a Member must not make a determination under Section 62(3) of the Management Act without the consent of the Building Management Committee.
- 7.3 If an Owners Corporation breaches clause 7.2, the Owners Corporation must still maintain, renew, replace or repair the particular item which is the subject of the determination.

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### Elizabeth Commercial Owner

- 7.4 The Elizabeth Commercial Owner must properly maintain and keep in a state of good and serviceable repair that part of the Elizabeth Building within the Elizabeth Commercial Lot.
- 7.5 The Elizabeth Commercial Owner must renew or replace any fixtures or fittings comprised in the Elizabeth Commercial Lot.

### Exclusion

- 7.6 Clauses 7.1 to 7.5 inclusive do not apply to the Shared Facilities.
- 7.7 Clauses 7.1 to 7.5 inclusive are subject to clause 7.8.

### External Appearance

- 7.8 A Party must not alter the external appearance of the Buildings except in accordance with the Architectural Standards.

## 8. Books and Records

- 8.1 The Building Management Committee must:
- (a) keep records and books of account of all the amounts payable and payments made under this Statement;
  - (b) enter all matters and transactions usually entered in books of account kept by property managers; and
  - (c) retain all records and books of account for a period of 6 years from the date of the last entry.
- 8.2 The Building Management Committee must make available the records and books of account for inspection during normal business hours on reasonable notice by a Party.
- 8.3 The Building Management Committee must keep copies of notices given or received, agendas, motions and minutes.
- 8.4 The Building Management Committee must make available for inspection the materials the subject of clause 8.3 during normal business hours on reasonable notice by a Party.
- ## 9. Disputes
- 9.1 Members must endeavour in good faith to resolve a dispute about this Statement before they take action under this clause.

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### Notice of Dispute

- 9.2 A Member may at any time notify the other Members of a dispute in connection with this Statement.
- 9.3 A notice advising of a dispute must:
- (a) identify the subject matter of the dispute;
  - (b) state the facts upon which the Member relies;
  - (c) identify the provisions of the Statement relevant to the dispute;
  - (d) have attached copies of all correspondence and background information relevant to the dispute in the possession or control of the Member giving the notice; and
  - (e) contain any particulars of the amount in dispute (if any).
- 9.4 If the dispute is not resolved within 10 Business Days from the time of receipt of the notice, a Member may by written notice request the Building Management Committee and the Building Management Committee must convene a meeting to discuss whether to:
- (a) refer the dispute for mediation under Chapter 5 Part 2 of the Management Act; or
  - (b) if the dispute is not appropriate for mediation, apply for an order under Chapter 5 Part 1 of the Management Act.

### Appointment of an Expert

- 9.5 If the meeting decides not to refer the matter or apply for an order or makes no decision, a Member may within a period of 5 Business Days from the meeting, submit the dispute for decision by an Expert.
- 9.6 If each Member cannot agree to and jointly appoint an Expert, any of them may request the President of the Law Society of NSW to appoint an Expert.
- 9.7 The Expert acts as an expert and not as an arbitrator.
- 9.8 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 Member.
- 9.9 The appointment must require the Expert to make a decision within 20 Business Days of the appointment.
- 9.10 The Expert may appoint consultants as the Expert thinks necessary to advise on any aspect of the dispute.

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- 9.11 Each Member may make written submissions to the Expert about the dispute and costs.

### Submission to Expert

- 9.12 If a Member makes a submission, that Member must:
- (a) submit it within 10 Business Days of the appointment of the Expert; and
  - (b) provide the other Members with a copy of submissions within 24 hours of submission to the Expert.
- 9.13 A Member who makes a submission must:
- (a) co-operate with the Expert; and
  - (b) 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.
- 9.14 Clause 9.13 does not apply if the information would be subject to a claim for privilege if the matter were the subject of legal proceedings.
- 9.15 Within 20 Business Days of the Expert's appointment, the Expert must determine the matters in dispute having regard to the written submissions, this Statement and the Expert's own enquiries.

### Expert's Determination

- 9.16 The Expert must:
- (a) give reasons for the determination; and
  - (b) determine how the cost of any determination is paid.
- 9.17 A 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 9.

## 10. Appointment and Obligations of Manager

### Appointment

- 10.1 The Building Management Committee may appoint a Manager and delegate to that Manager the authority necessary to carry out the Manager's obligations.
- 10.2 The Building Management Committee must monitor the performance of the Manager.

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## Management Fee

10.3 If a Manager is appointed, the Members must contribute to the Management Fee in the proportions set out in Schedule 1.

## Manager's Duties

10.4 The Manager's duties may include:

- (a) ensuring the proper operation, maintenance, repair, renovation and replacement of the Shared Facilities;
- (b) effecting and maintaining the Insurances on behalf of the Members;
- (c) implementing decisions made by the Building Management Committee;
- (d) carrying out the Building Management Committee's obligations in respect of any maintenance agreement;
- (e) complying with any obligations of the Building Management Committee under the Act or this Statement; and
- (f) carrying out any other duties determined by a Unanimous Resolution.

## Services Contractor

10.5 The Building Management Committee may enter into an agreement with a person to assist in the operation, repair and maintenance of the Shared Facilities. The agreement may provide for:

- (a) a term of 5 years with a maximum of 2 options each of 5 years with rights for earlier determination by either the Building Management Committee or the Services Contractor; and
- (b) the carrying out of or engaging contractors for minor repairs and replacements and services to the Shared Facilities.

## 11. Notices and Service

### Notices

11.1 A notice under this Statement must be in writing.

11.2 Each Member may send a notice:

- (a) by hand;
- (b) by facsimile transmission; or
- (c) by security post.

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11.3 A notice is deemed to be given:

- (a) if sent by hand, at the time of delivery;
- (b) if sent by facsimile transmission, at the time recorded on the transmission report; and
- (c) if sent by security post, at the time that the recipient or its agent acknowledges receipt.

## Service by Facsimile

11.4 Clause 11.3(b) does not apply if:

- (a) the intended recipient promptly informs the sender that the transmission was received in an incomplete or garbled form; or
- (b) the transmission report of the sender indicates a faulty or incomplete transmission.

## Address

11.5 Each Member must address a notice to the representative of a Member as notified under clause 3.3.

11.6 Anything done by a representative of a Member appointed to the Building Management Committee has the same effect as if the Member did it.

## 12. General

### Waiver

12.1 A provision of or right created under this Statement may only be:

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

### Exercise of a right

12.2 A Member may exercise a right:

- (a) at the Member's discretion; and
- (b) separately or together with another right.

12.3 If a Member exercises a single right or only partially exercises a right, that Member may still exercise that right or any other right later.

12.4 If a Member fails to exercise a right or delays in exercising a right, that Member may still exercise that right later.

**Severance**

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12.5 Subject to clause 12.6:

- (a) if a provision of this Statement 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;
- (b) if, despite clause 12.5(a), 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
- (c) in any other case, the whole provision must be severed.

12.6 If an event under clause 12.5 occurs, the remainder of this Statement continues in full force and effect.

**Consent**

12.7 Subject to an express provision in this Statement, a Member may in the Member's absolute discretion:

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

**Entire Statement**

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

**To the extent the law permits**

12.9 The terms of this Statement apply to the extent the law permits.

**Cumulative rights**

12.10 A Member's rights under this Statement are in addition to the rights of the Members at law.

**Further assurances**

12.11 Each Member at the Member's own expense must:

- (a) do everything reasonably necessary to give effect to:
  - (1) this Statement; and
  - (2) the transactions contemplated by this Statement, including the execution of documents; and
- (b) make a reasonable effort to cause relevant third parties to do likewise.

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**13. Plant Room**

**Access**

13.1 The Elizabeth Owners Corporation must give the:

- (a) Elizabeth Commercial Owner; and
- (b) any tradesmen engaged by the Elizabeth Commercial Owner

access to the plant room situated in the roof of the Elizabeth Building for the installation, maintenance and replacement of the kitchen exhaust fan situated in that plant room.

**14. Kitchen Exhaust Duct**

**Elizabeth Commercial Owner's rights**

14.1 The Elizabeth Commercial Owner and any tradesmen engaged by the Elizabeth Commercial Owner have the right to use the ducts in the Elizabeth Common Property for extracting air from the kitchen exhaust situated in the Elizabeth Commercial Lot to the roof of the Elizabeth Building.

**15. Loading Dock**

**Right to use Loading Dock**

15.1 Subject to the provisions of this clause, the owners and occupiers of lots in the Elizabeth Strata Scheme and Rum Store Lot can enter, be on and use in common with others the Loading Dock for the purposes of:

- (a) removing garbage; and
- (b) the loading and unloading of goods including furniture.

15.2 The exercise of the rights under clause 15.1 must be consistent with the rights of other persons having the same or similar rights.

15.3 All reasonable directions of the Dockmaster must be obeyed in respect of the use of the Loading Dock.

**16. Car Wash Bay and Bicycle Storage Areas**

**Rum Store Owner's rights**

16.1 The Rum Store Owner and the parties referred to in clause 2.1(f) have the right to use the:

- (a) 1 car wash bay; and

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(b) bicycle storage areas

situated on Basements of the Elizabeth Building which form part of the Elizabeth Common Property.

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*Stephen Gussler*  
Signature of witness

*Stephen Gussler*  
Name of witness

*Ron Cutler*  
Signature of Attorney

RON CUTLER  
Name of Attorney

*Robert S Kamula*  
Signature of Attorney

ROBERT S KAMULA  
Name of Attorney

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*Stephen Gussler*  
Signature of witness

*Stephen Gussler*  
Name of witness

*Ron Cutler*  
Signature of Attorney

RON CUTLER  
Name of Attorney

*Robert S Kamula*  
Signature of Attorney

ROBERT S KAMULA  
Name of Attorney

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*Stephen Gussler*  
Signature of witness

*Stephen Gussler*  
Name of witness

*Ron Cutler*  
Signature of Attorney

RON CUTLER  
Name of Attorney

*Robert S Kamula*  
Signature of Attorney

ROBERT S KAMULA  
Name of Attorney

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*Stephen Gussler*  
Signature of witness

*Stephen Gussler*  
Name of witness

*Ron Cutler*  
Signature of Attorney

RON CUTLER  
Name of Attorney

*Robert S Kamula*  
Signature of Attorney

ROBERT S KAMULA  
Name of Attorney

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 Pty Limited by its Attorney under a Power of  
 Attorney dated 7 October 1999 registered  
 Book 4252 No 638 who declares that he  
 has not received any notice of the revocation  
 of that Power of Attorney in the presence of )  
 )  
 )

Signature of witness  
 Krishna Tejara  
 Name of witness

Signature of Attorney  
 Name of Attorney

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Schedule 1

Shared Facilities, Shared Costs and Management Fees

Facility	Location	Description	Frequency	Owner's Share of Costs	Commercial Owners' Share of Costs	Rum Store's Share of Costs
Sprinkler Tank	Roof of the Elizabeth Building	Secondary water supply to sprinkler system	Weekly inspection, 2 yearly clean out	95%	5%	
Domestic Sprinkler Hydrant	Roof of the Elizabeth Building	Secondary water supply to hydrant system	Weekly inspection, 2 yearly clean out	95%	5%	
Sprinkler Pumps	Electric pump - Basement Level B2 of the Elizabeth Building Diesel pump - roof of the Elizabeth Building	Provide primary & secondary pressure boosting to sprinkler system during fire condition	Weekly, quarterly, yearly and 3 yearly in accordance with AS1851	82%	4%	14%
Sprinkler Pipes	Throughout entire Buildings	Convey water through the system to the sprinkler heads	As determined from time to time	82%	4%	14%
Hydrant Pumps	Roof of the Elizabeth Building	Convey water through the system to the sprinkler hydrants and hose reels	Weekly, quarterly, yearly and 3 yearly in accordance with part 4 AS1851	82%	4%	14%

Shared Facility	Location Within the Building	Purpose	Maintenance	Elizabeth Owners Corp Share of Costs	Elizabeth Commercial Owner's Share of Costs	Rum Store Owner's Share of Costs
Hydrant Pipes	Run vertically & horizontally from tank and pumps through the Buildings.	Provides water for fire fighting purposes	Weekly, quarterly, yearly and 3 yearly in accordance with part 4 AS1851	82%	4%	14%
Hydrant Valves	Within fire stairs	Hydrant - for fire brigade use during fire fighting	6 monthly inspections	82%	4%	14%
Hose Reels	Adjacent to fire stairs within 4 m of egress	For fire fighting by occupants.	6 monthly inspections	82%	4%	14%
Emergency Lighting except fire stairs	Lobbies, carpark levels & plant rooms	Lighting to egress routes in event of failure of normal power supply	Inspections & testing every 6 months. Replacement of batteries and lamps as recommended by AS2293	82%	4%	14%
Emergency warning and Inter-communication System	Fire control room in Basement Level B1 of the Elizabeth Building and through Buildings	To initiate a sequenced automated evacuation procedure during fire alarm	Monthly, half yearly as recommended by AS2220	82%	4%	14%

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 (Elizabeth & Rum Store)

Shared Facility	Location Within the Building	Purpose	Maintenance	Elizabeth Owners Corp Share of Costs	Elizabeth Commercial Owner's Share of Costs	Rum Store Owner's Share of Costs
Emergency Exit Lighting in Fire Stairs	Fire Stairs	Lighting to egress routes in event of failure of normal power supply	Inspections & testing every 6 months. Replacement of batteries & lamps as recommended by AS2293	82%	4%	14%
Fire Alarm Monitoring	Fire indicator panel - fire control room in Basement Level B1 of the Elizabeth Building	To receive & display all fire alarms, & initiate brigade call out, 1668 automatic fan operation & evacuation system	Monthly & half yearly in accordance with AS1851 and AS1670	82%	4%	14%
AS1668 Controls	Fire control room - Basement Level B1 of the Elizabeth Building	To provide the fire brigade a facility to override the automatic fan operation for smoke control	Monthly & half yearly in accordance with AS1851	82%	4%	14%
Subsoil Pumps	Loading dock area - Level B1 Basement of the Elizabeth Building	Pump out underground seepage water	Quarterly	82%	4%	14%
Sewer Pumps and Pits	Car Park B2 and Loading dock area - Level 1 of the Elizabeth Building	Pump out sewer discharge to Sydney Water's sewer main	Quarterly	82%	4%	14%

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 (Elizabeth & Rum Store)

Shared Facility	Location Within the Building	Purpose	Maintenance	Elizabeth Owners Corp Share of Costs	Elizabeth Commercial Owner's Share of Costs	Rum Store Owner's Share of Costs
Kitchen Exhaust Riser	Ground floor to Plant room	To extract kitchen fumes on ground floor	When required		100%	
Grease Trap	Loading Dock	Traps grease	Monthly		100%	
General Purpose Pit	Loading Dock	Traps dirt and grease	Monthly	82%	4%	14%
Car Wash Bay Pit and Pump	Car Park B2 of the Elizabeth Building	Traps dirt and grease	Monthly	84%		16%
Sewerage Pipes	Throughout Buildings	To drainage sanitary fixtures	When required	Percentage of fixture unit loading	Percentage of fixture unit loading	Percentage of fixture unit loading
Downpipes	Throughout Buildings	Drains rainwater from Buildings	When required	82%	4%	14%
Gas Supply Line	From main to meters	Supply gas to individual stratum gas meter	When required	82%	4%	14%
FCR Supply Fan	Fire control room Basement Level B1	Supply fresh air to prevent ingress of smoke	Regular maintenance during business hours	82%	4%	14%

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 (Elizabeth & Rum Store)

Shared Facility	Location Within the Building	Purpose	Maintenance	Elizabeth Owners Corp Share of Costs	Elizabeth Commercial Owner's Share of Costs	Rum Store Owner's Share of Costs
External Lighting	Electricity for perimeter lighting of the footpath and landscape lighting is provided from the house services section of the distribution board	Provide lighting for pedestrian and vehicular traffic in/out of the Buildings	Monthly visual inspection. Replacement of lamps if required.	82%	4%	14%
Main Distribution Frame	Basement Level B2 of the Elizabeth Building	Central point for distribution of telephone cabling	Nil, except to keep room clean	82%	4%	14%
Main Switchboard	Basement Level B2 of the Elizabeth Building	Main switchboard	Monthly visual, annual detailed inspection	82%	4%	14%
Car park ventilation	Throughout the car parks of the Buildings	Ventilation of the car parks	Annual maintenance	82%	4%	14%
Car park lighting	Throughout the car parks of the Buildings	Lighting of the car parks	Annual maintenance	82%	4%	14%
Security system (including CC TV, alarm, boom gates and card keys)	Throughout the Buildings	To ensure safety of the Members	Remote monitoring 24 hours a day by security company	84%		16%

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 (Elizabeth & Rum Store)

Shared Facility Location	Use	Purpose	Maintenance	Elizabeth Owners Corp Share of Costs	Elizabeth Commercial Owner's Share of Costs	Rum Store Owner's Share of Costs
Sprinkler Control Valves	Sprinkler valve room - Basement Level B2 of the Elizabeth Building		Testing in accordance with AS1851	82%	4%	14%
MATV (aerial, lines, amplifiers)	Throughout the Buildings	To provide centralised TV signal.	As required	84%		16%
Landscaping irrigation	Plaza courtyard	To provide irrigation water to landscaping.	As required	84%	Nil	16%
Cold Water Meter	At boundary	Sydney Water metering	As required	82%	4%	14%

Management Fee Proportion: Owners Corporation 80  
 Elizabeth Commercial Owner 5  
 Rum Store Owner 15

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