

Recd. 28/1/03

STRATA TITLE MANAGEMENT BALLINA - AGENCY AGREEMENT

Institute of Strata Title Management Ltd

Strata Schemes Management Act 1996 & Property Stock & Business Agents Act 1941

AGREEMENT DATE	1 st December 2002
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BETWEEN

THE OWNERS – STRATA PLAN NO. 36011		("the Owners Corporation")
(Address)	50 Paterson Street, Byron Bay NSW 2481	
(Fax)	-	
(E-mail)	-	

AND

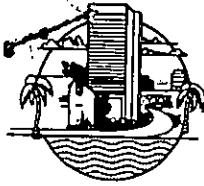
BALLINA (NO. 1) PTY LTD T/A STRATA TITLE MANAGEMENT BALLINA .		(Strata Managing Agent -"the Agent")	
(Address)	3 Moon Street, Ballina, N.S.W. 2478		
(Phone)	02-66862911	(Fax)	02-66862234
(E-mail)	ballina@stratatitle.com.au		
ISTM Member	Licence No. 1075782	ACN	102 470 422

This Agreement comprises:

- 1 This Sheet
- 2 Terms and Conditions
- 3 Fee Agreement
- 4 Schedule of Agreed Services (included in the Management Fee)
- 5 Schedule of Additional Services (provided at extra cost to the Owners Corporation)
- 6 Schedule of Charges (rates charged for Disbursements)

Member of the Institute of Strata Title Management Ltd: The Agent is entitled to use this Agreement as a member of the Institute of Strata Title Management Ltd.

This Agreement has been designed to protect the interests of both the Owners Corporation and the Agent. Its use is approved and recommended by the Institute of Strata Title Management Ltd (ACN 001 767 997) which is the owner of the copyright.



STRATA TITLE MANAGEMENT BALLINA

3 Moon Street
Ballina N.S.W. 2478
ACN 102 470 422

PH: (02) 6686 2911
FAX: (02) 6686 2234

With Compliments

STRATA MANAGEMENT AGENCY AGREEMENT

Terms and Conditions

1. APPOINTMENT OF AGENT

- 1.1 The Owners Corporation appoints the Agent under Section 26 of the Act to be its Strata Managing Agent.

2. DELEGATION TO AGENT

- 2.1 Complete Delegation (Section 28(1)(a) of the Act)

The Owners Corporation delegates to the Agent the functions of the Owners Corporation, its Executive Committee, its Chairperson, Secretary, Treasurer and Public Officer except for the powers specified in clause 2.2.

- 2.2 The Owners Corporation is not permitted and does not delegate to the Agent its power to make:

- (a) a delegation under Section 28 of the Act;
- (b) a decision that is required to be decided by the Owners Corporation in general meeting;
- (c) a determination relating to levying or payment of contributions.

- 2.3 The delegation to the Agent does not exclude the Owners Corporation from continuing to exercise all or any of the delegated functions .

3. FUNCTIONS OF AGENT

- 3.1 The Owners Corporation requests and the Agent must supply the Agreed Services specified in the Schedule of Agreed Services with the frequency specified in that Schedule.

- 3.2 The Agent may at the Owners Corporation's request supply all or any of the Additional Services specified in the Schedule of Additional Services.

- 3.3 In the case of an emergency where the Agent is reasonably unable to obtain instructions from the Owners Corporation the Agent may supply any of the Additional Services specified in the Schedule of Additional Services at the hourly rates specified in the Schedule of Charges.

4. AGENT'S REMUNERATION

- (a) The Owners Corporation must pay the Agent the Management Fee for the Agreed Services.

- 4.2 The Owners Corporation must pay the Agent the Additional Fee for Additional Services at the hourly rates specified in the Schedule of Charges within 28 days of receipt of a written statement setting out the Additional Fee and the Additional Services performed for the Additional Fee.

- 4.3 In addition to the Management Fee and Additional Fee, the Agent is entitled to:

- (a) charge the Owners Corporation for Disbursements according to the rate specified in the Schedule of Charges which may include a margin above cost to the Agent;
- (b) keep fees paid to the Agent or the Owners Corporation for information which the Owners Corporation must supply under the Act;
- (c) retain commissions paid to it by the providers of goods and services to the Owners Corporation as disclosed in this Agreement or as otherwise notified by the Agent to the Owners Corporation in writing;
- (d) charge the Owners Corporation for any additional work performed in relation to or incidental to the Agreed Services (or where applicable, any of the Additional Services) by reason of GST liability on any amounts payable by or owed to the Owners Corporation.

- 4.4 If Disbursements, paid by the Agent in performing functions under this Agreement, increase after the date of this Agreement but before the Review Date for fees and charges, the amount payable by the Owners Corporation to the Agent for the performance of the function will increase by the proportion as the Disbursement has increased.

5. VARIATION OF AGENT'S REMUNERATION

- 5.1 The Management Fee, the Additional Fees and the charges for Disbursements will be reviewed on each Review Date to an amount agreed by the parties calculated by multiplying the amount payable at the Review Date by:

the fraction $\frac{B}{N}$

where "B" equals the CPI for the quarter ending immediately before the Review Date and "N" equals the CPI for the quarter immediately before the date of this Agreement in the case of the first review and the date of the last review in the case of subsequent reviews.

6. AGENT'S COMMISSIONS

- 6.1 The Owners Corporation acknowledges that the Agent receives a commission fee or reward from the providers of services as disclosed in the Disclosure of Commissions Schedule or as otherwise notified by the Agent to the Owners Corporation in writing.

7. ENDING THIS AGREEMENT

- 7.1 This Agreement continues after the Term for successive periods each equal to the Term until termination.
- 7.2 This Agreement may be terminated at any time by the mutual consent of the parties.
- 7.3 Either party may terminate this Agreement by giving to the other at least 3 months written notice before the end of the Term or before the end of any succeeding period equal to the Term.
- 7.4 The Owners Corporation may, without affecting any other rights it may have, terminate this Agreement at any time if:
- (a) the Agent is in breach of this Agreement and the Owners Corporation has notified the Agent in writing of that breach and the breach has continued for 30 days after that notice.
 - (b) where the Agent is an individual, the Agent is declared bankrupt;
 - (c) where the Agent is a corporation, the Agent is wound up or enters into liquidation;
 - (d) the Agent's licence is cancelled.
- 7.5 The Agent, without affecting any other rights it may have, may terminate this Agreement at any time if:
- (a) the Owners Corporation fails to pay amounts owing to the Agent according to this Agreement after the Agent has given the Owners Corporation at least 28 days notice that the amounts have not been paid;
 - (b) the Owners Corporation acts or fails to act in such a way as to prevent the Agent from properly carrying out its obligations under this Agreement or complying with the Act;
 - (c) the Strata Scheme is varied or terminated by the Supreme Court or the Registrar General.
- 7.6 Termination of this Agreement will not affect the outstanding liabilities of a party at the date of termination.
- 7.7 If this Agreement is terminated the Agent must within 30 days after payment by the Owners Corporation to the Agent of all outstanding amounts make available at the Agent's office for collection by the Owners Corporation all records, keys and other property of the Owners Corporation in the possession of the Agent.

8. INDEMNITY TO THE AGENT

- 8.1 The Owners Corporation indemnifies the Agent from all actions, claims, demands, costs, expenses and liabilities (including legal costs on a solicitor and client basis) (collectively referred to as "the loss" in relation to or arising from:
- (a) death, bodily injury or damage to property suffered by any person or persons;
 - (b) performance by the Agent of its obligations under this Agreement or as instructed from time to time by the Owners Corporation except for the Agent's wilful act or negligence.
- 8.2 The Agent is not liable to the Owners Corporation if the Agent fails or omits to do any act it is obliged to do, if such failure or omission arises from the Owners Corporation's failure to make the appropriate decision in relation to such act, or to have sufficient moneys available to the Agent to enable the Agent to carry out its obligations under this Agreement;

9. AGENT'S LICENCE

- 9.1 The Agent warrants that the Agent is the holder of a Strata Managing Agent's licence under the Agent's Act and that such licence will be maintained while this Agreement is in force.

10. TRANSFER BY AGENT

- 10.1 This Agreement may be transferred by the Agent if the Owners Corporation approves the transfer.
- 10.2 In deciding whether to approve a proposed transfer the Owners Corporation may have regard to:
- (a) the character of the proposed transferee and related persons of the proposed transferee;
 - (b) the financial standing of the proposed transferee;
 - (c) the proposed terms of transfer;
 - (d) the competence, qualification and experience of the proposed transferee and any related persons of the proposed transferee and the extent to which the transferee and any related persons have received or are likely to receive training; and
 - (e) matters to which under this Agreement the Owners Corporation may have regard.
- 10.3 The Owners Corporation must decide whether to approve a proposed transfer within 30 days after it receives the information reasonably necessary to decide the application for approval.
- 10.4 If the approval is given by the Owners Corporation the transferee must enter into a Transfer of Strata Management Agency Agreement to comply with the terms of this Agreement.
- 10.5 The Owners Corporation must not:
- (a) unreasonably withhold approval to the transfer; or
 - (b) require or receive a fee or other consideration for approving the transfer (other than reimbursement for legal expenses reasonably incurred by the Owners Corporation in relation to the application for its approval).
- 10.6 Related persons of a proposed transferee means:
- (a) if the proposed transferee is a corporation - the corporation's directors, substantial shareholders and principal staff; or
 - (b) if a proposed transferee is in partnership - the partners and principal staff of the partnership.

11. DISPUTES

- 11.1 If the Agent and the Owners Corporation are unable to resolve a dispute about this Agreement, either of them may ask the President of the Institute of Strata Title Management to nominate an appropriate person to mediate the dispute. The costs of the mediation will be paid equally by the parties.
- 11.2 If the mediation is unsuccessful or the parties do not agree to mediate, either of them may ask the President of the Institute of Strata Title Management to appoint an appropriate expert to determine the dispute.
- 11.3 The expert may decide the rules for the conduct of his determination without being bound to observe the rules of evidence.
- 11.4 The Agent and the Owners Corporation agree that the expert's decision is final and binding upon the parties and that the cost of the expert's decision will be borne by the parties in such shares as the expert may determine.

12. SERVICE OF NOTICES

- 12.1 Any notice to be served on the Owners Corporation or the Agent, under this Agreement, may only be served either personally or by post, by facsimile or by e-mail, at the address of that party appearing in this Agreement, or at any other address subsequently notified by that party in writing to the other party.

13. DICTIONARY

- 13.1 In this Agreement, the following words have these meanings, unless the contrary intention appears.

Act means the **Strata Schemes Management Act 1996**

Additional Fee means the fee for Additional Services.

Additional Services means the services included in the Schedule of Additional Services.

Agent means the Strata Managing Agent.

Agents Act means the Property Stock and Business Agents Act 1941.

Agreement means this Agreement including the documents referred to on the front page.

Agreed Services means the services specified in the Schedule of Agreed Services.

CPI is the Consumer Price Index for Sydney (all groups) published by the Australian Bureau of Statistics.

Disbursements means the items included in the Schedule of Charges.

Management Fee means the Management Fee set out in the Fee Agreement.

Percentage Increase means the percentage specified in the Fee Agreement.

Review Date means the Review Date specified in the Fee Agreement.

Strata Managing Agent is as defined in the Agents Act.

Strata Scheme means the Strata scheme in respect of which the Owners Corporation is established.

Term means the term specified in the Fee Agreement

13.2 Words used in this Agreement, which are defined in the Act or the Agents Act, have the defined meaning unless it is clear that the defined meaning is not intended.

13.3 A reference to:

- (a) a thing includes the whole or each part of it;
- (b) a document includes any variation or replacement of it;
- (c) a law, ordinance or code includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of them; and
- (d) a person includes their executors, administrators, successors, substitutes (including but not limited to, person taking by novation) and assigns.

13.4 The singular includes the plural and vice versa.

13.5 Headings do not affect the interpretation of a term of this Agreement.

14. GOVERNING LAW

14.1 The law of New South Wales governs this Agreement.

DISCLOSURE OF COMMISSIONS SCHEDULE

The following providers pay a commission to the Agent

Name of Company/Person	Level (%) of Commission
CGU Insurance	20%
Corporate Home Unit Underwriting Agencies Pty. Limited	15%

Affiliated Company – Strata Title Management (Tweed Heads) Pty. Ltd.

Members of the

Samtay Group of Companies

STRATA TITLE MANAGEMENT BALLINA - AGENCY AGREEMENT
Fee Agreement

STRATA PLAN NUMBER: 36011

TERM: 2 years commencing on 1ST DECEMBER 2002

FROM: The date hereof to the expiration of 24 months.

After the Term, successive periods each equal to the Term, until termination of this Agreement.

MANAGEMENT FEE (inclusive of GST):	*\$369.60	per annum (for the first year)
	*\$369.60 + CPI	per annum (for the second year)
	*\$Not Applicable	per annum (for the third year)

POSTAGE/PHONE/STATIONERY: \$27.50 per lot per annum (for the first year)

PERCENTAGE INCREASE: C.P.I.

The Management Fee has been negotiated between the parties to this Agreement and will be reviewed in accordance with clause 4 and 5

Management Fee to be paid monthly in arrears

Disbursements fee to be paid monthly in arrears at a fixed rate of \$27.50 per unit per annum.

Fees and charges will be paid to the Agent in accordance with clauses 4 and 5.

Regardless of any of the provisions of this Agreement if a goods and services tax or similar value added tax ("GST") is imposed on any supply made to the Company under or in accordance with this Agreement, the amount the Owners Corporation must pay for that supply is increased by the amount of that GST.

Review date for fees and charges:

Each anniversary of the date of this Agreement.

Executed as an Agreement

THE COMMON SEAL OF THE OWNERS – STRATA PLAN NO: 36011
was affixed on 1st December 2002
in the presence of

Signature *P.L. Hamilton*

Print Name *P.L. Hamilton*

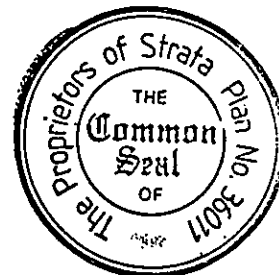
Designation *Owner Unit 1.*

and

Signature *John R. McNamara*

Print Name *JOHN R. McNAMARA*

Designation *Unit 2.*



being the persons authorised by Section 238 of
the Act to attest the affixing of the seal.

Note: If the Owners Corporation does not nominate 2 persons to witness the affixing of the seal then the seal must be affixed in the presence of the secretary and any other member of the Executive Committee

SIGNED FOR AND ON BEHALF OF THE AGENT

Signature: *Tracey Bulmer*

Print Name: *Tracey Bulmer* .

Service of Copy Agreement

The Owners Corporation acknowledges
receipt of a copy of this Agreement
within 48 hours of execution by the
Owners Corporation

Signed: *P.L. Hamilton*

STRATA TITLE MANAGEMENT BALLINA - AGENCY AGREEMENT
Schedule of Services

SCHEDULE A – AGREED SERVICES

Accounting

1. Establish & maintain trust account
2. Issue levy notices
3. Monitor & arrange for recovery of levy arrears
4. Pay invoices on behalf of Owners Corporation
5. Provide monthly accounts paid summary
6. Provide statutory reconciled accounts including balance sheet, statement of income & expenditure and levy status report
7. Arrange for preparation of annual tax return
8. Assist auditor in providing accounts & records for audit
9. Prepare administrative fund budget & arrange for sinking fund budget

Insurance

10. Prepare & lodge routine insurance claims (max time/claim 15 minutes)
11. Arrange insurance valuation as required
12. Obtain quotes for insurance renewal

Secretarial

13. Submit quotes to executive committee & renew insurances
14. Maintain strata roll & minute book
15. Maintain correspondence file
16. Record & retain section 118, 119 & 120 notices
17. Issue minutes of delegated performance
18. Maintain common seal
19. Attend to routine written & oral communication, including minor maintenance matters, arising from Committee and General Meetings

Meetings

20. Prepare & distribute notices of Annual General Meetings
21. Attend Annual General Meeting held during office hours (9.00 a.m. to 5.00 p.m. Monday to Friday N.S.W. time)
22. Prepare & distribute minutes of Annual General Meetings
23. Arrange for venue for meetings (cost of venue to be borne by Owners Corporation)
24. Prepare and distribute notices and attend one Committee Meeting (usually the budget meeting)

By-Laws

25. Generally advise the owners corporation regarding by-laws
26. Prepare & issue notices under section 45.

SCHEDULE B - ADDITIONAL SERVICES AVAILABLE, BUT NOT INCLUDED IN MANAGEMENT FEE

Executive Committee Meetings

1. Prepare & distribute notices of executive committee meetings
2. Attend executive committee meetings held during office hours (except one meeting included in Agreement)
3. Prepare & distribute minutes of meetings

Extra-Ordinary General Meetings

4. Prepare & distribute notices of extra-ordinary general meetings
5. Attend extra-ordinary general meetings held during office hours
6. Prepare & distribute minutes of meetings

Repairs & Maintenance

7. Attend building for repairs, maintenance and replacement of owner's corporation property
8. Obtain quotations for major repairs, maintenance & replacement of owner's corporation property
9. Liaise with tradesmen about work to be carried out on the scheme
10. Arrange and execute contracts pursuant to the Home Building Act
11. Arrange inspections of the common property and issue a report
12. Any other services that can be provided by the managing agent but not included in schedules will be subject to additional charges in accordance with schedule of additional charges and disbursements as provided from time to time by the managing agent.

Accounting

13. Preparation of Business Activity Statements on a quarterly basis and liaise with Australian Taxation Office.
14. Lodgement of Annual Tax Return
15. Implementation of legal proceedings for recovery of overdue levies, reconciliation and review of overdue monies/levies.

On-Line Facilities

16. StrataMax Software, providing:-
 - internet access
 - use of credit card
 - submitting changes of address
 - Web page for the building
 - access to Minutes and relevant documentsCharges on a "user pay" system

Secretarial

17. Applications to the Strata Schemes Board to impose penalties or respond to disputes and orders.

STRATA TITLE MANAGEMENT BALLINA

Schedule of Charges for Additional Services

Schedule of Agreed Services as completed within this agreement details the services included for the fee in the Fee Agreement. For work performed which is not included in the Schedule of Agreed Services the following additional fees and charges will apply. In addition this schedule sets the amounts recoverable by the Company Manager for disbursements. **Note: These amounts are inclusive of GST and are effective from 1st November, 2002.**

Hourly rate for Principal/Director	\$115.50 per hour
Hourly rate for Senior Strata Managers	\$115.50 per hour
Hourly rate for Strata Managers	\$ 99.00 per hour
Hourly rate for Administrative staff	\$ 66.00 per hour
Hourly rate for Accounting staff	\$ 66.00 per hour
Adjourned meeting charges	Nil
Attend meeting outside office hours (weekdays)	\$115.50 per hour
Attend property Weekends/Public Holidays	\$170.00 per hour

Issue levy notices	Included in fixed fee
Strike and issue special levies	Included in fixed fee
Issue notice of overdue levy (Demand Letter)	Included in fixed fee
Place instructions for recovery outstanding levies	Included in fixed fee
Process Stop Payments, dishonours for levy payments	Included in fixed fee
Provide client payment history	Included in fixed fee
Provide list of Owners (to owners; other than to executive committee)	\$10.00 to Owner
Provide copies of Minutes	Included in fixed fee
Word processing	Included in fixed fee
Additional Financial reports	Included in fixed fee
Creditors approval system by executive committee	Included in fixed fee
Payment of Creditors	Included in fixed fee
Payroll attendance fee	Not applicable
Archive records storage fee	\$2.50 per month per box
Minute Books	Nil
"No Parking" stickers	Not applicable
Rectify deficiencies in records as at takeover	Not applicable
Photocopying, collating, stapling and enveloping	Included in fixed fee
Delivery of mail	Included in fixed fee
Facsimile inwards	Included in fixed fee
Facsimile local outwards	Included in fixed fee
Facsimile long distance outwards	Included in fixed fee
E-mail outwards	Included in fixed fee
Telephone charge - local per call other	Included in fixed fee
GST Accounting Fee	Included in fixed fee
GST Computer Fee	Included in fixed fee
Lodgment of B.A.S.	\$55.00 per quarter
Lodgment of Income Tax Returns	\$140.00 per annum
Electronic Banking Fee	\$25.00 per half year
StrataMax on-line credit card facilities	\$11.00 per lot, plus bank transaction fees
Closing Fee	\$110.00 to \$265.00
Assistance to Auditor	\$ 6.00 per lot
Mailing Charges - standard per letter other	Included in fixed fee
Strike and issue special levies	Included in fixed fee
Courier Charges	At cost per article
Common Seals	At cost per seal
Provide copy of Management Documents	\$10.00 per copy
Provide copy of House Rules	Included in fixed fee
Provision of address labels	Included in fixed fee
ABN Registration	\$55.00
Audit Preparation	\$5.00 per lot
Insurance Certificate of Currency	\$22.00
Liaison/Follow-up with Occupational Health & Safety Inspection Reports	1-10 Lots - \$50.00 11+ Lots - \$5.00 per lot
EGM (over and above one in Standard Agreement)	\$11.00 per lot (min. fee \$220.00)