

OWNERSHIP AND MANAGEMENT DEED

650 GREAT SOUTH ROAD LIMITED (Company)

MAAT CONSULTING LIMITED (Manager and Initial A Shareholder)

**The persons named in the schedule to a Deed of Accession as Initial B Shareholders
(Initial B Shareholders)**

CONTENTS

1	Defined terms, interpretation and effectiveness	2
2	SHARES	5
3	THE ROLE OF MANAGER	7
4	FEES AND EXPENSES	10
5	MEETINGS AND RESOLUTIONS	11
6	PURCHASE AGREEMENT	12
7	INCOME AND DISTRIBUTION	12
8	RECORDS AND FINANCIAL STATEMENTS	13
9	VALUATION	13
10	INDEMNITY	13
11	TAXATION	14
12	TERMINATION	15
13	LATE PAYMENT	15
14	DISCLAIMER	15
15	NOTICE TO SHAREHOLDERS	16
16	NOTICE TO MANAGER	16
17	INSPECTION OF DOCUMENT	16
18	MONEY PAYABLE TO SHAREHOLDERS	16
19	UNCLAIMED PAYMENTS	16
20	MISCELLANEOUS	16
	SCHEDULE 1 (CLAUSE 4.5) – ESTABLISHMENT COSTS	18
	SCHEDULE 2 – ANNUAL EXPENSES	19
	SCHEDULE 3 – SALE EXPENSES	20
	SCHEDULE 4 – DEED OF ACCESSION	21
	THE SCHEDULE	23

DATE 19 April 2016

PARTIES

Name **650 Great South Road Limited**

Short Name **Company**

Notice Details B3
17 Corinthian Drive
Albany
Auckland 0632

Attention Neil Tuffin

Name **Maat Consulting Limited**

Short Name **Manager and Initial A Shareholder**

Notice Details B3
17 Corinthian Drive
Albany
Auckland 0632

Attention Neil Tuffin

Name **The persons named as Initial Shareholders in the schedule to a Deed of Accession signed by the Manager and delivered to the Company**

Short name **Initial B Shareholders**

BACKGROUND

- A This document will come into effect upon delivery of a Deed of Accession in relation to the Initial Shareholders to the Company.
- B Once in effect, this document records:
- (i) the appointment of the Manager;
 - (ii) the terms and conditions under which the Property is to be administered;
 - (iii) the terms and conditions of the Shareholders' investment in the Company; and
 - (iv) the agreements between the parties relating to the future operations of the Company.
- C The Manager will be duly authorised by the Initial B Shareholders to sign a Deed of Accession on their behalf under the terms of their investment under the Offer Document.

AGREED TERMS

1 Defined terms, interpretation and effectiveness

1.1 Defined terms

Act means the *Companies Act 1993*.

A Share means a Share which confers on the holder:

- (a) except as set out in the Constitution, no right to vote at meetings of Shareholders;
- (b) no right to any Dividends or other Distributions made by the Company; and
- (c) no right to any share in the distribution of the surplus assets of the Company on its liquidation,

or as otherwise specified in the Constitution from time to time.

A Shareholder means a holder of A Shares.

B Share means a Share which confers on the holder:

- (a) the right to appoint and remove Directors;
- (b) the right to vote at meetings of Shareholders and on a poll to cast one vote for each Share held;
- (c) the right to an equal share in Dividends and other Distributions made by the Company; and
- (d) the right to an equal share in the distribution of the surplus assets of the Company on its liquidation,

or as otherwise specified in the Constitution from time to time.

B Shareholder means a holder of B Shares.

Board means the Directors numbering not less than the required quorum acting as the Board of Directors of the Company, and where one Director is a quorum it means that Director so acting alone.

Company Account means an interest bearing deposit account opened and maintained for and on behalf of the Company pursuant to clause 7.2.

Constitution means the constitution of the Company, as amended or replaced from time to time.

Contingency Fund means the contingency fund which will be maintained to meet any costs which may occur including (but not limited to) those costs associated with valuing the Property, legal costs incurred by the Company, the removal of Tenants' fixtures, fittings and chattels and reinstating premises in cases where a Tenant is not obligated to do so.

Deed of Accession means a deed of accession to this document in the form contained in Schedule 4 (amended as appropriate to distinguish between a new issue of Shares to the Initial B Shareholders or otherwise and the accession of any transferee of Shares) or such other substantially equivalent form acceptable to the Company and the Manager.

Default Interest Rate means 12% per annum.

Director means a director of the Company.

Disbursements means out of pocket expenses and disbursements incurred by the Manager as an incidental part of carrying out its obligations under this document.

Distribution means in relation to Shares held by a Shareholder, means:

- (a) the direct or indirect transfer of money or property, other than Shares, by the Company to or for the benefit of the Shareholder; or
- (b) the incurring of a debt by the Company to or for the benefit of the Shareholder,

whether by means of a purchase of property, the redemption or other acquisition of Shares, a distribution of indebtedness, or by some other means.

Dividend means a Distribution by the Company other than a Distribution to which section 59 or section 76 of the Act applies.

Financial Statements means the financial statements in respect of the performance, financial position and cash flow of the Company to be prepared in accordance with clause 8.

Financial Year means a year ending on 31 March (or such other date as the Manager nominates) or that part of such a year occurring at the commencement or winding up of the Company or as a result of a change in balance date. The first financial year for the Company will be from the date of this document to 31 March 2017.

GST means goods and services tax chargeable under the GST Act.

GST Act means the *Goods and Services Tax Act 1985*.

Initial A Shareholder means the Manager.

Initial B Shareholders means the persons named in the schedule to a Deed of Accession signed by the Manager and delivered to the Company as the Initial B Shareholders.

Initial Shareholders means the Initial A Shareholder and the Initial B Shareholders.

Lease means each of the leases detailed in the Offer Document including any variation, renewal or replacement thereof and where the context requires, includes any future lease affecting the Property.

Management Fee means

- (a) 2.02% per annum of the gross rental income collected from the Tenants of the Property under the Leases plus GST, per annum; and
- (b) an annual accounting fee of \$10,000 plus GST per annum (payable monthly in arrears) adjusted annually by the annual movement in the Consumer Price (All Groups) Index;

Offer Document means the product disclosure statement prepared on or about 18 April 2016 in relation to the offer of B Shares.

Portfolio Investment Entity or **PIE** means a portfolio investment entity as that term is defined in section YA 1 of the Tax Act.

Prescribed Investor Rate or **PIR** means the rate of tax applicable to a Shareholder under the Tax Act.

Profit means the monies paid into the Company Account, less any fees, costs charges, expenses, allowances, deductions and withholdings paid or payable out of the Company Account in accordance with the terms of this document.

Property means the land and buildings situated at 650 Great South Road, Auckland (being unique identifier NA108C/559 (North Auckland Registry)) together with all landlord's fixtures, fittings and chattels situated on that property and, for the avoidance of doubt, the Leases and all rights of the landlord under the Leases referable the Property).

Purchase Agreement means the agreement for sale and purchase dated 3 March 2016 between Stride Property Limited, as vendor of the Property and Maat Consulting Limited or nominee as purchaser, including any variations of that agreement.

Register means the register of Shares required by the Constitution and section 87 of the Act to be kept, and maintained by the Manager pursuant to clause 3.6(m).

Required Majority means 75% of the votes of those Shareholders entitled to vote and voting on a question other than in respect of a proposed Resolution pursuant to clauses 5.2(b), 5.2(f) and 5.2(g) where the required majority will be 50% of the votes of those Shareholders entitled to vote and voting on the question.

Resolution means a resolution of those Shareholders entitled to vote and voting on a question passed by the Shareholders holding a Required Majority at a meeting convened pursuant to clause 5.

Shares means A Shares or B Shares or both or any of them as the context may require.

Shareholders means A Shareholders or B Shareholders or both or any of them as the context may require.

Subscription Monies means the monies paid or payable by the Initial B Shareholders for each of their B Shares pursuant to the terms of the Offer Document.

Tax Act means the *Income Tax Act 2007* or the *Tax Administration Act 1994* (as applicable).

Tenant means a tenant under a Lease.

Valuer means a registered valuer within the meaning of the Valuers Act 1948 appointed by the Manager from time to time.

Working Day means a day of the week other than:

- (a) Saturday, Sunday, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Labour Day and Waitangi Day;
- (b) a day in the period commencing with the 25th day of December in any year and ending with the 2nd day of January in the following year;
- (c) if the first day of January in any year falls on a Friday, the following Monday; and
- (d) if the first day of January in any year falls on a Saturday or Sunday, the following Monday and Tuesday.

1.2 Interpretation

In this document, except where the context otherwise requires:

- (a) a reference to any monetary amount is to New Zealand currency;
- (b) expressions defined in the main body of this document have the defined meaning in the whole of this document including the introduction and the schedules;
- (c) section, clause and other headings are for ease of reference only and do not form any part of the context or affect this document's interpretation;
- (d) where two or more persons are bound by a provision in this document, that provision will bind those person jointly and each of them severally;
- (e) any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;

- (f) references to parties are references to parties to this document and include each party's executors, administrators and successors;
- (g) references to persons include references to individuals, companies, corporations, partnerships, firms, joint ventures, associations, trusts, organisations, governmental or other regulatory bodies or authorities or other entities in each case whether or not having separate legal personality;
- (h) singular words include the plural and vice versa, and words importing one gender include the other genders;
- (i) the schedules and their contents have the same effect as if set out in the body of this document;
- (j) references to sections, clauses and schedules are references to sections and clause of and the schedules to this document;
- (k) references to a statute include references to regulations, orders, rules or notices made under that statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise;
- (l) words or phrases appearing in this document with capitalised initial letters are defined terms and have the meanings given to them in this document;
- (m) a reference to any document, including this document includes a reference to that document as amended or replaced from time to time;
- (n) any reference to loss includes any cost, claim, liability, damage, expense, fine, penalty or tax;
- (o) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this document or any part of it;
- (p) the meaning of general words is not limited by specific examples introduced by "including", "for example" or similar expressions;
- (q) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (r) a reference to time is to New Zealand time; and
- (s) a reference to "written" or "in writing" includes all models of presenting or reproducing words, figures and symbols in a tangible and permanently visible form.

1.3 Effectiveness of this document

This document will be of no force and effect unless and until a Deed of Accession has been signed by the Manager and delivered to the Company in relation to the Initial B Shareholders.

2 SHARES

2.1 A Shares

The Manager holds 100 A Shares, being all of the issued share capital of the Company at its incorporation.

2.2 **Issue of B Shares**

- (a) Under the Constitution, the Company may issue up to 359 parcels of B Shares at an issue price of \$1.00 per B Share.
- (b) The Company will allot and issue B Shares to the Initial B Shareholders immediately prior to, and for the purpose of effecting, settlement of the purchase of the Property. At this time, the Manager will sign and deliver to the Company a Deed of Accession in relation to the Initial B Shareholders.
- (c) All Subscription Monies received from Initial B Shareholders will be held in the trust account of Anthony Harper Solicitors, Auckland and Christchurch, until allotment of B Shares by the Company. Initial B Shareholders will be paid interest at call rates (less commission and resident withholding tax) on their Subscription Monies from the date of receipt by Anthony Harper of cleared funds until the funds are required to be released from deposit to enable the settlement of the purchase of the Property or the return of the application to Initial B Shareholders in accordance with the Offer Document.
- (d) If the Property is not acquired, all Subscription Monies will be returned in full (including net interest earned on those funds) to the relevant Initial B Shareholder. The Subscription Monies will otherwise be held in trust until all conditions relating to the receipt of subscriptions (if any) are satisfied and all B Shares are subscribed for in full.
- (e) Each B Shareholder is required to subscribe for and hold at least 50,000 B Shares (unless adjusted below that level in accordance with the Constitution).

2.3 **The Register**

Each Initial B Shareholder will be registered as a Shareholder in the Register following allotment of their Shares.

2.4 **Equal rights and entitlement of B Shareholders**

Each B Share confers the rights and obligations specified in this document and the Constitution.

2.5 **Transfer of B Shares**

The written consent of the Manager must be obtained before a B Shareholder transfers all or any of their B Shares which consent must be given if the following conditions are fulfilled:

- (a) the Shareholder is transferring Shares in parcels of 50,000 (or if the Shareholder has fewer than 50,000 B Shares, all of them);
- (b) the instrument of transfer (in the form approved by the Manager from time to time) is signed by the transferor and the transferee;
- (c) the proposed transferee has signed a Deed of Accession and the signed Deed of Accession has been delivered to the Manager;
- (d) the transferor pays or reimburses the Manager and Company's reasonable legal costs incurred in connection with the transfer; and
- (e) the transferor pays any unpaid amounts owing from the transferor to the Manager or the Company,

to the extent that the giving of such consent and the subsequent transfer of all or any of the B Shares does not or will not affect the status of the Company as a Portfolio Investment Entity.

2.6 Change of name or address

Any change in the name or address of any Shareholder must be notified by the Shareholder in writing to the Manager and the Company, and the Company must alter the Register accordingly.

2.7 Restriction on lodging caveat

Each B Shareholder:

- (a) warrants and agrees for the benefit of all the other Shareholders, the Manager and the Company that it will not lodge a caveat against the unique identifier to the Property;
- (b) waives all rights and entitlement to lodge a caveat in breach of this restriction; and
- (c) appoints the Manager as its lawful attorney to sign any documentation and take any steps necessary to remove a caveat registered in breach of this restriction.

2.8 Termination

If a B Shareholder defaults in any payment due or breaches any obligation under this document and fails to remedy that breach within 30 days of being notified of it, the Company may treat the B Shareholder as a defaulting Shareholder for the purposes of clause 10 of the Constitution ("Suspension of Right to Dividends, Forfeiture and Lien"). The Board may appoint the Manager to act as its agent in the exercise of its powers under that clause of the Constitution.

3 THE ROLE OF MANAGER

3.1 Appointment

The Company appoints (and each Shareholder confirms the appointment of) the Manager as the sole and exclusive Manager of the Company and the Property in accordance with the terms of this document and the Manager accepts such appointment.

3.2 General Powers

Subject to the provisions of this document, the Manager will manage and administer the Company and the Property for the benefit of the Company and the Shareholders generally with full and complete power of management. In particular, the Manager will have full power to do the following in relation to the Company and the Property:

- (a) complete the purchase of the Property in the name of the Company in accordance with the terms of the Purchase Agreement and any nomination of the Company under that agreement;
- (b) borrow in the name of the Company up to 65% of an independent valuation for the Property from a lender selected by the Manager either for the purposes of the initial purchase of the Property or as part of any rollover, extension, variation or refinancing of present or future borrowings;
- (c) grant a mortgage in respect of the Property in the name of the Company or grant any other security interest in respect of any part of the Property (including an assignment of lease rentals) to secure any borrowings under sub-clause (b) above;
- (d) recover from the Tenants rent and outgoings and enforce the obligations on the part of the Tenants contained in the Leases in the name of the Company. This includes the power to take such action against the Tenants in the name of the Company as the Manager considers appropriate and necessary;
- (e) implement and conclude any rent review or grant any consents under the terms of the Leases in the name of the Company;

- (f) negotiate and conclude any renewal of the Leases or any re-letting of the Property in event that a Lease expires or otherwise terminates without being renewed;
- (g) recover monies due from Shareholders under the terms of this document;
- (h) manage the Property and the Company on a day to day basis;
- (i) negotiate and complete contracts and arrangements relating to the Property and the Company in the name of the Company;
- (j) undertake repairs, maintenance or improvements in respect of the Property at its sole discretion if the expense of any such improvements is not more than \$50,000 (excluding GST) per set of improvements or in any event to the extent that such expenses are met by the Tenants. With the exception of any repairs, maintenance or improvements that the landlord is obliged to undertake under the terms of the Leases, the Manager may only undertake any repairs, maintenance or improvements in respect of the Property which cost more than \$50,000 (excluding GST) per set of improvements and which are not met by the Tenants with the prior approval of B Shareholders who hold not less than 50% of the B Shares; and
- (k) negotiate and complete the sale of the Property in the name of the Company in accordance with clause 12.3.

3.3 **Contingency Fund**

The Manager must establish and maintain the Contingency Fund from monies paid into the Company Account. At the end of each Financial Year, the Manager may appropriate a certain amount of monies paid into the Company Account, to be determined in the Manager's discretion, towards supplementing the Contingency Fund.

3.4 **Power to delegate**

- (a) The Manager may delegate to any related company of the Manager or to its or their officers and employees or any of them all or any of the powers, authorities and discretions exercisable by the Manager under the provisions of this document. Any things required by this document to be done by the Manager may be done by its delegate on its behalf provided that the Manager will at all times remain liable and responsible for the acts and omissions of any person appointed pursuant to this clause.
- (b) The parties specifically acknowledge and agree that the Manager may appoint Maat Property Management Limited as sub-manager of the Property.

3.5 **Appoint agents**

The Manager may appoint and engage any property manager, valuer, barrister, solicitor, accountant and any such other person or persons as may be necessary, usual or desirable for the purpose of exercising its powers and performing its obligations under this document.

3.6 **Covenants by Manager**

The Manager covenants with the Company and the Shareholders:

- (a) To take all necessary steps to enable the Company to be registered as the proprietor of the Property on acquisition of the Property;
- (b) to use all reasonable endeavours to ensure that the Company is operated, carried on and conducted in a proper and efficient manner;
- (c) to manage the Property in accordance with best industry standards;

- (d) to insure the Property in the name of the Company in accordance with the obligations on the part of the Company contained in the Leases and on usual terms appropriate for the Property (including insurance policies for material damage, loss of rents, business interruption and public liability) to the extent that the Tenants have not effected such insurance in accordance with the terms of the Leases;
- (e) to collect rent and outgoings (including property management expenses where Tenants are obliged to pay the same) from the Tenants in the name of the Company;
- (f) to pay all rent and outgoings (including property management expenses) received by the Company into the Company Account;
- (g) to distribute Dividends or cash distributions approved by the Board to Shareholders in accordance with clause 7;
- (h) to keep accounting records and provide Financial Statements to Shareholders in accordance with clause 8;
- (i) to pay the costs of auditing the Financial Statements each year;
- (j) to procure compliance with all applicable legislation and regulations in respect of the Property and the Company;
- (k) without limiting clause 8.3 and 9.2, to provide to each Shareholder such information as the Shareholder may reasonably require with respect to the Company and the Property;
- (l) to convene meetings of Shareholders in accordance with the provisions of clause 5 of this document;
- (m) to receive and respond to complaints about the Company from Shareholders;
- (n) to keep and maintain up-to-date Register of Shareholders containing the information required under the Act and any other particulars that the Manager may consider desirable to include;
- (o) to administer and be responsible for the day-to-day management of the Company;
- (p) to register the Company for GST, collect GST from the Tenants, file GST returns with the Inland Revenue Department and pay GST to the Inland Revenue Department on behalf of the Company;
- (q) to elect for the Company to be a PIE for the purposes of the Tax Act and administer the Company as a PIE in accordance with all relevant laws and the powers given to the Board in the Constitution; and
- (r) to make all payments of principal, interest and other fees, expenses and charges required under the loan or security documents contemplated by this document, and to otherwise procure compliance by the Company with all of its obligations in this document.

3.7 **Term of appointment**

Subject to clause 3.8, the term of the appointment of the Manager is for the duration of ownership of the Property by the Company.

3.8 Removal of Manager

B Shareholders who hold not less than 75% of the B Shares at that time may remove the Manager at a meeting held pursuant to clause 5, but such removal will be conditional upon:

- (a) payment to the Manager of an amount equal to one year's Management Fee as compensation; and
- (b) appointment of a replacement Manager.

From the date of removal:

- (a) the Manager's Shares in the Company shall be surrendered for no consideration and cancelled; and
- (b) the outgoing Manager will be released from all of its covenants and obligations under this document (other than in respect of any antecedent breach).

3.9 Appointment of new Manager

The appointment of a new Manager must be approved by B Shareholders who hold not less than 75% of the B Shares at that time at a meeting held pursuant to clause 5. A new Manager appointed pursuant to this clause 3.9 must promptly execute a document whereby the new Manager undertakes to the Shareholders and to the Company to be bound by and to observe and perform all of the obligations on the part of the Manager under this document from the date of such appointment as if the new Manager had been named as party to this document and had executed it. The new Manager will then exercise all the rights and will be subject to all duties and obligations of the Manager under this document in all respects as if such new Manager had been originally named as a party to this document.

3.10 Manager's liability

The Manager is not liable for any losses or damages arising from the carrying out of its duties pursuant to this document, including any act, attempted act, or omission, except where that act, attempted act or omission constitutes gross negligence or wilful default.

3.11 Manager's entitlements preserved

Nothing in this clause 3 will prevent the Manager from receiving payment or a benefit which has accrued to the Manager pursuant to the terms of this document prior to the date of, or arising on, the Manager's removal from office.

3.12 Assignment

The Manager (or any replacement Manager) may, without the consent of the Shareholders, assign or otherwise transfer the benefit of this document to any person that the Manager considers has the skills and resources to fulfil and discharge the Manager's duties under this document.

4 FEES AND EXPENSES

4.1 Management Fees

- (a) The Manager will be entitled to payment of the Management Fee monthly in arrears plus GST and Disbursements.
- (b) The Management Fee plus GST and Disbursements will be payable out of the monies paid into the Company Account before any distribution of Dividends to Shareholders.

4.2 Establishment Fee

Once the Company obtains title to the Property, the Manager will be entitled to payment in one lump sum a fee of \$325,000 plus GST in consideration for sourcing the Property, negotiating the Purchase Agreement, establishing the Company and providing associated services to the Company. This fee will be payable out of the Company Account.

4.3 Exit Fee

On the sale of the Property, the Manager will be entitled to payment in one lump sum of 2% of any profit on the sale of the Property plus GST. In calculating this exit fee, profit means the difference between the net sale price of the Property (being the sale price less sale expenses) and the acquisition cost (being the purchase price of \$31,800,000 plus the share issue costs of \$1,092,800.

This fee will be paid out of the sale proceeds paid into the Company's account.

4.4 Expenses

In addition to the fees referred to in clauses 4.1, 4.2 and 4.3, the Manager is entitled to pay out of the Company Account the annual expenses set out in Schedule 2 and (if applicable) any expenses set out in Schedule 3 in connection with the sale of the Property.

4.5 Establishment Costs

The fees and charges set out in Schedule 1 for the establishment of the Company will be payable out of the Company Account.

4.6 Expenses met by the Company

For the avoidance of doubt, none of the fees or charges set out in Schedules 1, 2 and 3 will be met by the Manager or the Company personally, and all such charges will be payable from the Company Account.

4.7 Shortfall

Subject to any arrangement with a lender to the Company that limits the recourse of that lender against Shareholders, or where the lender has not required shareholder guarantees, in the event that the monies in the Company Account are not sufficient to meet any of the fees or charges set out in clauses 4.1, 4.2 and 4.3 and Schedules 1, 2 and 3 or any other liability of the Company (**Shortfall**), each B Shareholder will be liable to contribute money to the Company Account to meet such Shortfall pro rata according to the number of B Shares they each hold. For the avoidance of doubt:

- (a) nothing in this clause will require a B Shareholder to pay any Shortfall payable by any other Shareholder (unless such Shortfall relates to GST and the Shareholder is legally liable to pay such Shortfall on a joint and several basis); and
- (b) with the exception of liability to pay a Shortfall that relates to GST, to the extent that a B Shareholder pays more than its pro rata share of a Shortfall, that Shareholder will have a right of contribution from every other B Shareholder that has not paid their pro rata share of the Shortfall (the intention of this clause being that each B Shareholder satisfies its pro-rata share of the Shortfall).

5 MEETINGS AND RESOLUTIONS

5.1 Manager or Company may convene meetings

The Manager or the Company may at any time convene a meeting of Shareholders and may in accordance with the terms and requirements of the Constitution put resolutions to the vote of Shareholders entitled to vote.

5.2 Powers exercisable by Resolution of Shareholders

In addition to any meeting specified in the Constitution, a meeting of Shareholders will have the following powers exercisable by Resolution:

- (a) **To amend document:** subject to clause 20.2, power to assent to any amendment to the provisions contained in this document or any document supplemental thereto in relation to the Company (but not to the entitlements attaching to the Shares) and to authorise the Manager and the Company to concur in and execute any supplemental deed or other document embodying any such alteration or addition;
- (b) **To sanction default:** power to give any sanction, assent, release or waiver of any breach or default by the Manager or the Company under any of the provisions of this document;
- (c) **To exonerate Manager of Company:** power to discharge, release or exonerate the Manager or the Company from all liability in respect of any act of commission or omission for which the Manager or the Company has or may become responsible under this document in relation to the Company;
- (d) **To appoint and remove Manager:** power to remove an existing Manager and appoint a new Manager subject to compliance with the conditions contained in clause 3.8;
- (e) **To wind up the Company:** power to require the Company to be wound up, the Property to be sold and a final distribution of Profit to be made all in accordance with clause 12;
- (f) **To sanction increase of Management Fee:** power to sanction an increase of the Management Fee with effect from any date on which the annual rent is increased; and
- (g) **To incur expenditure:** power to approve expenditure by the Manager in relation to maintenance and improvements to the Property in excess of \$50,000 (excluding GST).

6 PURCHASE AGREEMENT

- 6.1 The Manager will nominate the Company as the purchaser under the Purchase Agreement, and the Company agrees to be bound by the terms, obligations and conditions contained in the Purchase Agreement as nominee of the Manager, in accordance with and subject to the terms of this document.

7 INCOME AND DISTRIBUTION

7.1 Receipt of Income

The Company as landlord will receive all rental income and other payments received in respect of the Property. Any such income received by the Company will be accounted for to the Manager who will deposit it into the Company Account.

7.2 Company Account

The Company Account will be opened for and on behalf of the Company to:

- (a) receive all income received in respect of the Property;
- (b) pay all costs, fees, expenses, deductions and allowances provided for under this document; and
- (c) pay all Dividends approved by the Board to Shareholders.

The bank account signatories for the Company Account will be two directors of the Manager signing all cheques and authorising other payments from the Company Account by other means jointly.

7.3 Distribution of Dividends

Subject to the requirements of the Act in relation to the ability of the Directors to declare a Dividend, the Manager intend to distribute and pay to Shareholders Dividends or cash distributions monthly in arrears on the last day of each month or the next Working Day if that day is not a Working Day. The Manager is authorised to retain from any such Dividends or cash distributions an amount of money for future expenditure which the Manager deems appropriate and/or necessary to comply with the terms of this document and/or to maximise the value of the Property. The Company is also authorised under the Tax Act and the Company's Constitution to adjust the amount of any such Dividends or cash distributions to take account of the amount of any tax or tax credits attributable to a Shareholder where the Company is a Portfolio Investment Entity. Where the Directors are unable to declare a full Dividend or cash distribution in accordance with the Act, no Dividend or cash distribution or a reduced Dividend or cash distribution will be paid.

7.4 Entitlement

Dividends or cash distributions pursuant to clause 7.3 will be apportioned between the B Shareholders pro rata according to the number of B Shares held by each of them.

8 RECORDS AND FINANCIAL STATEMENTS

8.1 Records

The Manager will keep such accounting records as correctly record and explain the performance, financial position and cashflows of the Company, and will enable the Financial Statements to be prepared and conveniently and properly in accordance with this document.

8.2 Financial Statements

As soon as practicable after the end of each Financial Year, the Manager will procure that Financial Statements for the Company for that Financial Year are prepared in accordance with generally accepted accounting practice and delivered to Shareholders no later than 3 months following the end of the Financial Year. Particulars of all charges which affect returns to Shareholders will be included in the Financial Statements.

8.3 On Request Information

The Manager will provide to Shareholders on request (free of charge) the latest Financial Statements of the Company at the time of request.

9 VALUATION

9.1 Annual Valuation

The Manager will procure that the Property is valued by the Valuer on an annual basis.

9.2 On Request Information

The Manager will provide to Shareholders on request (free of charge) the latest valuation report on the Property at the time of request.

10 INDEMNITY

Any party that fails to meet in full any of its obligations under this document (**Defaulting Party**) must indemnify the Manager in respect of any losses or costs incurred by the Manager in compelling the Defaulting Party to act in accordance with this document or as a consequence of taking any other action against the Defaulting Party that the Manager, in its sole discretion, deems necessary.

11 TAXATION

The B Shareholders agree and acknowledge that where the Company is a Portfolio Investment Entity:

- (a) the Board may request any Shareholder or applicant for Shares to provide information to the Board to enable the Company to meet administration requirements of the Tax Act to determine whether the Company meets, or continues to meet, the PIE eligibility requirements and, in particular, the Board may request any Shareholder or applicant for Shares to:
 - (i) provide such information pertaining to any Shareholder as the Board considers reasonably necessary to ensure that the Company can comply with its obligations as a PIE under the Tax Act;
 - (ii) provide details of Shares held by any associated person (as defined in the Tax Act) of the Shareholder or applicant for Shares where the associated person holds 5 per cent or more of the B Shares in the Company;
 - (iii) confirm that:
 - a. the Shareholder or applicant for Shares either is or is eligible to be and intends to be a member of a PIE; or
 - b. the Shareholder or applicant for Shares either is or is eligible and intends to be a proxy for an investor under section HM 33 of the Tax Act; or
 - (iv) if the Shareholder or applicant for Shares either is or is eligible and intends to be a PI:
 - a. confirm that the Shareholder or applicant for Shares has provided the information specified in the Tax Act; and
 - b. provide any other information to establish that the PI has met its obligations under the Tax Act;
- (b) if the Board requests a Shareholder or applicant for Shares to provide information to the Board pursuant to clause 11(a) the Shareholder or applicant for Shares must supply such information within 30 days of the request;
- (c) the Board may request any Shareholder or applicant for Shares to provide information to the Board to enable the Company to meet administration requirements of the Tax Act, including:
 - (i) the Shareholder's IRD number (also known as a tax file number); and
 - (ii) the Shareholder's prescribed investor rate (as that term is defined in the Tax Act);
- (d) if the Board requests a Shareholder or applicant for Shares to provide information to the Board pursuant to clause 11(c), the Shareholder or applicant for Shares must supply such information within one calendar month of the date of the request; and
- (e) there should be no situations where the Shareholder may have to pay additional tax and interest and penalties to the Inland Revenue Department, except where a Shareholder:
 - (i) advises the Company of a prescribed investor rate that is lower than the one that should have applied to the Shareholder;

- (ii) fails to advise the Company of an increase in their prescribed investor rate;
- (iii) advises the Company of an incorrect IRD number; or
- (iv) fails to advise the Company that they are no longer a New Zealand tax resident.

12 TERMINATION

12.1 Termination events

A meeting of Shareholders will be convened by the Manager in accordance with clause 5 to resolve whether the Property should be sold and the Company wound up in the following circumstances:

- (a) not less than 6 months prior to the final repayment date for the bank funding secured by the Manager to acquire the Property; and
- (b) on request in writing of Shareholders who hold more than 30% of the Shares.

12.2 Continuation of Company

If at a meeting the Shareholders do not resolve to sell the Property and wind up the Company, then the Company will continue until such time as the Shareholders resolve to wind up the Company at a subsequent meeting convened pursuant to this clause 12.

12.3 Winding up

If the Shareholders approve the sale of the Property and winding up the Company pursuant to this clause 12, then:

- (a) the Manager will (in the name of the Company) market the sale of the Property and use all reasonable endeavours to sell the Property for the best price reasonably obtainable in the open market at that time, provided that the Manager will otherwise have a complete discretion regarding the marketing and disposal of the Property;
- (b) any sale proceeds received in respect of the sale of the Property will be paid into the Company Account;
- (c) after deducting any allowable costs, fees and expenses from the Company Account (including but not limited to the sale expenses set out in Schedule 3), the net balance will, subject to the requirements of the Act, be distributed to the B Shareholders pro rata according to the number of B Shares held by each of them; and
- (d) following distribution to the B Shareholders of all monies pursuant to this clause 12.3, this document will terminate and neither the Manager nor the Company will have any further liability to the B Shareholders or to each other under the terms of this document or the Offer Document save in respect of any antecedent breach, except as provided under the Financial Markets Conduct Act 2013.

13 LATE PAYMENT

If a Shareholder defaults in payment of any moneys payable under the terms of this document then, in addition to any other remedy which may apply under this document or the Constitution, the Shareholder will pay on demand interest at the Default Interest Rate on the moneys unpaid from the due date for payment to the date of payment.

14 DISCLAIMER

Neither the Manager, nor the Company, nor any director, officer, employee, agent of, or adviser to either of them, guarantees the performance of the Company or guarantees any return on a Shareholder's investment in the Company.

15 NOTICE TO SHAREHOLDERS

A notice may be given by the Manager or the Company to any Shareholder in accordance with the terms and requirements of the Constitution.

16 NOTICE TO MANAGER

Any notice, communication or information required by this document to be given to the Manager must be given in writing, or such other manner as agreed to from time to time by the Manager, and addressed to a director or other officer of the Manager to whom it is intended to be given at its current address, or such other address as may from time to time be notified by the Manager, to the Shareholder as the address for service of notices pursuant to this document and must be signed by a duly authorised officer on behalf of the party giving the same.

17 INSPECTION OF DOCUMENT

A copy of this document together with copies of all documents supplemental to it (if any) will at all times during usual business hours be made available by the Manager at the Manager's offices for inspection by Shareholders.

18 MONEY PAYABLE TO SHAREHOLDERS

- (a) Any money payable by the Manager to a Shareholder under the provisions of this document may be paid by cheque that is crossed "not transferable" and:
 - (i) is made payable to the Shareholder and sent through the post to the address of the Shareholder recorded in the Register; or
 - (ii) in the case of joint Shareholders, is made payable to the joint Shareholders and sent to their common recorded address or to the recorded address of that one of the joint Shareholders who is first named on the Register; or
 - (iii) in any other case, is made payable as the Shareholder or joint Shareholders with the approval of the Manager may from time to time specify, including a specification in writing to the Manager to pay money to an account (of a bank or financial institution) nominated by the Shareholder or joint Shareholders.
- (b) Payment of every cheque, if fully presented and paid, will be a full satisfaction of the money payable and will be a good discharge to the Manager. Any payment made in any other manner in accordance with a Shareholder's instructions will be a full satisfaction of the money payable and will be a good discharge to the Manager.

19 UNCLAIMED PAYMENTS

If any payment made to any Shareholder at his or her address recorded in the Register or in accordance with his or her payment instructions is returned or otherwise unclaimed, the unclaimed or returned amount must be retained by the Company and held for such Shareholder without liability to invest the same or pay interest on it. Such retained amount will not for any purposes of this document be owned by the Company. Any amount unclaimed for five years or longer will be forfeited to and for the benefit of the Manager. After forfeiture of any amount pursuant to this clause the person who would have been entitled to payment of such amount had it not been forfeited will be entitled to payment from the Manager of any amount equal to such forfeited amount upon adducing sufficient evidence to satisfy the Manager that he or she would have been entitled to such amount had it not been forfeited.

20 MISCELLANEOUS

20.1 Role of Manager

Notwithstanding anything in this document, the Manager may on its own account take up or acquire B Shares and for this purpose may borrow and grant security over such B Shares.

20.2 **Severance**

If any provision of this document is found by a court to be illegal invalid or unenforceable, that provision may be read down to the extent necessary to ensure that it is not illegal, invalid or unenforceable to give it a valid operation of practical character. If any provision cannot be so read down, the provision will be deemed to be void and severable and the remaining provisions of this agreement are not to be affected or impaired.

20.3 **Amendment**

Any amendment to this document must be authorised by a Resolution and will be made by document supplemental to this document executed by the Company and the Manager, provided always that no amendment to any clause (including this proviso) conferring the rights, powers and privileges of the Manager will be made without the agreement of the Manager. The Company will be authorised on behalf of all the Shareholders to execute the supplemental document on their behalf and the Shareholders will be bound to observe and perform the terms of the supplemental document so executed.

20.4 **Governing Law**

This document is governed by and construed in accordance with the laws of New Zealand. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

20.5 **Counterparts**

This document may be executed in a number of counterparts. All the counterparts taken together constitute this agreement.

SCHEDULE 1 (CLAUSE 4.5) – ESTABLISHMENT COSTS

Preliminary Share Issue costs payable by the Company include:	\$
Bank Loan – Application Fees	8,000
Interest Paid on Deposit Funds	3,440
Bank Loan – Application Legal Fees	9,000
Accountants Fee – Financial Forecast Review	19,000
Brokerage Fees	386,000
Legal Fees	120,000
Statutory Fees	10,000
Marketing	187,500
Manager's Fee	325,000
Contingency	4,860
Valuation Fees	20,000
GST on Set-up Costs (claimed back from IRD)	162,200
Total	1,255,000

SCHEDULE 2 – ANNUAL EXPENSES

- (a) Management Fee.
- (b) Any outgoings payable by the Company in respect of the Property which are not recoverable from the Tenants.
- (c) Any fees, expenses and charges and any payments of interest and capital payable in respect of any bank loan obtained pursuant to clause 3.2(b) and/or clause 3.2(c) (other than payments to the bank which are not guaranteed by shareholders).
- (d) Interest charges payable on the forecast purchase of capital expenditure items.

The above expenses are exclusive of GST and out-of-pocket costs and disbursements which will also be allowable as annual expenditure.

SCHEDULE 3 – SALE EXPENSES

- (a) Real estate commission on the sale of the Property.
- (b) Legal fees in relation to attendances on the sale of the Property and repayment of any bank loans secured on the Property (charged on the basis of time spent).
- (c) Any early repayment fee to the bank if the Property is sold prior to expiration of the loan term.

The above expenses are exclusive of GST and out-of-pocket costs and disbursements which will also be allowable as sale expenditure.

SCHEDULE 4 – DEED OF ACCESSION

Date:

BY:

The person or persons named as the Acceding Party in the Schedule (Acceding Party)

IN FAVOUR OF:

650 Great South Road Limited (Company)

Maat Consulting Limited (Manager)

[The person or persons named as the Transferor in the Schedule (Transferor)]

Those persons [other than the Transferor] comprising the existing Shareholders of the Company (Shareholders)

BACKGROUND

- A. The Company owns the Property and the Manager manages the Property.
- B. The Ownership and Management Deed requires each incoming Shareholder to sign a deed of accession to become a Shareholder of the Company [including on a transfer of a Share from an exiting Shareholder].
- C. The Acceding Party wishes to execute this document and to become a Shareholder of the Company in respect of the Share(s) specified in the Schedule.

THE ACCEDING PARTY covenants as follows:

1. DEFINITIONS

In this document, unless the context requires otherwise, capitalised terms have the meaning given to them in the Ownership and Management Deed and:

Ownership and Management Deed: means the deed dated 19 April 2016 made between the Company, the Manager and those Shareholders who have subsequently acceded to its terms.

2. OBSERVATION OF OWNERSHIP AND MANAGEMENT DEED

From the date of this document, the Acceding Party:

- 2.1. Agrees to become a Shareholder under the Ownership and Management Deed as if it had been named as an Initial Shareholder in that deed in respect of the number and class of Shares set out in the Schedule.
- 2.2. Covenants to observe and perform, and be bound by, all the covenants and obligations contained in the Ownership and Management Deed and the Constitution on the part of the Shareholders.
- 2.3. Irrevocably and unconditionally grants, ratifies, and confirms all the powers and authorities given to the persons holding the positions of Company and Manager under or by virtue of the provisions of the Ownership and Management Deed and the Constitution and all acts

and things done by or on behalf of the Company, whether before or after the date of this document.

3. **CONSENT OF THE MANAGER**

[Pursuant to clause 2.5 of the Ownership and Management Deed, the Manager consents to the transfer by the Transferor to the Acceding Party of the number of Shares set out in the Schedule].

EXECUTED as a deed

Signed by the **ACCEDING PARTY** by

Signed by the **TRANSFEROR** by

in the presence of:

in the presence of:

Name:

Occupation:

Name:

Occupation:

Address:

Address:

THE SCHEDULE

Transferor:

Name	Address

Acceding Party:

Name	Address

Number and Class of Shares [issued/transferred]:

Number
Class

SIGNING PAGE

EXECUTED as a deed


650 GREAT SOUTH ROAD LIMITED
by:



Signature of director

Mark Geoffrey Hughson

Name of director




Signature of director

Bruce Charles Ellis

Name of director


MAAT CONSULTING LIMITED by:



Signature of director

Mark Geoffrey Hughson

Name of director



Signature of director

Bruce Charles Ellis

Name of director