

**MANAGEMENT AGREEMENT**

**BETWEEN**

**QUEENSLAND LIFESTYLE COOPERATIVE LIMITED**

**AND**

**QUEENSLAND LIFESTYLE MANAGEMENT GROUP PTY LTD**

THIS AGREEMENT is made on the 7<sup>th</sup> day of February 2013.

**PARTIES:**

**QUEENSLAND LIFESTYLE COOPERATIVE LIMITED QC0318** a Cooperative formed and registered under the Cooperatives Act 1997 (QLD) of Unit 21, 17 Cairns Street, Loganholme, Qld 4129

**AND**

**QUEENSLAND LIFESTYLE MANAGEMENT GROUP PTY LTD ACN 154 451 840** of Unit 21, 17 Cairns Street, Loganholme, Qld 4129.

**RECITALS:**

- A. The parties hereto wish to establish the terms of an agreement for the provision of services by the Manager to the Cooperative to be ratified by the Cooperative members by special resolution at a general meeting.
- B. The Manager is experienced in the business of management.
- C. The Cooperative wishes to retain the Manager to provide management services to the Cooperative.
- D. The parties hereto wish to confirm the management fees.

**1. INTERPRETATION**

In this agreement unless the context otherwise requires:

- reference to a person includes any other entity recognized by law and vice versa;
- words importing the singular number include the plural number and vice versa;
- words importing one gender include every gender;
- any reference to any of the parties by their defined terms includes that party's executors, administrators or permitted assigns, or being a company, its successors or permitted assigns;
- every agreement or undertaking expressed or implied by which more persons than one agree or undertake any obligation or derive any benefit in terms of this Agreement shall bind or ensure for the benefit of such persons jointly and each of them severally.
- clause headings are for reference purposes only.

## 2. DEFINITIONS

In this Agreement unless the context otherwise requires:

“**Account**” means the account to be established by or on behalf of the Cooperative for which the only signatories are nominees of the Cooperative, and which is conducted in a place and on terms approved by the Board;

“**Agreement**” means this management agreement as modified or amended from time to time.

“**Board**” means the Board of Directors of the Cooperative;

“**Business Day**” means a day (other than a Saturday, Sunday or public holiday) on which the banks are open for business in Brisbane, when a thing is to be done or a payment made on a day which is not a Business Day, it must be done or paid on the following Business Day:

“**Cooperative**” means the Queensland Lifestyle Cooperative Limited QC0318 a Cooperative formed and registered under the Cooperatives Act 1997 (QLD) of Unit 21, 17 Cairns Street, Loganholme, Qld 4129 and any subsidiary, body corporate, joint venture, partnership or other business arrangement of the Cooperative that is owned or controlled wholly or partially directly or indirectly by the Cooperative.

“**Event of Default**” means any of the events so described in this Agreement.

“**Governing Act**” means the Cooperatives Act 1997 and includes any amending act or acts or any act enacted to replace that act to govern the operation of cooperatives in Queensland and also includes, where the context permits, any regulations, orders, prudential standards or model rules (subject to *any* amendments made by the Cooperative) made pursuant to such Act;

“**GST**” means as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“**Intellectual Property**” or “**IP**” means inventions (whether or not patentable), works of authorship, trade secrets, techniques, know-how, ideas, concepts, algorithms, and other intellectual property incorporated in any service or deliverable and first created or developed by the Manager in providing the services under this agreement to the Cooperative.

“**Manager**” means Queensland Lifestyle Management Group Pty Ltd ACN 154 451 840 of Unit 21, 17 Cairns Street, Loganholme, Qld 4129.

“**Member**” means any member admitted as such to membership of the Cooperative in accordance with the Governing Act;

“**Month**” means a calendar month; and

“**Rules**” means the rules of the Cooperative as set-out under the Governing Act.

### **3. CONDITIONS PRECEDENT**

The Manager shall supply the following in form and substance satisfactory to the Cooperative:

- (a) specimen signatures of all authorized officers of the Manager;
- (b) evidence that the Manager holds any licenses reasonably required for the conduct of the Manager's business including its management;
- (c) evidence that the Manager holds professional indemnity insurance and fidelity insurance reasonably required by the Cooperative;
- (d) certified copy of the Manager's memorandum and articles of association; and
- (e) certified copy of the certificate of incorporation of the Manager.

### **4. COOPERATIVE MANAGEMENT DUTIES**

#### **4.1 Administrative, General and Promotional Duties**

The Manager shall:

- (a) provide the Cooperative with cooperative secretarial expertise to enable the Cooperative to comply with the requirements of the Governing Act;
- (b) develop and manage the financial and operating procedures for the businesses and other activities of the Cooperative for the benefit of the Cooperative and keep all records and books of account of the Cooperative, as required by the Governing Act and other statutory requirements;
- (c) produce such reports, including the production of financial accounts, as prescribed by the Governing Act, other statutory requirements or as otherwise reasonably required by the Cooperative.
- (d) ensure that it and the Cooperative comply with all laws relating to the conduct of its businesses;
- (e) ensure it and the Cooperative comply with all laws relating to the activities of the cooperatives including the Governing Act;
- (f) ensure that the Cooperative and Members operate within the Rules and inform the Board in writing of any breach of the Rules;
- (g) comply with all reasonable directions of the Board in performing its duties and promptly provide to the Cooperative any information required by the Board;
- (h) permit the Cooperative to conduct any audit or inspection of the Cooperative's files, records, accounts and procedures;
- (j) permit the auditor of the Cooperative to conduct any audit or inspection of the Cooperative's files, accounts and procedures;

- (j) not without the prior written consent of the Board, create any obligation legally binding on the Cooperative;
- (k) inform the Cooperative promptly in writing of any liability, contingent liability that it becomes aware of that is not in the normal course of business or that has not had prior written consent of the Board;
- (l) inform the Cooperative promptly in writing of any legal action, claim, default notice or other legal or statutory document served on the Cooperative or the Manager; and
- (m) generally promote the primary activities/objects of the Cooperative and specifically introduce businesses, ventures or service opportunities to drive the growth of the Cooperative in line with those primary activities/objectives.

#### **4.2 Insurance**

The Manager shall:

- (a) ensure that the Cooperative enters insurance policies appropriate to its business activities;
- (b) not do or permit any thing to be done which would void, terminate or adversely affect any insurance policy;
- (c) comply with all reasonable directions of the insurers and the Board in relation to any insurance policy; and
- (d) promptly give all notices and documents required by and to insurers and parties named in those insurance policies, and take all other steps reasonably required to ensure the cover granted under any insurance policies is maintained and that any claim is paid in full promptly.

#### **4.3 Reports-**

The Manager shall:

- (a) provide to the Board a report on the tenth Business Day after the end of each month on the operations of the Cooperative;
- (b) comply with all reasonable requirements of the Cooperative in respect of any reports required for Board meetings or general meetings of the Cooperative: and
- (c) provide such reports as are reasonably required by the Cooperative from time to time to comply with the Cooperative's reporting requirements.

#### **4.4 Bank Accounts**

The Manager shall operate bank accounts properly authorised by the Board to be opened including the provision of signatures to the accounts under the provisions and rules authorised by the Board.

#### **4.5 Collection of Payments**

The Manager shall ensure that all money received in respect of the business and other operations of the Cooperative shall only be paid into the Cooperatives bank accounts. Ownership of and title to all money in these bank accounts will vest in the Cooperative.

#### **4.6 Notices to Members**

The Manager shall issue any notices reasonably required by the Cooperative addressed to all Members.

### **5. FEES**

- (a) The Cooperative shall pay to the Manager a monthly management fee as agreed from time to time by the Cooperative and the Manager equivalent to the costs, fees and charges excluding GST that the Manager expends in meeting its obligations under this Agreement plus a ten (10) percent surcharge and GST.
- (b) The Manager shall provide an invoice to the Cooperative for the fee pursuant to clause 5. (a).
- (c) The fee determined pursuant to clauses 5. (a) shall be paid by the Cooperative to the Manager no later than the thirtieth day after the end of the month to which the fee relates.
- (d) In the event of termination of the Agreement, the Manager shall be entitled to payment of all fees owing but not paid up to the date of termination of this Agreement.
- (e) By way of incentive to the Manager, the Board will on the behalf of the Cooperative negotiate with the Manager in good faith financial incentives including but not limited to any other fees, service charges and/or profit share payable to the Manager in recompense for the Manager introducing any business, venture or service to the Cooperative.

### **6. EVENTS OF DEFAULT**

If:

- (a) there is a default by the Manager in the performance of any term agreement, or condition contained in or implied by this Agreement, or any other document;
- (b) a receiver, receiver and manager, liquidator, provisional liquidator, trustee, inspector, official manager, or similar person is appointed to the Manager's undertaking of any part thereof;
- (c) the Manager stops payment of any cheque made to the Manager in favour of the Cooperative or without the Co-operative's prior written consent ceases or threatens to cease to carry on its business or a material part of its business;
- (d) there is any change in ownership or control of the Manager or any company of which the Manager is a subsidiary except with the prior written consent of the Cooperative which will not be unreasonably withheld;

- (e) any distress or execution is levied or enforced against any of the assets or property of the Manager; and
- (f) any licenses or permits required to be held by the Manager to discharge its obligations under this Agreement ceases to be held;

and if capable of remedy, is not remedied within 30 days of written notice of such default to the Manager by the Cooperative an Event of Default shall at the option of the Cooperative have occurred. A determination by the Cooperative in its absolute discretion that any one or more of the above have occurred will, except in the case of manifest error be final and binding on the Manager, the Manager shall promptly inform the Cooperative in writing upon the happening of any of the events described in this clause.

## **6 TERMINATION**

### **6.1 Rights on Default**

If any event of Default occurs the Cooperative may as its option in the manner and at the times the Cooperative in its absolute discretion deems appropriate but without any obligation to do so and notwithstanding any omission, neglect, delay or waiver of the right to exercise such option, do any or all of the following:

- (a) terminate this Agreement to the extent that the Manager is no longer entitled to manage the affairs of the Cooperative;
- (b) appoint any other person to manage the Cooperative;
- (c) take over management of the Cooperative.

### **6.2 Termination by Lapse of Time**

The Manager's right to manage the affairs of the Cooperative shall terminate on that date which is 10 years from the date of this Agreement. The Cooperative may renew or extend this Agreement for further periods not exceeding 5 year intervals at the request of the Manager and such extension will not be unduly withheld.

### **6.3 Duties on Termination**

In the event of termination of this Agreement the Manager shall deliver as soon as practicable to the Cooperative all files and relevant documents and information including information on computer files pertaining to the affairs of the Cooperative. -

### **6.4 Resignation of Manager**

The Manager may resign as Manager following at least 60 days notice to the Cooperative but the resignation shall not take effect until a new Manager has been appointed by the Cooperative.

## **7 ADMINISTRATIVE PROVISIONS**

### **7.1 Costs and Expenses**

Each party shall pay its own legal costs on this Agreement. Any stamp duty payable on the Agreement shall be paid by the Manager.

## **7.2 Notices**

Any notice to be given to a party to this Agreement shall be given in writing and shall be:

- (a) sent through the post to the address specified for the party in this Agreement, in which case service will be deemed to be effected two Business Days after posting; or
- (b) delivered to or left at the address specified for the party in this Agreement; or
- (c) sent by facsimile to the facsimile number specified for the party in this Agreement, in which case service will be deemed to be effected upon conclusion of transmission.

A party may notify a new address or facsimile number in Australia to substitute for any address or facsimile number shown in this Agreement.

## **7.3 Governing Law**

This Agreement will be governed by and constructed in accordance with the law for the time being in force in Queensland. The parties agree to submit to the non-exclusive jurisdiction of the Court of Queensland.

## **7.4 Assignment**

- (a) The Cooperative may assign novate or participate its rights and/or obligations under this Agreement or any part thereof. The Manager must execute such documents as in the opinion of the Cooperative are reasonably necessary for such purposes. The benefit of all provisions of this Agreement will ensure mutatis mutandis for the benefit of any such assignee novatee or participant.
- (b) The Manager may not assign novate transfer or deal with its rights or obligations under this Agreement or under any other collateral document or security in whole or in part without the prior written consent of the Cooperative such consent not to be unreasonably withheld.

## **7.5 Disclosure**

The Cooperative may (subject to the provisions of the Privacy Act or any legislation dealing with the privacy of individuals or corporations) disclose to a potential assignee novatee or participant or any other person information about the Manager or any other collateral document.

## **7.6 Relationship**

The Manager confirms that it is not the agent of the Cooperative but is an independent contractor.

## **7.7 Confidentiality**

- (a) The Manager shall maintain confidential the terms of this Agreement and the arrangement between the Manager and the Cooperative. The Manager may disclose details of this Agreement and the arrangement to any Member as required by the Governing Act or otherwise as required by law or any competent authority or anyone approved in writing by the Cooperative.



- (b) The Manager shall not disclose to any person any details relating to a Member without the prior written permission from the Member or except as required by Law.

**7.8 Exclusivity**

- (a) The Cooperative may not undertake nor engage any other party to undertake the duties, functions or activities to be provided by the Manager under this Agreement.
- (b) The Manager may engage in any kind of the type of business contemplated by this Agreement with any other party.

**7.9 Ownership of Intellectual Property**

- (a) The Manager and the Cooperative shall each retain ownership of, and all right, title and interest in and to, their respective, pre-existing IP, and no license therein, whether express or implied, is granted by this Agreement or as a result of the services performed hereunder. To the extent the parties wish to grant to the other rights or interests in pre-existing IP separate license agreements on mutually acceptable terms will be executed.
- (b) The Cooperative grants the Manager a royalty-free, paid up, worldwide, perpetual, non-exclusive, non-transferable license to use any of the Cooperative's IP incorporated in any deliverable, solely for the Manager's use of that deliverable for its internal business purposes. The Cooperative shall retain ownership of and unrestricted right to use any of its IP.
- (c) The services performed and any deliverable items produced by the Manager for the Cooperative pursuant to this Agreement are not "works for hire".

THE PARTIES have signed this Agreement.

**QUEENSLAND LIFESTYLE  
COOPERATIVE LIMITED QCO318**  
by authority of a resolution of its Board.



Seal Affixed  
Loganholme 7 February 2013

Witness:

**QUEENSLAND LIFESTYLE  
MANAGEMENT GROUP PTY LTD**  
ACN 154 451 840 by authority of a  
resolution of its board of directors.

A handwritten signature in black ink, appearing to read 'K Mitchell'.

**Kenneth James Mitchell**  
Sole Director

Witness: