

CUSTODY AGREEMENT

LEYSHON CORPORATION LIMITED ACN 090 257 480

and

THE PUBLIC TRUSTEE OF QUEENSLAND ABN 12 676 939 467

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CUSTODY AGREEMENT

Made on

9 June

2004.

BETWEEN **LEYSHON CORPORATION LIMITED ACN 090 257 480** of Level 4, 10 Felix Street, Brisbane Queensland

(**'The Manager'**)

AND **THE PUBLIC TRUSTEE OF QUEENSLAND ABN 12 676 939 467** of Level 10, Trustee House, 444 Queen Street, Brisbane, Queensland

(**'The Custodian'**)

BACKGROUND

- A. The Manager is the responsible entity of the Scheme.
- B. The Manager has the power and authority to appoint an agent to hold assets in relation to the Scheme.
- C. The Custodian has indicated to the Manager that it is willing to act as agent and custodian of certain Scheme Assets on the terms and conditions set out in this Agreement.
- D. The Manager wishes to appoint the Custodian as custodian of certain Scheme Assets, and the Custodian has agreed to accept that appointment on the terms and conditions set out in this Agreement

OPERATIVE PROVISIONS

1. DEFINITIONS AND INTERPRETATIONS

In this Agreement (including the recitals) unless the context otherwise required:

'Account' means any accounts established and maintained by the Custodian in the name of the Custodian and/or the Scheme and/or in such other name as the Manager directs by Proper Instructions for any assets of the Scheme from time to time received and accepted by the Custodian or any Subcustodian for the account of the Manager;

'ASIC' means the Australian Securities and Investments Commission and any successor organisation;

'ASIC Policy' means:

- (a) ASIC Policy Statement 133: Managed Investments: Scheme Property Arrangements; and
- (b) ASIC Policy Statement 166: Licensing: Financial Requirements; and
- (c) any supplementary or replacement policy issued by ASIC; and

(d) includes any instruments issued by ASIC in connection with those policies including class order 98/51 (as amended including as amended by class order 02/139).

'Assets' is limited to the Account and the Scheme Property;

'Associate' means a body corporate that is an associate of the Custodian or Manager by application of Part 1.2, Division 2 of the Corporations Law;

'Bank Account' means an Account with a financial institution which has been approved by the Manager by Proper Instructions;

'Business Day' means a day other than a Saturday, Sunday or a public holiday or other holiday appointed pursuant to the *Holidays Act* 1983 (Qld) in Brisbane;

'Cash' means cash from any source;

'Certificate of Title' means a document evidencing title to any assets of the Scheme, including all scrip, certificates, deeds, documents or instruments creating or evidencing title to any Land or Securities held by the Custodian under this Agreement;

'Claim' includes any claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding, right of action, claim for compensation and claim for abatement of rent obligation;

'Communications' means any notice, report, letter or other document which relates to an Asset (other than a Proper Instruction);

'Compliance Committee' means a compliance committee in relation to the Scheme, established by the Manager under Part 5C.5 of the Corporations Law;

'Contracts' means the contracts and Leases referred to in clause 4.1 and any other agreement or obligations relating to the Assets (or potential Assets);

'Constitution' means the constitution of the Scheme;

'Corporations Law' includes the *Corporation Act 2001* (Cth), *Corporations Regulation* and ASIC class orders and policy statements;

'Governmental Agency' means any:

- (a) government or governmental, semi-governmental or judicial entity or governmental agency; or
- (b) minister, department, office, commission, delegate, instrumentality, agency, board, governmental agency or organisation of any government,

and also includes any regulatory organisation established under statute or any stock exchange;

'Land' includes any interest in land whether vested or contingent, freehold or leasehold, and whether at law or in equity and includes the Scheme Property;

'Lease' means a lease, licence or other right to occupy Land;

'Proper Instructions' means instructions, including Standing Instructions, received by the Custodian from the Manager in relation to the Assets in any of the following forms:

- (a) in writing signed by two or more persons either authorised, or purportedly authorised (an *authorised person*), on behalf of the sender;
- (b) by facsimile transmission signed by two or more authorised persons on behalf of the sender;
- (c) in Tested Communication;

- (d) by telephone or other oral communication from one or more authorised person on behalf of the sender and confirmed in the manner described in paragraph (a); or
- (e) other means as may be agreed in writing upon from time to time by the Custodian and the party giving instructions;

'Records' means all books and records maintained by the Custodian in relation to the Assets, the Bank Accounts and the Accounts;

'Scheme' means the scheme listed in Schedule 1;

'Scheme Property' means the land and all improvements erected on it which may be acquired by the Manager as trustee of the Scheme and includes any interest the Custodian holds in the Scheme;

'Securities' means units or other interests in managed investment schemes, mutual funds or other collective investment scheme, shares, stocks and other equity interest of every type, evidences of indebtedness, other instruments representing any of those interests or rights or obligations to receive, purchase, deliver or sell any of those interests;

'Securities System' means a clearing agency which acts as a Securities depository or another book entry system for the central handling of Securities notified to the Manager by the Custodian;

'Security Interest' includes any mortgage, pledge, lien, charge or other security or any arrangement which gives a creditor a preferential right to an asset or its proceeds;

'Standards' means the Australian Accounting Standards and the Australian Auditing Standards issued by the Australian Accounting Research Foundation, as amended from time to time;

'Standing Instruction' means a Proper Instruction which is expressed to be a standing instruction and which applies in respect of like circumstances or like transactions;

'Subcustodian' means any person appointed by the Custodian (with the Manager's written agreement) to undertake subcustodial duties, and may include:

- (a) a subsidiary of the Custodian;
- (b) any corporation which is an 'ADI' within the meaning of the *Banking Act 1959* or a person who carries on State banking business within the meaning of paragraph 51(xiii) of the Constitution of the Commonwealth of Australia;
- (c) any person who carries on banking business in a country other than Australia; or
- (d) any person, wherever located, qualified to act as a custodian in the relevant jurisdiction, but does not include a Securities System;

'Taxes' means all taxes of whatever nature lawfully imposed, including income tax, recoupment tax, land tax, sales tax, payroll tax, fringe benefits tax, fringe benefits tax, group tax, capital gains tax, profit tax, interest tax, tax on the provision of goods or services, property tax, undistributed profits tax, withholding tax, municipal rates, financial institutions duty, bank account debit tax, stamp duties and other taxes, charges and liens assessed or charged or assessable or chargeable by, or payable to, any national, Federal, State, Territory or municipal taxation or excise governmental agency, including any interest or fee imposed in connection with any such tax, rates, duties, charges or liens;

'Term' means the period of 3 years from the date of execution of this agreement subject to that period being terminated earlier as provided for under this agreement; and

'Tested Communication' means any form of electronic communication between the Manager and the Custodian by a mechanism agreed between the Custodian and the Manager.

1.2 Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) the *singular* includes the plural and conversely;
- (b) a *gender* includes all genders;
- (c) where a *word or phrase* is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a *person* includes a body corporate, an unincorporated body or other entity and conversely;
- (e) a reference to a *clause or Schedule* is to a clause of or schedule to this agreement;
- (f) a reference to any *party* to this agreement or any other agreement or document includes the party's successors and permitted assigns;
- (g) mentioning anything after *include, includes* or *including* does not limit what else might be included;
- (h) a reference to any *agreement or document* is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this agreement;
- (i) a reference to any *legislation* or to any provision of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it;
- (j) a reference to the Custodian or the Manager includes, where the context permits a reference to their respective officers, employees and agents or any of them;
- (k) a reference to the *knowledge, belief or awareness* of any person in relation to a matter means the knowledge, belief or awareness that the person would have if it had made all reasonable enquiries of others who could reasonably be expected to have information relevant to the matter and, where those enquiries would have prompted a reasonable person to make further enquiries, made those further enquiries; and
- (l) a reference to an accounting term is to be interpreted in accordance with approved accounting standards under the Corporations Law and, where not inconsistent with those accounting standards and that schedule, generally accepted principles and practices in Australia consistently applied by a body corporate or as between bodies corporate and over time.

2. APPOINTMENT OF THE CUSTODIAN

The Manager appoints the Custodian and the Custodian accepts the appointment as the custodian of the Assets on the terms and conditions of this agreement.

3. TERM

3.1 This agreement commences on the date of execution and continues for the Term and thereafter until terminated in accordance with clause 19.

4. RESPONSIBILITIES OF THE CUSTODIAN AS CUSTODIAN

4.1 Having regard to the nature of the Scheme, it is intended that the Custodian's duties will be as follows:

- (a) to enter into contracts to purchase any other land which is to become an Asset in accordance with Proper Instructions;
- (b) to hold the Scheme Property and any other land or other Assets of the Scheme on the Manager's behalf separately from other property of or held by the Custodian (except where segregation of assets is not required by the Corporations Law or as a consequence of any relief from the Corporations Law);
- (c) to open and maintain Bank Accounts including the provision of online viewing access to Bank Accounts to the Manager or authorised Associate in accordance with Proper Instructions;
- (d) in accordance with Proper Instructions, transfer funds for the following purposes:
 - (i) in payment of interest to lenders, directly to those lenders;
 - (ii) distributions to investors; and
 - (iii) expenses of the Scheme, including Manager's fees and Custodian fees,
- (e) to enter into Leases of Land of the Scheme on the Manager's behalf in accordance with Proper Instructions ;
- (f) to comply with ASIC Policy and the Corporations Law applicable to it in the performance of its obligations under this agreement;
- (g) to do such other things as are agreed in writing between the Manager and the Custodian from time to time.

4.2 In carrying out its duties under clause 4.1 and without limiting any other provision of this agreement, the Custodian has the following authority and may exercise the following powers:

- (a) provided the Custodian has given the Manager at least 3 Business Day's written notice (or such shorter period as is reasonable or necessary in the circumstances), the Custodian may appoint or engage at the Manager's expense accountants, auditors, barristers, solicitors, advisers, consultants, brokers, counter parties, couriers or other persons (not being persons appointed under clause 5) where it considers their appointment or engagement reasonably necessary or desirable for the purpose of exercising its powers or performing its duties under this agreement. The Custodian is not liable for any loss, damage or expense suffered or incurred as a result of any act or omission whatever, including a negligent act or omission) of a person appointed or engaged under this clause 4.2(a) but shall only engage persons who hold professional indemnity insurance of an amount and nature reasonably expected to be held by a person performing those duties;
- (b) the Custodian may in the ordinary course of business, without reference to the Manager, effect transactions in which the Custodian has directly or indirectly a material interest, or a relationship of any kind with another person, which may involve a potential conflict of the Custodian's duty to the Manager, and the Custodian is not liable to account to the Manager for any profit, commission or remuneration made or received in relation to those transactions or any connected transactions. A reference in this clause to the Custodian includes a Sub-custodian;
- (c) the Custodian is authorised to comply with any obligation imposed on it by law;
- (d) the Custodian may do any other things which it considers necessary, desirable, incidental to or in furtherance of the matters referred to in this agreement;

- (e) subject to this agreement and the Corporations Law, the Custodian has absolute discretion as to the exercise of all powers, authorities and discretions vested in it under this agreement.

4.3 The responsibilities and obligations of the Custodian under this agreement are subject to the following:

- (a) the services of the Custodian under this agreement are not exclusive. The Custodian is free to provide similar service to others, and is not obliged to disclose to the Manager anything which comes to its notice in the course of providing services to others or otherwise than in the performance of this agreement;
- (b) the Custodian is not obliged to check whether, in exercising any of its powers or performing any of its duties under this agreement in accordance with Proper Instructions, the person issuing the Proper Instructions is acting in proper exercise or performance of his powers or duties;
- (c) the Custodian is not responsible for checking or ascertaining the value of any property or whether the price to be paid for any property is proper or reasonable or whether any transaction which it is instructed to effect accords with the Constitution, compliance requirements, prospectus, product disclosure statement, information memorandum, investment policy or limit for the time being established for or in force in relation to the Scheme;
- (d) the Manager and not the Custodian is responsible for maintaining any and all insurance cover in respect of the Assets;
- (e) only where relevant to the Scheme Property, the Custodian has access and membership to depositories, relevant settlement and clearing systems and domestic custodial networks to discharge its duties and obligations as contained in this agreement; and
- (f) the Custodian is not obliged to take any action in respect of an Asset without receipt of a Proper Instruction.

4.4 The Custodian must hold Assets as follows:

- (a) in the case of Land, unless the Manager agrees otherwise, in its own name as custodian for the Manager who is trustee of the Scheme. To the extent permitted by the relevant Governmental Agency the Custodian must unless the Manager in writing directs otherwise ensure that all Certificates of Title record that the Land in question is held by the Custodian as Custodian of the Scheme;
- (b) in the case of Cash, in Bank Accounts;
- (c) in the case of Securities, in an Account or in its own name. If the Custodian is to hold Securities in its own name it must, to the extent permitted by the issuer of the Security and relevant Government Agencies, ensure that all registers and Certificates of Title record that the Securities are held by the Custodian of the Scheme. In the case of Securities recorded in an Account, ownership must be clearly recorded on the Custodian's books as belonging to the relevant Account and not for the Custodian's own interest; and
- (d) in the case of any other Assets, in such manner approved by the Manager by Proper Instructions.

4.5 Subject to clause 4.6 the Custodian must not effect any transactions involving the Assets unless it has received Proper Instructions and must only give effect to those transactions in accordance with those Proper Instructions.

- 4.6 Unless the Custodian receives Proper Instructions to the contrary the Custodian may:
- (a) make payments to itself or others for minor administrative expenses incurred in handling the Assets or other similar items relating to its duties under this agreement, as long as all such payments are accounted for to the Manager; and
 - (b) endorse for collection cheques, drafts and other negotiable instruments.
- 4.7 On receipt of Proper Instructions, the Custodian will open a Bank Account in accordance with those Proper Instructions.
- 4.8 Unless it received Proper Instructions to the contrary, the Custodian must promptly provide to the Manager all Communications received by the Custodian (or copies of them).
- 4.9 The Custodian will comply with the Standards and the Corporations Law applicable to it in the performance of its obligations under this agreement.
- 4.10 Subject to clause 4.9, the Custodian will enter into Contracts when directed to do so by the Manager in a Proper Instruction.
- 4.11 The Custodian need not enter into a Contract unless and until:
- (a) the Manager's lawyers have provided a certificate to the Custodian upon which the Custodian can rely (in respect of the Contracts, which are contracts for the acquisition and/or sale of Land, security and mortgage documents, leases and service contracts) to the effect that such Contracts are in order and may be signed by the Custodian in reliance of such certificate provided that the Custodian shall have the right (in the Custodian's reasonable opinion) to obtain independent advice (from its lawyers or others) on its obligations under the Contract;
 - (b) the Contract includes the Custodian's standard limitation of liability clause as set out in Schedule 6 (or such other clause as may be acceptable to the Custodian in its absolute discretion) and the Custodian is reasonably satisfied that its personal liability under the Contract is appropriately limited;
 - (c) the Custodian is reasonably satisfied that sufficient funds are available to meet any financial obligation under the Contract; and
 - (d) where the Contract involves the purchase of an interest in land, the Custodian is reasonably satisfied that there is or will be adequate public liability insurance in place in respect of that interest and that, where appropriate, such insurance policies note the interest of the Custodian.

5. SUBCUSTODIANS AND SECURITIES SYSTEMS

- 5.1 The Custodian may, with the Manager's prior approval:
- (a) appoint or remove any Subcustodian, as long as that appointment is permitted by ASIC Policy; or
 - (b) subject to the Corporations Law, participate in (or allow Subcustodians to participate in) any Securities System.
- 5.2 The Custodian remains liable for the acts or omissions of any Subcustodian it appoints. To the extent practicable, each such appointment must be in writing and contain provisions requiring the Subcustodian to:
- (a) acknowledge the provisions of this agreement;

- (a) be on similar terms and conditions to this agreement in relation to those specific duties performed by the Subcustodian; and
- (b) indemnify the Custodian and the Manager on the same terms and conditions as applicable to the Custodian.

6. REPORTING AND RECORDS

- 6.1 The ownership of the Assets (whether held by the Custodian or a Subcustodian or in a Securities System as authorised by this agreement) must be held in accordance with this agreement.
- 6.2 The Custodian must keep accurate and detailed records of all receipts, disbursements and other transactions for each Asset. All Records must be open to inspection during normal business hours by the Manager or the Compliance Committee (or any representative of either the Manager or the Compliance Committee).
- 6.3 Without limiting clauses 6.1 and 6.2, all Records must be kept in the form reasonably requested by the Manager.
- 6.4 The Manager acknowledges that the Custodian has provided a description of the procedures in place to accurately record all Assets, all movements of Assets, pricing and other related core administrative activities to the Manager on or before execution of this agreement. The Custodian must regularly update the Manager with any changes in procedures relevant to it, but no less frequently than every six months.
- 6.5 The Custodian must report to the Manager any known or suspected breaches of the Corporations Law and ASIC Policy as far as they relate to the Custodian's performance of its obligation under this agreement, to the Manager's designated compliance officer as soon as reasonably practicable.

7. REVIEW OF PERFORMANCE OF CUSTODIAN

- 7.1 The Custodian must:
 - (a) allow the Manager to conduct ongoing reviews and monitor the performance of the Custodian to ensure compliance with ASIC Policy and the Corporations Law; and
 - (b) have an organisational structure that supports the segregation of the Assets from other assets held by the Custodian (except where segregation of assets is not required by the Corporations Law or as a consequence of any relief from the Corporations Law).
- 7.2 On reasonable notice being given to the Custodian the Manager may meet with officers of the Custodian at the premises of the Custodian to review the Custodian's operation. The Custodian must provide all reasonable assistance and access to any necessary information or staff to allow the Manager to conduct this review.

8. CLAIMS AND PROCEEDINGS

- 8.1 The Custodian must immediately notify the Manager of any Claim or potential Claim relating to the Assets of which it is notified in writing and give full details of all relevant circumstances.

- 8.2. The Manager will be responsible for managing any Claim of the kind referred to in clause 8.1 (including bringing, defending or settling any proceeding relating to the Claim). However, the Custodian must, at the Manager's expense, provide all information and assistance that the Manager may reasonably require in relation to managing the Claim. The Manager agrees to indemnify the Custodian for providing any information and assistance it reasonably requires in accordance with this clause.
- 8.3 The Custodian agrees to institute and join in legal proceedings in connection with the Assets on Proper Instructions from the Manager where it is necessary for the Custodian to be a party on record in connection with those proceedings for the interests or rights of the owner of the Assets to be protected or enforced provided that the Manager:
- (a) will be responsible for managing the conduct of any such proceedings; and
 - (b) must pay the Custodian's costs in relation to any such proceedings; and
 - (c) must provide regular reports to the Custodian regarding any such proceedings; and
 - (d) must immediately notify the Custodian of any matter of which it becomes aware which might reasonably affect the Custodian, including by the incurring of any liability, the making of any claim, adverse publicity or reputational risk or other like circumstance.

9. REPRESENTATIONS AND WARRANTIES

9.1 The Manager represents and warrants to the Custodian as follows:

- (a) it has the power to enter into and perform its obligations under this agreement and this agreement is binding on it;
- (b) this agreement does not violate any obligation by which the Manager is bound, whether arising by contract, operation of law or otherwise;
- (c) it is authorised to enter into this agreement under the Constitution and by entering into this agreement the Manager is not in breach of any provision of the Constitution;
- (d) the Manager has a valid right of indemnity out of, and lien over, the Assets which extends to meeting the costs incurred by the Custodian under this agreement and the liabilities the Custodian may incur from the proper performance of its responsibilities as Custodian under this agreement;
- (e) the Assets will be sufficient to meet the liabilities the Custodian may incur from the proper performance of its responsibilities as Custodian under this agreement;
- (f) the Manager must give the Custodian notice of any communication from ASIC forthwith upon receipt which relates to the possibility or likelihood of the Manager being suspended or removed in relation to the Scheme or that affect or might affect the Custodian or any of its Sub-custodians in relation to performance of their obligations or exercise of their powers under this agreement or otherwise; and
- (g) the Manager must give the Custodian prompt notice of any alteration to the Scheme constitution, and of all meetings of investors in the Scheme.

9.2 The Custodian represents and warrants as follows:

- (a) it has the power to enter into and perform its obligations under this agreement and this agreement is binding on it;
- (b) it holds such licences and authorities as are necessary to lawfully perform its obligations under this agreement;

- (c) it has access to information sources to inform itself of the status of the Corporations Law, where relevant, at the date of this agreement and any changes thereafter;
- (d) it has and will continue to have net tangible assets of not less than the amount prescribed by ASIC Policy. In accordance with schedule 5, it will notify the Manager annually regarding its compliance with net tangible asset requirements and will notify the Manager if it ceases to comply with this clause;
- (e) it will not claim or grant any Security Interest over any Asset in its favour or in favour of any Subcustodian or creditor of either, except as approved by the Manager under Proper Instructions;
- (f) it will comply with ASIC Policy as it relates to its duties in relation to the Assets;
- (g) this agreement does not violate any obligation by which the Custodian is bound, whether arising by contract, operation of law or otherwise;
- (h) it will at all times have secure computer systems, network capability, data storage and off-site storage facilities capable of handling the record keeping and transaction processes for the Scheme (having regard to the number of transactions) and the capacity to separately identify Scheme Property;
- (i) it will at all times have disaster recovery procedures and back up facilities in place in respect of the Records;
- (j) it will at all times:
 - (i) maintain proper internal control structures and compliance systems that are designed to prevent any material breach of this agreement by the Custodian;
 - (ii) (without limiting paragraph (i) of this clause) ensure the internal controls comply with normal professional standards and requirements of any applicable regulator or industry body; and
- (k) it will provide to the Manager all information that may reasonably be required to explain any Report that the Custodian provides;
- (l) if the Manager reasonably requires (and at the Manager's own cost), it will ensure its auditors provide the Manager with a report as to specific aspects of compliance by the Custodian with its obligations under the agreement;
- (m) at the Manager's request and at the Manager's expense, it will take such action and give the Manager such information or certifications as the Manager reasonably requires to enable the Manager to comply with such obligations under the Corporations Law and any other legislation regulating the conduct of managed funds or under any compliance plan lodged with ASIC and to enable it to comply with any obligation or requirement imposed on the Manager by ASIC or the auditors of the compliance plan of the Scheme;
- (n) the staff of the Custodian have the experience, qualifications, knowledge and skills necessary to perform the duties and obligations of the Custodian pursuant to this agreement. It will undertake adequate ongoing training and educational programs with staff to ensure the staffs knowledge remains at a level necessary for performing all responsibilities assigned.

9.3 The Custodian must not exercise any rights in the nature of a charge, mortgage, lien, or other encumbrance over or in relation to Assets in relation to unpaid Custodian compensation but otherwise the Custodian is entitled to exercise any rights in relation to the Assets of the Scheme available to it at law in the nature of a charge, mortgage, lien or other encumbrance and is additionally granted by this agreement rights of lien and set off against the Assets of the Scheme in relation to any expenses or outlays incurred or arising on account of the Scheme in the proper

performance of the Custodian's powers or duties under this agreement. In the exercise of rights pursuant to this clause, the Custodian may sell any Asset of the Scheme and enforce its rights under this agreement against the proceeds of such sale.

- 9.4 If the Custodian receives Proper Instructions to grant a charge, mortgage, lien or other encumbrance over and in relation to any Assets, the Custodian need only act on those Proper Instructions if it is satisfied that its liability pursuant to such charge, mortgage lien or encumbrance is limited to the Assets available to it pursuant to this agreement in accordance with clause 4.11. In the event that the Custodian has breached a term of this agreement which entitles the Manager to exercise rights against the Custodian, the existence of such rights does not entitle the Manager to prevent the Custodian from relying on the provisions of this agreement to seek indemnification or other rights in order to meet or satisfy any claim or demand made by a third party on the Custodian.

10. LIABILITY AND INDEMNITY

- 10.1 The Custodian agrees to exercise and to procure that its agents and Subcustodians exercise reasonable care and diligence in carrying out the provisions of this agreement.
- 10.2 Subject to the Custodian meeting the requisite standard of care specified in clause 10.1, the Custodian will not be liable to the Manager for any damage, loss or expense resulting from or caused by:
- (a) events or circumstances beyond the Custodian's reasonable control;
 - (b) errors by the Manager in its Proper Instructions to the Custodian;
 - (c) acts, omissions or insolvency of a Securities System approved by the Manager; or
 - (d) complying with a Proper Instruction.
- 10.3 The Custodian indemnifies the Manager or the Scheme for any loss, cost, expense or liability directly incurred by them in connection with or arising from the Custodian's, its Subcustodian's, employee's, officers or agent's performance of, or failure to perform, its obligations under this agreement for which the Custodian is liable under this agreement provided that:
- (a) the liability of the Custodian under this clause 10.3 shall not exceed the amount which the Manager must contribute to the Assets in order to compensate the Scheme for the diminution of the value of any Assets to which the damage or loss relates;
 - (b) the Custodian shall not be liable to indemnify the Manager to the extent that the amount of the loss is greater than it otherwise would have been as a result of any failure by the Manager to act promptly after the occurrence of the events resulting in such damage or loss or otherwise to mitigate the damage or loss; and
 - (c) except as provided in paragraphs (a) and (b), the Custodian is not liable to the Manager or any person for indirect or consequential loss for an amount in excess of the fees it has been paid under this agreement.
- 10.4 If any dispute or conflicting claim is made by any person or persons with respect to any asset in an Account, the Custodian shall be entitled to refuse to act in respect of that asset until either:
- (a) such dispute or conflicting claim has been finally determined by a court of competent jurisdiction or settled by agreement between conflicting parties, and the Custodian has received written evidence satisfactory to it of such determination or agreement; or

- (b) the Custodian has received an indemnity, reasonably satisfactory to it, to hold it harmless from and against any and all loss, liability and expense which the Custodian may incur as a result of its actions.

10.5 The Custodian shall not be responsible for the title, validity or genuineness, including good deliverable form, of any Asset or evidence of title to an Asset.

10.6 The Manager indemnifies and will keep indemnified the Custodian for any action taken or omitted to be taken by it and from all Claims, expenses, demands, damages, losses and liabilities relating to Assets the holding of Assets and the Scheme where the Custodian acts in good faith and without negligence.

11. THE MANAGER'S CAPACITY

If the Manager acts negligently, with wilful misconduct or in breach of trust with a result that:

- (a) its right of indemnity, exoneration or recoupment out of the assets of the Scheme; or
- (b) the actual amount recoverable by it in exercise of those rights,

is reduced in whole or in part or does not exist, then to the extent that such right or the amount so recoverable is reduced or does not exist, the Manager will be personally liable to the Custodian and will indemnify the Custodian in respect of any cause of action, claim or loss arising in relation thereto.

12. SECURITY CODES

If the Custodian has issued to the Manager security codes, passwords or test keys so that the Custodian may verify that certain transmissions of information, including Proper Instructions, have been originated by the Manager, the Custodian will be kept indemnified by and shall not be liable to the Manager for any action taken or omitted by it in reliance upon receipt by the Custodian of transmissions of information with the proper security code, password or test key, including instructions purporting to be Proper Instructions, which the Custodian reasonably believes to be from the Manager.

13. TAX LAW

The Custodian will not be responsible or have any liability for any obligations imposed on the Manager, the Scheme or the Custodian of the Assets by the tax law of Australia or any State or Territory of Australia. The Custodian will be kept indemnified by and be without liability to the Manager for any such obligations including Taxes (but excluding any income taxes assessable in respect of compensation paid to the Custodian pursuant to this agreement), withholding, certification and reporting requirements, claims for exemption or refund, additions for late payment, interest, penalties and other expenses (including legal expenses) that may be assessed against the Manager, the Scheme or the Custodian of the Assets.

14. FEES AND EXPENSES

14.1 The Custodian is entitled to compensation for its services and expenses as described in schedule 2 until different compensation arrangements are agreed between the Manager and the Custodian in writing.

14.2 Save and except for payment of the Custodian's legal fees incurred in establishing the custodianship and an establishment fee as referred to in clause (a) of schedule 2, the Custodian

shall not be entitled to compensation if this agreement is terminated by the Manager pursuant to clause 19.3(g).

15. GST

15.1 Words or expressions used in this clause 15 which are defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) have the same meaning in this clause.

15.2 For the purposes of this agreement where the expression 'GST inclusive' is used in relation to an amount payable or other consideration to be provided for a supply under this agreement, the amount or consideration will not be increased on account of any GST payable on that supply.

15.3 Any consideration to be paid or provided for a supply made under or in connection with this agreement, unless specifically described in this agreement as GST inclusive, does not include an amount on account of GST.

15.4 Despite any other provision in this agreement, if a party ('Supplier') makes a supply under or in connection with this agreement on which GST is imposed (not being a supply the consideration for which is specifically described in this agreement as GST inclusive):

- (a) the consideration payable or to be provided for that supply under this agreement but for the application of this clause ('GST exclusive consideration') is increased by, and the recipient of the supply ('Recipient') must also pay to the Supplier, an amount equal to the GST payable by the Supplier on that supply; and
- (b) the amount by which the GST exclusive consideration is increased must be paid to the Supplier by the Recipient without set off, deduction or requirement for demand, at the same time as the GST exclusive consideration is payable or to be provided.

15.5 If a payment to a party under this agreement is a reimbursement or indemnification, calculated by reference to a loss, cost or expense incurred by that party, then the payment will be reduced by the amount of any input tax credit to which that party is entitled for that loss, cost or expense.

15.6 The Supplier will provide a tax invoice.

16. CONFIDENTIALITY

16.1 Subject to clause 16.3, each party agrees that it will treat as confidential all information provided to it by the other party regarding the other's business and operations.

16.2 Subject to clause 16.3, all such information provided by a party will only be used by any other party for the purpose of giving effect to this agreement and, except as may be required in carrying out this agreement, must not be disclosed to any third party without the prior written consent of the party providing the information.

16.3 The obligations in clauses 16.1 and 16.2 do not apply to any information:

- (a) that is publicly available when provided or which becomes publicly available later (other than through a breach of this agreement); or
- (b) that is required or reasonably requested or required to be disclosed by any bank or other regulatory examiner (including ASIC and the Australian Stock Exchange Limited) of the Custodian, the Manager, or any Subcustodian, any auditor of the parties, by judicial or administrative process or otherwise by applicable law, regulation or the Constitution; or
- (c) (without limiting (a) and (b)) information which in the Manager's reasonable opinion is necessary or desirable that the Manager disclose in a prospectus or like document.

17. INSTRUCTIONS

- 17.1 The Manager will give a notice to the Custodian in the form of schedule 3 specifying the names and specimen signatures of the Manager's persons authorised to give Proper Instructions. The Custodian is entitled to rely upon the identity of those persons or persons or their signatures that reasonably appear to be those persons or their signatures, until it receives written notice from the Manager to the contrary.
- 17.2 The Custodian has no obligation to act in accordance with Proper Instructions to the extent that they conflict with applicable law or regulations. The Custodian will not be liable for any loss resulting from a delay while it obtains clarification of any Proper Instructions if it has sought clarification from the giver of the relevant Proper Instruction immediately upon becoming aware that clarification is required. The Custodian must notify the Manager within a reasonable time of any difficulty it is experiencing in relation to Proper Instructions.
- 17.3 The Manager will only provide Proper Instructions for proper purposes and the Custodian is not under any obligation to verify the purposes or the propriety of any purpose for which any transaction is being effected.
- 17.4 The Custodian is not responsible for any loss or liability suffered or incurred by the Manager to the extent that any such loss or liability is caused by or results from non-receipt of Proper Instructions by the Custodian.

18. NOTICES

- 18.1 Other than Proper Instructions, any demand, consent, notice or other communication authorised or required to be given or made under this agreement must be in writing or by Tested Communication and, if in writing, may be given by facsimile post or hand on the facsimile number or at the address specified in schedule 4 or on another facsimile number or at another address as may be notified by the addressee.
- 18.2 Subject to sub-clause 18.3 a notice:
- (a) given by facsimile shall be deemed to be given on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages, the correct destination facsimile machine number and the result of the transmission as 'OK'. If a notice would be deemed to be given or made after normal business hours of the recipient, the notice is taken to be given on the next following Business Day;
 - (b) sent by prepaid post to have been given where posted to an address in the same country as the sender's on the second Business Day following the day on which it was posted or where posted to an address in another country on the seventh Business Day following the day on which it was posted; and
 - (c) delivered by hand during normal business hours of the recipient on a Business Day is taken to have been given on that day, or in any other case a hand delivery shall be deemed to have been given on the Business Day following the day of delivery.
- 18.3 Despite clause 17.2 any communications received by the recipient after 4.00 p.m. (or such other time as agreed by the parties from time to time) will be taken to have been received on the next Business Day but the Custodian will use reasonable endeavours to process any communication received by it as soon as possible after receipt.

19. TERMINATION

- 19.1 During or after the Term, this agreement may be terminated by either the Manager or the Custodian by notice to the other party, such termination, to take effect 90 days after the date of delivery unless a different period is agreed to in writing by the Manager and the Custodian.
- 19.2 Despite clause 19.1, the Custodian shall not give a Termination Notice unless it shall have notified the Manager at least 7 days beforehand to enable the Manager to make submissions to it before any Termination Notice is given. The rights conferred on the Custodian under this clause are in addition to any rights exercisable by the Custodian under clause 19.3 of this agreement.
- 19.3 Either party may terminate this agreement immediately upon the happening of one or more of the following events:
- (a) the making of any agreement for the sale of shares in the other party entitling the incoming shareholder to cast, or control the casting of, more than one-half of the maximum number of votes that might be cast at a general meeting of that other party;
 - (b) the other party ceases or threatens to cease to carry on business and does not assign or novate its rights and obligations under this agreement to an Associate;
 - (c) the other party goes into liquidation, receivership or voluntary administration or an official manager or administrator is appointed with respect to its undertaking, property or assets, or any part of them;
 - (d) the other party commits a significant and material breach of this agreement which is not remedied by that other party within 10 Business Days (or such longer period agreed between the parties) of it being required to do so;
 - (e) the other party enters into an arrangement or composition with any of its creditors or proposes to do so;
 - (f) the making of an order or the passing of a resolution for the winding up of the other party, or if a petition for such order is presented or a meeting is convened for the purposes of considering such a resolution unless the winding up is for the purpose of a reconstruction or an amalgamation; or
 - (g) subject to the rights of the Custodian to receive payment of legal fees and establishment fees pursuant to clause 14.2 of this agreement, if the contract for the purchase of the proposed Scheme Property is not completed as a result of the termination by either the vendor or the purchaser or lapse for failure of any relevant conditions.
- 19.4 The provisions of clauses 9, 10, 11, 13, 15, 19.5, 19.6, 19.7, 19.8 and 19.9 of this agreement are continuing obligations and will survive termination of this agreement for any reason.
- 19.5 Upon termination of this agreement:
- (a) the Custodian must report to the Manager on all matters then outstanding;
 - (b) upon receiving the Custodian's report the Manager must pay to the Custodian upon demand such compensation as may be due as of the date of such termination; and
 - (c) the provisions of clauses 19.6 to 19.9 (inclusive) will apply to regulate the delivery up by the Custodian of Assets (including Assets held by any Subcustodian or in a Securities System).
- 19.6 If a successor custodian is appointed by the Manager, the Custodian must as soon as practicable and, in any case, within a reasonable time after termination, deliver to the successor custodian, its agents or Subcustodians or as otherwise agreed, duly endorsed and in a form suitable for transfer (together with, where relevant, signed instruments of transfer), all Assets then held by it under

this agreement and must transfer to any account of the successor custodian nominated in writing by the successor custodian all of the Manager's Securities held in a Securities System.

- 19.7 Subject to clause 19.8, if no such successor custodian is appointed the Custodian must, in like manner, upon receipt of Proper Instructions from the Manager, deliver and transfer such Assets as directed.
- 19.8 Where the agreement is terminated the Custodian or Subcustodian will continue to hold Assets of the Scheme until the Manager appoints a new custodian.
- 19.9 If no successor custodian is appointed by the Manager within 30 days of termination of the agreement and no Proper Instructions are received from the Manager after the Custodian has taken reasonable steps to obtain such Proper Instructions, the Custodian may:
- (a) at its discretion deliver the Assets, and Records of the Scheme to a bank or other trust company doing business in Australia (and the Manager appoints the Custodian as its attorney to give effect to such delivery), to be held and disposed of in accordance with the terms of this agreement so long as:
 - (i) the Custodian gives notice of the identity of the bank or trust company to the Manager before any such delivery occurs; and
 - (ii) the Custodian is reasonably satisfied that any such bank or trust company fulfils the requirements of the Corporations Law and ASIC Policy relating to those who hold property of a registered scheme;
 - (b) continue to hold the Assets until Proper Instructions are received on the basis that the Custodian's obligations during that period will be limited to safekeeping of the Assets; or
 - (c) at its discretion but subject to ASIC Policy deliver the Assets and Records of the Scheme to either the Manager or a liquidator, receiver, administrator or official manager or administrator appointed with respect to the Manager (and the Manager appoints the Custodian as its attorney to give effect to such delivery).
- 19.10 Subject to clause 19.8, if Assets remain in the possession of the Custodian, its agents or its Subcustodians after the date of termination of this agreement owing to failure of the Manager to appoint a successor custodian or to give the Proper Instructions referred to in clause 19.6 or 19.7, the Custodian will be entitled to fair compensation for its services during the period the Custodian retains possession of the Assets.

20. INSURANCE

The Custodian must, throughout the term of this agreement, effect and maintain at its own expense professional indemnity and fraud insurance cover to the reasonable satisfaction of the Manager which covers claims up to, and in aggregate, \$5 million. The Custodian must furnish to the Manager upon request confirmation that it holds the insurance required under this clause.

21. AMENDMENT

This agreement may be amended only by another agreement executed by the parties.

22. GOVERNING LAW

This agreement is governed by the laws of Queensland. The parties submit to the non-exclusive jurisdiction of courts exercising jurisdiction there.

23. ASSIGNMENT

The rights and obligations of each party under this agreement are personal. They cannot be assigned, charged or otherwise dealt with, and neither party shall attempt or purport to do so, without the prior written consent of the other.

24. STAMP DUTY AND COSTS

The Manager is responsible for all costs arising out of the preparation of this agreement and the Manager shall bear any stamp duty (including any fines and penalties) chargeable on this agreement and any instrument entered into under this agreement. The Manager must indemnify the Custodian on demand against any liability for that stamp duty (including fines and penalties).

25. FORCE MAJEURE

25.1 Where a party is unable, wholly or in part, because of anything which is not reasonably within its control other than lack of funds ('force majeure') to carry out any obligation under this agreement, and it:

(a) gives the other party prompt notice of that force majeure with reasonably full particulars and, in so far as known, the probable extent to which it will be unable to perform or be delayed in performing that obligation; and

(b) uses all reasonable endeavours to remove that force majeure as quickly as possible, that obligation is suspended so far as it is affected by the continuance of that force majeure. Any obligation to pay money is not excused by force majeure, save for any obligation of the Custodian to pay money where the Custodian is entitled to an indemnity from the Manager under this agreement in relation to the Assets and there is insufficient money in the Scheme to pay such money.

26. DISPUTE RESOLUTION

Where there is a dispute between the Custodian and the Manager in relation to any matter under this agreement, then any party may refer the matter for decision to an independent expert agreed to by the parties. The costs of the appointment of the expert shall be borne equally by the parties. The costs incurred in the determination of the matter by the expert shall be borne by the party or the parties as determined by the expert. The decision of the expert shall be final and binding on the parties.

27. COUNTERPARTS

This agreement may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one agreement.

28. ENTIRE AGREEMENT

This agreement contains all the contractual arrangements of the parties with respect to the transactions to which it relates. It supersedes all earlier conduct by the parties with respect to those transactions.

SCHEDULE 1
Scheme

Leyshon Group Development Property Trust ARSN []

SCHEDULE 2

Schedule of fees (clause 14)

1. An upfront establishment fee of \$3,500 (GST exclusive) is payable on execution of this agreement, together with the Custodian's reasonable legal expenses for preparing and settling this agreement, and reviewing the disclosure document, plus costs of preparing and settling the Scheme documentation.
2. An ongoing administration fee of \$20,000 (GST exclusive) payable to the Custodian on the basis of minimum monthly payments of not less than \$1,666.66 (GST exclusive). This fee will be revised upon the acquisition of any further Assets by the Scheme or at the time a new offer document is in issue.
3. A transaction fee of \$10.00 (GST exclusive) for each transaction in relation to the Scheme for the first 10 transactions per month. Each transaction in excess of the first 10 transactions per month will attract a fee of \$50.00 (GST exclusive) per transaction.
4. A distribution payment fee of \$150.00 (GST exclusive) will be payable for each direct entry file that is run from any account held by the Custodian in relation to the Scheme. The distribution payment fee is also payable if the Custodian is required to re-run the direct entry file during the month.
5. Other reasonable expenses including but not limited to:
 - (a) legal expenses;

The Custodian is to have discretion as to the appointment of his solicitor who may be the Official Solicitor to the Public Trustee. The Official Solicitor will charge a competitive commercial rate for any additional activity beyond the parameters of this quote, including the review of leases for execution. The Official Solicitor's currently hourly rate is \$225 (\$247.50 GST inclusive) per hour.
 - (b) all outlays including costs payable to any other organisation included as part of the Scheme;
 - (c) expenses incurred in relation to the administration of the loan;
 - (d) bank and transaction fees incurred;
 - (e) bank account establishment fees;
 - (f) any fees and charges directly incurred; and
 - (g) the costs of installing or adopting specific software, processes or procedures specifically requested by the Manager.

On each anniversary of the Commencement Date the fees listed in 2 to 5 (inclusive) above will be varied in accordance with the following formula.

$$P = \frac{A \times B}{C}$$

Where:

'P' means the First Annual Payment or the Annual Payment where relevant payable for the following Year;

'A' means the First Annual Payment or the Annual Payment payable where relevant for the Year just ended;

'B' means the Index Number last published before the expiration of the Year just ended; and

'C' means the Index Number last published before the commencement of the Year just ended.

If the Index Number is the quarterly Consumer Price Index Brisbane All Groups number published by the Australian Bureau of Statistics and that Index Number is revised or corrected by the Australian Bureau of Statistics after the Annual Payment has been calculated, then that Annual Payment shall be revised in accordance with the revised or corrected Index Number. If the Annual Payment has been paid, then a cash adjustment shall be made between the parties, within 14 days of the revision or correction, as required.

In this schedule 2, the following definitions apply:

'First Annual Payment and Annual Payment' means the annual fees specified in this schedule 2 as varied from time to time in accordance with clause 14 of the provisions of this agreement;

'Commencement Date' means the date of commencement under clause 3 of this agreement;

'GST' means GST as defined in the GST Act;

'GST Act' means A New Tax System (Goods & Services Tax) Act 1999, as amended;

'Index Number' means:

- (a) the quarterly Consumer Price Index Brisbane All Groups number published by the Australian Bureau of Statistics; or
- (b) if the quarterly Consumer Price Index Brisbane All Groups number published by the Australian Bureau of Statistics is suspended or discontinued or the basis of calculating that index is changed substantially, the index published at the Commencement Date and at the time of variation of the Annual Payment by the Australian Bureau of Statistics which reflects fluctuations of the cost of living in Brisbane, which shall be:
 - (i) as agreed by the parties; or
 - (ii) if the parties are unable to agree within 14 days after one of the parties proposes an index, as may be determined, at the request of any party, by a suitably qualified person nominated by the President of the Australian Institute of Valuers, whose determination shall be final and binding on the parties (and whose cost shall be shared by the parties equally). In making the determination, the person shall act as an expert and not as an arbitrator; and

'Year' means each period of 12 months commencing on and from the Commencement Date.

SCHEDULE 3

Incumbency Certificate (clause 17)

Leyshon Corporation Limited (*the Manager*) certifies that the persons whose names appear below are authorised to give Proper Instructions:

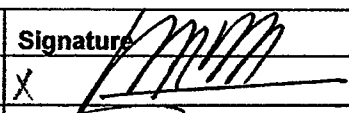

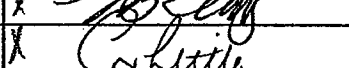
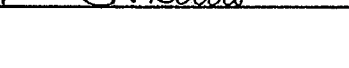
- (a) payment Authorisers in respect of instructions for payment out of Scheme Property; and
- (b) document Authorisers in respect of instructions for signing on behalf of the Manager all notices, certificates and other documents,

required by or contemplated under the Custody Agreement between Leyshon Corporation Limited and The Public Trustee of Queensland, dated 1 9 June 2004].

The Manager further certifies that the true signature of each person is shown below opposite his name, and that the Custodian may rely upon this certificate until such time as it receives another certificate bearing a later date.

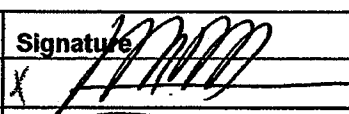

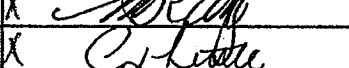
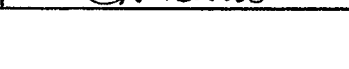
A. Payment Authorisers

Any two of the following officers:

Officer	Name	Signature
Director	Geoffrey Michael McMahon	X 
Director	William Gerard Collins	X 
Director	Michael O'Reilly	X 
Company Secretary	Christina Natalie Little	X 

B. Document Authorisers

Any two of the following officers:

Officer	Name	Signature
Director	Geoffrey Michael McMahon	X 
Director	William Gerard Collins	X 
Director	Michael O'Reilly	X 
Company Secretary	Christina Natalie Little	X 

FOR AND ON BEHALF OF LEYSHON CORPORATION LIMITED

X 

(Director)

X 

(Director/Company Secretary)

Date 9 June 2004

SCHEDULE 4

Address for service (clause 18.1)

Leyshon Corporation Limited ACN 090 257 480

Attention: Christina Natalie Little (Company Secretary)

Address: Level 4
10 Felix Street
BRISBANE QLD 4000

Facsimile No: (07) 3003 0122

Telephone: (07) 3004 1222

The Public Trustee Of Queensland ABN 12 676 939 467

Attention: Frank Prostamo

Address: Level 10
Trustee House
444 Queen Street
BRISBANE QLD 4000

Facsimile No: (07) 3213 9150

Telephone: (07) 3213 9440

SCHEDULE 5

Reports (clause 6)

Monthly (within 5 Business Days of the end of the month)

In respect of all Assets held by the Custodian or by a Sub-custodian:

1. A list of any changes to the Assets of the Scheme held in the name of the Custodian on behalf of the Manager (except where the Manager receives any of this information directly from the bank which holds the Scheme accounts in which case the Custodian is only required to provide confirmation regarding the bank accounts held but not their balances).
2. A list of any cheques cancelled or dishonoured direct debits during the month (except where the Manager receives this information directly from the bank which holds the Scheme accounts).
3. Bank Account reconciliation.

Proper Instructions

4. A list of all documents executed by the Custodian on behalf of the Scheme.

Correspondence

5. Except in relation to correspondence between the Manager and Custodian, a list or copies of any correspondence received by the Custodian in respect of the Scheme.

Six monthly (within 30 days of the end of the Scheme' financial year and half-year)

6. Clause 6.4.

Annually

7. Clause 9.2(d)

SCHEDULE 6

Limitation of Liability Clause (clause 4.11(c))

1 Custodian's limitation of liability

- 1.1 The Custodian enters into this contract as custodian and agent of the Responsible Entity as trustee of the Trust and in no other capacity.
- 1.2 The parties other than the Custodian acknowledge that the Obligations are incurred by the Custodian solely in its capacity as custodian of the Assets and as agent of the Responsible Entity and that the Custodian will cease to have any obligation under this contract if the Custodian ceases for any reason to be Custodian of the Assets.
- 1.3 Subject to clause 1.9, the Custodian will not be liable to pay or satisfy any Obligations except to the extent to which it is indemnified by the Responsible Entity or except out of the Assets against which it is entitled to be indemnified in respect of any liability incurred by it. The obligation of the Responsible Entity to indemnify the Custodian and the right of the Custodian to be indemnified out of the Assets are limited.
- 1.4 Subject to clause 1.9, the parties other than the Custodian may enforce their rights against the Custodian arising from non-performance of the Obligations only to the extent of the Custodian's indemnity as provided above in clause 1.3.
- 1.5 Subject to clause 1.9, if any party other than the Custodian does not recover all money owing to it arising from the non-performance of the Obligations it may not seek to recover the shortfall by:
 - (a) bringing proceedings against the Custodian in its personal capacity; or
 - (b) applying to have the Custodian wound up or proving in the winding up of the Custodian.
- 1.6 Subject to clause 1.9, the parties other than the Custodian waive their rights and release the Custodian from any personal liability whatsoever, in respect of any loss or damage:
 - (a) which they may suffer as a result of any:
 - (i) breach by the Custodian of any of its Obligations; or
 - (ii) non-performance by the Custodian of the Obligations; and
 - (b) which cannot be paid or satisfied from the indemnity set out above in clause 1.3 in respect of any liability incurred by it.
- 1.7 The parties other than the Custodian acknowledge that the whole of this contract is subject to this clause and, subject to clause 1.9, the Custodian shall in no circumstances be required to satisfy any liability arising under, or for non-performance or breach of any Obligations under or in respect of, this contract or under or in respect of any other document to which it is expressed to be a party out of any funds, property or assets other than to the extent that this Contract requires satisfaction out of the Assets under the Custodian's control and in its possession as and when they are available to the Custodian to be applied in exoneration for such liability.

- 1.8 The parties agree that no act or omission of the Custodian (including any related failure to satisfy any Obligations) will constitute fraud, gross negligence or wilful default of the Custodian for the purposes of this clause to the extent to which the act or omission was caused or contributed to by any failure of the Responsible Entity or any other person to fulfil its obligations relating to the Trust or by any act or omission of the or any of their respective agents or contractors (other than the Custodian or its agents or contractors).
- 1.9 The provisions of clause 1.3 to 1.7 do not apply in the case of and to the extent of any fraud, gross negligence or wilful default on the part of the Custodian under its custody agreement with the Responsible Entity. In no circumstances, however, will the Custodian be personally liable for any indirect, incidental, consequential or special damages (including, without limitation, lost profits) of any form incurred by any person or entity, whether or not foreseeable and regardless of the type of action in which such a claim may be brought.
- 1.10 No attorney, agent or other person appointed in accordance with this contract has authority to act on behalf of the Custodian in a way which exposes the Custodian to any personal liability and no act or omission of such a person will be considered fraud, gross negligence or wilful default of the Custodian for the purposes of clause 1.9.
- 1.11 In this clause 1:
- (a) 'Obligations' means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Custodian under or in respect of this contract;
 - (b) 'Assets' includes all assets, property and rights real and personal of any value whatsoever of the Trust;
 - (c) 'Responsible Entity' means Leyshon Corporation Limited ACN 090 257 480 or any replacement responsible entity of the Trust from time to time; and
 - (d) 'Trust' means the Leyshon Group Development Property Trust ARSN [].

EXECUTED as an agreement in Queensland

For and on behalf of
LEYSHON CORPORATION LIMITED
ACN 090 257 480



Signature

Geoffrey Michael McMahon

Print Name

Signature

Christina Natalie Little

Print Name

Office Held

DIRECTOR

Office Held

COY SECRETARY

SIGNED as a delegate of THE PUBLIC
TRUSTEE OF QUEENSLAND
ABN 12 676 939 467 under section 11A of the
Public Trustee Act 1978 by Ian Donald Cameron
Kelly, acting/Director Business Services who has
caused the seal of the Public Trustee of
Queensland to be affixed in the presence of:

Signature of witness

Name of witness (print)

Signature of Ian Donald Cameron Kelly