

SCHEDULE 6

DEED OF LEASE

LEASE INSTRUMENT
Section 91 Land Transfer Act 2017



Record of Title (unique identifier)	All/part	Area/Description of part
	All	Principal Unit Deposited Plan 569303 [and Accessory Unit Deposited Plan 569303]

Lessor

Red Stag Investments Limited

Lessee

THC Group Limited

Estate or Interest

Insert "fee simple", "leasehold in lease number ", etc.

Stratum in Freehold

Lease Memorandum Number (if applicable)

N/A

Term

See Annexure Schedule

Rental

See Annexure Schedule

Lease and Terms of Lease

If required, set out the terms of lease in Annexure Schedules

~~The Lessor leases to the Lessee and the Lessee accepts the lease of the above Estate or Interest in the land in the affected record of title for the Term and at the Rental and on the Terms of Lease set out in the above Lease Memorandum or in the Annexure schedule(s) (if any)~~
See Annexure Schedule

2015/5049
APPROVED
Registrar-General of Land

Insert instrument type

[Empty box for instrument type]

Continue in additional Annexure Schedule, if required

**Memorandum of Lease
(Apartment)**

The Lessor: Red Stag Investments Limited ("Landlord")
The Lessee: THC Group Limited ("Tenant")

Schedule A

The Apartment:
An estate in stratum in freehold and all that parcel of land being Principal Unit Deposited Plan 569303 [and Accessory Unit Deposited Plan 569303] contained in Record of Title , Canterbury Registry, subject to such encumbrances, restrictions, covenants, liens and interest as are described on the Record of Title.

Term: As set out in the First Schedule
Term Commences on: As set out in the First Schedule
Rent: As set out in clause 1 of Schedule B

Operative Clause

1. The Lessor:
 - a. Is the registered proprietor of the Apartment described in Schedule A;
 - b. Leases the apartment to the Lessee for the Term at the Rent (all described in Schedule A) subject to the covenants, conditions, and restrictions set out in this Lease, including those contained in Schedule B, the First Schedule, the Second Schedule, the Third Schedule, the Fourth Schedule and the Fifth Schedule.
2. The Lessee accepts this Lease to be held by the Lessee as the lessee subject to the conditions, restrictions and covenants as set out in this Lease, including those contained in Schedule B, the First Schedule, the Second Schedule, the Third Schedule, the Fourth Schedule and the Fifth Schedule.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

SCHEDULE B

1. RENT

1.1 Subject to the terms of this Lease, the Rent will be calculated and the Tenant must pay the Rent to the Landlord in the manner set out in the Second Schedule in respect of the period from the Commencement Date to the end or earlier termination of the Term, whichever is the earlier.

1.2 The Rent will be calculated monthly in arrears.

2. ANCILLARY SERVICES

2.1 Subject to the terms of this Lease, the Ancillary Services Rent will be calculated and the Tenant must pay the Ancillary Services Rent to the Landlord in the manner set out in the Third Schedule in respect of the period from the Commencement Date to the end or earlier termination of the Term, whichever is the earlier.

2.2 The Ancillary Services Rent payable to the Landlord in respect of any other Ancillary Services agreed pursuant to clause 44.1(b)(vi) will be agreed between the Landlord and the Tenant on a case by case basis and recorded as a variation of this Lease.

3. IMPREST ACCOUNT

3.1 An Imprest Account system will be operated by the Tenant pursuant to which:

a. all payments due by the Tenant to the Landlord under this Lease shall be deposited to the Imprest Account; and

b. subject to the provisions of clause 4.4 below, the Rent, Ancillary Services Rent and any surplus balance in the Imprest Account will be paid by the Tenant to the Landlord:

i. no later than on the twentieth (20th) day of the month following the end of the preceding month; or

ii. otherwise by agreement,

by direct payment to the Landlord (or as the Landlord directs) without deduction other than as set out in this Lease.

4. OUTGOINGS

4.1 The Landlord will be responsible for the payment of all Apartment Outgoings which are specified in the Fourth Schedule.

4.2 The Tenant will be responsible for the payment of all Hotel Outgoings which are specified in the Fifth Schedule.

4.3 The Outgoings shall be paid promptly as and when they fall due or are otherwise due for payment.

4.4 Notwithstanding the provisions of this clause 4:

- a. If, in the Tenant's reasonable opinion, the Landlord's failure to pay any of the Apartment Outgoings by the due date for payment is negatively affecting the Tenant's ability to carry on the Business Use, the Tenant may from time to time elect to manage the collection and payment of the Apartment Outgoings for the Apartment.
 - i. The Tenant will be entitled to deduct from the Imprest Account such amounts required to pay the Apartment Outgoings from time to time together with such fees and charges as are reasonable to recover its costs and expenses of and incidental to making such payments; and
 - ii. The Tenant will be entitled to levy from the Landlord any amounts by which the Apartment Outgoings from time to time exceed the Rent and the Landlord will pay such amounts to the Imprest Account within seven (7) days; and
 - iii. The Tenant will not be responsible for the payment of Apartment Outgoings other than those for which a deduction from the Imprest Account has been made or payment received from the Landlord in accordance with this clause; and
 - iv. The Tenant may elect at any time and from time to time to cease or recommence collection and payment of the Apartment Outgoings.
- b. If for any reason the Landlord fails to pay any of the Apartment Outgoings by the due date for payment during any period when the collection and payment of Apartment Outgoings is not otherwise managed by the Tenant, the Landlord irrevocably authorises the Tenant (in its discretion) to pay any Apartment Outgoings in the Fourth Schedule which have not been paid from the Imprest Account that would otherwise be due to the Landlord without being required to account to the Landlord in respect of those payments. Payments shall then be made by the Tenant to the person entitled or to whom payments should be made. In any such case, the Tenant shall also be entitled to deduct from the Imprest Account such fees or charges as shall be reasonable to recover its costs and expenses of and incidental to making such payments.

5. **GOODS AND SERVICES TAX**

- 5.1 The Rent and Ancillary Services Rent paid to the Landlord shall be plus Goods and Services Tax.
- 5.2 The Landlord shall pay to the Tenant, or as the Tenant shall direct, the Goods and Services Tax in respect of any payments or amounts due to the Tenant, such Goods and Services Tax to be paid in addition to the payment or amount due to the Tenant from time to time.
- 5.3 If the Landlord shall make default in making any payment to the Tenant and the Tenant becomes liable to pay additional Goods and Services Tax or any interest or penalties, then the Landlord shall upon demand pay to the Tenant all additional Goods and Services tax, interest or penalties.

6. **INTEREST OR UNPAID MONEY**

Subject to the provisions of this Lease, if the Tenant defaults in payment of the Rent and/or Ancillary Services Rent for twenty one (21) days after the due date for payment then the Tenant shall on demand pay interest at the Default Interest rate specified in the First Schedule on the moneys unpaid from the due date for payment down to the date of payment.

7. **COSTS**

Each party shall meet its own costs of and incidental to the preparation of this Lease, and any variation of this Lease.

8. **FURNITURE, FITTINGS AND OTHER PROPERTY**

8.1 To ensure that the Tenant can operate its business of managing and leasing the Apartment for the Business Use and that the Apartment is able to be marketed and leased by the Tenant as high quality serviced accommodation, the Landlord (at its cost in all matters) shall:

- a. ensure that at the commencement of this Lease the Apartment is fully furnished with furniture, furnishings and other chattels and property and that the Apartment has been completed and finished in the manner and to the standard that would normally be observed in a five (5) star or high quality serviced accommodation; and
- b. at any time other than during periods of Additional Landlord Occupancy, keep and maintain the furniture, furnishings, chattels and fittings of or in the Apartment to such a standard and with all the necessary furniture, furnishings and chattels as would normally be observed in a five (5) star or high quality serviced accommodation and replace such furniture, furnishings, chattels and fittings as may be required from time to time to maintain the required standard.

8.2 If the Tenant determines that the furniture, furnishings, chattels and fittings of or in the Apartment are not of a satisfactory standard in accordance with clause 8.1, the Tenant may decline to offer the Apartment for the Business Use until such time as the Landlord has complied with clause 8.1.

8.3 Without limiting the Landlord's obligations under this Lease, the Tenant may in its sole discretion and without notice to the Landlord apply the Furniture, Fitout and Equipment Levy described in clause 44.1(f) towards the cost of:

- a. meeting, on behalf of the Landlord, the obligations of the Landlord under this clause 8 and under clause 10; and/or
- b. meeting, on behalf of the landlords of other Apartments in the Hotel complex, the similar obligations of those landlords under their respective leases; and/or
- c. any other purpose consented to by the Landlord.

9. **RUBBISH REMOVAL**

The Tenant shall regularly cause all rubbish and garbage to be removed from the Apartment and will keep any rubbish bins or containers in a tidy condition other than at times when the Landlord is in occupation of the Apartment in accordance with clause 33.

10. **MAINTENANCE AND CARE OF APARTMENT**

10.1 The Landlord shall in a proper and workmanlike manner and at its cost in all matters:

a. **Maintain the Apartment**

During any period during which the Landlord has not exercised Additional Landlord Occupancy rights, and to the extent any Furniture, Fittings and Equipment Levy account collected pursuant to clause 1(i) of the Second Schedule is insufficient to cover such expenses, the Landlord shall keep and maintain the interior of the Apartment, including the landlord's fixtures, fittings and chattels in the same good order repair and condition as they were in at the commencement of the Lease.

b. **Repair minor breakages**

Repair all glass breakages and breakage or damage to all doors, windows, light fittings and power points of the Apartment and shall keep that portion of the electrical system of the Apartment from the switchboard of the Apartment to all power outlets in good operating condition.

c. **Painting**

Paint and decorate those parts of the interior of the Apartment which have previously been painted and decorated when the same reasonably require repainting and redecoration, in consultation with the Tenant as to what will make the Apartment more tenatable.

d. **Floor Coverings**

Keep all floor coverings in the Apartment clean and replace all worn or damaged floor coverings with floor coverings of a similar quality, in consultation with the Tenant as to what will make the Apartment more tenatable.

e. **Make good defects**

Make good any damage to the Apartment caused by improper careless or abnormal use.

10.2 The Landlord shall (at its cost in all matters) keep and maintain the exterior and roof of the Apartment, all building services (if any) and all yards, grounds, paths, driveways, gardens and sealed or paved areas in good order and repair but the Landlord shall not be liable for any:

- a. want of repair or defect in respect of building services (if any) so long as the Landlord is maintaining a service maintenance contract covering the work to be done;

- b. repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the Apartment; or
- c. loss suffered by the Tenant arising from any want of repair or defect unless the Landlord has received notice in writing thereof from the Tenant and has not within a reasonable time thereafter have taken appropriate steps to remedy the same.

10.3 The Landlord shall keep and maintain service maintenance contracts for lifts (if any), and, at the Landlord's option, any other building services.

10.4 The Tenant shall make reasonable efforts to ensure that all toilets, sinks and drains shall be used for their designed purpose only and no substance or matter shall be deposited in them which could damage or block them.

10.5 **Notification of Defects**

The Tenant shall give to the Landlord prompt notice of any accident to or defect in the Apartment of which the Tenant may be aware, and in particular in relation to any pipes or fittings used in connection with the water, electrical, gas or draining services.

10.6 **Repairs**

Other than during periods of Additional Landlord Occupancy, the Tenant shall be entitled to make repairs to the Apartment and on-charge such repairs to the Landlord **PROVIDED THAT** for any amount over five hundred dollars (\$500.00) the Tenant shall first obtain the Landlord's consent in writing before authorising such repairs. The aforementioned threshold amount of five hundred dollars (\$500.00) shall be adjusted by the annual adjustment in the Consumers Price Index published by Statistics New Zealand after the end of the December quarter of each year during the Term of this Lease.

11. **LANDLORD'S RIGHTS OF INSPECTION**

The Landlord and the Landlord's employees, contractors and invitees may at all reasonable times (but subject to any occupation rights of persons to whom the Apartment may be let at the time and after obtaining the consent of the Tenant) enter upon the Apartment to view their condition.

12. **ACCESS FOR REPAIRS**

12.1 The Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times to enter the Apartment to carry out repairs to the Apartment or adjacent premises and to install, inspect, repair, renew or replace any services where the same are not the responsibility of the Tenant. All such repairs, inspections and work are to be carried out;

- a. with the least possible inconvenience to the Tenant; and
- b. subject to any occupation rights of persons to whom the Apartment may be let at the time.

13. FURNITURE, FURNISHINGS AND CHATELS

13.1 Other than during periods of Additional Landlord Occupancy, in consideration of the sum of one dollar (\$1.00) paid by the Tenant to the Landlord, the Landlord acknowledges that during the Term the Tenant shall have the exclusive right;

- a. to use all the fittings, fixtures, furniture, furnishings, chattels and other property of the Landlord in or on the Apartment from time to time (other than personal items of the Landlord that the Landlord may bring onto the Apartment if it is occupying the Apartment on a temporary basis); and
- b. to allow guests and others occupying the Apartment as part of the Tenant's business or from time to time to have the use and enjoyment of such property during such time or times as they occupy the Apartment.

13.2 The Tenant acknowledges that at the Commencement Date all chattels and furniture in the Apartment are the property of the Landlord.

14. LANDLORD'S WARRANTIES AS TO TITLE

14.1 The Landlord warrants that it has the legal and beneficial ownership of the Apartment and all the chattels, furniture, fixtures and furnishings located therein from time to time and that the interest of the Tenant under this Lease shall not be subject or subordinate to:

- a. any ground or underlying leases, mortgages, deeds of trust, security agreement or other encumbrances affecting the Apartment or the furniture, furnishings or chattels therein; or
- b. any matters affecting title to the Apartment which may affect the operation of the Tenant's business.

USE OF APARTMENT

15. BUSINESS USE

15.1 The Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the Apartment to be used for any use other than the Business Use specified in the First Schedule. The Landlord's consent shall not be unreasonably or arbitrarily withheld in respect of any proposed use which:

- a. is reasonably suitable for the Apartment; and
- b. conforms with all town planning ordinances, provisions and consents.

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the Apartment, the Landlord may, as a condition of granting consent, require the Tenant to pay the increased or extra premium.

15.2 If any change in use requires compliance with Sections 114 and 115 of the Building Act 2004 the Landlord, as a condition of granting consent, may require the Tenant to comply with Section 46 of the Act and to pay all compliance costs.

15.3 The Tenant shall at its own expense maintain an office at a central location convenient to the Apartment and shall maintain a central telephone system linking each Apartment and the office. The Tenant shall at its own expense provide security.

16. **NEGLECT OF OTHERS**

16.1 The Landlord shall not be responsible to the Tenant for any act of default or neglect of any other tenant, owner or occupier of the Hotel.

16.2 The Tenant shall be responsible to the Landlord for any act of default or neglect or any damage caused to the Apartment or any property of the Landlord or to the Hotel by any person being a guest or invitee of the Tenant.

17. **SIGNAGE**

Other than during periods of Additional Landlord Occupancy, the Landlord authorises the Tenant to the fullest extent possible to affix, paint or exhibit any name, sign, name-plate, signboard or advertisement of any description relating to or describing the Tenant's business on or to the exterior of the Apartment or in or outside the Apartment.

18. **ADDITIONS AND ALTERATIONS**

The Tenant shall neither make nor allow to be made any alterations or additions to any part of the Apartment without the prior written consent of the Landlord. The Tenant, when undertaking any "building work" to the Apartment (as that term is defined in the Building Act 2004 for which the Tenant may be responsible), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act. Notwithstanding the foregoing or any other provision in this Lease, the Tenant shall neither make nor allow any alterations or additions to the Apartment at any time when the Landlord is in occupation of the Apartment in accordance with clause 33.

19. **COMPLIANCE WITH STATUTES AND REGULATIONS**

19.1 Subject to the provisions of this Lease, the Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the Business Use of the Apartment by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any Local or Regional Authority in respect of the Apartment or their use by the Tenant or other occupant **PROVIDED THAT:**

a. The Tenant shall not be required to make any structural repairs or alterations other than those required by reason of the particular nature of the business carried on by the Tenant or other occupant of the Apartment or the number or sex of persons employed on the Apartment.

b. The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the Apartment.

19.2 If the Landlord is obliged by any such legislation to expend moneys on any improvement, addition or alteration to the Apartment then the Landlord shall be entitled to charge in addition to the rent an annual sum equal to the Improvements Rent Percentage as specified in the First Schedule of the amount so expended by the Landlord and the payments of rent

shall increase accordingly from the first day of the month in which such improvement, addition or alteration is completed. If the Landlord would be obliged to expend an unreasonable amount, then the Landlord may determine this Lease and any dispute as to whether or not the amount is unreasonable shall be determined by arbitration.

19.3 Except where they are inconsistent with this Lease, the Tenant shall comply with the Landlord's obligations under the Constitution (excluding any obligation of the Landlord to pay money under the Constitution) in so far as those obligations are reasonably able to be performed by the Tenant and shall require that all guests of the Apartment comply with such obligations. The parties acknowledge that this clause is inserted for the benefit of the Owners Society.

19.4 The Tenant acknowledges the Encumbrance that the Landlord has entered (as such term is defined in clause 4.2(a) of the Constitution) as noted on the Landlord's title to the Apartment.

20. **NO NOXIOUS USE**

The Tenant shall not:

- a. bring upon or store within the Apartment, nor allow to be brought upon or stored within the Apartment any machinery, goods or thing of an offensive, noxious, illegal or dangerous nature, or of such weight, size or shape as is likely to cause damage to the Apartment or any surfaced area;
- b. contaminate the Apartment and shall undertake all works necessary to remove any contamination of the Apartment other than contamination not caused by the Tenant or which took place prior to the commencement of the Lease. Contamination means any change to the physical, chemical or biological condition of the Apartment by a "contaminant" as that word is defined in the Resource Management Act 1991;
- c. use the Apartment or allow them to be used for any noxious illegal or offensive trade or business; or
- d. allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, others staying at the Hotel, or any other person, and generally the Tenant shall conduct the Tenant's business upon the Apartment in a clean, quiet and orderly manner free from damage, nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant of the Business Use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

21. **TENANT NOT TO VOID INSURANCES**

21.1 The Tenant shall not carry on or allow upon the Apartment any trade or occupation or allow to be done any act or thing which:

- a. shall make void or voidable any policy of insurance on the Apartment or Hotel; or
- b. may render any increased or extra premium payable for any policy of insurance except where, in circumstances in which any increased premium is payable, the Tenant shall have first obtained the consent of the insurer of the Apartment and the

Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable, but that the carrying on by the Tenant of the Business Use or of any use to which the Landlord has consented shall be deemed not be a breach of this clause.

- 21.2 In any case where, in breach of this clause, the Tenant has rendered any insurance less effective or void and the Landlord has suffered loss or damage as a result, the Tenant shall compensate the Landlord in full for such loss or damage.

DAMAGE TO OR DESTRUCTION OF APARTMENT

22. TOTAL DESTRUCTION

22.1 If the Apartment shall be destroyed or so damaged so as to render it impossible for the Tenant to conduct the Business Use from the Apartment, then the Term shall at once be immediately suspended until such time as the Apartment is fit for the Business Use of the Tenant.

22.2 Any suspension pursuant to this clause shall be without prejudice to the rights of either party against the other.

23. PARTIAL DESTRUCTION

23.1 If the Apartment shall be damaged but not so as to render the Apartment untenable; and

- a. the Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and
- b. all the necessary permits and consents are obtainable,

then the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the Apartment but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.

23.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the Apartment and complies with the provisions of this Lease.

23.3 Until the completion of the repairs or reinstatement, the Rent shall cease to be payable according to the nature and extent of the damage.

23.4 If:

- a. any necessary permit or consent is not obtainable; or
- b. the insurance moneys received by the Landlord are inadequate for the repair or reinstatement,

then the Term will immediately terminate, but without prejudice to the rights of either party against the other.

DEFAULT

24. CANCELLATION

24.1 Subject to the provisions of this Lease and subject to section 245(2) of the Property Law Act 2007, the Landlord may cancel this lease by re-entering the Apartment at the time or at any time thereafter:

- a. subject to the provisions of this Lease, if the Rent or any portion of the Rent that would have been due to the Landlord in accordance with the provisions of this Lease shall be in arrears ten (10) working days (or the minimum period as otherwise specified in the Property Law Act 2007 from time to time) after the date payment was due;
- b. subject to the provisions of this Lease, in case of breach by the Tenant of any covenant or agreement on the Tenant's part expressed or implied in this Lease after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007;
- c. if the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors;
- d. in the event of the insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Tenant;
- e. if the Tenant shall suffer distress or execution to issue against the Tenant's property goods or effects under any judgement against the Tenant in any Court for a sum in excess of twenty thousand dollars (\$20,000);

and the Term shall terminate on such cancellation but without prejudice to the rights of either party against the other.

25. LOSS ON CANCELLATION

Upon cancellation, the Tenant shall have twenty one (21) days to remove its chattels, and thereafter the Landlord may remove from the Apartment any chattels in the apparent possession of the Tenant and place them outside the Apartment and the Landlord shall not be answerable for any loss resulting from the exercise of the power of re-entry.

26. ESSENTIALITY OF PAYMENTS

26.1 Subject to the provisions of this Lease, failure to pay the Rent or other moneys payable hereunder on the due date shall be a breach going to the essence of the Tenant's obligations under the Lease.

26.2 The acceptance by the Landlord of arrears of the Rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay the Rent and other moneys.

27. REPUDIATION

The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the Lease or the Tenant's obligations under the Lease. Such entitlement shall subsist notwithstanding any determination of the Lease and shall be in addition to any other right or remedy which the Landlord may have.

28. REMOVAL OF TENANT'S FIXTURES

The Tenant not being in breach may at any time before, and will if required by the Landlord at the end or earlier termination of the Term, remove all the Tenant's fixtures and fittings and make good at the Tenant's own expense all resulting damage. If not removed within twenty eight (28) days of the Landlord's request, ownership of the Tenant's fixtures and fittings shall pass to the Landlord.

29. RENEWAL OF TERM

29.1 If both parties have not been in breach of this Lease and have each given to the other party written notice to renew the Lease at least three (3) calendar months before the end of the Term then the Landlord will at the cost of the Tenant renew this Lease for a further term of five (5) years from the Renewal Dates as follows:

- a. The Rent shall continue to be calculated, determined and paid in accordance with the Second and Third Schedules and subject to the provisions of this Lease.
- b. The renewed Lease shall otherwise be upon and subject to the covenants and agreements herein expressed and implied except that there shall be two further periods of renewal for a term of five (5) years (the Final Expiry Date of this Lease if all rights of renewal are exercised shall be 13 December 2027).

29.2 The second renewed Lease shall be upon and subject to the covenants and agreements herein expressed and implied except that there shall be one further period of renewal for a term of five (5) years (the Final Expiry Date of this Lease if all rights of renewal are exercised shall be 13 December 2027).

29.3 The third renewed Lease shall be upon and subject to the covenants and agreements herein expressed and implied except that there shall be no further right of renewal.

30. ASSIGNMENT, SUB-LETTING OR TRANSFER BY THE LANDLORD

30.1 Subject to this Lease, the Tenant shall not assign sub-let or otherwise part with the possession of the Apartment or any part thereof without first obtaining the written consent of the Landlord which the Landlord shall give if the following conditions are fulfilled:

- a. The Tenant proves to the satisfaction of the Landlord that the proposed assignee or sub-tenant is (or in the case of a company the shareholders of the proposed assignee or sub-tenant are) respectable, responsible and has the financial resources to meet the Tenant's commitments under this Lease.
- b. All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants.

- c. In the case of an assignment a Deed of Covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord.
 - d. The Tenant pays the Landlord's proper costs and disbursements in respect of the approval or preparation and stamping of any Deed of Covenant and (if appropriate) all fees and charges payable in respect of any reasonable enquiries made on behalf of the Landlord concerning any proposed assignee sub-tenant.
- 30.2 Where the Landlord consents to a sub-letting the consent shall extend only to the sub-letting and notwithstanding anything contained or implied in the sub-lease, the consent shall not permit any sub-tenant to deal with the sub-lease in any way in which the Tenant is restrained from dealing without consent.
- 30.3 Where the Tenant is an unlisted company, then any change in the legal or beneficial ownership of any of its shares or issue of new capital whereby in either case there is a change in the effective management or control of the company is deemed to be an assignment of this Lease **PROVIDED THAT** these provisions shall not apply to any change in the legal or beneficial ownership of any of the shares or issues of new capital to or which involves persons, entities or companies who at the Commencement Date were shareholders or directors of Clearwater Quays Apartments Limited or any related or associated company, person or entity or which involves the public float of any of those companies, entities or persons.
- 30.4 Upon any transfer of the Apartment by Red Stag Investments Limited to Clearwater Quays Apartments Limited, Red Stag Investments Limited shall be released and discharged absolutely from any further liability under this Lease but without prejudice to the rights and remedies of either party arising in respect of any matter or thing occurring prior to the date of transfer.

GENERAL

31. HOLDING OVER

If the Landlord permits the Tenant to remain in occupation of the Apartment after the expiration or sooner determination of the Term, such occupation shall be a monthly tenancy only terminable by at least twenty (20) working days written notice at the Rent then payable and otherwise on the same covenants and agreements (so far as applicable to a monthly tenancy) as herein expressed or implied.

32. LANDLORD WARRANTIES

- 32.1 The Landlord warrants and represents that it has notified the insurer of the Apartment of this Lease.
- 32.2 Notwithstanding anything express or implied in this Lease, the Landlord warrants and represents that the Tenant is not required to obtain any consent or approval from any person or entity with respect to this Lease or for this Lease to be valid and/or binding on the parties or any third party.

33. QUIET ENJOYMENT AND LANDLORD OCCUPANCY

Quiet Enjoyment

- 33.1 Subject to this clause and the Tenant paying the Rent and performing and observing all the covenants and agreements expressed and implied in this Lease, the Tenant shall quietly hold and enjoy the Apartment throughout the Term without any interruption by the Landlord or any person claiming under the Landlord.

Rotation

- 33.2 The Tenant shall use all reasonable endeavours to ensure that guests of the Hotel are allocated to respective Apartments on a fair and equitable basis and shall, to the fullest extent reasonably practical, adopt systems which facilitate compliance with its obligations under this clause.

Landlord Occupancy

- 33.3 Where the Landlord is:

- a. a person(s), then the Landlord and members of his/her immediate family (children spouses and grandchildren); or alternatively
- b. a company, then the Landlord's shareholders and members of the shareholders immediate family (children spouses and grandchildren); or alternatively
- c. a trust, then beneficiaries of the Trust and their immediate family (children, spouses and grandchildren);

then, subject to this clause 33, the Landlord shall be entitled, subject to the terms set out in this Lease, from time to time to occupy ("Landlord Occupancy") the Apartment:

- d. for the following periods ("Seasonal Landlord Occupancy"):
 - i. 1 uninterrupted week during the High Season; and
 - ii. for 2 uninterrupted weeks during the Shoulder Season; and
 - iii. for 1 uninterrupted week during the Low Season; and
 - e. at such other times as the Landlord requires ("Additional Landlord Occupancy").
- 33.4 There shall be no annual roll-over or accrual of Seasonal Landlord Occupancy from year to year.
- 33.5 The Landlord does not have any right or privilege to participate in or to administer business policies in respect of the conduct of the Business Use by the Tenant provided that the Tenant conducts the Business Use to a minimum standard of a five star high quality tourist resort.

33.6 For the purposes of this clause:

- a. "High Season" means those dates as are determined by the Tenant from time to time;
- b. "Shoulder Season" means those dates as are determined by the Tenant from time to time; and
- c. "Low Season" means those dates as are determined by the Tenant from time to time.

together referred to as "Season" or "Seasons".

Seasonal Landlord Occupancy

33.7 Not later than three (3) months before the start of each Season the Landlord will give the Tenant written notice of the Landlord's preferred dates for Seasonal Landlord Occupancy during the upcoming Season.

33.8 Subject to requirements for hotel use, the Tenant will use all reasonable endeavours to grant the Seasonal Landlord Occupancy of the Apartment on the dates specified by the Landlord in the Landlord's notice. If the dates specified by the Landlord are not available or the Landlord fails to give notice in accordance with clause 33.7, the Tenant may set the Seasonal Landlord Occupancy on such dates as the Tenant thinks fit provided that the Tenant will ensure that the Apartment is available for Seasonal Landlord Occupancy for at least the periods specified in clause 33.3.

33.9 The Tenant will give the Landlord written notice of the dates for Seasonal Landlord Occupancy for each Season at least two (2) months before the start of that Season.

33.10 During Seasonal Landlord Occupancy the Tenant will provide to the Landlord and the Landlord will pay the costs of the Hotel Services and Ancillary Services.

Additional Landlord Occupancy

33.11 If the Landlord wishes to have the benefit of Additional Landlord Occupancy at the Commencement Date, the Landlord must give the Tenant notice in writing prior to the Commencement Date. On each subsequent occasion that the Landlord wishes to have the benefit of Additional Landlord Occupancy, the Landlord must give the Tenant three (3) months' notice in writing.

33.12 In the event that the Landlord wishes to end the Additional Landlord Occupancy:

- a. the Landlord will give the Tenant one (1) months written notice of the date that the Landlord wishes to end the Additional Landlord Occupancy; and
- b. the Tenant will resume allocating guests of the Hotel to the Apartment in accordance with clause 33.2 from the date specified in the Landlord's notice.

33.13 Subject to clauses 33.16 and 33.17, during Additional Landlord Occupancy the Landlord may elect whether the Tenant provides at the Landlord's cost the Hotel Services and Ancillary Services.

Hotel Services and Ancillary Services during Landlord Occupancy

- 33.14 Subject to clause 33.17, at the Landlord's election in the case of Additional Landlord Occupancy and in all instances of Seasonal Landlord Occupancy, the Tenant will provide Hotel Services and/or Ancillary Services to the Landlord. Subject to clause 33.16, where Hotel Services/and or Ancillary Services are provided the Tenant shall advise the Landlord of the rates for such services at the time they are provided and such costs shall be deducted from the Imprest Account.
- 33.15 Where such payments are in excess of the Imprest Account, the Landlord shall pay such deficit to the Imprest Account at monthly intervals in arrears.
- 33.16 Notwithstanding anything else in this Lease, during the first year of the Term the Landlord will not be required to pay more than Fifty Dollars (\$50.00) per bedroom per day plus GST for the provision of housekeeping and laundry services.
- 33.17 During all periods of Additional Landlord Occupancy, the Tenant shall provide any three of the following Hotel Services:
- a. Cleaning.
 - b. Window washing.
 - c. Maintenance.
 - d. Gardening.
 - e. Food and hospitality services.
 - f. Telecommunication services. (Compulsory to use the building's fibre optic service, \$129/ month)

Assignment of Landlord Occupancy

- 33.18 Subject to the Constitution of the Clearwater Resort Residents Society Incorporated, the Landlord shall be entitled to assign the right to Landlord Occupancy.

Short Notice of Landlord Occupancy

- 33.19 Notwithstanding the provisions of this Lease, in respect of both Seasonal Landlord Occupancy and Additional Landlord Occupancy (other than at the Commencement Date of this Lease):
- a. The Landlord (or those exercising the right to Landlord Occupancy) shall be entitled to occupy the Apartment with less than three (3) months' written notice where the Apartment is available and has not otherwise been pre-booked or otherwise allocated at the time the request is made.
 - b. If the Apartment is not available (other than as a result of an assignment of the Landlord Occupancy), the Tenant shall endeavour to allocate another unit in the Hotel to the Landlord or those exercising the right to Landlord Occupancy ("the Substitution Unit").

- c. From the Commencement Date to the end or earlier termination of the Term, whichever is the earlier, if a Substitution Unit is allocated, the Rent derived from the letting of the Landlord's Apartment (calculated in accordance with the Second and Third Schedule) shall be assigned without deduction to the landlord of the Substitution Unit.
- d. Occupation of a Substitution Unit is deemed to be provision to the Landlord of the equivalent period of Landlord Occupancy in accordance with clause 33.3.

33.20 No compensation or other amounts shall be payable to the Landlord by the Tenant if the Landlord has given less than three (3) months' notice of an intention to occupy and the Apartment is not available or has been pre-booked or otherwise allocated. In such circumstances, the provisions of this clause shall otherwise continue to apply to such occupancy.

Split use of Apartment

33.21 The Landlord may in each written request for either Seasonal Landlord Occupancy (clause 33.7) or Additional Landlord Occupancy (clause 33.11) require that only a specified room or rooms of the Apartment be made available for Seasonal Landlord Occupancy or for Additional Landlord Occupancy or both, so that the balance of the Apartment is free from Landlord Occupancy and continues to have the benefit of an allocation of guests in accordance with clause 33.2 ("Split Use").

33.22 In the event that the Landlord does so require Split Use of the Apartment, then the provisions of this Lease will apply separately to each part of the Apartment that is subject to Split Use.

33.23 For the avoidance of doubt, and without limitation, in the event that the Landlord wishes to end Split Use of the Apartment, then the provisions of clause 33.12 will apply to the part of the Apartment that has been subject to Landlord Occupancy.

34. WAIVER

No waiver or failure to act by the Landlord in respect of any breach by the Tenant shall operate as a waiver of another breach.

35. NOTICE

35.1 Subject to the provisions of the Property Law Act 2007 any notice to be given to the Landlord or the Tenant hereunder shall be deemed sufficiently served if:

- a. sent by registered post to the addressee's last known address in New Zealand; or
- b. forwarded or delivered to that party at the last address they advised the other party pursuant to clause 35.2.

Any notice so posted or placed shall be deemed to have been served on the day following the posting or placing thereof or on the date of personal delivery. Anything served or given by the Landlord or the Tenant shall be valid if served or given under the hand of the Managing Director, General Manager, Secretary or a Director or other authorised representative of the Landlord or the Tenant (as the case may be).

35.2 Each party shall advise the other in writing of an address for service and shall (if necessary) forthwith advise the other party of any changes to that address. All notices, correspondence and communications may be sent or delivered to the last notified address.

36. FORCE MAJEURE

36.1. If any circumstances constituting force majeure as hereunder defined has a substantial adverse effect upon the operation of the Tenant's business and such circumstances continue for a period of ninety (90) days, then the Tenant shall have the right, by notice in writing to the Landlord, to terminate this Lease. The Tenant shall be excused from and shall not be liable for, any delay or failure in the performance of its obligations under this Lease due to any circumstances constituting force majeure as hereunder defined. For the purposes of this Lease, force majeure shall mean any act occasioned by a cause beyond the reasonable control of the Tenant including, but not limited to, acts of God, acts of war, civil disturbances, sabotage, arson, adverse Government decision and the like.

36.2 The Tenant shall promptly notify the Landlord in writing of the occurrence of any force majeure conditions and of cessation of such conditions.

37. PROMOTIONAL USE

37.1 The Tenant shall be entitled to provide the employees and representatives of the Hotel Operator who are visiting the Hotel exclusively in connection with the management, marketing or operation thereof, and tour operators (and their staff) and travel agents (and their staff) who are visiting the Hotel in connection with promotional visits organised by the Tenant, with free accommodation at the Apartment and use of amenities of the Hotel without any charge whatsoever to the Tenant or the said employees, representatives, agents or their staff for a maximum of six (6) nights in any calendar year, and at no time during Additional Landlord Occupancy.

37.2 The Tenant shall not use the Apartment in this manner free of charge in circumstances where the Apartment could have been leased to a paying guest on that particular day.

38. OWNERSHIP OF DOCUMENTS

All books, cards, register, receipts, documents, brochures, promotional material, signs and any other papers or material in connection with the operation of the Tenant's business or this Lease, are and shall be and remain the sole property of the Tenant.

39. TRADEMARKS

Trademarks, service marks or other trade registration of the Tenant, or any party associated with the Tenant, used in connection with the Tenant's business shall be and remain the sole property of the Tenant. The Landlord warrants that the Tenant shall be entitled to use the name of the Hotel and the Apartment in its promotional material, advertising or brochures, and all stationery and other documents without any payment being due to the Landlord or to any other party. There shall be no royalty or other payment due from the Tenant to the Landlord for the use of any name associated with the Hotel or the Apartment.

40. **SALE BY LANDLORD**

Prior to selling, assigning or charging its interest in the Apartment or the chattels, furniture, furnishings or fittings therein, the Landlord shall (at its cost in all matters) arrange for the new owners, assignee, mortgagee or chargeholder to first enter into a Deed of Covenant with the Tenant pursuant to which it covenants to observe, perform and be bound by the provisions of this Lease and to perform the Landlord's obligations therein.

41. **ARBITRATION**

All disputes and differences between the parties shall be submitted to the arbitration of a single arbitrator if one can be agreed upon, if they cannot agree, to an arbitrator appointed by the President of the Canterbury District Law Society or their Nominee, with such arbitration to be carried out in accordance with the provisions of the Arbitration Act 1996 or any then statutory provisions relating to arbitration.

42. **PARTIES' RELATIONSHIP**

The parties' relationship is that of Landlord and Tenant. The Tenant is an independent contractor under this Lease. Nothing in this Lease shall be construed as creating a partnership, joint venture or other relationship between the Landlord and the Tenant except that of independently contracting parties.

43. **INDEPENDENT AUDIT**

The Tenant shall on an at least annual basis provide upon request all necessary records and other assistance necessary to enable any auditor appointed by the Landlord to review and reconcile Rent and any other matters in accordance with the terms of this Lease.

44. **INTERPRETATION**

44.1 In this Lease:

- a. "Additional Landlord Occupancy" shall bear the meaning ascribed to it in clause 33.3(e).
- b. "Ancillary Services" means any or all of the following services:
 - i. foreign exchange;
 - ii. laundry and drycleaning;
 - iii. telephone and facsimile;
 - iv. pay to view movies;
 - v. movie and DVD hire and related services;
 - vi. any other ancillary service initiated by the Tenant; and

does not mean package items, including without limitation, golf, breakfast and transfers.

- c. "Ancillary Services Rent" means the amount calculated and determined in accordance with the provisions of the Third Schedule, which is to be paid by the Tenant to the Landlord. The term does not include any amounts which are not required to be paid to the Landlord by the Tenant.
- d. "Business Use" shall bear the meaning ascribed to it in clause 15 and in the First Schedule.
- e. "Constitution" means the constitution of the Owners Society attached to this Lease as the Sixth Schedule and as updated from time to time.
- f. "Furniture, Fitout and Equipment Levy" means the levy of an amount equal to three per cent (3%) of the Gross Apartment Revenue plus GST which will be retained by the Tenant and applied towards the cost of those items listed in clause 8.3.
- g. "Gross Apartment Revenue" means all the money actually received (and not merely due and payable) by the Tenant from guests occupying the Apartment by way of accommodation charges (including all money actually received by way of non-refundable deposits) after first excluding –
 - (i) the GST component or other similar tax components of such charges; and
 - (ii) any charges for Hotel Services.
- h. "High Season" shall bear the meaning ascribed to it in clause 33.5(a).
- i. "Hotel" means the hotel complex of which the Apartment forms part.
- j. "Hotel Outgoings" means those Hotel Outgoings described in the Fifth Schedule.
- k. "Hotel Services" means all usual hotel services, including without limitation, servicing the Apartment on a daily/weekly basis or providing laundry and room service, and for the avoidance of doubt, does not include Ancillary Services.
- l. "Imprest Account" means the account referred to in clause 3.1 which the Tenant operates in respect of all Key Holders.
- m. "Key Holder" means the registered proprietor of any unit or property on the Certificate of Title which is leased by the Tenant.
- n. "Landlord" and "Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and Tenant.
- o. "Landlord Occupancy" shall bear the meaning ascribed to it in clause 33.3.
- p. "Low Season" shall bear the meaning ascribed to it in clause 33.5(c).

- q. "Net Ancillary Revenue" means all the money actually received (not merely due and payable) by the Tenant from guests occupying the Apartment in respect of any Ancillary Service(s) after first excluding;
 - i. the GST component or other similar tax components of such Ancillary Services and the cost to the Tenant of providing such Ancillary Services; and
 - ii. any charges for Ancillary Services.
 - r. "Outgoings" means Hotel Outgoings and Apartment Outgoings.
 - s. "Owners Society" means the Clearwater Resort Owners Society Incorporated.
 - t. "Rent" or "rent" means the amount calculated and determined in accordance with the provisions of the Second and Third Schedules which is to be paid by the Tenant to the Landlord.
 - u. "Season" shall bear the meaning ascribed to it in clause 33.6.
 - v. "Seasonal Landlord Occupancy" shall bear the meaning ascribed to it in clause 33.3(d).
 - w. "Seasons" shall bear the meaning ascribed to it in clause 33.6.
 - x. "Shoulder Season" shall bear the meaning ascribed to it in clause 33.6(b).
 - y. "Split Use" shall bear the meaning ascribed to it in clause 33.21.
 - z. "Substitution Unit" shall bear the meaning ascribed to it in clause 33.19(b).
 - aa. "Apartment" means the Apartment described in Schedule A.
 - bb. "Apartment Outgoings" means those Outgoings described in the Fourth Schedule.
- 44.2 Whenever words appear in this Lease that also appear in any of the Schedules then those words shall mean and include the details supplied after them in such Schedule.
- 44.3 Where the context requires or admits words importing the singular shall import the plural and vice versa.
- 44.4 For the avoidance of doubt, the use of the word "Term" in this Lease includes any renewed or further term or terms, unless required otherwise by the context.

FIRST SCHEDULE

Term:	[] years and [] days, being the period from the Date of Commencement to the 13 December 2027.
Commencement Date:	[<i>settlement date</i>].
Further Terms:	Three (3) of five (5) years each.
Renewal Dates:	The 14 th day of December 2027, 14 th day of December 2032 and the 14 th day of December 2037.
Final Expiry Date:	The 13 th day of December 2042.
Proportion of Outgoings:	<p>The Landlord shall pay one hundred per centum (100%) of the separately levied Apartment Outgoings relating to the Apartment (see clause 4).</p> <p>The Tenant shall pay one hundred per centum (100%) of the Hotel Outgoings relating to the conduct of the Business Use from the Apartment (see clause 4).</p>
Default Interest:	Four per centum (4%) per annum above the current Westpac Trust base lending rate or the Tenants Bankers rate, whichever is the lesser as at the date of any breach.
Business Use:	Tourist accommodation and/or the leasing/renting of the Apartment (and the furniture, furnishings and chattels therein) to the public for use as accommodation and all services and uses incidental thereto.
Improvements Rent Percentage:	The interest rate for first mortgages over residential property of the Tenant's bankers as at the relevant date.

SECOND SCHEDULE

RENT PAYABLE FROM THE COMMENCEMENT DATE

1. Subject to deductions made in accordance with this Lease, including (without limitation) any amounts deducted in accordance with clauses 4.4 and 33.14, the Rent payable to the Landlord in respect of the period from the Commencement Date to the end or earlier termination of the Term, whichever is the earlier, is the Gross Apartment Revenue, less:
 - (i) an amount equal to three per centum (3%) of the Gross Apartment Revenue plus GST as a Furniture, Fit-Out and Equipment Levy; and
 - (ii) an amount equal to up to three per centum (3%) of the Gross Apartment Revenue plus GST, to be spent by the Tenant on marketing, and.
 - (iii) an amount equal to fifty per centum (50%) of the Gross Apartment Revenue plus GST, which will be retained by the Tenant.

**THIRD SCHEDULE
ANCILLARY SERVICES RENT
FROM THE COMMENCEMENT DATE**

1. Subject to deductions made in accordance with this Lease, including (without limitation) any amounts deducted in accordance with clauses 4.4 and 33.14, the Ancillary Services Rent payable to the Landlord from the Commencement Date to the end or earlier termination of the Term, whichever is the earlier, is as follows:
 - a. an amount equal to ten per centum (10%) of the Net Ancillary Revenue in respect of laundry and drycleaning revenue;
 - b. an amount equal to twenty five per centum (25%) of the Net Ancillary Revenue in respect of telephone and facsimile revenue;
 - c. an amount equal to five per centum (5%) of the Net Ancillary Revenue in respect of movie and DVD hire and related services.
2. The Ancillary Services Rent payable to the Landlord in respect of any other Ancillary Services agreed pursuant to clause 44.1(b)(vi) will be agreed between the Landlord and the Tenant on a case by case basis and recorded as a variation of this Lease.

**FOURTH SCHEDULE
APARTMENT OUTGOINGS TO BE PAID BY THE LANDLORD**

Subject to clause 4.4, Apartment Outgoings to be paid by the Landlord are all those outgoings relating to the Apartment as distinct from the Hotel Outgoings including, but not limited to:

Apartment Outgoings to be paid by the Landlord direct:

1. Rates or levies payable to any local or territorial authority.
2. Maintenance items/charges payable by the Landlord under this Lease and which do not form part of the Furniture, Fitout and Equipment.

Apartment Outgoings to be paid by the Landlord direct or at the Tenant's election to be deducted from the Imprest Account in accordance with the Second Schedule:

3. Furniture, Fitout and Equipment Levies.

Apartment Outgoings to be paid by the Landlord as part of the Amounts it pays to the relevant service provider:

4. Charges for water, gas, electricity, telephones and other utilities or services.
5. Rubbish collection charges.
6. New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.
7. All insurance premiums and related valuation fees.
8. Service contract charges for air conditioning, lifts and other building services (if any).
9. The provisioning of toilets and other shared facilities (if any).
10. The costs incurred and payable by the Landlord to supply to the territorial authority a Building Warrant of Fitness and obtaining reports as required by the Building Act 2004 or any similar Act.
11. Security charges.
12. Sky TV, Cable TV or similar charges.
13. Building fund or similar charges.

**FIFTH SCHEDULE
HOTEL OUTGOINGS TO BE PAID BY THE TENANT**

Subject to clause 33.14, Hotel Outgoings to be paid by the Tenant are all those outgoings and costs payable relating to the conduct of the Business Use from the Apartment (but excluding any Apartment Outgoings), including, but not limited to the following outgoings and costs payable in respect of:

1. All costs associated with the marketing and promotion of the Apartment.
2. Any agents' commissions incurred in obtaining the accommodation charges from guests occupying the Apartment and the GST component or other similar tax components of such agents' commissions.
3. Rentals payable for service areas and equipment leases by the Tenant as required for the efficient conduct of the Business Use.
4. All accounting and audit fees relating to the Business Use.
5. The conduct of the Business Use, including without limitation, the operation and management of the Hotel and the provision of Hotel Services required for the management and operation of the Hotel and to prepare the Apartment for occupation by guests at the rate charged by the operator of the Hotel from time to time for such operation, management and servicing.
6. The provision of Ancillary Services.

SIXTH SCHEDULE

CONSTITUTION OF THE CLEARWATER RESORT OWNERS SOCIETY INCORPORATED

SCHEDULE 7

NOTICE OF CHANGE OF LANDLORD

[Note of explanation: Prior to settlement of the apartment, it will have in place the Lease between Clearwater Quays Apartments Ltd and THC Group Limited ("THC Group"). At that time, on settlement, the Purchaser's lawyer provides the notice below to Mike Sharp of THC Group that you are the new Landlord, if you plan to live in the apartment you notify THC Group that you are triggering the Additional Landlord Occupancy in accordance with clause 33.11 of the Lease. There is no City Plan time limit specified for Additional Landlord Occupancy.]

Whereas pursuant to the Deed of Lease dated [] ("the Lease") Clearwater Quays Apartments Limited leased to you Apartment [] at the Quays Development, Clearwater Resort, Christchurch.

We hereby notify you that my client, [Purchaser], has purchased the Apartment and by virtue of taking title to the Apartment and pursuant to the Agreement for Sale and Purchase of the Apartment and the Lease [Purchaser] is now your Landlord and is therefore entitled to receive any rental or other amounts payable under the Lease from [].

[Purchaser's] nominated bank account is:

[details of bank account].

SCHEDULE 8

SOCIETY'S OFFER OF MEMBERSHIP & DISCLOSURE DOCUMENT



Clearwater Resort Owners' Society Incorporated

11 August 2020

Purchaser – Clearwater Resort Developed Property

Dear Purchaser,

Membership in the Clearwater Resort Owners' Society Incorporated ("the Society")

We are pleased to offer you, as the purchaser of a Developed Property within Clearwater Resort, the opportunity to become a member of the Society on the terms set out in this letter. Entering into an Agreement ("the Agreement") to purchase a developed property at Clearwater will constitute subscription by you to become and remain a member of the Society on settlement as recorded in the Society's Encumbrance attached to the Agreement.

Any money paid by you under the Agreement (including the purchase price) is not consideration of you becoming a member of the Society in accordance with this offer. This offer is made by the Society.

Prior to signing the Agreement please sign the **attached** disclosure document, acknowledging receipt of the relevant documentation prior to your subscription for membership in the Society.

We look forward to welcoming you on board as a member of the Society.

Yours sincerely,

Michael Sharp
Manager – Clearwater Resort Owners' Society Incorporated



www.societies.govt.nz | 0508 SOCIETIES | 0508 762 438
Send completed forms to: Companies Office, Private Bag 92061, Victoria Park

10062982140

societies.govt.nz

Certificate - Alteration of rules

Section 21 Incorporated Societies Act 1908

1. Name of society

Clearwater Resort Owners Society Incorporated.

2. Society number

1114507

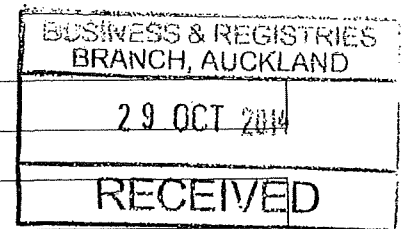
I certify that the alteration has been made in accordance with the rules of the society.

Name

Barry Johnston

Position

Chairman



Signature *[Handwritten Signature]*

26 / 9 / 14

3. Complete this checklist before filing your application

- This certification has been completed by an officer of or a solicitor for the society.
- A copy of the rule alteration(s) is attached. **NOTE** | This can either be a complete copy of the updated rules with the alterations underlined or in bold type, or a copy of the particular rule(s) that were altered.
- The copy of the alteration to rules has been signed by three members of the society.

For society name changes --

- This rule alteration also includes a name change for the society, and
- We have checked that the new name of the society is available by conducting Register Searches at both www.societies.govt.nz and www.companies.govt.nz.

What must be included in your rules?

Section 6 of the Incorporated Societies Act 1908 requires that a society's rules include the following:

- The name of the society (ending with the word incorporated)
- The objects for which the society is established
- How people become members of the society and cease being members of the society
- How meetings of the society will be called and held and how voting will take place
- How officers of the society will be appointed
- Control and use of the common seal
- How the society's funds will be controlled and invested
- The powers (if any) that the society has to borrow money
- How any property of the society will be distributed in the event of the society being wound up
- How the rules of the society can be altered

4. Your contact details

Name and postal address

Michael Sharp
PO Box 36211
Merivale
Christchurch

Tel

Email (optional)

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CONSTITUTION OF CLEARWATER RESORT OWNERS SOCIETY

INTRODUCTION



1. **NAME**

1.1 **Name of Society:** The name of the Society shall be ~~Clearwater Resort~~
Owners Society Incorporated.

2. **DEFINITIONS AND INTERPRETATION**

2.1 **Definitions:** In these rules, unless the context otherwise requires:

"Act" means the Incorporated Societies Act 1908.

"Bank" means a bank registered under the Reserve Bank of New Zealand Act 1989.

"Capital Improvements" means structural repairs to, and the replacement or renewal of, the Residential Communal Facilities.

"Clearwater Resort" means all development undertaken by Clearwater Resort Limited and/or Clearwater Land Holdings Limited and their associated and/or subsidiary companies within that area known as Clearwater Resort (accessed from Johns Road Christchurch and as shown on the attached plan) including but not limited to the golf course, clubhouse building, recreational facilities, hotel, apartments, residential land, the lakes and all other associated infrastructures on the site.

"Committee" means the committee members from time to time elected to manage the affairs of the Society pursuant to this Constitution.

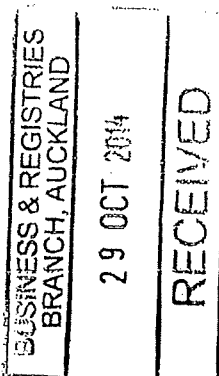
"Constitution" means this Constitution as amended or added to, including all schedules to this Constitution.

"Default Interest Rate" means four per cent above the Society's banker's overdraft rate applicable during the continuance of the default.

"Design Control Committee" means the committee members from time to time appointed under rule 15.1 to consider design approval applications by Members.

"Design Guidelines" means the design guidelines issued by the Design Control Committee, pursuant to rule 15.2.

"Developed Property" means a property within Clearwater Resort:



- a. for which a separate title (including, without limitation, a unit title or a certificate of title for an estate in fee simple) has issued; and
- b. which has been fully developed as a residential property, hotel apartment, suite or villa or for any other permitted use by the Developer, or which is a bare section available for such development.

"Developer" means Clearwater Resort Limited and/or Clearwater Land Holdings Limited and their associated and/or subsidiary companies (including without limitation Clearwater East Peninsula Limited and/or Clearwater Hotel 2004 Limited) promoting and carrying out the development of Clearwater Resort and/or any assignee and/or successor in title whether in whole or in part or parts of Clearwater Resort.

"Development Issue" means any matter relating to one or more of the following:

- a. matters affecting and/or arising in anyway whatsoever from the Developer's commercial and/or economic ability to develop and/or complete Clearwater Resort and the disposition of the same including without limitation all matters arising under or affected by the Resource Management Act, the Transit NZ Act, Waimakariri Flood Plains legislation, any valuation matters, all necessary statutory compliance matters and any matters arising in any way whatsoever from securities given or to be given by the Developer to any Bank or other lender;
 - b. matters affecting and/or arising in anyway whatsoever from Clearwater Resort's relationship with Christchurch International Airport Limited ("CIAL") or any successor to it, including but not limited to correspondence with CIAL; liaising with CIAL in relation to encumbrances over titles to land within Clearwater Resort and the Developer's plans for further development of Clearwater Resort;
 - c. matters associated with setting and levying of the Operating Expenses;
 - d. matters associated with promulgation or amendment of the Design Guidelines and any matter associated with the activities of the Design Control Committee or its composition;
 - e. matters associated with water bodies and lake edge development and management;
 - f. the appointment of the Manager of the Society from time to time;
 - g. any amendments to this Constitution.
-

"District Plan" means the Christchurch City Proposed District Plan.

"Expense Year" means each 12 month period commencing on 1 April and ending on 31 March, or such other 12 month period as the Committee from time to time sets.

"Initial Price" in respect of any Developed Property, means the price (inclusive of Goods and Services Tax) at which the Developed Property is first sold to any Owner by the Developer, or if the Developed Property has not been sold, the price at which the Developed Property is listed for sale by the Developer.

"Invitee" means any invitee of or any visitor to an Owner or Occupier.

"Manager" means the manager or management company of the Society (if any), appointed under rule 12.1. Where no manager has been appointed, any reference to the "Manager" in this Constitution shall be deemed to be, where appropriate, a reference to the chairperson of the Committee.

"Member" means each person who is from time to time a member of the Society pursuant to rules 4.1 to 4.8.

"Member's Proportion" means ~~the proportion that the aggregate of the Section Values of the Developed Properties owned by a Member bears to the Total Value.~~ the proportion that the aggregate number of Developed Properties owned by a Member bears to the total number of all Developed Properties in Clearwater Resort.

"New Members" shall mean, where the context requires, persons who have joined (whether or not they have previously been a Member of the Society) the Society after the 18th day of September 2005.

"Occupier" means any person occupying any Developed Property under any lease, licence or other occupancy right and shall include all members of an Owner's family.

"Operating Expenses" means the total sum of all rates, taxes, costs and expenses of the Society properly or reasonably assessed or assessable, paid or payable or otherwise incurred in respect of the Residential Communal Facilities, and the operation of the Society (including, without limitation, the Management Expenses and Management Fee, as defined in the agreement referred to in rule 12.1), but shall exclude any costs payable in respect of Capital Improvements.

"Owner" means each person registered as a proprietor (whether individually or with others) of a Developed Property.

"Owner's Title" means the certificate of title issued for an Owner's Developed Property.

"Rating Valuation" means the capital value of any Developed Property as it appears on the district valuation roll pursuant to the Rating Valuations Act 1998 or any successor to the district valuation roll.

"Registrar" means the person holding office from time to time as Registrar of Incorporated Societies in terms of the Act.

"Residential Communal Facilities" means all land, plant, equipment, facilities, utilities and amenities including any private roads and walkways within Clearwater Resort owned, leased, licensed or otherwise held or operated by the Society (as the Society may determine) from time to time including those facilities from time to time transferred to the Society by the Developer in accordance with the Deed of Transfer attached as Schedule 2 to this Constitution.

~~**"Section Value"** means, in respect of each Developed Property:~~

- ~~(a) the Rating Valuation; or~~
- ~~(b) if the Rating Valuation is not available, the Initial Price.~~

"Society" means Clearwater Resort Owners Society Incorporated.

"Special Resolution" means a resolution of the Society in general meeting passed by a majority of not less than 75% of such Members as, being entitled to do so, in person or by proxy at such general meeting.

~~**"Total Value"** means the sum total of the Section Values as at a given date.~~

2.2 **Interpretation:** In this Constitution, unless the context otherwise requires:

- a. words denoting the singular shall include the plural and vice versa;
- b. one gender shall include the other genders;
- c. words denoting persons shall include any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state, agency of a state, municipal authority, government or any statutory body in each case whether or not having separate legal identity;

- d. any covenant or agreement on the part of two or more persons shall bind those persons jointly and severally;
- e. reference to anything of a particular nature following upon a general statement shall not in any way derogate from, or limit the application of the general statement, unless the particular context requires such derogation or limitation;
- f. any reference to "month" or "monthly" shall mean, respectively, calendar month or calendar monthly;
- g. references to rules are references to rules in this Constitution;
- h. the table of contents, the section headings and clause headings have been inserted for convenience and a quick guide to the provisions of this Constitution and shall not form part of this Constitution or affect its interpretation in any way;
- i. reference to any statute, regulation, ordinance or bylaw shall be deemed to extend to all statutes, regulations, ordinances or bylaws amending, consolidating or replacing the same.

3. OBJECTS

3.1 **General:** The Society is formed to promote the following objects for the benefit of Members:

- a. The promulgation and enforcement of bylaws and covenants benefiting Members and Clearwater Resort generally.
- b. The creation and maintenance of appropriate Design Guidelines and control mechanisms in respect of each Developed Property.
- c. The proper operation, maintenance, repair, renovation and replacement of the Residential Communal Facilities; the proper landscaping of any landscaped area on any Developed Property and the levying of Members for the purpose of providing funds for and meeting the costs and expenses of such work.
- d. The ownership and continued ownership of any Residential Communal Facilities by the Society.
- e. The full and proper use of the Residential Communal Facilities by Members.
- f. The promulgation and enforcement of bylaws and covenants to ensure that obligations regarding the development and management of water bodies and lake edges are upheld.

- g. The promulgation and enforcement of bylaws and covenants to ensure that to the fullest extent permitted by law that no New Members joining or rejoining the society after the 18th day of September 2005 and the Society itself and no occupier or successor of land owned by any New Member of the Society shall object to, complain about, bring any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise, and whether seeking damages or injunctive or other relief or orders), or otherwise opposing, noise resulting from the operations of CIAL (including without limitation, from the operation of aircraft, the testing of aircraft engines, bird scaring, bird hazard management, or the operation of motor vehicles and associated equipment) or the effects of or resulting from such noise.
- h. The promulgation and enforcement of bylaws and covenants requiring any New Member joining the Society after the 18th day of September 2005 and the Society itself and any occupier or successor of land owned by any New Member of the Society, to comply with the following provisions:-
- i. Each New Member shall procure that, except as required by law, no person occupying (whether temporarily or permanently) any Clearwater land owned by that New Member objects to, complains about, brings any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise, and whether seeking damages or injunctive or other relief or orders) in respect of, or otherwise opposes, noise resulting from the Operations of CIAL (including, without limitation, from the operation of aircraft, the testing of aircraft engines, bird scaring, bird hazard management, or the operation of motor vehicles and associated equipment) or the effects of or resulting from such noise.
 - ii. The provisions of clauses 3.1(g) and 3.1(h), with the exception of any bylaws, restrictive covenants or other restraints of any kind on land owners in respect of bird management and lake transport, shall not apply to a New Member that does not own a Developed Property located (whether in whole or part) between the Extended Centreline and the Ldn 50 dBA Noise Contour.
 - iii. The Society may from time to time issue rules, and amend such rules, providing for obligations and restrictions to ensure that no New Member interferes with the Operations of CIAL whether by action or omission or otherwise. All New Members shall duly comply with any

such rules in effect from time to time. The Society shall enforce those rules in effect from time to time.

iv. Except as required by law, no New Member may object to, complain about, bring any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise, and whether seeking damages or injunctive or other relief or orders in respect of, interfere with, prevent, hinder, obstruct, or otherwise oppose in any way, the development and operations of CIAL including, without limitation, by opposing, whether directly or indirectly, any:

1. application;
2. variation to the Proposed City Plan; or
3. statutory or regulatory enactment, variation or repeal;

sought or supported by CIAL. No New Member may, whether directly or indirectly, procure, fund, or support, any person or action to do or omit anything that would be in breach of this clause if done or omitted by the New Member.

v. Each New Member will use reasonable endeavours to discourage and actively prevent any bird species identified by CIAL as being a potential threat to aircraft operations at CIAL from visiting or inhabiting the New Member's Developed Property. Those reasonable endeavours include, but are not limited to:

1. attention generally to choice of vegetation and planting regimes, water body and land management systems and control and management of persons occupying, using and visiting the New Member's Developed Property;
2. not planting or permitting to grow on the New Member's Developed Property any plant, shrub or tree that CIAL advises from time to time would or could encourage to a greater extent than other types of plant, shrub or tree any bird species identified by CIAL as being a potential threat to aircraft operations at CIAL to visit or inhabit the New Member's Developed Property;
3. preventing the growth of trees and other vegetation on the New Member's Developed

Property that overhangs any water body on or adjacent to the New Member's Developed Property;

4. mowing all grass edges on the New Member's Developed Property that are adjacent to any water body so that the length of such grass is always at least 200 millimetres but not more than 600 millimetres;
5. not feeding or allowing the feeding of any wild birds on the New Member's Developed Property whether by the New Member, or any other occupant of the New Member's Developed Property, or visitor to the New Member's Developed Property, or otherwise;
6. choosing fertiliser and pesticides for use on the New Member's Developed Property that do not run off into adjacent water bodies thereby encouraging the growth of vegetation in such water bodies; and
7. any other reasonable actions CIAL requires to be taken to mitigate any actual or potential problem or nuisance caused to the operation of aircraft using CIAL by birds;

- vi. The Society shall take all reasonable measures to procure that the New Members of the Society comply with their obligations under sub-clauses [1-7].

3.2 **Pecuniary gain not to be an object:** The Society does not have as an object the pecuniary gain of Members, and (subject to rule 16.1) no Member shall be entitled to receive any dividend out of any levy, fee, donation or other income or funds of the Society.

3.3 **Members may contract:** A Member may enter any agreement or understanding with the Society for the supply of any goods or services for such consideration and on such other terms and conditions as would be reasonable if that person were not a Member.

MEMBERSHIP

4. MEMBERSHIP

4.1 **Existing Members:** The Existing Members ("Existing Members") of the Society shall be those members named in Schedule 3.

4.2 **Owners to be Members:** Each Owner shall be a Member, and only Owners shall be Members, and for that purpose:

- a. Each Owner shall (immediately when called upon to do so) grant in favour of the Society an encumbrance ("Encumbrance") to be noted against that Owner's Title, securing that Owner's obligations to become and remain a Member, and to perform the obligations of a Member as set out in this Constitution and otherwise containing the terms required by the Society's solicitors. Each Encumbrance will bind the respective Owners' successors in title so that contemporaneously with the acquisition of any interest in any Developed Property all such successors in title must become and remain a Member, and observe and perform the obligations of a Member as set out in this Constitution. In order to facilitate the effectiveness of the Encumbrances, each Owner shall comply with rule 8.2. The Encumbrances shall be prepared by the solicitors for the Society, and the respective Members shall pay the reasonable legal fees and disbursements of the Society's solicitors.
- b. A Member shall be deemed to have resigned from the Society immediately that Member is no longer an Owner, provided that such resignation shall not relieve a person of any obligation or liability arising before that person ceased to be a Member.
- c. Each Owner shall, immediately upon becoming an Owner, (and thereafter as any details change), provide the Society with the details necessary for maintenance of the register of Members pursuant to rule 4.4, and shall upon entry of the details into the register, become a Member.

4.3 **Developer as Controlling Member:** Until the development of Clearwater Resort is "fully completed", the Developer shall be the controlling member ("**Controlling Member**") of the Society, regardless of whether the Developer is at any time a Member. The Controlling Member shall have only the rights specified in this Constitution, and shall have no other rights or obligations of a Member, unless expressly provided for. No reference in this Constitution to a Member shall be taken as including a reference to the Controlling Member. Upon development of Clearwater Resort being completed, the Developer shall be deemed to have resigned as Controlling Member, and thereafter, there shall be no Controlling Member in respect of the Society. For the purposes of this clause 4.3, "fully completed" means the date the Developer ceases to own or control any property at Clearwater Resort which it intends to develop for any residential, commercial or related purpose. For clarity, once Clearwater Resort is fully completed, the Developer ceases to be the Controlling Member of the Society.

- 4.4 **Register of Members:** The Society shall maintain a register of Members recording:
- a. **For each Member:** name, address, occupation, telephone number and facsimile number (at home and at work) and similar details for a third party to be contacted in the event of absence or emergency.
 - b. **For each Occupier:** name, address, occupation, telephone number and facsimile number (at home and at work) and similar details for a third party to be contacted in the event of absence or emergency.
 - c. **Membership:** the date upon which each Member became a Member.
 - d. **Voting:** where there is more than one Owner of a Developed Property, which of such Owners is entitled to vote in accordance with rule 14.1.
 - e. **Mortgagee:** name, contact person, telephone number and facsimile number of any person holding a mortgage over the Member's Developed Property.
- 4.5 **No notice of trust** No notice of any trust express, implied or constructive will be entered on the register of Members.
- 4.6 **Register to be audited:** The Committee shall ensure that the register of Members is audited once a year by a qualified auditor, unless a resolution that no auditor be appointed is passed in a general meeting.
- 4.7 **Not assignable:** The rights, privileges and obligations of a Member are not assignable.
- 4.8 **More than one Owner:** If there is more than one Owner for a Developed Property, such Owners shall collectively constitute one Member.
5. **NOTICE OF AND USE OF RESIDENTIAL COMMUNAL FACILITIES**
- 5.1 The Committee must keep a schedule of the Residential Communal Facilities, which shall be available for inspection by any Member on request. In order to ensure the Committee can comply with this obligation, the Developer must notify the Committee not less than 21 days before transferring any such facility to the Society in accordance with the Deed of Transfer attached as Schedule 2 to this Constitution.
- 5.2 **Use of Residential Communal Facilities:** Subject to any rules of the Society relating to the use of the Residential Communal Facilities, each

Member, Occupier and Invitee shall be entitled to make full use of the Residential Communal Facilities.

- 5.3 **Persons not entitled to use Residential Communal Facilities:** No person, other than those persons set out in rule 5.2, shall be entitled to use the Residential Communal Facilities, except by special consent of the Committee which shall specify the occasions and times for such use.

6. OBLIGATIONS OF MEMBERS

- 6.1 **Levies:** Prior to, or as soon as practicable after the commencement of each Expense Year, the Society shall by written notice advise each Member of the Society's estimate ("Society's Estimate") of each Member's Proportion of Operating Expenses for that Expense Year, plus such contingency sum as the Society shall, in its sole discretion, fix.
- 6.2 **Payment of levies:** Subject to rules 6.4 and 6.7c, each Member shall, on the first day of each month in each Expense Year, or on such other appropriate period, pay one twelfth, or such other proper apportionment, of the Society's Estimate applicable to that Expense Year. Payment shall be made by each Member in the manner set by the Society.
- 6.3 **Statement of Operating Expenses:** As soon as practicable after the end of each Expense Year the Society shall provide to each Member an itemised statement of the actual Operating Expenses for the just completed Expense Year or any period in terms of rule 6.7b, as the case may be. If the Member's Proportion of actual Operating Expenses for the previous Expense Year or any period in terms of rule 6.7b is greater than the total of the monthly payments made by the Member pursuant to rule 6.2 or 6.7c, as appropriate, the Member shall forthwith pay to the Society the difference. If the Member's Proportion of actual Operating Expenses for the previous Expense Year or any period in terms of rule 6.7b is less than the total of the monthly payments made by the Member pursuant to rule 6.2 or 6.7c as appropriate, the Society shall credit the difference to the Society's Estimate for the then current Expense Year.
- 6.4 **Failure of Society to advise Society's Estimate:** If the Society has failed to advise a Member of the Society's Estimate for an Expense Year before the date the first payment is due under rule 6.2, the Member shall on that date and every other date on which a payment is due under rule 6.2 until the Society's Estimate is available pay one twelfth, or such other proper apportionment, of the Society's Estimate applicable to the previous Expense Year. On the Society's Estimate for the Expense Year being advised to that Member:

- a. Rule 6.2 shall apply in respect of the payments due on the first day of each month, or on such other appropriate period, for the balance of the Expense Year.
- b. If the aggregate of a Member's payments made under this rule 6.4 during the Expense Year exceeds the aggregate of payments which should have been made under rule 6.2, the Society shall credit the difference to the Society's Estimate.
- c. If the aggregate of a Member's payments under this rule during the Expense Year is less than the aggregate of payments which should have been made under rule 6.2, the Member shall immediately pay the Society the difference.

6.5 Special Levies: The Committee:

- a. shall from time to time fix an additional monthly (or such other appropriate period) levy to be paid by each Member together with the monthly (or such other appropriate period) instalments of the Society's Estimate for that Member, to be set aside as a sinking fund to allow for and meet the costs of Capital Improvements; and
- b. may from time to time fix such levies, payable by each Member at such times as are set by the Society, as the Society considers are necessary for it to meet its obligations under this Constitution,

provided that any levy payable by a Member under this rule shall be equal to that Member's Proportion of the total estimated cost to be provided for and met from the proceeds of the levies paid by all Members.

6.6 Staged Development: The Members acknowledge that the residential component of Clearwater Resort may be developed in stages, with new Owners becoming Members as each stage is completed.

6.7 New Developed Properties: Where in any Expense Year New Developed Properties become available:

- a. The Society shall provide to all Members (excluding the Owners of the New Developed Properties) an itemised statement of the actual Operating Expenses for the period from the commencement of the current Expense Year to the date the new Developed Properties became available ("**Period**"). The date of availability shall be determined by the Manager. If the amount of an Existing Member's Proportion of Operating Expenses for the Period is greater than the total of the monthly payments made or due for that Period, the Existing Member shall forthwith pay to the Society the difference. If the amount

of an Existing Member's Proportion of Operating Expenses for the Period is less than the total of the monthly payments made or due for that Period, the Society shall credit the difference to the Society's estimate for the balance of the term of the current Expense Year pursuant to rule 6.7b.

- b. As soon as practicable after the date the New Developed Properties became available, the Society shall by written notice advise all Members of the Society's estimate of each Member's Proportion of Operating Expenses for the balance of the term of the current Expense Year.
- c. Each Member shall, on the first day of each month, or on such other appropriate period, until the end of the current Expense Year, pay an equal proportion of the Society's estimate given pursuant to rule 6.7b.

6.8 Sale of Developed Property: Where a Member sells (or otherwise parts with possession of) a Developed Property ("the Vendor"):

- a. Notwithstanding any other rule in this Constitution, the Vendor shall remain liable for sums owed to the Society by that Vendor.
- b. Without limitation, the Vendor shall continue to be liable as a primary and principal debtor for all indebtedness of the Purchaser of the Developed Property to the Society until such time as:
 - i. the transfer to the Purchaser is registered at the Land Transfer Office; and
 - ii. the Purchaser is legally bound by the Encumbrances secured against the Developed Property; and
 - iii. the Vendor has complied with its obligations under rules 6.8 and 8.2 .
- c. The purchaser of the Developed Property shall be liable as a Member for all indebtedness of the Vendor to the Society in respect of the Developed Property purchased and a certificate of the Society given pursuant to rule 6.12 shall be conclusive as to the sum of this indebtedness.

6.9 Lease of Developed Property: No Member shall:

- a. lease, licence or otherwise part with possession of the Member's Developed Property (other than by sale made in accordance with rule 6.8);
- b. in the event of any such lease, licence or parting with possession, allow any assignment of such right, subletting or otherwise allow any further change in possession of the Member's Developed Property;

without first obtaining the written consent of the Society which the Society may withhold or grant in its sole and unfettered discretion. Without limiting the Society's discretion or the nature of any conditions of such consent, any consent given by the Society may be made subject to the fulfilment of the following conditions:

- c. the Member proves to the satisfaction of the Society that the proposed lessee, licensee, assignee, subtenant or other person gaining possession of the Developed Property ("the New Occupier") is respectable, responsible and has the financial resources to meet the Member's obligations under this Constitution;
- d. all monies due by the Member under this Constitution have been paid and there is not any subsisting breach of the Member's obligations;
- e. any document recording the change of possession complies with rule 8.2 and prohibits any further change of possession otherwise than in accordance with this Constitution;
- f. in any case where the New Occupier is a company (other than a publicly listed company) a deed of guarantee in customary form approved or prepared by the Society's solicitors is duly executed by the principal shareholders of the company and by the directors of the company and is delivered to the Society;
- g. the Member pays the Society's proper costs and disbursements in respect of giving its consent to the change of possession and all fees and charges payable in respect of any reasonable enquiries made by or on behalf of the Society concerning the New Occupier.

- 6.10 Any assignment or subletting of the type or in the manner referred to in Section 109(2) of the Property Law Act 1952 shall be a breach of the provisions of this Constitution.
- 6.11 Where any Member is an unlisted company or any Occupier is an unlisted company then any change in the legal or beneficial ownership of any of its shares, issue of new capital or amalgamation which results in a change in the effective management or control of the company is deemed to be a parting with possession in terms of rule 6.9.
- 6.12 **Society to provide statement:** The Society shall, on application by a Member, or any person authorised in writing by such Member, provide the Member or authorised person with a statement of the indebtedness of the Member to the Society calculated to the date specified in the application. The statement shall show:
- a. the Society's estimate of such Member's Proportion of Operating Expenses for the current Expense Year;

- b. payments made by the Member on account of Operating Expenses in the current Expense Year;
- c. payments due from the Member on account of Operating Expenses in the current Expense Year, and not paid by the Member; and
- d. any accumulated unpaid default interest.

6.13 **Covenants and bylaws:** Each Member agrees to promptly and fully comply with any bylaws made by the Society from time to time, and any covenants given in favour of the Society by such Member (whether by separate Deed of Covenant or as noted against each Owner's Title). In the event of there being any conflict between the provisions of this Constitution (including any rule or bylaw) and the provisions of any restrictive covenant registered against the title to the Developed Property, the provisions of this Constitution (including any rule or bylaw) shall prevail and be given priority over the provisions of any such restrictive covenant.

6.14 **Mortgagee of Developed Property:** Before granting any mortgage over a Developed Property, a Member shall procure the intended mortgagee to enter into a deed with the Society (at the cost of the Member) covenanting to observe and perform all the rules of the Constitution upon exercising any powers as mortgagee.

OBLIGATIONS OF THE CONTROLLING MEMBER

6.15 **Controlling Member:** The Controlling Member (so long as it remains the Controlling Member of the Society) shall provide to the Society at the Controlling Member's expense, the following security:

- a. 24 hour video surveillance cameras at such strategic locations in the Resort as the Controlling Member shall determine;
- b. periodic assessment of the video surveillance by staff employed by the Controlling Member and/or Clearwater Golf Club Limited.
- c. cabling facilities to each Developed Property to enable owners to install their own security systems.

7. MEMBERS' ASSISTANCE TO DEVELOPER

7.1 **Future Development:** The Members acknowledge:-

- a. that development of Clearwater Resort is ongoing until the Resort is fully completed as defined in clause 4.3;

- b. that the Society is required to allow the Developer such access to, and interests in, the Residential Communal Facilities as are necessary or desirable for the development to proceed;
- c. that the Society shall be obliged to allow the Developer to add, remove or alter structures and services forming part of the Residential Communal Facilities; and
- d. to procure that Members amend this Constitution if such amendment is necessary or desirable for the development to proceed.

And each Member agrees:

- e. to, and hereby allows, the Developer access to the Developed Property of that Member for the purpose of proceeding with the development provided that the Developer has no other reasonable means of proceeding with the Development other than through the Member's developed property and must give such Member reasonable verbal notice of its requirement for access and its best estimate of the duration of such access; and provided that the Developer must, without delay, make good any damage or harm to the Member's Developed Property resulting from such access; and
- f. to, and hereby grants, such easements in favour of the Developer over or under the Member's Developed Property as are required for the development to proceed or as may be necessary or desirable for development of Clearwater Resort provided that the Developer has no other reasonable means of proceeding with the Development other than by benefiting from such access. The Developer must pay the reasonable expenses incurred by the Member relating to the grant of any such easement; and
- g. not to prevent, hinder or obstruct the use by the Developer of the Residential Communal Facilities, the addition, removal or alteration of structures or services forming part of the Residential Communal Facilities by the Developer, or the granting of any interests in the Residential Communal Facilities by the Society to the Developer; and
- h. that neither the Member nor the Society shall oppose, or take part in any opposition to, the development of Clearwater Resort; and
- i. to support any resolution to amend this Constitution, where the Society is bound by agreement with the Developer, to procure such amendment.

- j. to sign any document or do any other thing reasonably necessary to support any Resource Consent or other authorisation applied for by or on behalf of the Developer in respect to the development of Clearwater Resort; and
 - k. that New Members being the owners of land covenant to prevent interference with CIAL activities and/or all members joining or rejoining the Society after the 18th day of September 2005 shall not prevent, hinder or obstruct CIAL in any way in the development of a 24 hour seven day a week non-curfewed international airport operation, including without limitation, not mounting any challenge or taking any objection to any planning initiative, application or consent process, district scheme change or special legislation enacted in favour of CIAL's stated objective of being a 24 hour seven day a week non-curfewed international airport operation; and
 - l. to support any resolution to amend this Constitution where the Developer seeks an amendment to assist the Developer in implementing, proceeding with and completing its development of Clearwater Resort.
- 7.2 In exercising any of its rights pursuant to clause 7.1, in respect of residential communal facilities the Developer must:
- a. act reasonably; and
 - b. first provide 30 days written notice to the Society of its intention to invoke any of the provisions of clause 7.1 (other than clause 7.1(e)), that notice to set out in detail the proposed further development of Clearwater Resort and any likely effects on relevant Developed Properties. At the request of the Society following provision of such notice, the Developer will consult with the Society as to any reasonable concerns of Members about such further development.

8. BREACH OF OBLIGATIONS

- 8.1 **Occupiers and Invitees:** A reference to an act or omission by any Member, shall include any act or omission by any mortgagee in possession of that Member's Developed Property, the Occupiers of such Member's Developed Property, the Invitees of such Occupier, the Invitees of such Member, and the purchaser of such Member's Developed Property ("Users of the Member's Developed Property").
- 8.2 Each Member must, without limitation and in addition to the requirements of rules 4.2 and 6.8:
- a. procure that all leases, licences, agreements for sale and purchase and all other agreements and documents that relate to

the Member's Developed Property include a provision for the benefit of the Society that requires all such Users of the Member's Developed Property to comply with this Constitution; and

- b. make all such Users of the Member's Developed Property aware of the Encumbrance described in rule 4.2; and
- c. attach a copy of this Constitution to all leases, licences, agreements for sale and purchase and all other agreements and documents that relate to the Member's Developed Property; and
- d. take all reasonable steps (including enforcing the terms of all leases, licences, agreements for sale and purchase and all other agreements and documents that relate to the Member's Developed Property) to ensure that all Users of the Member's Developed Property comply with this Constitution. In any case of persistent default by a User of the Member's Developed Property of this Constitution, the Owner shall on demand by the Society and where legally possible, terminate the User's of the Member's Developed Property rights to the Developed Property.

8.3 Consequences: Upon any breach of this Constitution by a Member ("**Offending Member**") without prejudice to the Society's other rights and remedies:

- a. Where damage has been caused to the Residential Communal Facilities, the Offending Member, or the Controlling Member, if responsible for the damage, shall immediately made good such damage to the standard reasonably required by the Society.
- b. If such default continues for seven days after notice is given by the Society to the Offending Member or Controlling Member to remedy the default, the Society may do anything, including paying money, necessary to remedy the default.
- c. All money paid and the expenses incurred by the Society (including any legal costs of the Society) in remedying, or attempting to remedy, any breach by an Offending Member or Controlling Member of this Constitution, or incurred in the exercise, or attempted exercise, or enforcement, or attempted enforcement of any power, right or remedy of the Society in respect of such breach, shall be a debt due from the Offending Member to the Society.
- d. If any money payable by an Offending Member or Controlling Member to the Society is in arrears and unpaid for seven days (whether or not formal demand for payment has been made and without any formal demand being necessary) such money shall

be payable on demand and shall bear interest at the Default Interest Rate, computed on a daily basis from the due date until the date of payment in full.

- e. For the avoidance of doubt, the payment by the Society to remedy any default by an Offending Member or the Controlling Member, shall notwithstanding its quantum, be considered a temporary shortfall in accordance with the provision of 10.1 and the Society shall be entitled to borrow to meet the Society's obligations under this Constitution for the purposes of clause 8.3(b).

THE SOCIETY

9. OBLIGATIONS OF THE SOCIETY

- 9.1 **Bylaws:** The Society shall promulgate, amend and distribute to Members from time to time bylaws for the use of the Residential Communal Facilities (including any restrictions on use for security, maintenance or other reasons), bylaws concerning the behaviour of Owners, Occupiers and Invitees, and bylaws governing the use of Developed Properties. The first such bylaws shall be those bylaws attached as Schedule 1 to this Constitution.
- 9.2 **Repair of Residential Communal Facilities:** The Society shall ensure the proper operation, maintenance, repair, renovation and replacement of the Residential Communal Facilities consistent with standards generally proposed or adopted in international golf resorts or in international resorts of this nature, and shall undertake such Capital Improvements as are necessary for this purpose.
- 9.3 **Insurance:** The Society shall effect and maintain all insurances as it considers prudent with respect to the Residential Communal Facilities and the Society's affairs, and shall meet all costs of such insurance (which shall include all valuations and other professional fees required or deemed desirable for the purposes of such insurances and the cost of certificates relating to such insurances).
- 9.4 **Service contractors and utility suppliers:** The Society may, from time to time, nominate a service contractor (with respect to security, landscaping, rubbish collection or other such essential services as the Society considers desirable) or a utility supplier (with respect to the supply of utilities to Developed Properties) as an exclusive service contractor or utility supplier to Clearwater Resort. Any Member wishing to contract for services within Clearwater Resort or to have utilities supplied to the Developed Property, shall, where a service contractor or utility supplier has been nominated in respect of those services or utilities, only use that service contractor or utility supplier.

10. LIMITATIONS OF THE SOCIETY

- 10.1 **No indebtedness:** The Society shall not borrow any money, other than short-term borrowing to cover any temporary shortfall in meeting the Society's obligations under this Constitution, except by Special Resolution.
- 10.2 **No encumbrances:** The Society shall hold the Residential Communal Facilities in its own name and shall not mortgage, charge, encumber, transfer or otherwise deal with such Residential Communal Facilities, except by Special Resolution, provided that where the Society is obliged to grant any interest in or right in respect of the Residential Communal Facilities by any agreement with the Developer, such interests or rights may be granted by the Committee.
- 10.3 **No investments:** The Society shall hold all funds with a Bank, and shall not invest those funds other than by deposit with a Bank, except by Special Resolution.
- 10.4 **No improper use:** All Residential Communal Facilities designed for recreational purposes shall be used only for such purposes. The Society shall procure the noting of a restrictive covenant to that effect against the title for such facilities for the benefit of all Members.

OPERATION OF THE SOCIETY

11. COMMITTEE

- 11.1 **Powers:** The administration of the Society shall be vested in the Society in general meeting, and shall be delegated to the Committee. The Committee may exercise all the powers, authority and discretions of the Society as permitted by this Constitution and do on its behalf all such acts as they deem necessary or expedient. The powers, authority and discretions as exercised by the Committee are subject always to any limits which may from time to time be imposed by the Society. The Committee may delegate any of its powers to committees consisting of such member or members of their body as they think fit or to the Manager. Any committee so formed shall in the exercise of the powers so delegated conform to directions of the Committee.
- 11.2 **Bank accounts:** The Society shall establish a bank account with a Bank and any drawings on that account (including any cheque drawn on that account) shall be made only under the signature of the Manager and one other member of the Committee.
- 11.3 **Deeds:** Any contract which, if made between private persons, must be by deed shall, when made by the Society, be in writing under the common seal of the Society, to be affixed in accordance with rule 11.14.

- 11.4 **Other Documents:** All other documents and written announcements requiring execution on behalf of the Society must be signed by the chairperson.
- 11.5 **Composition:** The Committee shall comprise the following persons:
- a. a chairperson;
 - b. a treasurer/secretary; and
 - c. a minimum of five and a maximum of twelve general Committee members, as determined by the Society in general meeting before election of Committee members.
- 11.6 **Committee Members:** The Chairperson shall be the Controlling Member (if there is one) or where there is no Controlling Member the Chairperson shall be as elected by the Committee at every annual general meeting. The treasurer/secretary shall be the Manager or, where no Manager has been appointed, such other person as the Committee shall appoint from time to time. The balance of the Committee shall be elected by the Society at every annual general meeting, and may be elected at any other time by the Society in general meeting.
- 11.7 **Duration of Membership:** A Committee member shall hold the elected position until the earliest of:
- a. the next annual general meeting following election (when the Committee member shall be eligible for re-election);
 - b. the date written resignation from position is received by the Society;
 - c. the date of removal from such position by the Society in general meeting; or
 - d. the date of cessation of membership.
- 11.8 **Casual vacancies on Committee:** In the event of a casual vacancy in any position on the Committee (whether caused by death, cessation of membership from the Society, or some other means) the remaining Committee members may appoint another Member to fill the vacancy until the position is filled by the Society in general meeting.
- 11.9 **Manager and Controlling Member:** Notwithstanding any other rule in this Constitution, the Manager shall remain as treasurer/secretary, and the Controlling Member shall remain as Chairperson, for so long as they remain Manager and Controlling Member respectively, and the Society shall not be entitled to remove either from those positions for any reason whatsoever.

11.10 Duties of Treasurer/Secretary: The treasurer/secretary shall:

- a. convene general meetings when requested to do so in accordance with this Constitution;
- b. attend all meetings of the Committee and have full speaking rights at such meetings;
- c. give all notices required to be given by these rules or as directed from time to time by the Society or the Committee;
- d. keep minutes at all general meetings and Committee meetings and enter into the minute book:
 - i. the time, date and venue of such meeting;
 - ii. all business considered and resolutions passed at such meeting;
- e. hold in safe custody the common seal of the Society;
- f. receive, and issue receipts for, all annual levies, additional fees, and any other moneys paid to the Society;
- g. operate and maintain a current bank account in the name of the Society;
- h. pay all accounts properly incurred by or on behalf of the Society;
- i. report immediately to the Society any Member who fails to pay annual levies or additional fees within the prescribed period;
- j. keep all financial records and any security documents in safe custody;
- k. compile all proper accounting records from time to time as required by the Act or by the Committee which give a true, fair and complete account of the financial affairs and transactions of the Society; and
- l. compile the financial statements immediately following each financial year as required by the Act, and provide for the auditing of those records and the distribution of the audited financial statements to Members as soon as reasonably practicable after each audit is completed.

11.11 Conduct of Meetings: The Committee may meet together, adjourn and otherwise regulate its meeting and procedures for conducting its business as it thinks fit. A majority of the members of the Committee from time to time, provided that such majority includes the Controlling

Member (if there is one) shall form a quorum for a Committee meeting. No business of the Committee shall be conducted at any time when less than a quorum is present at the same time and place. The Committee may meet at any time and the secretary shall, upon the request of the chairperson or any three Committee members, convene a meeting of the Committee.

- 11.12 **Chairperson:** Subject to Rule 11.6, the Committee from time to time shall appoint, remove and replace a chairperson for such term as it sees fit from one of their number to chair Committee meetings and otherwise exercise the powers of the chairperson set out in this Constitution.
- 11.13 **Chairperson to have casting vote:** In the case of a tie in votes, the chairperson may exercise a casting vote.
- 11.14 **Seal:** The Committee shall obtain a common seal for the use of the Society and shall provide for its safe custody. The common seal shall not be used except by resolution of the Committee. Every instrument to which the common seal is affixed shall be signed by the Chairperson and one other member of the Committee.
- 11.15 **Voting:** Resolutions of the Committee shall be passed by majority. Each Committee member shall be entitled to exercise one vote, provided that the treasurer/secretary shall not be entitled to vote and further provided that the Controlling Member (if there is one) shall, on any matter relating to a Development Issue, be entitled to exercise a number of votes equal to one more than the number of other Committee members present at any Committee meeting. Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by such of the Committee members as would constitute a quorum at a Committee meeting shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted.
- 11.16 **Validity of Committee's actions :** All acts properly done by any meeting of the Committee or by any person acting as a Committee member, notwithstanding that it may afterwards be discovered that there was some defect in the appointment or continuance in office of any such Committee member, or that they were disqualified, shall be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Committee member.
- 11.17 **Committee minutes and records :** The Committee shall cause proper minutes to be kept of the proceedings of all meetings of the Society and of the Committee. All business transacted at such meetings signed by the chairperson shall be accepted as a correct and accurate record of the business transacted at such meetings without any further proof of the facts contained in such minutes.

12. **MANAGER**

- 12.1 **Duties** : Subject to rule 11.9, the Committee may appoint, remove and replace a manager from time to time to carry out such of the obligations of the Society, and exercise such of the discretions and powers of the Society, as the Committee shall see fit.

13. **GENERAL MEETINGS**

- 13.1 **Annual general meeting** : In addition to any other meetings in that year, the Society shall hold an annual general meeting each year. Not more than 18 months shall elapse between the date of one annual general meeting and that of the next. The Committee will determine the time and place of each year's annual general meeting.
- 13.2 **Special general meetings** : A general meeting other than an annual general meeting may be requested by the Committee, or by written requisition signed by not less than 25% of current Members. The secretary shall call a special general meeting within 14 days of receiving an effective request.
- 13.3 **Powers of the Society in general meeting** : The Society in a general meeting may, by resolution, exercise all powers, authorities and discretions of the Society notwithstanding that any such power, authority and discretion may have been delegated to the Committee by or pursuant to this Constitution. Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by 75% of the Members entitled to vote in person or by proxy at general meetings, together with the Controlling Member (if there is one), shall be as valid and effectual as if it had been passed at a general meeting of the Society duly convened and constituted.
- 13.4 **Quorum** : No business shall be transacted at any general meeting of the Society unless the quorum is present when a meeting proceeds to business. Quorum shall be not less than 20% of all Members or 10 Members (whichever is the lesser) eligible to vote at general meetings, present in person or by proxy, together with the Controlling Member (if there is one).
- 13.5 **Notice of general meeting** : A note of general meeting of the Society shall be sent to every Member not less than 10 working days before the date of such meeting. Such notice shall specify the date, time and venue of such meeting. In the case of a general meeting other than an annual general meeting such notice shall specify all business and all notices of motions to be considered at such meeting. No business or notice of motion which is not specified shall be discussed or transacted at such meeting.

- 13.6 **Failure to give notice** : The accidental omission to give notice, or the non-receipt of such notice by a Member, shall not invalidate the proceedings at any such meeting.
- 13.7 **The chairperson** : The chairperson at any general meeting shall be :
- a. the chairperson of the Society; or
 - b. if the chairperson is not present or is unwilling to take the chair, then those committee members who are present may choose one of their number to chair the meeting: or
 - c. if for any reason no chairperson is selected by the Committee, any Member appointed by a majority of Members present in person or by proxy.
- 13.8 **Adjournment** : If a quorum is not present within half an hour from the time appointed for the holding of a general meeting convened on requisition of Members, the meeting shall be dissolved. In any other case the meeting shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and place as the Committee shall determine (such date not to be later than 14 days from the date of the adjourned meeting). If at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present together with the Controlling Member (if there is one) shall constitute a quorum.
- 13.9 **Adjourned meetings** : No business other than that business which might have been transacted at the meeting from which the adjournment took place, shall be transacted at any adjourned meeting. Members shall not be entitled to receive any notice in respect of adjourned meetings.
14. **VOTING**
- 14.1 **One Member one vote** : Each member present at a general meeting of the Society (not at that time being in breach of the Constitution) shall be entitled to one vote for each Developed Property of which that Member is a registered proprietor, which may be exercised either in person or by proxy. Where there is more than one Owner in respect of any property within Clearwater Resort, and such Owners are collectively a Member pursuant to rule 4.8, only one such Owner shall be entitled to vote. In the absence of agreement between such Owners as to who shall exercise this vote, the Owner appearing first on the certificate of title to the property within Clearwater Resort shall be entitled to exercise that vote. On the death of any Member the Trustee of that Member's estate shall be entitled to exercise that Member's vote.

- 14.2 **Controlling Member's vote:** The Controlling Member (if there is one) shall, on any Development Issue, be entitled to exercise a number of votes equal to one more than the number of Members entitled to vote at any general meeting.
- 14.3 **Exercise of Controlling Member's Vote:** In the event that the Controlling Member intends to exercise a vote equivalent to one more than the number of Members entitled to vote at any meeting. In accordance with Rules 11.15 and 14.2 above, the Controlling Member shall provide to every member of the Society seven (7) days notice in writing (including the day of sending and the day of receipt in the ordinary course of posting) of their intention to exercise such vote. Every notice under this Rule shall outline the matter at issue together with a statement of intention from the Controlling Member as to the vote they intend to cast. During the 7 day notice period every Member shall have the right to provide written submissions to the Controlling Member regarding the matter at issue. The Controlling Member shall in good faith consider all submissions prior to exercising the Controlling Member's vote, however the Controlling Member shall not be under any obligation whatsoever to adopt any submission, in whole or in part, and the Controlling Member's discretion in this regard shall be completely unfettered.
- 14.4 **Corporation representatives :** Any corporation which is a Member may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Society, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which that person represents as that corporation could exercise if it were an individual Member, and references in this Constitution to a Member being present in person shall mean and include a representative appointed pursuant to this rule, and such person may also stand for election to the Committee.
- 14.5 **No vote if fees unpaid :** Unless all annual levies and additional fees presently payable by the Member to the Society have been paid in full, the Member shall not be entitled to vote at any general meeting of the Society, whether in his own right or as a proxy for another person.
- 14.6 **Voting at meetings :** At any general meeting :
- a. A resolution may be put to the vote by the chairperson or by any Member present at the meeting and entitled to vote.
 - b. Resolutions put to the vote shall be decided on voices or a show of hands, unless a poll is demanded on or before declaration of the result of the voices or show of hands by :
 - i. the chairperson of the meeting; or

- ii. at least five Members present in person or by proxy;
 - c. In the case of a resolution put to the vote of the meeting by voices or a show of hands, a declaration by the chairperson that such resolution has been carried or lost or an entry to that effect in the Society's minute book, shall be conclusive evidence of that fact, without further proof of the number or portion of votes recorded in favour of or against such resolution.
 - d. Resolutions shall be passed by a majority of votes, except where Special Resolution or the unanimous resolution of all Members is required by this Constitution.
 - e. In the case of a tie in votes, the chairperson may exercise a casting vote.
- 14.7 **Good faith** : Members shall, in exercising any vote at any general meeting, or as a Committee Member, exercise such vote in good faith with a view to ensuring that all Members are treated equally by the Society, and that each Member shall bear that Member's Proportion of all Operating expenses and of all costs and expenses to be met by levies made by the Society under rule 6.5, irrespective of whether any expenditure by the Society benefits all Members.

15. DESIGN CONTROL COMMITTEE

- 15.1 **Composition** : The initial Design Control Committee shall comprise the following persons:
- a. a landscape architect with expertise in golf resort design appointed from time to time by the Developer;
 - b. an architect appointed from time to time by the Institute of Architects (Canterbury); and
 - c. two representatives of the Controlling Member appointed by the Controlling Member, for so long as there is a Controlling Member.

At such time as the Society is in a position to do so the Society shall appoint a representative to join the Design Control Committee and thereafter it shall be a requirement that a representative of the Society forms part of the Design Control Committee

- 15.2 **Design guidelines** : The Design Control Committee may publish from time to time Design Guidelines in respect of residential development within Clearwater Resort.
- 15.3 **Design approval** : Before commencing any residential building or development or other structure within Clearwater Resort or obtaining

any consent from any local authority to build, a Member must first submit the design of the proposed building/structure to the Design Control Committee for its written approval, which shall not be unreasonably withheld or delayed where the design complies with, in the following order of priority :

- a. the District Plan;
- b. any bylaws made under rule 9.1 of this Constitution; and
- c. any relevant Design Guidelines.

15.4 **Approval Costs:** All costs of the design approval process (including without limitation, any disbursements or professional charges of a member of the Design Control Committee) shall be met by the Member seeking the approval.

15.5 Bonds

- (a) **Approval Bond:** A refundable bond of \$2,000 (or such other amount as the Design Control Committee reasonably determines) will be required to be deposited with the Developer by the Member at the time of lodging any design for approval. The bond paid by the Member minus any deductions and approval fees will be returned to the Member once the finished project matches the approved drawings to the satisfaction of the Design Control Committee.
- (b) **Construction Bond :** A refundable bond of \$5,000 will be required to be deposited with the Developer by the Member prior to commencement of any work on the Developed Property, to cover any damage to any services, private roading, kerbing or other facility/structure not owned by the Member.

GENERAL

16. GENERAL

16.1 **Dissolution :** The Society may be wound up in accordance with section 24 of the Act. Upon the winding up of the Society:

- a. ownership of the Residential Communal Facilities shall vest in; and
- b. the contents of any sinking fund collected by the Committee in accordance with rule 6.5a shall be distributed to,

the Members as tenants in common in shares equal to the Member's Proportion as at the date of winding up, and the Society shall take all

necessary steps to vest legal title to the Residential Communal Facilities in the Members.

- 16.2 **Alteration of Constitution** : Subject to rule 16.3 the Constitution shall not be amended, added to or rescinded unless:
- a. such action is taken at an annual general meeting, or a general meeting convened for that purpose; and
 - b. written notice of the proposed amendment, addition or rescission has been given to all Members in accordance with this Constitution; and
 - c. such action is taken by Special Resolution; and
 - d. such action is taken with the written consent of the Controlling Member (if there is one).
- 16.3 **Rights of Controlling Member** Notwithstanding any other rule in this Constitution, this Constitution shall not be amended, added to or rescinded so as to alter, add to or rescind rules 4.2, 5.2, 6.8, 7.1, 8.2, 9.1, 12.1, 14, 15, 16.1, 16.2, 16.3 or so as to detrimentally affect the rights of the Controlling Member.
- 16.4 **Acceptance by Registrar** : No such amendment, addition or rescission shall be valid unless and until accepted by the Registrar of Incorporated Societies under the Incorporated Societies Act.
- 16.5 **Registered office** : The registered office shall be situated at a place nominated by the Committee.
- 16.6 **Liability of Members** : No Members shall be under any liability in respect of any contract or other obligation made or incurred by the Society.
- 16.7 **Society to indemnify Members** : The Society shall indemnify each Member against any liability properly incurred by such Member in respect of the affairs of the Society, to the extent of property owned by the Society.
- 16.8 **No action in favour of Members** : No action in law or otherwise shall lie in favour of any Member against any other Member or the Committee, or any Committee member in respect of any act or omission pursuant to this Constitution. Nothing in this rule shall prevent an action in respect of any loss or expense arising from the wilful default of the person against whom such action is taken.
- 16.9 **Member to indemnify Society** : Each Member shall indemnify and keep indemnified the Society from and against any action, claim, demand, loss, damage, cost, expense and liability which the Society

may become liable in respect of or arising from any breach of this Constitution by the Member.

16.10 **Arbitration** : Any difference or dispute which may arise between a Member and the Society concerning this Constitution or any act or thing to be done, suffered or omitted under this Constitution, or concerning the construction of this Constitution shall be referred to the arbitration of a single arbitrator if the parties can agree upon one, but otherwise to two arbitrators (one to be appointed by either party) and an umpire (to be appointed by the arbitrators before entering upon the reference). Any dispute, difference or question as to the jurisdiction of the arbitrator shall be determined by the arbitrator. The arbitration shall be conducted in accordance with and subject to the provisions of the arbitration statutes for the time being in force in New Zealand. Such arbitration shall be a condition precedent to the commencement of any action at law.

16.11 **Approval** : Where in this Constitution any reference is made to the approval or consent of the Society or the Developer:

- a. such approval or consent shall be given at the sole discretion of the Society, or the Developer, as appropriate;
- b. no approval or consent given on any occasion by either the Society or the Developer shall serve as a precedent for, or be binding in any way with respect to, any future application for consent or approval; and
- c. such reference shall mean the prior written approval or consent of the Society or the Developer, as appropriate.

**SCHEDULE 1
SOCIETY BYLAWS**

1. USE

- 1.1 Each member shall make no improper, offensive or unlawful use of any Residential Communal Facilities, and shall use the Residential Communal Facilities only for the purposes for which they were designed.
- 1.2 No Member shall fetter, obstruct or impede the use of any Residential Communal Facilities by any other member.
- 1.3 No Member shall place anything in or on Residential Communal Facilities without the approval of the Manager.
- 1.4 No Member shall do any act which may prejudice or add to the premium payable in respect of any insurance of the Residential Communal Facilities.

2. PROHIBITED ACTS

- 2.1 No Member shall drop any litter in or on the Residential Communal Facilities.
- 2.2 No Member shall operate any motorised craft on any lake or river which forms part of the Residential Communal Facilities.
- 2.3 No Member shall do any act that detracts from the attractiveness or state of repair of the Residential Communal Facilities. Any Member who discovers any damage to the Residential Communal Facilities shall immediately report such damage to the Manager.
- 2.4 No Member will exhibit or put on any part of the land including the outside of the Developed Property or in any building any trade business or professional or advertising sign or any notice or name board or plate provided that the Developer may permit a nameplate of a uniform design and size in respect of the dwelling in common with that permitted for other dwellings at the Clearwater Resort.
- 2.5 No Member shall obstruct or interfere with or disturb or trespass upon the rights of any other Member or occupier of any other Developed Property in the quiet and uninterrupted occupation and enjoyment of the premises so occupied by him or her.
- 2.6 No Member shall do or permit to be done anything whereby any obstruction, restriction or hindrance may be caused to the roads, driveways and pathways or other parts of the Clearwater Resort or to persons lawfully using the same.

3. CLOSURE OF RESIDENTIAL COMMUNAL FACILITIES

- 3.1 The Manager shall be entitled to close any or all of the Residential Communal Facilities as the Manager considers necessary for security reasons, or for the purpose of maintaining and repairing Residential Communal Facilities.

4. ROADS

- 4.1 Each Member shall provide the Manager with the registration number of all vehicles belonging to that Member which shall be used on any of the roads within Clearwater Resort.
- 4.2 No Member shall park any vehicle on the roads or any other Residential Communal Facilities, other than in spaces specified by the Manager from time to time as suitable for that purpose.

5. CODE OF CONDUCT

- 5.1 No Member shall use or permit any Developed Property to be used for any purpose which is illegal or may be injurious to the reputation of Clearwater Resort.

6. CONDUCT AND NOISE

- 6.1 No Member shall engage in, or allow any person to engage in, any criminal activity within Clearwater Resort.
- 6.2 No Member shall make or permit any improper or unreasonable noise within Clearwater Resort, nor act in any fashion so as to annoy, disturb or irritate any other Member.
- 6.3 If intoxicating liquor is consumed within Clearwater Resort, the Member shall ensure that all laws governing the consumption of intoxicating liquor are complied with.
- 6.4 The Society reserves the right to exclude or evict from Clearwater Resort any person who in the opinion of the Society is under the influence of intoxicating liquor, drugs or substances, or who in any manner acts in violation of the Constitution or these rules. This right has been delegated to the Manager.
- 6.5 No Member shall burn any material or substance within Clearwater Resort or do anything which may create a fire hazard or contravene fire regulations.
- 6.6 No Member shall dispose of any rubbish except into bins or receptacles for removal on usual days by the local authority or by independent contractors.

7. MEMBERS' RESIDENCES

- 7.1 Each Member shall have the duty to keep each property which they own within Clearwater Resort and all improvements to those properties in a well maintained and attractive condition and shall not permit the accumulation thereon of unsightly rubbish or materials or in any other way permit the appearance of a property to detract from the general standards established for Clearwater Resort.
- 7.2 Each Member shall at all times comply with the requirements of all statutes, regulations and local authorities, and shall duly and punctually pay all rates, taxes, charges and other outgoings payable in respect of that Member's Developed Properties.
- 7.3 No Member shall erect any notice or sign on a Developed Property or the Residential Communal Facilities without the prior written consent of the Society.
- 7.4 Each Member shall properly secure that Member's Developed Property when it is not occupied.
- 7.5 No Member shall allow any animal, bird or pet (collectively "pet") to cause a nuisance to any other Member.
- 7.6 Without limiting the generality of bylaw 7.5, each Member shall ensure, that:
- a. the number and size of any Pets are reasonable given the size of the Member's Developed Property and any high density residential environment at Clearwater Resort;
 - b. when Pets are outside the boundaries of the Member's Developed Property, Pets are under the control and supervision, and for this purpose, all dogs are on a leash;
 - c. all pet droppings are immediately picked up and disposed of.
 - d. no Pet shall make any noise so as to disturb or otherwise cause a nuisance;
 - e. all Pets are maintained in a healthy and clean condition, and all laws and regulations relating to the keeping of such Pets are complied with;
 - f. no dangerous Pets are kept within Clearwater Resort;
 - g. all dogs remain inside the boundaries of the Developed Property. As fences are not encouraged within the residential areas of the Clearwater Resort (other than for safety purposes)

Members may need to give consideration to alternative means or methods to comply with this bylaw.

- 7.7 Each Member shall be liable for the costs of repairing any damage caused by that Member's Pets.
- 7.8 No Member shall allow any Developed Property to become infested by vermin or insects.
- 7.9 No Member shall erect or permit to be erected on any Developed Property any aerials, satellite dishes or other communication receivers of any kind whatsoever, other than those approved by the Society which permission may in the Society's absolute discretion be withheld should it consider that these do not conform to the standards desirable for the development of Clearwater Resort.
- 7.10 No Member shall hold or permit to be held any auction sale on any Developed Property without the prior written approval of the Society.

8. DESIGN APPROVAL

- 8.1 **Design approval** : Before commencing any residential building or development or other structure within Clearwater Resort or obtaining any consent from any local authority to build, a Member must first submit the design of the proposed building/structure to the Design Control Committee for its written approval, which shall not be unreasonably withheld or delayed where the design complies with, in the following order of priority :
 - a. the District Plan;
 - b. any bylaws made under rule 9.1 of this Constitution; and
 - c. any relevant Design Guidelines.
- 8.2 **Approval Costs**: All costs of the design approval process (including without limitation, any disbursements or professional charges of a member of the Design Control Committee) shall be met by the Member seeking the approval.
- 8.3 **Approval Bond**: A refundable bond of \$2,000 (or such other amount as the Design Control Committee reasonably determines) will be required to be deposited with the Developer by the Member at the time of lodging any design for approval. The bond paid by the Member minus any deductions and approval fees will be returned to the Member once the finished project matches the approved drawings to the satisfaction of the Design Control Committee.
- 8.4 **Construction Bond** : A refundable bond of \$5,000 will be required to be deposited with the Developer by the Member prior to

commencement of any work on the Developed Property, to cover any damage to any services, private roading, kerbing or other facility/structure not owned by the Member.

- 8.5 **Right to disapprove plans** The Design Control Committee retains the right to refuse to approve any plans which in its reasonable opinion do not meet the minimum standards of design quality as outlined in these bylaws.
- 8.6 **Approval Process** : The Design Control Committee and the Member shall comply with the following approval process before undertaking any work to the Lot:
- a. Pre-Design Conference (optional). Member and the architect/designer review their ideas with the Design Control Committee.
 - b. Preliminary Submittal (required). Review of conceptual plans with the Design Control Committee to discuss site planning and building concepts prior to commencing working drawings.
 - c. Final Submittal including:
 - i. Legal Description
 - ii. Landscape Plan (1:100 scale)
 - utilities locations
 - drainage and location/size of soakage pits (dry wells)
 - set backs – easements
 - sidewalks, stairways, parking, driveways, decks, patios, courtyards, swimming pools, awnings and walls, exterior lights, garage, other out-buildings
 - safety fencing location, height and appearance
 - planting location of planters, lawn area, new trees, natural ground cover areas, and associated plant species
 - plant list including species, size, height at maturity
 - jetties/lake edge development
 - iii. Building Plans (1:50 scale)
 - plan of works
 - plans, sections, elevations
 - colours and materials identified
 - any rooftop equipment, chimneys
 - iv. Specifications

- samples and colours of roof and wall materials and of other special features.
- d. Location of building foundations and grades, exterior design, materials and colours are reviewed by the Design Control Committee within 15 business days of a complete submission being received.
 - e. Approved plans are then available to be picked up. In the event of non-approval the Member and/or their architect may work with the Design Control Committee to obtain approval or lodge an appeal.
 - f. In the event of an appeal in terms of design, a final decision will be made by an arbitrator (appointed by the Design Control Committee in consultation with the Member) based on written submissions from the Member and the Design Control Committee.
 - g. Member acquires building consents from the local authority.
 - h. Member's builder excavates and forms all footings/slabs.
 - i. Prior to pouring the footings, the Member submits to the Design Control Committee an engineer's or surveyor's certificate confirming that grades and locations are correct.
 - j. When the house is complete the Member notifies the Design Control Committee to have the final inspection carried out.
 - k. The bond paid by the Member under bylaw 8.3 minus any deductions and approval fees will be returned to the Member once the finished project matches the approved drawings to the satisfaction of the Design Control Committee.

9. SECURITY MEASURES

- 9.1 Private security devices, if installed, shall be monitored so as to ensure prompt and effective response when activated, and deactivation by independent persons if the occupant is absent.

10. BIRD STRIKE AND OTHER MATTERS CHRISTCHURCH INTERNATIONAL AIRPORT

- 10.1 The development of Clearwater Resort includes the creation of bodies of water that may contribute to the risk of bird strike to aircraft using the Airport.
- 10.2 Each Member shall use all reasonable endeavours to restrict any bird species identified as being a potential threat to aircraft operations at

the Airport from visiting or inhabiting the Member's Developed Property. These reasonable endeavours will include (without limitation) all matters referred to in clause 3.1 (h) i to vi.

- 10.3 No New Member of the Society being the owner of land covenanted and/or joining or rejoining the Society after the 18th day of September 2005 shall:
- a. interfere in any way with CIAL activities nor shall oppose or procure any other party to oppose in any way any Resource Management Act application made by CIAL in the furtherance of its objective of being a 24 hour seven day a week non-curfewed international airport;
 - b. prevent or object to, complain about, bring any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise and whether seeking damages or injunctive or other relief or orders), or otherwise oppose, noise resulting from the operations of Christchurch International Airport (including, without limitation), from the operation of aircraft, testing of aircraft engines, bird scaring, bird hazard management, or the operation of motor vehicles and associated equipment) or the effects of or resulting from such noise.

**SCHEDULE 2
DEED OF TRANSFER**

**CLEARWATER RESORT OWNERS SOCIETY
INCORPORATED**

DEED FOR TRANSFER OF RESIDENTIAL COMMUNAL FACILITIES

DEED dated

PARTIES

CLEARWATER RESORT LIMITED AND/OR CLEARWATER LAND HOLDINGS LIMITED AND THEIR ASSOCIATED AND/OR SUBSIDIARY COMPANIES ("Developer")

AND

CLEARWATER RESORT OWNERS SOCIETY INCORPORATED ("Society")

INTRODUCTION

- A. The Developer intends to develop Clearwater Resort, which includes a residential development on a site generally as shown on the plan annexed to the constitution of the Society.
- B. The Developer wishes to transfer property to the Society, which property shall be for the common use of all owners of Clearwater Resort. The Society shall hold, own and maintain that property in accordance with its constitution.

COVENANTS

1. DEFINITIONS

- 1.1 In this Deed, unless the context otherwise requires:

"Residential Communal Facilities" means all land, plant, equipment, facilities, utilities and amenities including any private roads and walkways within Clearwater Resort owned, leased, licensed or otherwise held or operated by the Society (as the Society may determine) from time to time including those facilities from time to time transferred to the Society by the Developer in accordance with this Deed of Transfer.

"Development" means the construction of Clearwater Resort as a complete residential development.

2. RESERVATION

- 2.1 The Society acknowledges that whilst it is the intention of the Developer to construct the Residential Communal Facilities, the Developer reserves the right to not proceed with the construction of the Residential Communal Facilities, to vary those facilities designated as Residential Communal Facilities, and to vary the location and specifications of the Residential Communal Facilities.

2.2 This deed shall oblige the Developer only to assign such Residential Communal Facilities as it completes, and shall not oblige the Developer to construct any Residential Communal Facilities, or to construct any Residential Communal Facilities to any particular specification or in any particular location.

2.3 The Developer expressly disclaims any liability to the Society in respect of anything and of the consequences of anything done or omitted to be done by any person in reliance upon any Residential Communal Facilities being constructed, or constructed to any particular specification or in any particular location.

3. TRANSFER

3.1 The Developer shall, as each stage of the Development is completed, transfer to the Society any Residential Communal Facilities constructed which are intended to be used by owners of properties within that stage, subject to such encumbrances as the Developer sees fit.

3.2 The Developer warrants that any Residential Communal Facilities transferred to the Society shall be complete, and that all work in respect of such Residential Communal Facilities shall be to a proper and professional standard.

3.3 The Developer covenants for the purposes of rule 3.1, that it shall promptly make, do and execute all deeds, documents and actions required of it by the Society to effect the assignment to it of Residential Communal Facilities.

3.4 The Developer shall indemnify and keep indemnified the Society against any and all stamp duty for which the Society may become liable as a result of the transfer of Residential Communal Facilities pursuant to rule 3.1 provided that should the Society reasonably believe it may become liable for any such stamp duty, the parties shall seek a ruling on this point from the Commissioner of Inland Revenue and shall co-operate fully in taking all steps necessary for this purpose (including making submissions in respect of, and objecting to, this ruling) before the transfer of the Residential Communal Facilities.

3.5 The Society shall hold Residential Communal Facilities in accordance with its Constitution, and generally for the benefit of the owners of Clearwater Resort.

4. DEVELOPMENT RIGHTS

4.1 The Society shall ensure that its constitution:

- a. allows the Developer access to the Developed Property of that Member for the purpose of proceeding with the development

provided that the Developer has no other reasonable means of proceeding with the Development other than through the Members developed property and must give such Member reasonable verbal notice of its requirement for access and its best estimate of the duration of such access; and provided that the Developer must, without delay, make good any damage or harm to the Member's Developed Property resulting from such access; and

- b. grants such easements in favour of the Developer over or under the Member's Developed Property as are required for the development to proceed or as may be necessary or desirable for development of Clearwater Resort provided that the Developer has no other reasonable means of proceeding with the Development other than by benefiting from such access. The Developer must pay the reasonable expenses incurred by the Member relating to the grant of any such easement; and
- c. does not prevent, hinder or obstruct the use by the Developer of the Residential Communal Facilities, the addition, removal or alteration of structures or services forming part of the Residential Communal Facilities by the Developer, or the granting of any interests in the Residential Communal Facilities by the Society to the Developer; and
- d. does not allow a Member nor the Society to oppose, or take part in any opposition to, the development of Clearwater Resort; and
- e. requires Members to support any resolution to amend this Constitution, where the Society is bound by agreement with the Developer, to procure such amendment; and
- f. requires members to sign any document or do any other thing reasonably necessary to support any Resource Consent or other authorisation applied for by or on behalf of the Developer in respect to the development of Clearwater Resort; and
- g. requires that New Members being the owners of land covenant to prevent interference with CIAL activities and/or all members joining or rejoining the Society after the 18th day of September 2005 shall not prevent, hinder or obstruct CIAL in any way in the development of a 24 hour seven day a week non-curfewed international airport operation, including without limitation, not mounting any challenge or taking any objection to any planning initiative, application or consent process, district scheme change or special legislation enacted in favour of CIAL's stated objective of being a 24 hour seven day a week non-curfewed international airport operation; and

- b. enforce any covenants granted by any resident of Clearwater Resort in favour of the Society, when called upon to do so by the Developer.

6. OPERATING EXPENSES

- 6.1 The Developer acknowledges that during the Development, it may, in carrying out any works, add to the costs of maintaining and repairing Residential Communal Facilities transferred to the Society and agrees to, within 30 days of written demand being made by the Society, make payment to the Society in reimbursement of such additional costs, provided that the Developer may require the Society to provide invoices verifying expenditure in respect of the additional costs.

7. GOOD FAITH

- 7.1 The parties shall act in good faith, and shall use their best endeavours to promote the mutual interests of the parties in the development and maintenance of Clearwater Resort as a high quality residential development.
- 7.2 The Developer shall exercise its voting rights as Controlling Member (as defined in the Society's constitution) so as to ensure that:
 - a. Clearwater Resort is developed and completed in accordance with the requirements of all statutes, regulations and regulatory authorities;
 - b. the Residential Communal Facilities are maintained to a standard commensurate with the Developer's promotion of Clearwater Resort as a high quality residential development;
 - c. owners of Clearwater Resort comply with any covenants granted in favour of the Society;
 - d. the Development proceeds smoothly and efficiently, in accordance with the plans of the Developer,

and otherwise for the benefit of owners of Clearwater Resort.

8. ASSIGNMENT

- 8.1 This agreement may be assigned by the Developer, provided that the assignee enters into an agreement with the Society under which the assignee agrees to be bound by the terms of this agreement.

9. CONTRACTS (PRIVITY) ACT 1982

9.1 In terms of section 4 of the Contracts (Privity) Act 1982, this deed is for the benefit of all registered proprietors of residential properties within Clearwater Resort , and the obligations of the Developer pursuant to this deed may be enforced by any such registered proprietor.

10. POWER OF ATTORNEY

10.1 The Society irrevocably appoints the nominee of the Developer, as the attorney of the Society, to execute and perform any act, deed, matter or things as fully and effectually as the Society could do, where the Society is required to execute or perform such act, deed, matter or thing by the provisions of this deed, and the parties agree to execute a full and proper power of attorney in this respect immediately upon execution of this agreement.

EXECUTION AS A DEED

CLEARWATER RESORT LIMITED
by:

]

Signature of Director _____

Name of Director _____

Signature of Director _____

Name of Director _____

THE COMMON SEAL of CLEARWATER RESORT OWNERS SOCIETY INCORPORATED

Was affixed in the presence of:

Name and office of signatory _____

Name and office of signatory _____

**SCHEDULE 3
EXISTING MEMBERS**

556 Investments Limited

A

Ahn, J T & Im, K J

Al Jafar Trust

Andytrac Limited

Austin, E U

B

Baker/Thomas Ventures Ltd

Battiston, J

Berryman, F

Berryman, F

Blackhouse Investments Limited

Bruce, J & N

Brundell Properties Limited

Buckingham Limited

Burrett, G D , Fuller M J & The Directors of the Amberley Hotel Ltd

C

Cam 2000 Limited

Canres Limited

Caroline Melville Family Trust

Charles, Sir Bob & Lady Verity

Chiverton Holdings Ltd

Chiverton Holdings Ltd

Clear Blue Investments Limited

Clearwater Hotel 2004 Limited

Clearwater Hotel 2004 Limited

Clearwater Land Holdings Limited

Cournane, F

Cox, J

Cox, J

Cox, R N S & G M

Crisp, P J

D

Darby, J J & B M

Dipsy Doodle Investments Limited

Dollar Munchers Investments Limited
Donnithorne Investments Limited
Dunlop, J R & R A L t/a Mayfield Grove Partnership
Durning Communications Limited
Durning, J

E

Edge Properties (2003) Limited
Elliott, J M
Ellwood, K G

F

Fleming, D J & W L

G

Giesen, Henderson & Giesen
Gill, S S & G J L
Glenross Properties Limited
Grena Nominees Limited
Greta Holdings Limited

H

Harris, C & L
Hazlett Investments Limited
Hazlett, D
Hazlett, D
Helder Holdings Limited
Howat, M E & S J
Hoyle, S N & C A

I

Imak Investments Limited
Isaac Construction Company Limited

J

Jaffray Family Investments Limited
James Robert Investments Limited
Johnstone, C & McBride, G

K

Kirkland, J M & Tait, E J
Kirkpatrick, G F, Bowden P I, McGowan, A L & Purvis J L

L

Lee, J W & Chang, C Y

Limestone Hills Vineyards & Olive Groves Limited

Ludgater Holdings Limited

M

Maxband Holdings Limited

McDonald, K

McDonald, K

McFarlane, P & P

McLaughlin, P B & J A

McGuinness, P T

MD4 Ltd

Min, D K & Ok, S

Moore, D & V

O

One Foot Forward Limited

O'Shannessey, T J & S

Outrigger Hotels & Resorts Australia Pty Limited

P

Parkhouse Trust

Peak, L & Perry, M

Peate, R S & J A

Porra, M F & T B

R

Randle, P L

Rapper Investments NZ Limited

S

S.K. (Chch) Ltd

Saunders, M & Sissons, R

Scarlett Black Property Investments Ltd

Selby, C R & J E

Selby, C R & J E

Sloane, A W B & N E & Harry, B J

Smith, K J & Turner, J R

Smith, K & J

Sundstrum, B

T

The Hadlow Corner Trust

The Winward Trust

Three Greens Limited

Timbs, P W & W A

V

Vieceli, B J & Carswell, C C

W

Warjen Properties Limited

Whelan, P D

Williams, R & A & Keegan, A

**CLEARWATER RESORT
MASTER DEVELOPMENT PLAN**

BETWEEN

CLEARWATER RESORT OWNER'S SOCIETY INCORPORATED
("Society")

AND

THC GROUP LIMITED
("Manager")

MANAGEMENT AGREEMENT

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THIS DEED is dated the 11th day of August 2020

BETWEEN CLEARWATER RESORT OWNERS' SOCIETY INCORPORATED ("Society")

AND THC GROUP LIMITED ("Manager")

INTRODUCTION

- A. The Constitution requires the Society to operate, manage, maintain, renovate and replace the Residential Communal Facilities for the benefits of its Members, such Members being property owners at Clearwater.
- B. The Manager has agreed to manage the Society on the terms set out in this agreement.

AGREEMENT

1. INTERPRETATION

- 1.1. In this Agreement unless the context otherwise requires the following descriptions shall apply:

"**Agreement**" means this Management Agreement.

"**Commencement Date**" means the date of this Management Agreement.

"**Committee**" means the committee members from time to time elected to manage the affairs of the Society pursuant to the Constitution.

"**Constitution**" means the constitution of the Society.

"**Developed Property**" shall bear the meaning ascribed thereto in the Constitution.

"**Management Fee**" means the fee payable by the Society to the Manager pursuant to clause 5.

"**Residential Communal Facilities**" shall bear the meaning ascribed thereto in the Constitution.

"**Termination Date**" means the date upon which this agreement is terminated in accordance with clause 10.

Defined Terms in this Agreement shall have the same meaning as those terms in the Constitution.

2. APPOINTMENT OF MANAGER

- 2.1. The Society may appoint, remove and replace the Manager from time to time to carry out such of the obligations of the Society.
- 2.2. The Society hereby appoints the Manager as the manager and the treasurer/secretary ("Treasurer/Secretary") of the Society.

3. TERM

- 3.1. This Agreement shall commence on the Commencement date and shall expire on the Termination Date.

4. ROLE OF MANAGER

- 4.1. The relationship between the Society and the Manager shall be that of principal and agent.
- 4.2. Nothing in this Agreement shall be deemed or construed to constitute a part, a partner of the other party, or to create any trust. Neither party shall have the authority to act for nor to incur any obligation on behalf of the other party except as expressly provided in this Agreement or any Agreement entered into pursuant to this Agreement.
- 4.3. The Manager shall not by reason of its management of the Society be liable for any of the Society's legal, equitable, statutory or other obligations.
- 4.4. The Manager will report to, take directions from, and be accountable to, the Society in relation to its duties under this Agreement.
- 4.5. Subject to the specific terms of this Agreement, the Manager may exercise all powers, authority and discretions of the Society as set out in the Constitution, and do on its behalf all such acts as it deems necessary or expedient.

5. MANAGEMENT FEE

- 5.1. The Society shall pay to the Manager being that fee determined by the Society.
- 5.2. Subject to the receipt of a tax invoice, the Management Fee shall be paid by the Society to the Manager monthly in arrears by the 20th day of the months following the month in question.

6. MANAGER'S OBLIGATIONS

- 6.1. The Manager shall:
 - 6.1.1. Manage the Society in accordance with sound commercial practice and in accordance with any reasonable directions (not inconsistent with the terms of this Agreement) which may from time to time be given to the Manager by the Society;
 - 6.1.2. Carry out the duties of the Treasurer/ Secretary under the Constitution;

- 6.1.3. Use its best endeavours to promote the interests and welfare of the Society and its Members; and
 - 6.1.4. Employ sufficient competent staff to effectively manage the Society and carry out the duties of the Treasurer/Secretary.
- 6.2. Subject to any reasonable directions (not inconsistent with the terms of this Agreement) which may from time to time be given to the Manager by the Society and to the restrictions imposed by clause 6.3, the Manager's duties shall include, without limitation to the provisions of clause 6.1:
- 6.2.1. Those duties as Manager specified in the first schedule to this Agreement; and
 - 6.2.2. Those duties as Treasurer/Secretary as specified in the second schedule to this Agreement.
- 6.3. The Manager shall not be entitled, without the prior approval of the Committee:
- 6.3.1. Subject to clause 6.4, to enter into any agreement, arrangement, transaction or contract on behalf of the Society;
 - 6.3.2. To carry out any capital improvements;
 - 6.3.3. To levy any Members;
 - 6.3.4. To promulgate bylaws under the Constitution;
 - 6.3.5. To allow any person, other than an Occupier or an Invitee, to use the Residential Communal Facilities;
 - 6.3.6. Spend, or commit to the expenditure of, any amount over \$5,000.00 plus GST, or any higher amount the Committee specifies from time to time; and
 - 6.3.7. To initiate any action at law or equity, or to enter into any dispute resolution or mediation, on behalf of the Society.
- 6.4. For the purposes of clause 6.3.1, the Society may, from time to time, advise the Manager of any clause of contract (including contracts being for a consideration less than a sum specified by the Society) which the Manager is approved to enter into on behalf of the Society.
- 6.5. Notwithstanding the provisions of clause 6.3 there shall be no limits on the Manager's authority where the Manager, in its reasonable opinion, decides that to delay a decision or an action while awaiting the approval of the Society would be detrimental to the best interests of the Society. However, the Manager shall first give notice of the intended decision or action to the Chairperson of the Committee either by telephone, facsimile or email and shall have waited a reasonable time from the giving of such notice without having received a response from the Chairperson of the Committee (after having made reasonable efforts to obtain such approval during that period).

7- SOCIETY'S OBLIGATIONS

7.1. The Society shall:

- 7.1.1. Permit the Manager to manage the Society without interruption or disturbance by the Committee, or the Society's agents, employees or contractors;
- 7.1.2. Grant the Manager and all persons authorised by the Manager the right to enter upon the Residential Communal Facilities at all times in connection with the fulfilment of the Manager's duties and obligations; and
- 7.1.3. Promptly do all things which may reasonably be necessary to enable the Manager to fully and effectively manage the Society in the manner contemplated including, without limiting the generality of the foregoing, arranging the execution of all notices, papers and documents reasonably required by the Manager to enable the Manager to carry out its obligations and functions.

8. LIABILITY

- 8.1. The Society shall not make any claim against the Manager in its capacity as Manager in respect of any alleged errors of judgment made in good faith in connection with the performance of its obligations under this Agreement and this limitation shall apply equally to claims against third parties performing such services pursuant to contacts with the Manager in its capacity as Manager of the Society.
- 8.2. If any claim, demand, action or proceeding is made or brought by any third party against the Manager in respect of or arising out of the performance of the Manager's obligations under this Agreement the Society shall indemnify the Manager against all losses, damages, costs and expenses in connection therewith except to the extent that the same may arise out of or be attributed to the breach of this Agreement or the gross negligence, wilful misconducts or misfeasance of the Manager or the Manager's employees or agents.
- 8.3. The Manager shall indemnify the Society against any claim, demand, action or proceeding made or brought by any third party against the Society in respect of or arising out of any breach of this Agreement by the Manager.

9. DEFAULT INTEREST

- 9.1. If any money owing to either of the parties under this agreement is in arrear and unpaid for 14 days after the due date for payment, whether or not any formal or legal demand for payment has been made, the other party shall pay default interest on the amount unpaid at the default interest rate computed on a daily basis from the due date until the overdue amount and all accrued interest is paid in full. The recovery of or right to recover interest by either party shall be without prejudice to that party's other rights, powers and remedies.

10. TERMINATION

- 10.1. This Agreement may be terminated by the Society by six months' notice in writing to the Manager.
- 10.2. Notwithstanding any other provision of this Agreement, this Agreement may be terminated by either party, without prejudice to any of their other rights or remedies, by notice in writing to the other party if:
- 10.2.1. The other party is in default in respect of any term of this Agreement. However, notice of default must first have been served upon such other party and such default shall have remained unheeded for a period of 60 days thereafter;
 - 10.2.2. The other party has a receiver or manager appointed over its undertaking or assets or enters into any assignment, composition or arrangement with its creditors;
 - 10.2.3. Proceedings for the winding up of the other party are presented or advertised or if a resolution is passed for the winding up of the other party or if any declaration as to the dissolution of the other party is made; or
 - 10.2.4. The other party shall be or become unable to pay its debts as they fall due in terms of section 287 of the Companies Act 1993 or shall be deemed to be unable to pay its debts or shall suspend payment to its creditors or shall cease or threaten to cease to carry on its business.
- 10.3. Upon termination the Manager shall forthwith deliver to the Society all contracts, documents, papers and records pertaining to the Society and shall take such action as the Society may reasonably require in order to ensure an orderly and systematic termination of the Manager's duties and activities under this Agreement.
- 10.4. Upon termination neither party shall be released from liability to pay any money owing but unpaid up to the date of termination or from liability for any previous breach of this Agreement.
- 10.5. The provisions contained in clause 12 shall remain in full force and effect after the termination of this Agreement and shall not be, or deemed to be, waived, merged or extinguished upon such termination.

11. ASSIGNMENT AND SUB-CONTRACTING

- 11.1. This Agreement may be assigned by the Manager with the consent of the Society (which consent shall not be unreasonably withheld) where the Manager establishes to the reasonable satisfaction of the Society that the assignee is in all respects a suitable person capable of undertaking the obligations of the Manager under this Agreement, and the assignee enters into an Agreement with the Society under which the assignee agrees to be bound by the terms of this Agreement.
- 11.2. The Manager shall be entitled to sub-contract with the consent of the Society (which consent shall not be unreasonably withheld) any or all of its obligations under this Agreement to a third party where the Manager establishes to the reasonable satisfaction of the Society that the sub-contractor is a suitable

person capable of undertaking these obligations. The sub-contracting of its obligations shall not in any way release the Manager from its obligations to the Society under this Agreement.

- 11.3. The consent of the Society is not required under clauses 11.1 and 11.2 where the assignee or sub-contractor is a related company (as defined in the Companies Act 1993) of the Developer. However, any such assignee must enter into the Agreement with the Society provided in clauses 11.1.

12. CONFIDENTIAL INFORMATION

- 12.1. Except in the proper performance of this Agreement, neither party shall at any time (whether during or after the termination of this Agreement), either directly or indirectly, use or divulge to any person or entity any knowledge or information which it may acquire during the term of this Agreement, or may have already acquired, concerning the Society, or the operations, affairs, property, customers, clients or principals of the other party ("Confidential Information") except:

12.1.1. With the consent of the other party;

12.1.2. In respect of Confidential Information which has become public knowledge other than as a result of unauthorised disclosure by either of the parties or their directors, officers, employees, agents, contractors or representatives; or

12.1.3. Confidential information which shall be required to be disclosed to the auditors of either party or to any governmental agency or otherwise as required by law.

- 12.2. Each party shall use its best endeavours to ensure that its directors, officers, employees, agents, contractors or representatives who are at any time in possession of Confidential Information do not disclose or suffer or permit the disclosure or use of such Confidential Information except as specifically provided in clause 12.1.

13. NOTICE

- 13.1. Any notice to be given pursuant to the terms of this Agreement shall be in writing addressed to the party to whom it is given and may without prejudice to any other mode of service authorised by law be delivered to or sent by prepaid registered post to the registered or principal place of business of such party and any such notice shall be deemed to be served in the case of registered post two working days after it was posted.

14. WAIVER

- 14.1. No failure to exercise and no delay in exercising any right or remedy under this Agreement shall operate as a waiver of such right or remedy or any other right or remedy.
- 14.2. No waiver by any party of any breach of this agreement shall operate as a waiver of any right or remedy of that party in respect of any further or other breach of this Agreement.
- 14.3. Any waiver by a party shall be limited to the specific right, event, matter or circumstances to which that waiver relates.

14.4. No single or partial exercise of any right or remedy shall preclude any other or further exercise of such right or remedy or the exercise of any other right or remedy.

14.5. The rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights and remedies provided by law.

15. PARTIAL INVALIDITY

15.1. If at any time any provision of this Agreement shall be held by a court of competent jurisdiction to be unreasonable, illegal, invalid or unenforceable for any reason whatsoever, that unreasonableness, illegality, invalidity or unenforceability shall not affect the ability of the Society to enforce any other provision of this Agreement and such provision shall be modified only to the extent necessary to give effect to the ruling of the court.

16. FORCE MAJEURE

16.1. Neither party shall be liable to the other party for failure or delay in the performance of any of its obligations under this Agreement if and to the extent that such failure or delay shall be by reason of any matter or thing beyond the reasonable control of such party.

17. DISPUTE RESOLUTION BY AGREEMENT OR MEDIATION

17.1. If a party has any dispute with the other party in connection with this deed:

17.1.1. That party will promptly give full written particulars of the dispute to the other party; and

17.1.2. the parties will promptly meet together and in good faith try and resolve the dispute.

17.2. If the dispute is not resolved within 20 working days of written particulars being given (or any longer period agreed to by the parties) the dispute will be referred to mediation. The mediation process set out in clause 17.3 shall be followed before the disputing party can commence arbitration or legal proceedings.

17.3. The mediation shall be conducted as follows:

17.3.1. The parties will jointly appoint a mediator and if they fail to agree on such appointment within 20 working days of written particulars being given (or any longer period agreed to by the parties), a mediator shall be appointed by the President of the New Zealand Law Society or the President's nominee at either party's request.

17.3.2. The parties must co-operate with the mediator in an effort to resolve the dispute.

17.3.3. If the dispute is not resolved within 20 working days after the mediator has been appointed, or within any extended time that the parties agree to in writing, the mediation shall cease.

17.3.4. The parties shall pay the costs of the mediator's fee and disbursements and any other costs associated with the mediation in equal shares.

- 17.4. The terms of settlement are binding on the parties and shall override the terms of this deed if there is any conflict.
- 17.5. The terms of settlement may be entered in evidence of any arbitration or legal proceedings.
- 17.6. The parties agree that written statements given to the mediator or to one another, and any discussion between the parties or between the parties and the mediator during the mediation period are not admissible by the recipient in any arbitration or legal proceedings.
- 17.7. Either party may commence arbitration proceedings when mediation ceases under this clause 17.
- 17.8. Neither party will unreasonably delay the dispute resolution procedures in this clause.
- 17.9. This clause does not apply to any application by either party for urgent interlocutory relief.
- 17.10. Pending resolution of any dispute, the parties will perform their obligations under this deed in all respects, including performance of the matter which is the subject of dispute.

FIRST SCHEDULE

DUTIES AS MANAGER – CLAUSE 6.2.1

1. The services that are to be provided by the Manager subject to the terms of the Constitution include (but are not limited to):
 - 1.1. management of all of the Society's affairs;
 - 1.2. responsibility for the collection of all money due;
 - 1.3. a central point for all enquiries, requests for service and complaints;
 - 1.4. various membership services (maintenance of the Membership & Plans Registers etc);
 - 1.5. infrastructure operations and maintenance;
 - 1.6. a central point for the co-ordination of all third parties who have been commissioned to provide services to Clearwater;
 - 1.7. maintenance of the service contractors register;
 - 1.8. preparation of the 5 year trading projections;
 - 1.9. preparation of the Society's Annual Financial Statements;
 - 1.10. enforcement of the Society's Constitution and Bylaws;
 - 1.11. management and maintenance of all of the Society's records.

SECOND SCHEDULE**Duties as Treasurer/Secretary – Clause 6.2.2**

1. The Treasurer/ Secretary shall be responsible for:
 - 1.1. Convene general meetings when requested to do so in accordance with this Constitution;
 - 1.2. Attend all meetings of the Committee and have full speaking rights at such meetings;
 - 1.3. Give all notices required to be given by these rules or as directed from time to time by the Society or the Committee;
 - 1.4. Keep minutes of all general meetings and Committee meetings and enter into the minute book:
 - 1.4.1. The time, date and venue of such meeting;
 - 1.4.2. All business considered and resolutions passed at such meeting;
 - 1.5. Hold in safe custody the common seal of the Society;
 - 1.6. Receive and issue receipts for all annual levies, additional fees, and any other moneys paid to the Society;
 - 1.7. Operate and maintain a current bank account in the name of the Society;
 - 1.8. Pay all accounts properly incurred by or on behalf of the Society;
 - 1.9. Report immediately to the Society any Member who fails to pay annual levies or additional fees within the prescribed period;
 - 1.10. Keep all financial records and any security documents in safe custody;
 - 1.11. Compile all proper accounting records from time to time as required by the Act or by the Committee which give a true, fair and complete account of the financial affairs and transactions of the Society; and
 - 1.12. Compile the financial statements immediately following each financial year as required by the Act, and provide for the auditing of those records and the distribution of the audited financial statements to Members as soon as reasonably practicable after each audit is completed.

DEED OF TRANSFER
Plan Schedule

Residential Communal Facility	Master Plan	Title Reference	Projected Transfer Date
Sewage Pump Station 1	A		2022
Sewage Pump Station 2	B		2022
Sewage Pump Station 3	C		2022
Sewage Pump Station 4	D		2022
Sewage Pump Station 5	E		2021
Sewage Pump Station 6	F		2021
Harts Creek Lane (incl. street lights, footpaths, berms, sewerage pipes)	G		2021
East Stream Lane (incl. street lights, footpaths, berms, sewerage pipes)	H		2021
Kaikainui Lane (incl. street lights, footpaths, berms, sewerage pipes)	I		2021
Waterview Lane (incl. street lights, footpaths, berms)	J		2021
Waterway Lane (incl. street lights, footpaths, berms)	K		2021
Mayfly Lane (incl. street lights, footpaths, berms)	L		2021
Rotoiti Lane (incl. street lights, footpaths, berms, sewerage pipes)	M		2022



Clearwater Resort Owners' Society, Inc.

CLEARWATER RESORT OWNERS' SOCIETY INC.
Detailed Projected Statement of Financial Performance 2021-2025
Reference to "Notes" herein refers to the Schedule A (Financial Policy Operating) Exemption Notice 2007

Table with columns for Year ended 31 March, 2021, 2022, 2023, 2024, 2025. Rows include Members, Expenses, Revenue, and Net Operating Profit (Loss).

NET OPERATING PROFIT (LOSS)

*Estimated reference

SCHEDULE 9
AIRPORT ENCUMBRANCE

ENCUMBRANCE INSTRUMENT

Section 100 Land Transfer Act 2017



Land Registration District

Canterbury

BARCODE

Record of Title (unique identifier)	All/part	Area/Description of part
	All	Principal Unit on Deposited Plan 569303 [and Accessory Unit on Deposited Plan 569303]

Encumbrancer

Surname(s) must be underlined or in CAPITALS

RED STAG INVESTMENTS LIMITED

Encumbrancee

Surname(s) must be underlined or in CAPITALS

CHRISTCHURCH INTERNATIONAL AIRPORT LIMITED

Estate or interest to be encumbered

Insert e.g. Fee simple; Leasehold in Lease No. etc.

Stratum in Freehold

Encumbrance Memorandum Number

(if applicable)

Not Applicable

Nature of security

State whether sum of money, annuity or rentcharge and amount

Annual Rent Charge of \$1.00

Operative clause

Delete words in [], as appropriate

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above record of title(s) with the above sum of money, annuity or rentcharge, to be raised and paid in accordance with the terms set out in the ~~above Encumbrance Memorandum~~ [Annexure Schedule(s)] and so as to incorporate in this Encumbrance the terms and other provisions set out in the ~~above Encumbrance Memorandum~~ [and] [Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this Encumbrance, and compliance by the Encumbrancer with the terms of this Encumbrance.

Terms

- 1 Length of term **Continued on Annexure Schedule 2**
- 2 Payment date(s)
- 3 Rate(s) of interest
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable

Covenants and conditions

Continue in Annexure Schedule(s), if required

Continued on Annexure Schedule 2

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Continued on Annexure Schedule 2

ANNEXURE SCHEDULE 2

Continuation of "Terms", "Covenants and conditions" and "Modification of statutory provisions"

BACKGROUND

General

- A. The land described in the schedule called "Affected instrument Identifier and type" (the *Land*) is part of the land at Clearwater Resort, an international golf resort (the *Resort*). Red Stag Investments Limited has been responsible for development of parts of the Resort.
- B. As a condition of the granting of resource consent for the Resort, the original developer (Clearwater Resort Limited) was obliged to undertake certain obligations with respect to the Land.
- C. In order to secure the honouring of these obligations, Red Stag Investments Limited (the Encumbrancer) has agreed to encumber the Land on the terms set out below so as to bind the owners of the Land from time to time.

Birdstrike

- E. The Resort is adjacent to Christchurch International Airport which is operated by the Encumbrancee.
- F. Development of the Resort has included the creation of significant bodies of water which may contribute to the risk of birdstrike to aircraft using Christchurch International Airport. The Land comprises part of the land within the Resort that is adjacent to these bodies of water.
- G. The Environment Court, by a consent order dated 27 February 1997 ("the Order"), ordered that various measures be taken to reduce the risk of birdstrike to aircraft using the Christchurch International Airport.
- H. In accordance with the Order, Clearwater Land Holdings Limited has undertaken a monitoring programme ("the Monitoring Programme") in conjunction with Christchurch International Airport Limited which endeavoured to establish the nature and extent of the bird population of the area and migration patterns prior to the development of the Resort to endeavour to establish any variation in the nature and extent of bird numbers as a result of the development.

ENCUMBRANCE

Definitions

1. In this Encumbrance Instrument, unless the context otherwise requires:

Airport Land means the land contained in Certificate of Title 544121.

Application means an application for resource consent made to the relevant consent authority under the Resource Management Act 1991 (the *RMA*) in relation to the establishment or Operations of Christchurch International Airport and all activities undertaken or proposed to be undertaken at or in association with Christchurch International Airport or any other activity on any land owned by the Encumbrancee and includes:

- (a) any application for change or cancellation or review of consent conditions; and
- (b) any requirement for a designation, any outline plan submitted, any requirement to alter a designation, and any notice requiring a designation to be included in a proposed plan, under sections 168, 168A, 176A, 181 or clause 4 of the First Schedule to the RMA.

Christchurch International Airport means the airport known as "Christchurch International Airport" and includes all activities undertaken, or proposed to be undertaken, at or in association with that airport.

Operations includes operating as a 24 hour non-curfewed international airport operation every day of every year.

General

2. The Encumbrancer encumbers the Land for the benefit of the Encumbrancee for a term of 999 years commencing on the date of this Encumbrance Instrument determinable however under clause 6 with an annual rent charge of \$1.00 to be paid on 31 January each year if demanded.
3. The Encumbrancer covenants with the Encumbrancee not to transfer the Land without notifying the transferee of the provisions of this Encumbrance Instrument.
4. This Encumbrance Instrument binds the Encumbrancer's successors in title so that contemporaneously with the acquisition of any interest in the Land all such successors in title must comply with the covenants of this Encumbrance Instrument.
5. If during the 12 months preceding 31 January 2022 and each successive 12 months thereafter there has been no breach of the covenants and obligations of the Encumbrancer contained in this Encumbrance Instrument then the annual rent charge payable under this Encumbrance Instrument will be deemed to have been paid.
6. That this rent-charge shall immediately determine and the Encumbrancer shall be entitled to a discharge of this Encumbrance Instrument if the covenants expressed in this Encumbrance Instrument become obsolete or no longer enforceable or if no part of the Airport Land is used for, or in conjunction with, Christchurch International Airport.
7. That the Encumbrancer shall pay its costs of preparation and registration of this Encumbrance Instrument and any other costs incurred by the Encumbrancee during the continuance of this Encumbrance Instrument and in relation to it.
8. No covenants on the part of the Encumbrancer and their successors in title are implied in this Encumbrance Instrument other than the covenants implied for further assurance implied by section 208 of the Land Transfer Act 2017.

Non Opposition

9. Except as required by law the Encumbrancer shall not object to, complain about, bring any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise, and whether seeking damages or injunctive or other relief or orders) in respect of, or otherwise oppose, noise resulting from the Operations of Christchurch International Airport (including without limitation, from the operation of aircraft, the testing of aircraft engines, bird scaring, bird hazard management or the operation of motor vehicles and associated equipment) or the effects of or resulting from such noise.
10. The Encumbrancer shall procure that, except as required by law, no person occupying (whether temporarily or permanently) all or any part of the Land objects to, complains about, brings any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise, and whether seeking damages or injunctive or other relief or orders) in respect of, or otherwise opposes, noise resulting from the Operations of Christchurch International Airport (including without limitation, from the operation of aircraft, the testing of aircraft engines, bird scaring, bird hazard management or the operation of motor vehicles and associated equipment) or the effects of or resulting from such noise.
11. Except as required by law the Encumbrancer shall not object to, complain about, bring any proceedings (whether in contract, tort (including negligence), equity, nuisance, public nuisance, under any statute or otherwise, and whether seeking damages or injunctive or other relief or orders) in respect of, interfere with, prevent, hinder, obstruct, or otherwise oppose in any way, the development and Operations of Christchurch International Airport including, without limitation, by opposing, whether directly or indirectly, any:
 - (a) Application;
 - (b) variation to the operative district plan for the City of Christchurch under the RMA;
 - (c) statutory or regulatory enactment, variation or repeal;

sought or supported by the Encumbrancee. The Encumbrancer shall not, whether directly or indirectly, procure, fund, or support any person or action to do or omit anything that would be in breach of this clause if done or omitted by the Encumbrancer.

Birdstrike

12. The Encumbrancer will use reasonable endeavours to discourage and actively prevent any bird species identified by Christchurch International Airport Limited as being a potential threat to aircraft operations at Christchurch International Airport from visiting or inhabiting the Land. Those endeavours include, but are not limited to:
 - (a) attention generally to water body design, choice of vegetation and planting regimes, water body and land management systems and control and management of persons occupying, using and visiting the Land;
 - (b) not planting or permitting to grow on the Land any plant, shrub or tree that Christchurch International Airport Limited advises from time to time would or could encourage to a greater extent than other types of plant, shrub or tree any bird species identified by Christchurch International Airport Limited as being a potential threat to aircraft operations at Christchurch International Airport to visit or inhabit the Land. As at the date of this Encumbrance, Christchurch International Airport Limited has advised the following list of plants, shrubs and trees as being a potential risk to its operations:

Cordyline australis (cabbage tree) , Coprosma species , Cupressus macrocarpa (Macrocarpa), Metrosideros species (Pohutukawa), Phorium tenax (NZ Flax), Pinus radiata, Pinus pinea, Banksia integrifolia, Quercus species (Oaks), Malus species (Crab apple).

- (c) preventing the growth of trees and other vegetation on the Land that overhangs any water body on or adjacent to the Land;
 - (d) mowing all grass edges on the Land that are adjacent to any water body so that the length of such grass is always at least 200 millimetres but not more than 600 millimetres;
 - (e) not feeding or allowing the feeding of any wild birds on the Land whether by the Encumbrancer, or any other occupant of the Land, or visitor to the Land, or otherwise;
 - (f) choosing fertiliser and pesticides for use on the Land that do not run off into adjacent water bodies thereby encouraging the growth of vegetation in such water bodies; and
 - (g) any other reasonable actions Christchurch International Airport Limited requires be taken to mitigate any actual or potential problem or nuisance caused to the operation of aircraft using Christchurch International Airport by birds.
13. The Encumbrancer will allow Christchurch International Airport Limited and/or Clearwater Land Holdings Limited and any person authorised by Christchurch International Airport Limited and/or Clearwater Land Holdings Limited at a reasonable time and upon giving reasonable notice such access to the Land required by Christchurch International Airport Limited and/or Clearwater Land Holdings Limited to undertake any work in relation to the Monitoring Programme (including any amendments following any review under clause 13(g)) and any other monitoring programme undertaken by or for Christchurch International Airport Limited and/or Clearwater Land Holdings Limited to establish the nature and extent and composition of the bird population of the area, and the feeding, nesting and migratory patterns of those birds.

Modification of Statutory Provisions

14. This Encumbrance Instrument shall not entitle the Encumbrancer to any of the powers and remedies given to encumbrancers under the Land Transfer Act 2017 or entitle the Encumbrancee to any of the powers and remedies given to mortgagees under the Land Transfer Act 2017 or the Property Law Act 2007 except that the Encumbrancee shall be entitled to the benefit of section 208 of the Land Transfer Act 2017 and to sections 23, 203, 204, 205, 289, 290, 301 and 302 of the Property Law Act 2007 or their equivalent sections in any successor, consolidated or amendment Acts.
15. The Encumbrancee hereby consents to the registration of any of the following instruments executed by the Encumbrancer in respect of the Land, but without prejudice to the Encumbrancee's rights under this Encumbrance:
- (a) the creation, variation or surrender of an easement (Sections 110(5), 110(6) and 112(4) Land Transfer Act 2017);
 - (b) the variation of a mortgage instrument or priority of mortgages (Sections 101(4), 101(6) and 102(6) Land Transfer Act 2017);
 - (c) the registration of a lease, a lease variation instrument or the surrender of lease, (Sections 91(4), 93 and 94(4) Land Transfer Act 2017);
 - (d) the disposal of a licence or shares to which the licence relates (Section 134 Land Transfer Act 2017);
 - (e) the creation, variation or surrender of a land covenant;

and this consent shall be deemed to be the consent of the mortgagee (which term includes Encumbrancee), as specified in the Land Transfer Act 2017, to the registration of a particular instrument specified in subparagraph 15(a), (b), (c), (d) and (e) above.

16. If it is determined that written consent is required from the Encumbrancee (rather than deemed consent) then the Encumbrancee shall as soon as practical at the request of the Encumbrancer, give that written consent.

17. If any person challenges the enforceability of this Encumbrance Instrument, or for any reason this Encumbrance Instrument is required to be discharged or removed from the computer freehold registers to the Land, while the obligations under this Encumbrance Instrument are, or would be, on the face of the wording of this Encumbrance Instrument still required to be performed or observed, then notwithstanding clause 6 of this Encumbrance Instrument the Encumbrancer agrees to accept, execute and deliver any documents, and to do all things, as are reasonably required by the Encumbrancee to secure the due performance and observance of the obligations expressed to operate under this Encumbrance Instrument.

SCHEDULE 10

DEVELOPER'S ENCUMBRANCE

ENCUMBRANCE INSTRUMENT

Section 100 Land Transfer Act 2017



Land Registration District

Canterbury

BARCODE

Record of Title (unique identifier)	All/part	Area/Description of part
	All	Principal Unit on Deposited Plan 569303 [and Accessory Unit on Deposited Plan 569303]

Encumbrancer

Surname(s) must be underlined or in CAPITALS

Red Stag Investments Limited

Encumbrancee

Surname(s) must be underlined or in CAPITALS

Red Stag Investments Limited, Clearwater Quays Apartments Limited, Eros Clearwater Holdings Limited & Clearwater Quays Limited

Estate or interest to be encumbered

Insert e.g. Fee simple; Leasehold in Lease No. etc.

Fee simple

Encumbrance Memorandum Number

(if applicable)

Not applicable

Nature of security

State whether sum of money, annuity or rentcharge and amount

Annual Rent Charge of \$1.00

Operative clause

Delete words in [], as appropriate

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above record of title(s) with the above sum of money, annuity or rentcharge, to be raised and paid in accordance with the terms set out in the ~~above Encumbrance Memorandum~~ [Annexure Schedule(s)] and so as to incorporate in this Encumbrance the terms and other provisions set out in the ~~above Encumbrance Memorandum~~ [and] [Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this Encumbrance, and compliance by the Encumbrancer with the terms of this Encumbrance.

Terms

- 1 Length of term Continued on Annexure Schedule 2
- 2 Payment date(s)
- 3 Rate(s) of interest
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable

Covenants and conditions

Continue in Annexure Schedule(s), if required

Continued on Annexure Schedule 2

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Continued on Annexure Schedule 2

2015/5049
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Registrar-General of Land

Insert instrument type

[Empty box for instrument type]

Continue in additional Annexure Schedule, if required

Continuation of "Terms", "Covenants and conditions" and "Modification of statutory provisions"

BACKGROUND
General

A. The land described on the front page under "Unique Identifier" ("the Land") is part of the land at Clearwater Resort, an international golf resort located within the O3D Zone, ("the Resort"). Clearwater Resort Limited was responsible for development of the majority of the Resort, in its initial stages. Eros Clearwater Holdings Limited, Clearwater Quays Limited, Clearwater Land Holdings Limited, The Isaac Lakes Limited, Gilgamesh No.2 Limited, Humboldt Limited, Clearwater Hotel 2004 Limited and Clearwater Golf Club Limited and their related companies have subsequently also been responsible for development of parts of the Resort.

B. In order to maintain the integrity of the Quays Development, Red Stag Investments Limited has agreed to encumber the Land on the terms set out in this Memorandum of Encumbrance.

Planning Proposals

C. The development of the Resort is ongoing and may be undertaken in stages. In order to ensure the ongoing development, the Encumbrancer has agreed not to lodge any Submission against any Planning Proposal made by the Encumbrancee to subdivide, develop or use any part of the Resort or the O3D Zone and has agreed likewise to encumber the Land on the terms set out below so as to bind the owners of the Land from time to time.

D. In addition, the Encumbrancer has agreed to sign any necessary written approval to any Planning Proposal referred to in paragraph C above if called upon to do so.

ENCUMBRANCE
General

1. The Encumbrancer encumbers the Land for the benefit of the Encumbrancee for a term of 200 years commencing on the date of this Memorandum of Encumbrance determinable however under clause 5 with an annual rent charge of \$1.00 to be paid on 31 January each year if demanded.
2. The Encumbrancer covenants with the Encumbrancee not to transfer the Land without notifying the transferee of the provisions of this Memorandum of Encumbrance.
3. This Memorandum of Encumbrance binds the Encumbrancer's successors in title so that contemporaneously with the acquisition of any interest in the Land all such successors in title must comply with the covenants of this Memorandum of Encumbrance.
4. If during the 12 months preceding 31 January 2022 and each successive 12 months thereafter there has been no breach of the covenants and obligations of the Encumbrancer contained in this Memorandum of Encumbrance then the annual rent charge payable under this Memorandum of Encumbrance becomes obsolete or no longer enforceable.
5. That this rent charge shall immediately determine and the Encumbrancer shall be entitled to a discharge of this Memorandum of Encumbrance if the covenants expressed in this Memorandum of Encumbrance become obsolete or no longer enforceable.
6. That the Encumbrancer shall pay the costs of preparation and registration of this Memorandum of Encumbrance and any other costs incurred by the Encumbrancee during the continuance of this Memorandum of Encumbrance and in relation to it.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

2015/5049 APPROVED Registrar-General of Land
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Insert instrument type

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Continue in additional Annexure Schedule, if required

7. No covenants on the part of the Encumbrancer and their successors in title are implied in this Memorandum of Encumbrance other than the covenants implied for further assurance implied by section 208 of the Land Transfer Act 2017.

8. The obligations the Encumbrancer has to the Encumbrancee under this Memorandum of Encumbrance are included for the benefit of Red Stag Investments Limited, Clearwater Quays Apartments Limited, Eros Clearwater Holdings Limited and Clearwater Quays Limited, and where Red Stag Investments Limited is the registered proprietor of the Land from time to time, the interests of the Encumbrancee and Encumbrancer shall not merge. For certainty, it is acknowledged that sections 56 and 278 of the Property Law Act 2007 shall apply to the covenants and agreements contained in this Memorandum of Encumbrance.

Modification of Statutory Provisions

9. Sections 203, 204 & 205 of the Property Law Act 2007 apply to this Memorandum of Encumbrance but otherwise and without prejudice to the Encumbrancee's rights of action at common law as a rent charge or encumbrancee.

10. The Encumbrancee shall be entitled to none of the powers and remedies given to encumbrancee by the Land Transfer Act 2017 and the Property Law Act 2007.

11. The Encumbrancee hereby consents to the registration of any of the following instruments executed by the Encumbrancer in respect of the Land:

- (a) the creation, variation or surrender of an easement (Sections 109(3), 109(4), 110(5), 110(6) and 112(4) Land Transfer Act 2017);
 - (b) the variation of a mortgage instrument or priority of mortgages (Sections 101(4), 101(6) and 102(6) Land Transfer Act 2017);
 - (c) the registration of a lease, a lease variation instrument or the surrender of lease (Sections 91(4), 93(1), 93(2), 94(4), 94(5) and 94(6) Land Transfer Act 2017);
 - (d) the disposal of a licence or shares to which the licence relates (Sections 130(1) and 130(2) Land Transfer Act 2017);
 - (e) the creation, variation or surrender of a land covenant;
- and this consent shall be deemed to be the consent of the mortgagee (which term includes Encumbrancee), as specified in the Land Transfer Act 2017, to the registration of a particular instrument specified in subclause 11(a), (b), (c), (d) and (e) above.

12. If it is determined that written consent is required from the Encumbrancee (rather than deemed consent) then the Encumbrancee shall immediately at the request of the Encumbrancer, give that written consent.

Planning Proposals

13. The Encumbrancer covenants not at any time to Lodge any Submission against any Planning Proposal made by or on behalf of the Encumbrancee to subdivide, develop or use any part located within the Resort or any other land located within the O3D Zone.

14. The Encumbrancer covenants that it will, if called upon to do so by the Encumbrancee, sign any document, or give its written approval for the purposes of the Resource Management Act 1991 or do any other thing reasonably necessary to support any Planning Proposal referred to in clause 13. The Encumbrancer shall provide any necessary further written approval to such planning proposal if requested by the Encumbrancee and in the event of the Encumbrancer failing to do so, the Encumbrancee shall be entitled to provide a copy of this Memorandum of Encumbrance to the relevant consent authority as evidence that such written approval is given.

15. For the purposes of this Memorandum of Encumbrance:

- (a) "City Plan" means the Christchurch City Council City Plan;
- (b) "Lodge any Submission" includes personally or through any agent, servant or third party directly or indirectly lodge or support in any way any objection or submission to a Planning Proposal and includes (without limitation)

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.
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Insert instrument type

[Empty box for instrument type]

Continue in additional Annexure Schedule, if required

taking any part in a planning hearing, appeal or reference arising in respect of a Planning Proposal whether as a party or otherwise;
(c) "O3D Zone" means the Open Space 3D (Clearwater) Zone as identified in the City Plan, and includes any subsequent variations to and/or extensions to the boundaries of that zone; and
(d) "Planning Proposal" includes any application for resource consent and/or plan change and/or a variation of any nature under or to the relevant City Plan or the proposed City Plan, and includes, for clarity, any such planning proposal to extend the boundaries of the O3D Zone.
(e) "Subdivide" means a subdivision of Land as that term is defined in section 218 of the Resource Management Act 1991 and "Subdividing" has a corresponding meaning.

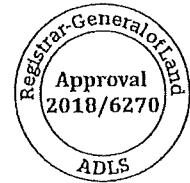
If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

SCHEDULE 11

SOCIETY'S ENCUMBRANCE

ENCUMBRANCE INSTRUMENT

Section 100 Land Transfer Act 2017



Land Registration District

Canterbury

BARCODE

Record of Title (unique identifier)	All/part	Area/Description of part
	All	Principal Unit on Deposited Plan 569303 [and Accessory Unit on Deposited Plan 569303]

Encumbrancer

Surname(s) must be underlined or in CAPITALS

Red Stag Investments Limited

Encumbrancee

Surname(s) must be underlined or in CAPITALS

Clearwater Resort Owners Society Incorporated

Estate or interest to be encumbered

Insert e.g. Fee simple; Leasehold in Lease No. etc.

Stratum in Freehold

Encumbrance Memorandum Number

(if applicable)

Not applicable

Nature of security

State whether sum of money, annuity or rentcharge and amount

Annual Rent Charge of \$1.00

Operative clause

Delete words in [], as appropriate

The Encumbrancer encumbers for the benefit of the Encumbrancee the land in the above record of title(s) with the above sum of money, annuity or rentcharge, to be raised and paid in accordance with the terms set out in the ~~above Encumbrance Memorandum~~ [Annexure Schedule(s)] and so as to incorporate in this Encumbrance the terms and other provisions set out in the ~~above Encumbrance Memorandum~~ [and] [Annexure Schedule(s)] for the better securing to the Encumbrancee the payment(s) secured by this Encumbrance, and compliance by the Encumbrancer with the terms of this Encumbrance.

Terms

- 1 Length of term *Continued on Annexure Schedule 2*
- 2 Payment date(s)
- 3 Rate(s) of interest
- 4 Event(s) in which the sum, annuity or rentcharge becomes payable
- 5 Event(s) in which the sum, annuity or rentcharge ceases to be payable

Covenants and conditions

Continue in Annexure Schedule(s), if required

Continued on Annexure Schedule 2

Modification of statutory provisions

Continue in Annexure Schedule(s), if required

Continued on Annexure Schedule 2

2015/5049
APPROVED
Registrar-General of Land

Insert instrument type

[Empty box for instrument type]

Continue in additional Annexure Schedule, if required

Continuation of "Terms", "Covenants and conditions" and "Modification of statutory provisions"

BACKGROUND
General

A. The land described on the front page under "Unique Identifier" ("the Land") is part of the land at Clearwater Resort, an international golf resort located within the O3D Zone, ("the Resort").

Clearwater Resort Owners Society Incorporated

B. The Encumbrancer has agreed to become and remain a member of the Clearwater Resort Owners Society Incorporated while the Encumbrancer continues to be registered proprietor of the Land (or part thereof) upon the terms set out below.

ENCUMBRANCE
General

1. The Encumbrancer encumbers the Land for the benefit of the Encumbrancee for a term of 200 years commencing on the date of this Memorandum of Encumbrance determinable however under clause 5 with an annual rent charge of \$1.00 to be paid on 31 January each year if demanded.
2. The Encumbrancer covenants with the Encumbrancee not to transfer the Land without notifying the transferee of the provisions of this Memorandum of Encumbrance.
3. This Memorandum of Encumbrance binds the Encumbrancer's successors in title so that contemporaneously with the acquisition of any interest in the Land all such successors in title must comply with the covenants of this Memorandum of Encumbrance.
4. If during the 12 months preceding 31 January 2022 and each successive 12 months thereafter there has been no breach of the covenants and obligations of the Encumbrancer contained in this Memorandum of Encumbrance then the annual rent charge payable under this Memorandum of Encumbrance be deemed to have been paid.
5. That this rent charge shall immediately determine and the Encumbrancer shall be entitled to a discharge of this Memorandum of Encumbrance if the covenants expressed in this Memorandum of Encumbrance become obsolete or no longer enforceable.
6. That the Encumbrancer shall pay the costs of preparation and registration of this Memorandum of Encumbrance and any other costs incurred by the Encumbrancee during the continuance of this Memorandum of Encumbrance and in relation to it.
7. No covenants on the part of the Encumbrancer and their successors in title are implied in this Memorandum of Encumbrance other than the covenants implied for further assurance implied by section 208 of the Land Transfer Act 2017.

Modification of Statutory Provisions

8. Sections 203, 204 & 205 of the Property Law Act 2007 apply to this Memorandum of Encumbrance but otherwise and without prejudice to the Encumbrancee's rights of action at common law as a rent charge or encumbrancee.
9. The Encumbrancee shall be entitled to none of the powers and remedies given to Encumbrancees by the Land Transfer Act 2017 and the Property Law Act 2007.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

2015/5049
APPROVED
Registrar-General of Land

Insert instrument type

[Empty box for instrument type]

Continue in additional Annexure Schedule, if required

10. The Encumbrancee hereby consents to the registration of any of the following instruments executed by the Encumbrancer in respect of the Land:

(a) the creation, variation or surrender of an easement (Sections 109(3), 109(4), 110(5), 110(6) and 112(4) Land Transfer Act 2017);

(b) the variation of a mortgage instrument or priority of mortgages (Sections 101(4), 101(6) and 102(6) Land Transfer Act 2017);

(c) the registration of a lease, a lease variation instrument or the surrender of lease (Sections 91(4), 93(1), 93(2), 94(4), 94(5) and 94(6) Land Transfer Act 2017);

(d) the disposal of a licence or shares to which the licence relates (Sections 130(1) and 130(2) Land Transfer Act 2017);

(e) the creation, variation or surrender of a land covenant;

and this consent shall be deemed to be the consent of the mortgagee (which term includes Encumbrancee), as specified in the Land Transfer Act 2017, to the registration of a particular instrument specified in subclause 11(a),

(b), (c), (d) and (e) above.

11. If it is determined that written consent is required from the Encumbrancee (rather than deemed consent) then the Encumbrancee shall immediately, at the request of the Encumbrancer, give that written consent.

Clearwater Resort Owners Society Incorporated

12. The Encumbrancer covenants to become and remain a member of the Clearwater Resort Owners Society Incorporated and be bound by the constitution of that society, while the Encumbrancer continues to be registered proprietor of the Land (or part thereof).

13. The Encumbrancer covenants to comply with all design guidelines:

(a) advised from time to time by the Encumbrancee; or

(b) created from time to time in accordance with the constitution of Clearwater Resort Owners Society Incorporated; which are applicable to that part of the Land which is owned by the Encumbrancer from time to time.

If this annexure schedule is used as an expansion of an instrument, all signing parties and either their witnesses or solicitors must sign or initial in this box.

SCHEDULE 12
BODY CORPORATE RULES

Instrument Type Order for New Certificate of Title

Head Records of Title	Land Districts
993538	Canterbury

Registered Owners**Red Stag Investments Limited**

New titles(s)	Legal description
1026103	Principal Unit 1 Deposited Plan 569303
1026104	Principal Unit 2 Deposited Plan 569303 and Accessory Unit 21 Deposited Plan 569303
1026105	Principal Unit 3 Deposited Plan 569303 and Accessory Unit 30 Deposited Plan 569303
1026106	Principal Unit 4 Deposited Plan 569303 and Accessory Units 40 and 41 Deposited Plan 569303
1026107	Principal Unit 5 Deposited Plan 569303 and Accessory Units 50 and 51 Deposited Plan 569303
1026108	Principal Unit 6 Deposited Plan 569303 and Accessory Units 60 and 61 Deposited Plan 569303
1026109	Principal Unit 7 Deposited Plan 569303 and Accessory Unit 90 Deposited Plan 569303
1026110	Principal Unit 8 Deposited Plan 569303 and Accessory Units 80 and 81 Deposited Plan 569303
1026111	Principal Unit 9 Deposited Plan 569303 and Accessory Unit 70 Deposited Plan 569303
1026112	Principal Unit 10 Deposited Plan 569303 and Accessory Units 100 and 101 Deposited Plan 569303
1074194	Supplementary Record Sheet

***** End of Report *****

APPLICATION TO DEPOSIT UNIT PLAN

Sections 17, 21, 24, 30, and 68, and subpart 3 of Part 4, Unit Titles Act 2010

Applicant: Red Stag Investments Limited

Unit plan: LY 569303

Address for service: 4 Walker Street, Christchurch, 8011

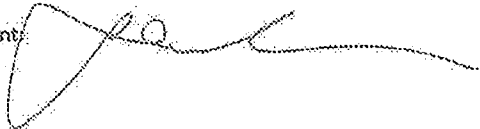
Schedule of land: All land comprised in Record of Title number 993538 (Canterbury Registry)

Application:

1. The applicant is the registered owner of the estate in land comprised in the record of title referred to the schedule of land.
2. The applicant applies to deposit the attached unit plan under section 17 of the Unit Titles Act 2010.
3. The first body corporate operational rules are set out in the attached notice of body corporate operational rules.

Date: 10 October 2022

Signature of applicant:



Before me:

Full name of witness:

Aino Catherine Hoar

Address of witness:

17 Wentworth Drive, Redwood,
Hamilton, New Zealand



APPLICATION TO DEPOSIT UNIT PLAN

Sections 17, 21, 24, 30, and 68, and subpart 3 of Part 4, Unit Titles Act 2010

Applicant: Red Stag Investments Limited

Unit plan: LT 569303

Address for service: 4 Walker Street, Christchurch, 8011

Schedule of land: All land comprised in Record of Title number 993538 (Canterbury Registry)

Application:

1. The applicant is the registered owner of the estate in land comprised in the record of title referred to the scheduled of land.
2. The applicant applies to deposit the attached unit plan under section 17 of the Unit Titles Act 2010.
3. The first body corporate operational rules are set out in the attached notice of body corporate operational rules.

Date: 7/10/22

Signature of applicant:



Before me:

Full name of witness: ANDREW JOHN SPARD MCGROSSER

Address of witness: RAGLAN



FORM 14 - NOTICE OF BODY CORPORATE OPERATIONAL RULES

Section 105, Unit Titles Act 2010

Applicant: Red Stag Investments Limited

Unit plan: LT 569303

Supplementary Record Sheet: 1074194

Notice:

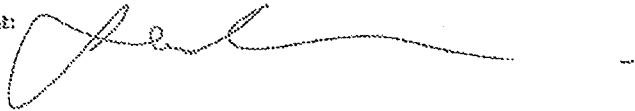
The body corporate for the unit title development created by the deposit of the above unit plan will be subject to the operational rules set out in the schedule of body corporate operational rules.

Schedule of body corporate operational rules

As per attached Mixed Use Model Operational Rules marked "A".

Date: 10 October 2022

Signature of applicant:



Before me:

Full name of witness: Anna Catherine Horn

Address of witness: 57 Wentworth Drive, Rotorua
Hamilton, New Zealand



FORM 14 - NOTICE OF BODY CORPORATE OPERATIONAL RULES

Section 105, Unit Titles Act 2010

Applicant: Red Stag Investments Limited

Unit plan: LT 569303

Supplementary Record Sheet: 1074194

Notice:

The body corporate for the unit title development created by the deposit of the above unit plan will be subject to the operational rules set out in the schedule of body corporate operational rules.

Schedule of body corporate operational rules

As per attached Mixed Use Model Operational Rules marked "A".

Date: 7-10-20

Signature of applicant:



Before me:

Full name of witness: Andrew John Suarez McGee

Address of witness: RAGLAN



"A"

Mixed Use Model Operational Rules

1. **Interpretation of terms, and rules binding on owners, occupiers, employees, agents, invitees, licencees and tenants**
 - 1.1 Terms defined in the Unit Titles Act 2010 ("Act") have the same meaning in these rules as they have in the Act, unless the context otherwise requires.
 - 1.2 These rules are binding on all owners and occupiers of units in the unit title development as well as the employees, agents, invitees, customers, licencees and tenants of all owners and occupiers of units in the unit title development.
 - 1.3 "Owner" has the same meaning in these rules as it has in the Act, and for the purposes of these rules it also includes occupiers of a unit in the unit title development and the employees, agents, invitees, licencees and tenants of all owners and occupiers of units in the unit title development, unless the context otherwise requires.
 - 1.4 "Design Control Committee" means the committee members appointed from time to time in accordance with the Constitution of the Clearwater Resort Owners Society Incorporated (as amended or added to from time to time).
 - 1.5 "Design Guideline" means the design guidelines issued by the Design Control Committee.
 - 1.6 "Developer" means Red Stag Investments Limited, Clearwater Quays Apartments Limited, nominated entity or assigns and any related company or companies that undertake any development of Clearwater Quays, and includes any agent, contractor or other entity/person authorised by Red Stag Investment Limited or Clearwater Quays Apartments Limited to carry out any work or complete any activity on its behalf.
 - 1.7 "Development" means the subdivision and development known as Clearwater Quays and includes the proposed development of Lot 1 DP 561475.
 - 1.8 "Society" means the Clearwater Resort Owners Society Incorporated (NZBN 9429043066292).
2. **Interference and obstruction of common property**
 - 2.1 An Owner of a unit must not:
 - 2.1.1 interfere with the reasonable use or enjoyment of the common property by other Owners;
 - 2.1.2 obstruct any lawful use of the common property by other Owners;

2.1.3 restrict any light or air in any unit or common property, or obstruct or cover any windows, sky lights, lights or other means of illumination of any unit or common property.

3. Damage to common property

3.1 An Owner of a unit must not:

3.1.1 damage or deface the common property; and

3.1.2 drive, operate or use, or permit to be driven, operated or used, any vehicle or machinery on the common property of a size and weight that is likely to cause damage to the common property and any such damage caused or contributed to shall be paid for by the Owner responsible.

4. Use of facilities, assets and improvements within the common property

4.1 An Owner of a unit must not use any facilities contained within the common property or any assets and improvements that form part of the common property for any use other than the use for which those facilities, assets or improvements were designed and constructed and must comply with any conditions of use for such facilities or assets or improvements set by the Body Corporate from time to time.

4.2 Any part of the common property that is used as an entrance or accessway to the unit title development and any easement area giving access to the unit title development shall not be used by any Owner for any other purpose than for entering or leaving the unit title development.

5. Vehicle parking

5.1 An Owner of a unit must not park a vehicle or permit a vehicle to be parked on any part of the common property unless the Body Corporate has designated it for vehicle parking or the Body Corporate has given prior written consent.

5.2 An Owner of a unit that is designated for use as a vehicle park must:

5.2.1 only use the vehicle park for the purpose of parking vehicles;

5.2.2 ensure the vehicle park is kept tidy and free of litter;

5.2.3 not use the vehicle park or permit it to be used for storage;

5.2.4 ensure that any vehicle parked in the vehicle park is parked within the boundaries of the vehicle park; and

5.2.5 must clearly mark any vehicle parks designated solely for use by employees or customers of the Owner.

5.3 The Body Corporate may remove a vehicle from the unit title development that the Body Corporate considers is parked in such a manner that is in breach of this rule 5, at the expense of the owner of the vehicle concerned, and the Body Corporate shall not be liable for any resulting damage, loss or costs.

6. Aerials, satellite dishes and antennas

An Owner of a unit must not erect, fix or place any aerial, satellite dish, antenna or similar device on or to the exterior of a unit or on or to common property without the prior written consent of the Body Corporate which shall not be unreasonably or arbitrarily withheld. The consent of the Body Corporate may be withheld, varied or revoked if the rights of another Owner are adversely affected by the exterior aerial, satellite dish, antenna or similar device.

7. Signs, notices, advertising and promotion

7.1 An Owner of a unit must not, without the prior written consent of the Body Corporate which shall not be arbitrarily or unreasonably withheld, erect, fix, place or paint any signs or notices of any kind on or to any part of the common property or on or to any external part of a unit.

7.2 An Owner of a unit must not display any temporary or mobile signage, including but not limited to sandwich boards and portable banners ("temporary signage"), at any time other than during the opening hours of the business operating from a unit, and must not display any temporary signage on the common property or any accessory unit without the prior written consent of the Body Corporate which shall not be arbitrarily or unreasonably withheld.

7.3 An Owner of a unit must not display any goods or services on common property or any accessory unit or use the common property or any accessory unit for any business, promotional or commercial purpose without prior written consent of the Body Corporate which shall not be arbitrarily or unreasonably withheld.

7.4 Rules 7.2 and 7.3 do not apply to any unit used solely for residential purposes.

8. Contractors

An Owner of a unit who carries out any repair, maintenance, additions, alterations or other such work on a unit must ensure that any contractors or other such persons employed by the Owner cause minimum inconvenience to all other Owners and ensure that such work is carried out in a proper workmanlike manner.

9. Rubbish and pest control

9.1 An Owner of a unit:

- 9.1.1 must not leave rubbish, recycling material, trade refuse or waste, dirt or other material on the common property except in areas designated for rubbish collection by the Body Corporate, and where such material is left in a designated rubbish collection area it must not be left in such a way that interferes with the enjoyment of the common property by other Owners;
- 9.1.2 must dispose of rubbish and recycling material promptly, hygienically and tidily and ensure such disposal does not adversely affect the health, hygiene or comfort of other Owners;
- 9.1.3 must not burn any rubbish anywhere on the common property or in any unit; and
- 9.1.4 shall keep the unit free of vermin, pests, rodents and insects.

10. Cleaning and garden maintenance

An Owner of a unit must ensure the unit is kept clean at all times and any gardens, grounds, yards or paved areas within the unit are kept neat and tidy and are regularly maintained.

11. Cleaning and replacing glass

An Owner of a unit must keep clean all glass contained in windows or doors of a unit, and replace any cracked or broken glass as soon as possible with glass of the same or better weight and quality.

12. Lawns and gardens on common property

An Owner of a unit must not damage any lawn, garden, tree, shrub, plant or flower being part of or situated on the common property or, without the prior consent of the Body Corporate use any part of the common property as a garden for their own purposes.

13. Use of water services

- 13.1 All things required for the provision of water supply, drainage, wastewater and sewage services to units or common property and all things attached to and used in relation to such services, including but not limited to pipes, drains, taps, faucets, toilets, baths, showers, sinks, sink incinerators and dishwashers, must only be used for the purpose for which they were designed and constructed. If any Owner causes or permits any damage, loss or costs to be incurred due to misuse or negligence that Owner shall pay for such damage, loss or costs.

13.2 An Owner of a unit shall not waste water unnecessarily and shall ensure that all taps in the unit are turned off after use.

14. Washing

14.1 An Owner of a unit:

14.1.1 shall not hang any clothes, washing, bedding, towels or other items outside or from a unit or outside or from any building contained within a unit or on or from any deck or balcony; and

14.1.2 shall not hang any clothes, washing, bedding, towels or other items on the common property other than on parts of the common property designated by the Body Corporate as washing line areas, and such items may only be hung for a reasonable period.

15. Security and ventilation equipment

An Owner of a unit shall comply at all times with the operating and maintenance instructions of any security, fire alarm, air conditioning or ventilation equipment in the unit.

16. Floor coverings

Except in kitchen, laundry, toilet or bathroom areas of a unit, an Owner of a unit must ensure that all floor space in a unit is covered or otherwise treated to an extent sufficient to prevent noise transmission from the unit that is likely to disturb the quiet enjoyment that could reasonably be expected by the Owner of another unit.

17. Noise, behaviour and conduct

An Owner of a unit shall not make or permit any noise or carry out or permit any conduct or behaviour, in any unit or on the common property, which is likely to interfere with the use and enjoyment of the unit title development by other Owners.

18. Pets

18.1 An Owner of a unit must not, without the prior written consent of the Body Corporate, bring or keep any animal or pet in any unit or the common property. Consent of the Body Corporate shall not be unreasonably or arbitrarily withheld and may be revoked upon written notice if the rights or interests of any other Owner are adversely affected by any animal or pet.

18.2 Notwithstanding rule 18.1 any Owner of a unit who relies on a guide, hearing or assistance dog may bring or keep such a dog in a unit, and may bring such a dog onto the common property.

18.3 An Owner of any animal or pet permitted under rule 18.1 or any dog permitted under rule 18.2 must ensure that any part of a unit or the common property that is soiled or damaged by the animal, pet or dog must promptly be cleaned or repaired at the cost of the Owner.

19. **Security**

19.1 An Owner of a unit must:

19.1.1 keep the unit locked and all doors and windows closed and securely fastened at all times when the unit is not occupied, and do all things reasonably necessary to protect the unit from fire, theft or damage;

19.1.2 take all reasonable steps to ensure any electronic security cards, security keys or security codes to a unit or common property are not lost, destroyed or stolen or given to anyone other than a registered proprietor, occupier or tenant of the unit to which the security card, security key or security code relates;

19.1.3 not duplicate or permit to be duplicated any electronic security cards, security keys or security codes to a unit or common property; and

19.1.4 notify the Body Corporate as soon as reasonably practicable if rules 19.1.2 or 19.1.3 are breached.

20. **Moving and installing heavy objects**

An Owner of a unit must not, without the prior written consent of the Body Corporate, bring onto or through the common property or any unit, or erect, fix, place or install in any unit, any object of such weight, size, nature or description that could cause any damage, weakness, movement or structural defect to any unit or common property, and any such damage caused or contributed to shall be paid for by the Owner responsible.

21. **Lifts**

An Owner of a unit must comply at all times with any notice or instruction displayed in any lift in the unit title development. If any lift in the unit title development, other than a goods lift, is to be used for carrying anything other than passengers, lift protection equipment supplied by the Body Corporate must be used.

22. **Delivery areas**

22.1 Any part of common property designated by the Body Corporate as an area for the receipt, delivery or other movement of goods, supplies, produce, merchandise, freight, or other articles, including but not limited to a loading dock or lift designed for goods only, (together called "delivery area"), must only be used:

- 22.1.1 by Owners of units or anyone permitted by an Owner;
 - 22.1.2 for the purpose for which it was designed and constructed; and
 - 22.1.3 during certain hours set by the Body Corporate from time to time.
- 22.2 Any delivery area in a unit must only be used by the Owner of the unit or anyone permitted by the Owner and must only be used for the purpose for which it was designed and constructed.
- 22.3 An Owner of a unit that contains a delivery area must not move any goods, supplies, produce, merchandise, freight, or other articles in or out of the unit except through the delivery area.
23. **Hazards, insurance and fire safety**
- 23.1 An Owner of a unit must not bring onto, use, store, or do, in a unit or any part of the common property anything that:
- 23.1.1 increases the premium on or is in breach of any Body Corporate insurance policy for the unit title development; or
 - 23.1.2 is in breach of any enactment or rule of law relating to fire, insurance, hazardous substances or dangerous goods, or any requirements of any Territorial Authority; or
 - 23.1.3 creates a hazard of any kind; or
 - 23.1.4 affects the operation of fire safety devices and equipment or reduces the level of fire safety in the unit title development.
24. **Emergency evacuation drills and procedures**
- An Owner of a unit must cooperate with the Body Corporate during any emergency evacuation drills and must observe and comply with all emergency evacuation procedures.
25. **Notice of damage, defects, accidents or injury**
- Upon becoming aware of any damage or defect in any part of the unit title development including its services, or any accident or injury to any person in the unit title development, an Owner of a unit must immediately notify the Body Corporate. Any cost to repair any such damage or defect shall be paid by the Owner that caused or permitted the damage or defect.

26. Compliance with Sale of Liquor Act and other statutes

Where a business operating from a unit is subject to the Sale of Liquor Act 1989 or any other statute, regulation or enactment to which the business is subject (together called "statute") the Owner must ensure that the requirements of the statute are complied with at all times and must take all reasonable steps to ensure that the business operation does not interfere with the use and enjoyment of the unit title development by other Owners.

27. Leasing a unit

27.1 An Owner of a unit must:

27.1.1 provide a full copy of these rules and a full copy of all future amendments to these rules to any tenant or occupier of the unit; and

27.1.2 provide the Body Corporate with written notice of the full name, landline phone number, cell phone number, email address and address for service for the purposes of the Act for the Owner and for all tenants or occupants of the unit, and promptly notify the Body Corporate in writing of any changes to such details.

28. Owner's Assistance to Developer

28.1 Future Development:

The Owner acknowledges:

28.1.1 the Development is ongoing until it is fully completed. For the avoidance of doubt, "fully completed" means the date the Developer no longer owns land or a unit in the Development; and

28.1.2 the Body Corporate is required to allow the Developer such access to the common property as is necessary or desirable for the Development to proceed; and

28.1.3 the Body Corporate is obliged to allow the Developer to add or alter structures and services forming part of the common property.

The Owner therefore agrees:

28.1.4 to, and hereby allows the Developer access to the unit of that Owner for the purpose of proceeding with the Development. This is provided the Developer has no other reasonable means of proceeding with the Development other than through the Owner's unit. The Developer must give such Owner reasonable verbal notice of its requirement for access and its best estimate of the duration of such access; and provided that the Developer must, without delay, make good any damage or harm to the Owner's unit resulting from such access; and

- 28.1.5 to, and hereby grants, such easements in favour of the Developer over or under the Owner's unit as are required for the Development to proceed or as may be necessary or desirable for the Development, provided to the Developer has no other reasonable means of proceeding with the Development other than by benefiting from such access. The Developer must pay the reasonable expenses incurred by the Owner relating to the grant of any such easement; and
- 28.1.6 not to prevent, hinder or obstruct the use by the Developer of the common property, the addition, or alteration of structures or services forming part of the common property by the Developer, or the granting of any interests in the common property by the Body Corporate to the Developer.
- 28.2 In exercising any of its rights pursuant to clause 28.1, in respect of the common property the Developer must:
- 28.2.1 act reasonably; and
- 28.2.2 first provide 30 days written notice to the Body Corporate of its intention to invoke any of the provisions of clause 28.1, that notice to set out in detail the proposed further development of the Development and any likely effects on relevant units. At the request of the Body Corporate following provision of such notice, the Developer will consult with the Body Corporate as to any reasonable concerns of Owners about such further development.
29. **Design Approval**
- 29.1 Before making any alterations, additions, or improvements to his or her or their unit that would materially affect other units or the common property, or obtaining any consent from any local authority in respect of such alterations, additions, or improvements, an Owner must obtain written consent from the Body Corporate.
- 29.2 The Body Corporate's consent will be contingent upon the Owner obtaining the approval of the Design Control Committee.
- 29.3 **Design Control Committee:** The Design Control Committee's approval shall not be unreasonably withheld or delayed where the design complies with, in the following order of priority:
- 29.3.1 the District Plan;
- 29.3.2 any bylaws made under the Constitution of the Clearwater Resort Owners Society Incorporated (as amended or added to from time to time); and
- 29.3.3 any relevant Design Guidelines.

- 29.4 **Approval Costs:** All costs of the design approval process (including without limitation, any disbursements, or professional charges of an Owner of the Design Control Committee) shall be met by the Owner seeking the approval.
- 29.5 **Body Corporate:** The Owner must notify the Body Corporate of his or her intention to carry out any additions or structural alterations before the commencement of any work.
- 29.6 Any additions or alterations must not materially affect any other unit or the common property without the written consent of the Body Corporate.

SCHEDULE 13

PRE-CONTRACT DISCLOSURE STATEMENT

Form 18
Pre-contract disclosure statement
section 146, Unit Titles Act 2010

Unit plan: DP 569303

**Body Corporate
Number:** 569303

Unit Number: Principal Unit 7; Accessory Unit 90

Pre-contract disclosure statement

- 1 This pre-contract disclosure statement is provided to prospective buyers of the property in accordance with section 146(1) of the Unit Titles Act 2010.

General information

- 2 *The following section contains a brief explanation of important matters relevant to the purchase of a unit in a unit title development. You should read and understand the information contained in this section and this statement before signing a contract to buy a unit in a unit title development.*

Further information on buying, selling a unit and living in a unit title development can be obtained by:

- *reading the publication "A quick guide to unit title developments", which is available on the Tenancy Services website: www.tenancy.govt.nz*
- *the Ministry of Business, Innovation and Employment contact centre can answer questions on unit titles: 0800 UNIT TITLES*

You are strongly advised to obtain independent legal advice regarding any questions or concerns you have about purchasing a unit or your prospective rights and obligations as a member of a body corporate.

Unit title property ownership. Unit titles are a common form of multi-unit property ownership. They allow owners to privately own an area of land or part of a building and share common property with other unit owners. Unit title developments may also be structured in varied ways including staged unit title developments and layered unit title developments.

This combination of individual and shared ownership of land and buildings, often in an intensive built environment, means owning a unit title involves a different set of rights and responsibilities than traditional house and land ownership.

Unit title developments have a body corporate management structure to ensure decisions affecting the development can be made jointly by the unit owners. The creation and management of unit title developments is governed by the Unit Titles Act 2010 and supporting regulations.

Unit plan. Every unit title development has a unit plan, which shows the location of the principal units as well as any accessory units and common property in the development. The unit plan is the formal record of all the boundaries of the units and the common property.

Ownership and utility interests. Each unit is allocated an ownership interest and a utility interest and such interests are relevant to the determination of many of the unit owner's rights and responsibilities under the Unit Titles Act 2010.

Ownership interest is a number that reflects the relative value of each unit to the other units in the development, and is used to determine a range of matters including the unit owners' beneficial share in the common property, and share in the underlying land if the unit plan is cancelled.

By default, the utility interest of a unit is the same as the ownership interest (unless it is otherwise specified on the deposit of the unit plan or subsequently changed), and is used to calculate how much each owner contributes to the operational costs of the body corporate.

Body corporate operational rules. The body corporate for a unit title development can make its own operational rules on the use of the development and governance of the body corporate. These operational rules are subject to the provisions of the Unit Titles Act 2010 and regulations made under that Act.

All unit owners, occupiers, tenants, and the body corporate must follow the body corporate operational rules that apply to their unit title development.

Transitional provisions for unit title developments created before the Unit Titles Act 2010 came into effect on 20 June 2011 apply to the body corporate rules in place at that time.

Pre-settlement disclosure statement. Before settlement of the sale of a unit, the seller must provide a pre-settlement disclosure statement to the purchaser, which includes information on:

- the unit number and body corporate number;
- the amount of the contribution levied by the body corporate for that unit;
- the period covered by the contribution;
- how the levy is to be paid;
- the date on or before which the levy must be paid;
- whether any amount of the levy is currently unpaid and, if so, how much;
- whether legal proceedings have commenced in respect of any unpaid levy;
- whether any metered charges (eg, for water) are unpaid and, if so, how much;
- whether any costs relating to repairs to building elements or infrastructure contained in the unit are unpaid and, if so, how much;
- the rate of interest accruing on any unpaid amounts;
- whether there are any legal proceedings pending against the body corporate;
- whether there have been any changes to the body corporate rules.

There are legal consequences on the seller for failing to provide the pre-settlement disclosure in the timeframes required by the Unit Titles Act 2010 including delay of settlement and cancellation of the contract.

Additional disclosure statement. The buyer of a unit can request an additional disclosure statement or may request some, but not all, of the information required to be in an additional disclosure statement (specific prescribed information) at any time before whichever of these dates occurs first:

- the close of the fifth working day after they enter into the sale and purchase agreement;

- the close of the tenth working day before settlement of the unit.

The seller has five working days to provide the additional disclosure statement.

The additional disclosure statement contains more information about the unit title development and the operation of the body corporate. It must include:

- contact details of the body corporate and committee (if there is one);
- the balance of every fund or bank account held by the body corporate at the date of the last financial statement;
- amounts due to be paid by the body corporate;
- details of regular expenses that are incurred once a year;
- amounts owed to the body corporate;
- details of every current insurance policy held by the body corporate;
- details of every current contract entered into by the body corporate;
- information about any lease of the underlying land (if the development is leasehold);
- the text of motions voted on at the last general meeting, and whether those motions were passed;
- any changes to the default body corporate operational rules;
- a summary of the long-term maintenance plan.

The seller may require the buyer to meet the reasonable cost of providing the additional disclosure statement. An estimate of that cost is set out in paragraph 9 below.

There are legal consequences on the seller for failing to provide the additional disclosure in the timeframes required by the Unit Titles Act 2010 including delay of settlement and cancellation of the contract.

Computer register. Previously known as a certificate of title, for a unit title development this document records the ownership of a unit, contains a legal description of the unit boundaries, and records any legal interest which is registered against the title to the unit (for example a mortgage or easement). A copy of the computer register for a unit should come with:

- the unit plan attached. Unit title plans were discussed earlier in this section.
- a supplementary record sheet attached. A supplementary record sheet records the ownership of the common property, any legal interests registered against the common property or base land, and other information such as the address for service of the body corporate and the body corporate operational rules.

The common property in a unit title development does not have a computer register.

Land Information Memorandum. A land information memorandum (LIM) is a report which provides information held by the local council about a particular property. You must order and pay for a LIM from the applicable local council. Delivery times vary between councils. The information contained in a LIM will vary between councils, but is likely to include details on:

- rates information;
- information on private and public stormwater and sewerage drains;
- any consents, notices, orders, or requisitions affecting the land or buildings;
- District Plan classifications that relate to the land or buildings;
- any special feature of the land the local council knows about including the downhill movement, gradual sinking or wearing away of any land, the falling of

rock or earth, flooding of any type and possible contamination or hazardous substances;

- any other information the local council deems relevant.

Full details of what a local council is obliged to provide in a LIM is contained in section 44A of the Local Government Official Information and Meetings Act 1987.

Easements and covenants. An easement is a right given to a landowner over another person's property (for example, a right of way, or right to drain water). A land covenant is an obligation contained in a deed between two parties, usually relating to the use of one or both properties (for example a covenant to restrict one party using their property in a certain way).

Easements or covenants may apply to:

- a unit and are usually recorded on the computer register for that unit.
- common property and will be recorded on the supplementary record sheet for the unit title development.

3 Further information about the matters set out above can be obtained from:

Unit title property ownership	Ministry of Business, Innovation and Employment www.tenancy.govt.nz 0800 UNIT TITLES (0800 864 884)
Unit plan Ownership and utility interests Computer register Easements and covenants	Land Information New Zealand www.linz.govt.nz 0800 ONLINE (0800 665 463)
Body corporate operational rules Pre-settlement disclosure statement Additional disclosure statement	The body corporate of the unit title development
Land Information Memorandum	Your local council

For detailed information on any of the above matters relating to your specific circumstances, the Ministry of Business, Innovation and Employment recommends you obtain independent legal advice from your lawyer.

Information about the unit

- 4 The amount of the contribution levied by the body corporate under section 121 of the Unit Titles Act 2010 in respect of the units is \$5,020.00.
- 5 The period covered by the contribution in paragraph 4 is 1 January 2023 to 30 June 2023.
- 6 The body corporate proposes to levy \$10,040.00 under section 121 of the Act in the next 12 months.
- 7 The body corporate proposes to carry out the following maintenance on the unit title development in the next 12 months:

Landscape maintenance (common areas).

- 8 The body corporate has the following accounts:

ASB Current Account (\$6,526.25).

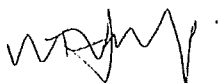
- 9 Under section 148 of the Unit Titles Act 2010, a buyer may request an additional disclosure statement or may request some, but not all, of the information required to be in an additional statement (specific prescribed information) before the settlement of an agreement for sale and purchase of a unit. The buyer must pay to the seller all reasonable costs incurred by the seller in providing the additional disclosure statement. The estimated cost of providing an additional disclosure statement is \$250.00.
- 10 *Select the statement that applies:*

~~The unit or the common property is, or has been, the subject of a claim under the Weathertight Homes Resolution Services Act 2006 or other civil proceedings relating to water penetration of the buildings in the unit title development.~~

~~or~~

The unit or the common property is not currently, and has never been, the subject of a claim under the Weathertight Homes Resolution Services Act 2006 or any other civil proceedings relating to water penetration of the buildings in the unit title development.

Date: 31 May 2023



Signed by:

Michael Sharp
THC Group Limited

SCHEDULE 14

BUILDING ACT DISCLOSURE FORM AND PRESCRIBED CHECKLIST

Prescribed disclosure information
Section 362D, Building Act 2004

Information about the building contractor

Name of building contractor (full legal name):	
Type of business: Individual/partnership/limited liability company:*	
Date partnership/company* formed, if applicable:	
Postal address:	
Telephone number:	
Email address:	

*Select one.

Key contact person (If identified at the time when this information is provided)

(Information about the key contact person, being a person who will manage or supervise the building work and who is available to the client to discuss any aspect of the building project)

Name of key contact person:	
Telephone number:	
Mobile telephone number:	
Role in the building project (for example, "project manager", "site foreman"):	
Relevant qualifications, skills, and experience:	
Licensed building practitioner number (if any):	

Note: The building contractor must notify the client if the key contact person changes.

Insurance policies

(Details of every insurance policy or policies that the building contractor has, or intends to obtain, in relation to the building work)

Complete for each policy:

Type of policy: [specify: eg, contract works, professional indemnity, public liability]	
Amount of cover:	
Relevant exclusions on policy coverage, (if any):	

Type of policy: <i>Specify: eg, contract works, professional indemnity, public liability</i>	
Amount of cover:	
Relevant exclusions on policy coverage, (if any):	

Type of policy: <i>Specify: eg, contract works, professional indemnity, public liability</i>	
Amount of cover:	
Relevant exclusions on policy coverage, (if any):	

Information about any guarantees or warranties

(Information about any guarantees or warranties the building contractor offers in relation to the building work)

Complete for each guarantee or warranty:

Nature or type of guarantee or warranty: <i>Specify: eg, guarantee, product warranty, completed work warranty</i>	
If guarantee or warranty is a product warranty, specify the product:	
Period of guarantee or warranty cover:	
Limits or exclusions on cover, (if any):	

Nature or type of guarantee or warranty: <i>Specify: eg, guarantee, product warranty, completed work warranty</i>	
If guarantee or warranty is a product warranty, specify the product:	
Period of guarantee or warranty cover:	
Limits or exclusions on cover, (if any):	

Nature or type of guarantee or warranty: <i>Specify: eg, guarantee, product warranty, completed work warranty</i>	
If guarantee or warranty is a product warranty, specify the product:	
Period of guarantee or warranty cover:	
Limits or exclusions on cover, (if any):	

SCHEDULE 15

OVERSEAS INVESTMENT OFFICE RESIDENTIAL LAND



Residential Land Statement

Section 51A of the Overseas Investment Act 2005

Please complete Part 1a for an individual or Part 1b for a non-individual (including company, trust or other entity).

A separate statement is required for each individual. One statement may be provided on behalf of a company, trust or other entity (see the guidance document for more information).

Part 1a Individual

I am an individual completing the statement for myself (*purchasing the residential land in your own name*)

Am I eligible to buy under the Overseas Investment Act 2005?

(Tick which one applies)

Yes, I am a current New Zealand citizen

Yes, I am an Australian or Singaporean citizen buying residential land only

Yes, I hold a New Zealand residence class visa **or** I am an Australian or Singaporean Permanent Resident buying residential land only **and all** of the following applies:

- I have been residing in New Zealand for at least the immediately preceding 12 months; and
- I am a tax resident in New Zealand; and
- I have been present in New Zealand for 183 days or more in the immediately preceding 12 months

Yes, I am an Australian or Singaporean Citizen **or** I am an Australian or Singaporean Permanent Resident buying residential land that is **also** sensitive for another reason **and** I have consent from the Overseas Investment Office

→ Please provide Overseas Investment Office case number

Yes, I have consent from the Overseas Investment Office, or an exemption applies

→ Please provide Overseas Office case number, or statutory reference

Part 1b Non-individual (including company/trust/other entity)

(Tick which one applies)

I am completing the statement for a body corporate, company, partnership or other entity

I am completing the statement on behalf of trustees of a trust, or for someone else under an enduring power of attorney

→  Please attach a certificate of non-revocation if you are acting under an enduring power of attorney

Is the non-individual eligible to buy under the Overseas Investment Act 2005?

(Tick which one applies)

Yes, the non-individual is neither an "overseas person" nor an "associate" of an "overseas person" as defined in the Overseas Investment Act 2005

Yes, the non-individual has consent from the Overseas Investment Office, or an exemption applies

→ Please provide Overseas Office case number, or statutory reference

If you require consent and have not applied, or an exemption does not apply, contact the Overseas Investment Office or seek legal advice.

Part 2

Name(s)

What is the full name(s) of the individual or non-individual that will appear on the Record of Title as the new owner(s)?

Part 3

The residential land being acquired

What is the Record of Title reference for the residential land, or the street address?

Part 4

Signature

I certify that all of the information in this statement is true and correct.

Your name

Signature

Date signed

Position or office held (if signing as an authorised person)



You must provide this statement to your conveyancer or lawyer

The conveyancer or lawyer will rely on the information provided in the statement in giving effect to the acquisition of the interest in residential land.

Providing a statement that is false or misleading is an offence under the Overseas Investment Act 2005 and you may be liable for a penalty of up to \$300,000.

Contact the Overseas Investment Office

Phone: 0800 665 463 (in NZ) or +64 7 974 5595 (if overseas)

Email address: oio@linz.govt.nz

Website address: www.linz.govt.nz/oio