

## SCHEDULE ONE TO THE CONSTITUTION

### Occupation Licence

#### Deed dated

#### Parties

- 1 **Altamont North Lodge Limited** a duly incorporated company having its registered office at Wanaka (“the Company”) of the one part
- 2 The **Shareholder**, \_\_\_\_\_ located at \_\_\_\_\_ being the shareholder of the other part

#### PREAMBLE

- A The Company is the proprietor in fee simple of all that property situated at 121 Mount Aspiring Road, Wanaka containing 2059m<sup>2</sup> Lot 1 Deposited Plan 340126 Certificate of Title Identifier 164774 (Otago Registry) SUBJECT TO fencing provision in Transfer 613146 AND TO Consent Notice in 6236392.1 AND TO Right of Way created by Easement Certificate 6236392.3 on which stands a residential accommodation facility known as Altamont Lodge, adjacent carparks and gardens provided for the use of all shareholders in the Company and their invitees, and a separate managers residence (“the facilities”).
- B The Shareholder is the owner of one share in the Company numbered [**Share Number**] entitling the Shareholder to occupation rights to the individual bedrooms in and to all other common areas in and around the facilities on the terms and conditions set out in the Schedule hereto SUBJECT TO the provisions of the Constitution of the Company and to the provisions of this licence.

#### IT IS AGREED

- 1 On execution of this licence the Shareholder shall be entitled to occupy use and enjoy the facilities as if the Shareholder were the absolute owner thereof SUBJECT TO the provisions of the Constitution of the Company, this licence and the reciprocal rights of all other shareholders in the Company, their licencees, visitors and other persons lawfully using the facilities.
- 2 The Shareholder shall regularly and punctually pay such sum as shall be prescribed from time to time by the directors of the Company (acting in accordance with the Constitution of the Company) which may be required to reimburse the Company for all items of expenditure of the Company relating to the facilities including, but not by way of limitation, the following:
  - a. Rates and taxes;
  - b. Garbage collection;
  - c. Electricity, lighting and heating, cleaning, repair and maintenance of the facilities, in particular repairs to and maintenance of all buildings, fixtures, fittings and infrastructure which form part of the facilities;
  - d. Replacement of any fixtures, fittings or chattels which form part of the facilities which are of a terminable or “wearing out” nature;
  - e. All insurance premiums properly payable by the Company;

- f. Salary or other remuneration of the Manager of the facilities, if any;
  - g. Cost of accountancy and audit services;
  - h. Such further or other expenditure as shall be required for the proper management maintenance control and administration of the facilities and as shall be required from time to time to promptly and regularly meet all obligations of the Company arising from the ownership and management of the facilities.
- 3 The Company shall manage and administer the facilities efficiently and in accordance with the best standards and shall cause the facilities and the infrastructure supporting the facilities to be properly and regularly cleaned, repaired, and maintained. The company shall be at liberty to suspend access rights to the facilities by all shareholders in the Company at such times as may in the opinion of the Directors be necessary by reason of accident or alterations or repairs that may be deemed desirable by the Directors.
- 4 The Company shall insure the said buildings and other improvements against fire and earthquake to their full insurable value and will take out a public liability policy and any other type of insurance which may be of advantage to the Company and shall pay all insurance premiums for and in respect of any such policies as and when the same become due and owing.
- 5 The Company shall keep all parts of the facilities in a good state of repair and if the Company in performance of this provision considers it necessary to enter the facilities (including any rooms occupied by the Shareholder and/or its invitees), it may do so without notice to the Shareholder at reasonable times with agents, servants and workmen to ascertain what repairs (if any) shall be required and to make necessary repairs at the expense of the Company unless the same shall have been rendered necessary by the negligence of the Shareholder and/or its invitees for which the Shareholder shall be responsible and in any of such cases such expenses shall be borne by the Shareholder.
- 6 No shareholder shall be entitled to carry out or have carried out any alteration to the facilities.
- 7 The Company shall pay all rates and taxes levied in respect of the whole of the land and building.
- 8 The Company shall not be liable to the Shareholder or any other person for any damage arising from the overflow of water supply or rain water nor for any unavoidable interruption or stoppage in the hot or cold water, heating, electrical and other services which form part of the facilities.
- 9 The Directors of the Company shall have the right by resolution of the Board to make, alter, or repeal such rules, regulations and by-laws as they may from time to time consider necessary and proper to regulate access rights to the facilities by the shareholders in the Company, for the safety care and cleanliness of the facilities and for the preservation and maintenance of good order, behaviour, and personal safety PROVIDED THAT the Board of Directors may only alter or repeal the Bookings Regime as defined in the Schedule hereto with the approval of an ordinary resolution of the shareholders in the Company and the Shareholder HEREBY COVENANTS with the Company that:
- a. the Shareholder will faithfully and punctually comply with such rules regulations and bylaws; and
  - b. the Shareholder will do its utmost to ensure that all invitees and any other persons from time to time in the facilities through the agency and entitlement of the Shareholder, will faithfully observe such rules, regulations and by-laws.
- 10 The Shareholder and its invitees at all times when occupying the facilities will keep the facilities (excluding the manager's residence and attached car port) clean, tidy, clear of rubbish and free of obstruction. For the purposes of ascertaining compliance with these obligations, the Company may on reasonable grounds enter any rooms occupied by the

shareholder and or its invitees.

- 11 The Shareholder shall comply with
  - a. all statutes, regulations and bylaws of any local authority relating to the Shareholder's use or occupation of the facilities; and
  - b. the requirements of the insurers of the Company against loss or damage by fire or earthquake; and
  - c. the requirements of any lending institution which may be applicable to the facilities.

The Shareholder shall not do anything which will in any way increase the rate of fire earthquake or other insurance upon the facilities or on any property kept there by the Company or any occupier or which may be deemed hazardous by insurance companies.

- 12 The Shareholder shall not create any nuisance in or about the facilities. The Directors of the Company shall be at liberty in their sole discretion to declare anything that they consider undesirable to be a nuisance and on such declaration being made known to the Shareholder the nuisance shall be stopped or removed forthwith.
- 13 The Shareholder shall not without first obtaining the written consent of the Directors of the Company use the facilities or any part thereof or permit the same to be used other than for the Shareholder's own residential purposes.
- 14 The Shareholder shall not be entitled to carry on or practice any business activity in or from the facilities.
- 15 On the Shareholder selling or transferring the Shareholder's share in the Company (subject to the provisions of the Company's Constitution and to the consent of the Directors), this Occupation Licence shall be surrendered, the rights under this Occupation Licence shall be terminated and contemporaneously the Shareholder shall ensure the transferee of such share, at the transferee's own costs, executes a new Occupation Licence in terms similar in all respects to this Occupation Licence.
- 16 Upon the happening of any of the events mentioned in sub-paragraphs (a) to (f) inclusive of this clause 16 the Company may at its option give to the Shareholder thirty (30) days written notice terminating this Occupation Licence and upon the date specified in such notice this Occupation Licence shall be terminated and all rights of occupation of the facilities on the part of the Shareholder hereby conferred shall cease and the Shareholder shall forthwith quit and surrender the facilities to the Company:
  - a. If the Shareholder shall cease to be a shareholder of the Company PROVIDED that if on the death of a Shareholder the said share shall pass by will or an intestacy to any person or persons such person or persons may by executing a Deed of Occupation Licence in terms similar to this Deed within twelve months from the date of death of the Shareholder continue the rights of the Shareholder hereby conferred subject to the rights and restrictions set out in this Occupation Licence and the Schedule but without releasing the estate of the deceased Shareholder from any liability hereunder AND PROVIDED FURTHER that neither the Company or the Directors may terminate this Occupation Licence between the date of death of the deceased Shareholder and the date of completion of the winding-up of the Shareholder's estate so long as the personal representative or representatives of the deceased Shareholder shall continue to observe perform and keep all and singular the provisions of these presents.
  - b. If purported assignment of the benefit of this Occupation Licence or any purported transfer of the Share held by the Shareholder requiring prior consent of the Company's Directors be made or effected without the consent of the Directors first had and obtained.
  - c. If the Company shall exercise the powers conferred by clause 2.7 (Forfeiture of

- Shares) of the Company's Constitution.
- d. If a Shareholder shall make default for a period of thirty (30) days in the payment of any amount required to be paid by the Shareholder pursuant to the provisions of Clause 2 hereof or of any sum payable by the Shareholder hereunder or under the Company's Constitution.
  - e. If a Shareholder shall otherwise be in default in the performance or observance of any covenants conditions or provisions hereof or otherwise be guilty of conduct, which in the opinion of the Directors reached on reasonable grounds is detrimental to the Company for a period of thirty (30) days after written notice of such default or conduct, shall have been given to a Shareholder by the Company or the Directors.
  - f. If a Shareholder becomes a mental defective or protected person within the meaning of legislation relating to legal capacity or management of a Shareholder's affairs or be adjudged bankrupt or otherwise allow the Shareholder's shares in the Company or interest in this Occupation Licence to be seized or levied on or be advertised for sale.
- 17 Upon termination of the Occupation Licence by the Company, the affected Shareholder hereby irrevocably appoints the Directors of the Company or any one or more of them to be the Shareholder's attorneys to sell the Shareholder's share in the Company in which case the following provisions shall apply:
- a. The share may be sold at the sole discretion of the Directors by public auction or by private contract but in no case shall the Directors be at liberty to sell the share at a price below a fair reasonable market value according to the circumstances at the date of sale. Such market value shall be agreed upon by the Shareholder or the Shareholder's representatives and the Directors and in default of agreement shall be fixed in accordance with clause 21 hereof.
  - b. The Directors shall apply the proceeds of the sale of the said shares first in payment of any costs charges and expenses incurred thereby, secondly in payment of all moneys due and owing by the Shareholder to the Company, and thirdly in payment of the balance (if any) to the Shareholder.
- 18 The Shareholder shall strictly conform to and comply with the provisions of the Company's Constitution and this Occupation Licence.
- 19 The Shareholder indemnifies and holds harmless the Company for and in respect of all actions suits costs expenses claims and demands whatsoever preferred against or incurred by the Company arising out of or connected with any act default of omission of the Shareholder in connection with the Share or the use of the facilities.
- 20 Any notice to be given hereunder by:
- a. the Shareholder to the Company shall be given by delivering the same at or posting the same to the registered office of the Company or by emailing [altamontlodge@xtra.co.nz](mailto:altamontlodge@xtra.co.nz) (or such other email address as shall be notified in writing or by email to the Shareholder by the Company) and retaining evidence of sending of that email.
  - b. Any notice to be given hereunder by the Company to the Shareholder shall be given:
    - i. personally in writing; or
    - ii. by sending it to the Shareholder by post in a prepaid letter addressed to the address of the Shareholder appearing in the Shareholders Register of the Company; or
    - iii. by courier addressed to the address of the Shareholder appearing in the Shareholders Register of the Company; or

- iv. by fax or email if the Shareholder has provided those contact details so long as evidence of transmission of a fax or sending of an email is retained.

21 Any dispute or difference (“the Dispute”) which may arise between the Shareholder and the Company and/or the Directors of the Company or between the Shareholder and another Shareholder in the Company and/or a representative of any of them as to the meaning or application of any part of this Occupation Licence or any other matter touching or concerning this Occupation Licence shall be actively and in good faith negotiated by those parties with a view to a speedy resolution of the Dispute. If they are unable to resolve the Dispute themselves they shall endeavour in good faith to resolve the Dispute expeditiously using informal dispute resolution techniques such as mediation or similar techniques agreed upon by them. If they do not agree within five (5) business days or such other period as agreed to by them in writing as to:

- a. the dispute resolution techniques and procedures to be adopted; and
- b. the timetable for all steps in those procedures; and
- c. the selection and compensation of the independent person required for such technique,

then the Dispute will be referred to arbitration pursuant to the Arbitration Act 1996 or to any then statutory provision relating to arbitration. If the Dispute proceeds to arbitration then such parties hereby agree that they will co-operate in ensuring that all necessary steps within their power are taken towards the expeditious conduct of the arbitration. In particular, each will:

- i. within 15 business days after the date on which resolution negotiations conclude appoint an arbitrator; and
- ii. endeavour in good faith to accept and comply with all such time limits as may reasonably be sought by the other with respect to the settings of terms of reference, interlocutory matters and generally all steps preliminary and incidental to the hearing and to the termination of the proceedings.

22 Any omission of the Company or the Directors of the Company in any one or more instances to insist upon the strict observance or performance of any of the covenants and provisions hereof or to exercise any right on the part of the Company hereby conferred or to insist upon the observance or performance of any of the rules by-laws or regulations for the time being the Company shall not constitute a waiver or relinquishment for the future nor shall it give rise to any action, remedy, claim or demand against the Company or the Directors of the Company at the suit of any shareholder of the Company.

## SCHEDULE TWO

### Use of the Facilities

#### 1 Definitions

“**Associated User**” means:

- a. one named spouse or de facto partner of the Shareholder; and
- b. the children of the Shareholder and the children of the person named in (a) above
  - i. who are 20 years of age or under; or
  - ii. who reside permanently with their parents; or
  - iii. who are attending a full time course of tertiary education.

“**Booking Regime**” means the by-law of the Company set out in clause 3 of this Schedule and any other by-laws and changes thereto made under Clause 9 of the Occupation Licence from time to time to regulate use rights to the facilities by the shareholders in the company.

“**The Shareholder**” for the purpose of determining rights to use of the facilities and “**Associated Users**” means:

- a. the person named as holder of the share in the Company; or
- b. if more than one person is so named then the first-named in the Shareholders Register of the Company; or
- c. one person nominated by that Shareholder (subject always to the power of the Directors of the Company to veto such nomination on reasonable grounds) being as the case may be:
  - i. the majority shareholder or first named equal shareholder of a registered company; or
  - ii. the majority partner or first named equal partner of a partnership; or
  - iii. a named beneficiary of a trust for whom the settlor has natural love and affection; or
  - iv. the first named of a joint tenancy or tenancy in common; or
  - v. the controlling party or first named equal holder of an interest in any other form of collective ownership vehicle; or
  - vi. such other person as the Shareholder may nominate from eligible parties, the Directors having exercised their power of veto to the person originally nominated.

“**Shareholder Nominee**” means the person to be named in (a) above under the definition of “**Associated User**” and/or the person to be named in (c) above under the definition of “**the Shareholder**”.

#### 2 Use of the facilities

- 2.1 The Shareholder (including Associated Users of the Shareholder) shall be entitled to exclusive use of one residential accommodation room in the facilities for a total of fourteen (14) nights in each of the following two periods of each year:
  - a. 1 December to 31 May;
  - b. 1 June to 30 November.
- 2.2 Usage rights shall extend to use of all common areas and improvements forming part of the facilities provided by the Company excepting:

- a. the residential accommodation rooms in the facilities not reserved for use by the Shareholder and his/her associated users pursuant to Clause 2.1 hereof; and
  - b. the manager's residence and adjacent carport.
- 2.3 Usage rights shall be subject to any rules, regulations and by-laws made under clause 9 of this Occupation Licence and in particular the Booking Regime in this Schedule.

### **3 Booking Regime**

- 3.1 "Member" Definition: For the purpose of this clause, "Member" means the Shareholder and its Associated Users.
- 3.2 Members' Reservation Protocols:
- a. Reservations are made and accepted on a "first made first accepted" basis;
  - b. Telephone reservations must be confirmed by the member in writing (letter, facsimile or email) within seven (7) days of the telephone reservation;
  - c. Members' reservations made three (3) months or more in advance will take priority over non-member reservations;
  - d. Priority reservations may be made by members on behalf of non-members provided that three (3) calendar months prior to commencement of the stay the member reconfirms such booking with the Lodge Manager and supplies credit card or other payment details;
  - e. Reservations made in accordance with clause 3.2(d) will take priority over general public bookings but not reservations made by members in accordance with clause 3.2(c).
- 3.3 Unaccompanied Children: Member/s Associated Users who are under 18 years of age may not stay at the Lodge unless accompanied by their parent or guardian.
- 3.4 Members Booking Two (2) Rooms:
- a. Memberships with three (3) or more qualifying children may request two (2) rooms per night. Each night of such double reservation will count as two (2) nights entitlement under Rule 36.
  - b. Memberships with two (2) or less qualifying children may request two (2) rooms per night if they pay standard room rate less 20% for the second room.
- 3.5 Unoccupied Beds: Beds in a room occupied by a member which are not being used by the member may be used by invited guests of the member at no cost.

### **4 Notification of "Associated Users" and "Shareholder Nominee"**

- 4.1 To authorise and entitle use of the facilities by Associated Users or a Shareholder Nominee, the Shareholder must first, by 1 June annually, give written notice to the Company of any changes:
- a. in the case of Associated Users:
    - i. the full names and addresses, dates of birth and where applicable reasonable evidence of permanent residence with parents; or
    - ii. evidence of attendance that year at a fulltime tertiary education course;
  - b. in the case of Shareholder Nominees, the full name and address
  - c. and must similarly notify any changes thereto from time to time.

This Occupation Licence is made and executed on the day and year written at the head of this Deed.

Signed for and on behalf of  
Altamont North Lodge Limited  
by 2 of its directors:

\_\_\_\_\_

Director

\_\_\_\_\_

Director

Signed by  
**[Shareholder One]**  
in the presence of:

\_\_\_\_\_

Witness Signature

\_\_\_\_\_

Name

\_\_\_\_\_

Occupation

\_\_\_\_\_

City of Residence

Signed by  
**[Shareholder Two]**  
in the presence of:

\_\_\_\_\_

Witness Signature

\_\_\_\_\_

Name

\_\_\_\_\_

Occupation

\_\_\_\_\_

City of Residence