



## **LAKE EDGE RESORT LIMITED**

### **CONSTITUTION**

This document should be read together with the Companies Act 1993.



## Table of Contents

1.	Interpretation	4
2.	Company must obtain approval before altering shareholders' rights	6
3.	Restriction on number of shares	6
4.	Shares	6
5.	Share rights	6
6.	Board may refuse or delay a share transfer in certain cases	8
7.	Board must refuse a share transfer in certain cases	8
8.	Number of shares that may be held	8
9.	Board may make calls	8
10.	Company Debt	9
11.	Company may acquire and hold shares	8
12.	Distributions do not bear interest	9
13.	Unclaimed distributions	9
14.	Proceedings at meetings of shareholders	9
15.	Conduct of shareholders and guests	10
16.	Number of directors	11
17.	Shareholders may appoint directors	11
18.	Shareholders may remove Directors	11
19.	Rotation of Directors	11
20.	Board may fill casual vacancy on the board	13
21.	Shareholding qualification for Directors	13
22.	Directors to elect chairperson of the Board	13
23.	Chairperson to hold office on certain terms	13
24.	Meetings of the Board	13
25.	Board delegates to comply with regulations	13
26.	Committee proceedings	13
27.	Interested Director must disclose interest	14
28.	Board's power to authorise remuneration and other benefits is limited	14
29.	Company may indemnify directors and employees for certain liabilities	14
30.	Company may effect insurance for directors and employees	14
31.	Manner of execution of deeds	15
32.	Distribution of surplus assets in kind	14
33.	Sale of resort	15
FIRST SCHEDULE: CALLS, FORFEITURE AND LIENS.....		16
1.	Clause references	16
2.	Shareholders must pay calls and Entitlement Levies	16
3.	Cessation of entitlement and other rights and privileges	17
4.	Call made when Board resolution passed	17
5.	Joint holders are jointly and severally liable	17
6.	Unpaid calls will accrue interest	17
7.	Amounts payable under terms of issue treated as calls	17
8.	Board may differentiate between holders as to calls	18
9.	Board may accept payment in advance for calls	18
10.	Forfeiture	18

11. Company's lien	19
12. Waiver of lien	19
13. Company may sell Share on which it has a lien	19
14. The Company may transfer Share and apply proceeds	20
SECOND SCHEDULE: PROCEEDINGS OF THE BOARD .....	21
1. Director's power to convene meetings	21
2. Notice to be sent to Director's address	21
3. Notice to contain certain details	21
4. Period of notice required to be given to Directors	21
5. Absent Directors	21
6. Directors may waive irregularities in notice	21
7. Methods of holding meetings	21
8. Quorum for Board meeting	22
9. Meeting adjourned if no quorum	22
10. Chairperson to chair meetings	22
11. Voting on resolutions	22
12. Chairperson has casting vote	22
13. Board must keep minutes of proceedings	22
14. Written resolutions of Board permitted	22
15. Board may regulate other proceedings	23
THIRD SCHEDULE: RESORT PARTICULARS.....	24
FOURTH SCHEDULE: RULES OF OCCUPATION.....	25

## 1. INTERPRETATION

In this constitution:

**1.1** The following expressions have the following meanings:

**“The Act”** means the Companies Act 1993;

**“The Board”** means Directors who number not less than the required quorum acting together as the board of directors of the Company.

**“The Company”** means Lake Edge Resort Limited;

**“This constitution”** means this constitution as it may be altered from time to time in accordance with the Act;

**“Director”** means a person appointed as a director of the Company in accordance with this constitution;

**“Entitlement”** means the entitlement of a Shareholder to occupy one apartment at the Resort and to use the common facilities of the Resort for the one Vacation Week to which the Shareholder’s share relates.

**“Entitlement Levies”** has the meaning set out in the First Schedule;

**“Entitlement Period”** means the annual period in which a Shareholder may exercise the Shareholder's Entitlement. The Entitlement Period commences on the first Friday of each Year and ends on the last Friday of each Year;

**“Fixed Vacation Week”** described in Item 4 of Third Schedule, means in relation to a Vacation Week, a numeral following the words "Vacation Week" means the Vacation Week must be taken in the corresponding week in a Year i.e. Vacation Week 1 means the Vacation Week must commence on the first Friday of a Year, Vacation Week 2 means the Vacation Week must commence on the second Friday of a Year (as applicable), and so forth;

**“Floating Vacation Week”** means in any Year, any Vacation Week other than a Fixed Vacation Week;

**“Force Majeure”** means an event or circumstance beyond a party’s reasonable control and includes, without limitation, fire, flood, earthquake, terrorism, epidemic or pandemic, act of God, act of any government, a labour strike or lock-out.

**“Land”** means all the land contained in Record of Title SA40C/498;

**“Manager”** means the person appointed by the Board to be the manager for the Resort and includes any assistant manager so appointed and any relieving manager appointed by the manager;

**“Non-personal Shareholder”** means any Shareholder that is a company, trust or other non-individual;

**“Ordinary resolution”** means a resolution approved by 50% of the votes cast by Shareholders entitled to vote and voting on the question either in person or by proxy or by postal vote;

**“Postal Vote”** means a vote placed by a shareholder prior to a general meeting that has been sent to the returning officer by post, email or completed electronically through approved voting software or application;

**“Regulations”** means regulations made by the Board;

**“Resort”** means the resort specified in Item 3 of the Third Schedule;

**“Share”** means a share in the Company;

**“Shareholder”** means a person who is the holder (or joint holder) of a share in the capital of the Company and whose name is entered in the Company’s share register as a Shareholder of the Company;

**“Special resolution”** means a resolution approved by 75% of the votes cast by Shareholders entitled to vote and voting on the question either in person or by proxy or by postal vote;

**“Vacation Week”** means any period of one week (numbered one to 53) commencing at 3.30pm on Friday and ends at 9.30am on the Friday of the following relevant week;

**“Written”** or **“in writing”** in relation to words, figures and symbols includes all modes of presenting or reproducing those words, figures and symbols in a tangible and visible form;

**“Working Day”** means a day of the week other than—  
(a) a Saturday, a Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign’s birthday, Matariki and Labour Day; and  
(b) a day in the period commencing with 25 December in a year and ending with 2 January in the following year; and  
(c) if 1 January falls on a Friday, the following Monday; and  
(d) if 1 January falls on a Saturday or a Sunday, the following Monday and Tuesday; and  
(e) if Waitangi Day or Anzac Day falls on a Saturday or a Sunday, the following Monday.

**“Year”** means the period of one calendar year commencing on 1 January and ending on 31 December.

- 1.2** Subject to clause 1.1, expressions which are defined in the Act (whether generally, or for the purposes of one or more particular provisions) have the meanings given to them by the Act. When an expression is defined in the Act more than once

and in different contexts, its meaning will be governed by the context in which it appears in this constitution.

- 1.3** Headings appear as a matter of convenience and do not affect the interpretation of this constitution.
- 1.4** The singular includes the plural and vice versa, and words indicating one gender include the other genders.
- 1.5** A reference to an enactment or any regulations is a reference to that enactment or those regulations as amended, or to any enactment or regulations substituted for that enactment or those regulations.
- 1.6** The Schedules form part of this constitution.

## **2. COMPANY MUST OBTAIN APPROVAL BEFORE ALTERING SHAREHOLDERS' RIGHTS**

- 2.1** The Company must not take any action that affects the rights attached to Shares unless that action has been approved by a special resolution of each interest group in accordance with the Act.

## **3. RESTRICTION ON NUMBER OF SHARES**

- 3.1.** The Company may only have the number of Shares on issue as specified in Item 2 of the Third Schedule.

## **4. SHARES**

- 4.1.** The Board may issue Shares as specified in the table at Item 4 of the Third Schedule.

## **5. SHARE RIGHTS**

- 5.1.** Attached to each Share in the Company is the right to exercise an Entitlement for a Fixed Vacation Week or Floating Vacation Week determined by the Share number in the table at Item 4 of the Third Schedule.
- 5.2.** In the case of Floating Vacation Week Shareholders, the rights attaching to a Share are subject to:
  - 5.2.1** the Shareholder making reservations to exercise any Entitlement in accordance with this document and the Regulations from time to time; and
  - 5.2.2** availability in the Resort as determined by the Manager.
- 5.3.** During the period in which a Shareholder is exercising an Entitlement, the Shareholder may use such of the common facilities of the Resort at such times and upon such conditions as specified from time to time in the Regulations. Activities available to Shareholders at the

Resort are at the discretion of the Board acting bona fide and reasonably and may be suspended or ceased either with or without notice to Shareholders at any time from time to time.

- 5.4. No Floating Vacation Week Shareholder is entitled to occupy any specific apartment in the Resort but will occupy such apartment as the Manager may, in its absolute discretion, allocate to the Shareholder.
- 5.5. Fixed Vacation Week shareholders are entitled to the specific apartment in the Resort for the specific time period, as specified in the table at Item 4 of the Third Schedule.
- 5.6. Notwithstanding anything in this document contained or implied, no Shareholder is entitled to exclusive occupancy of any apartment in the Resort other than while exercising an entitlement and any rights of residence are by way of license and do not create any relationship of landlord and tenant.
- 5.7. A Shareholder's Entitlement shall enure for the Shareholder, their family, guests and invitees. Every Shareholder may sub-license use of their Entitlement during any Entitlement Period and any such sub-licensee shall enjoy the same rights and privileges and shall observe the same conditions as would have been applicable to the Shareholder had they used their Entitlement personally. The Shareholder shall be entitled to charge and receive from the sublicensee such fee as the Shareholder determines.
- 5.8. The entitlement of any person other than a Shareholder to use and occupy an apartment at the Resort shall be by right of Shareholding of the Shareholder at whose request or invitation or by whose leave or license such person is using or is in occupation of such apartment, and such Shareholder shall accept personal responsibility for and indemnify the Company in respect of the actions of the Shareholder's family, guests, invitees or sub-licensees at all times.
- 5.9. Any Non-personal Shareholder shall advise the Company of the name of an individual (**contact person**) who shall be entitled and who shall be the only person competent to exercise the Non-personal Shareholder's rights and privileges of Shareholding. The Non-personal Shareholder may from time to time by notice in writing to the Company replace the contact person with another.
- 5.10. Entitlements cannot be accrued from Entitlement Period to Entitlement Period and should a Shareholder not use his Entitlement during any Entitlement Period, then his Entitlement for that period shall lapse.

**5.10.1** Notwithstanding that a Shareholder's Entitlement in any Entitlement Period may lapse, that Shareholder shall still be responsible for his Entitlement Levies in respect of that period.

**5.10.2** If any transferor of a Share in the capital of the Company has exercised his Entitlement during any Entitlement Period, then the transferee of that share shall have no Entitlement rights during that Entitlement Period.

**5.11.** If the Company considers that Force Majeure has occurred and may affect the performance of its obligations, it must promptly notify the Shareholders of that fact in accordance with clause 5.12.

**5.12.** The Company must as soon as is reasonably practicable but no later than 5 working days after the alleged Force Majeure give written notice to the Shareholders of the occurrence of the Force Majeure. The notice must set out full details of the Force Majeure causing the party's failure to perform its obligations under the Constitution. The notice must also estimate the time required to remedy the failure (if there is a practical remedy) or to advise whether Entitlements will be lost or reservations cancelled as a result of the Force Majeure.

**5.13.** The Company will not be liable for any loss of Shareholder's Entitlement if Force Majeure caused that loss of or inability to use the Entitlement. If Force Majeure affects a Shareholder's Entitlement, the Company will use its best endeavours to honour Shareholder reservations to exercise an Entitlement. However, where the Company is unable accommodate rebooking of Entitlements, reservations may be cancelled by the Company and affected Shareholders shall not be entitled to any refund or rebate of Entitlement Levies.

**5.14.** Loss or cancellation of reservations pursuant to clauses 5.12 and 5.13 shall not prevent or delay the obligation to pay Entitlement Levies as provided for in the First Schedule.

## **6. BOARD MAY REFUSE OR DELAY A SHARE TRANSFER IN CERTAIN CASES**

The Board may in its absolute discretion refuse or delay the registration of any transfer of Shares if:

**6.1** permitted to do so by the Act;

**6.2** the transfer is not accompanied by such evidence as the Board may reasonably require to establish the right of the transferor to make the transfer. As a minimum, the Board will



require certified government issued photographic identification and proof of address adequate to comply with its obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 of the transferor to accompany the executed Share transfer form, but may, in its sole discretion, require other documentation on a case by case basis.

**7. BOARD MUST REFUSE A SHARE TRANSFER IN CERTAIN CASES**

The Board must refuse the registration of any transfer of Shares if it is required to do so by law.

**8. NUMBER OF SHARES THAT MAY BE HELD**

The Company or any individual Shareholder (including Non-personal Shareholders) may own a maximum of 20 Shares.

**9. BOARD MAY MAKE CALLS**

The Board may make calls on any shareholder for any money that is unpaid on that shareholder's Shares and not otherwise payable at a specified time or times under this constitution or the terms of issue of those Shares or any contract for the issue of those Shares. The First Schedule governs calls on Shares, the exercise of the Board's right to forfeit and otherwise deal with Shares where a call remains unpaid on those Shares, and the Company's right to a lien on those Shares.

**10. COMPANY DEBT**

The Company shall not borrow money other than in the ordinary course of business without a special resolution of shareholders.

**11. COMPANY MAY ACQUIRE AND HOLD SHARES**

**11.1** Subject to this constitution, the Company may purchase or otherwise acquire Shares and may hold those Shares in accordance with the Act. If the Company intends to transfer any Shares that it has acquired and held, such transfer will not be treated as a new issue of Shares.

**11.2** Subject to this constitution, the Board may purchase or otherwise acquire Shares issued by the Company from such shareholders and in such numbers or proportions as it thinks fit, in accordance with the Act.

**12. DISTRIBUTIONS DO NOT BEAR INTEREST**

No dividend or other distribution shall bear interest against the Company unless the applicable terms of issue of a Share expressly provide otherwise.

### **13. UNCLAIMED DISTRIBUTIONS**

All dividends and other distributions unclaimed for one year after the due date for payment may be invested or otherwise made use of by the Board for the benefit of the Company until claimed. The Company shall be entitled to mingle the distribution with other money of the Company and shall not be required to hold it or to regard it as being impressed with any trust but, subject to compliance with the solvency test, shall pay the distribution to the person producing evidence of entitlement.

### **14. PROCEEDINGS AT MEETINGS OF SHAREHOLDERS**

The First Schedule to the Act (in this clause, “the Schedule”) governs the proceedings at meetings of shareholders, but with the following modifications:

**14.1** The right to choose a chairperson of the meeting set out in clause 1(2) of the Schedule is vested initially in the Directors present and may only be exercised by the shareholders present if no Director is willing to act as chairperson or if no Director is present within 15 minutes of the time appointed for the commencement of the meeting.

**14.2** A quorum for a meeting of shareholders is present if shareholder's holding 15% or more of the shares are present in person or by proxy. The Company does not have voting rights in respect of any shares it holds and any Shares held by the Company shall not count towards the quorum.

**14.3** No proxy is effective in relation to a meeting unless a copy of the notice of appointment is produced to the Company at least 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the notice proposes to vote. If the written notice appointing a proxy is signed under power of attorney, a copy of the power of attorney (unless already deposited with the Company) and a signed certificate of non-revocation of the power of attorney must accompany the notice.

**14.4** Where:

**14.4.1** the shareholder has died or become incapacitated; or

**14.4.2** the proxy, or the authority under which the proxy was executed, has been revoked; or

**14.4.3** the Share in respect of which the notice of proxy is given has been transferred,

and before a meeting at which a proxy exercises a vote in terms of a notice of proxy, but the Company does not receive written notice of that death, incapacity, revocation, or transfer before the start of the meeting, the vote of the proxy is valid.

- 14.5** The representative of a corporate shareholder is entitled to attend and be heard at a meeting of shareholders as if the representative were the shareholder.
- 14.6** A shareholder may exercise the right to vote at a meeting by casting a postal vote. (A postal vote may be cast using electronic means permitted by the Board.)
- 14.7** Where 2 or more persons are registered as the holder of a share, the vote of the person named first in the share register and voting on a matter must be accepted to the exclusion of the votes of the other joint holders
- 14.8** Except as provided in the Schedule, in this clause and in any Shareholders Agreement, a meeting of shareholders may regulate its own procedure through the chairperson.

## **15. CONDUCT OF SHAREHOLDERS AND GUESTS**

Right to remove, censure, fine or suspend

- 15.1.** If any Shareholder or other person who at the invitation of or with the consent and approval of such Shareholder is at the Resort, wilfully refuses or neglects to comply with the provisions of this document, including the Fourth Schedule, or the Regulations or is guilty of any conduct which in the opinion of the Board or Manager or any two Board Members is unbecoming of the Shareholder or prejudicial to the interest of the Company:
  - 15.1.1.** the Board or the Manager and any two Board Members may immediately terminate that person's occupation or other right as aforesaid and remove or take such action as is necessary to remove that person from the Resort; and/or
  - 15.1.2.** the Board may by resolution of the Board at a meeting held in accordance with clause 15.3 censure, fine or suspend the rights and privileges of Shareholding (including but without limiting the generality thereof the right to use the Entitlement) of that Shareholder.
- 15.2.** For the purpose of clause 15.1, the decision of the Board, Manager and or any two Board Members is final and binding upon the said Shareholder or person.

Notice of Board Meeting

- 15.3.** At least one (1) week before a meeting of the Board at which a resolution in accordance with clause 15.1.2 is proposed to be considered, the Shareholder must be given notice of such meeting containing:
  - 15.3.1.** a statement of full particulars of the case alleged against the Shareholder; and

**15.3.2.** the intended resolution; and

**15.3.3.** informing the Shareholder and that Shareholder will at such meeting and before the passing of such resolution have an opportunity of giving orally or in writing any explanation defence the Shareholder may think fit.

## **16. NUMBER OF DIRECTORS**

The minimum number of Directors shall be 6 and the maximum number of Directors shall be 8. The shareholders may change the minimum and/or the maximum number of Directors by ordinary resolution.

## **17. SHAREHOLDERS MAY APPOINT DIRECTORS**

**17.1** Any person who is not disqualified under the Act may be appointed as a Director of the Board by an ordinary resolution of Shareholders.

**17.2** The persons holding office as Directors of the Company on adoption of this constitution are deemed to have been appointed as Directors pursuant to this constitution. Similarly, the chairperson of the Board continues in office and is deemed to have been appointed as chairperson pursuant to this constitution.

## **18. SHAREHOLDERS MAY REMOVE DIRECTORS**

Any Director or the chairperson of the Board may be removed from office by an ordinary resolution passed at a meeting called for the purpose of, or for purposes that include, removal of the Director.

## **19. ROTATION OF DIRECTORS**

**19.1** At the annual meeting in every year at least one third (to the nearest whole number of Directors) must retire from office.

**19.2** The Directors to retire at an annual meeting will be:

**19.2.1** first, any Directors who wish to retire and do not offer themselves for re-election; and

**19.2.2** secondly, if those Directors so retiring do not constitute the number of Directors required to retire from office under clause 19.1 those of the other Directors who have been longest in office since their last election. Persons who became Directors on the same day must retire in the same order as they were elected, unless the Board resolves otherwise.

- 19.3** In addition, any Director appointed to fill a casual vacancy since the last annual meeting must retire from office at the annual meeting.
- 19.4** A retiring Director continues to hold office until:
- 19.4.1** he or she is re-elected; or
  - 19.4.2** if he or she is not re-elected, until the shareholders at any meeting at which he or she retires (or any adjournment of that meeting) elects someone in his or her place; or
  - 19.4.3** if the meeting does not elect someone in his or her place, until the end of the meeting or any adjournment of the meeting.
- 19.5** A retiring Director who is not disqualified under the Act is eligible for re-election.
- 19.6** The shareholders may by ordinary resolution fill the office vacated by a Director who is retiring in accordance with this clause by electing a person who is not disqualified under the Act to that office at the annual meeting at which the outgoing Director retires. If no new Director is elected and if the retiring Director (not being disqualified under the Act) is offering himself or herself for re-election, the retiring Director shall be regarded as having been re-elected unless it is expressly resolved by ordinary resolution not to fill the vacated office, or a resolution for the re-election of that Director is lost.
- 19.7** No person, other than a Director retiring pursuant to clause 19.2.2 or clause 19.3 will be eligible for election to the office of director at any annual meeting unless:
- 19.7.1** he or she has been recommended by the Board for election; or
  - 19.7.2** there has, at least 20 working days before the meeting, been served on the Company a notice in writing, signed by a shareholder qualified to attend and vote at the meeting for which the notice is given, of his or her intention to propose a person for election and a notice in writing signed by the person of his or her willingness to be elected.
- 19.8** Notice of each and every eligible candidate for the office of Director must either be included in the notice of the meeting at which the election is to take place or be sent by the Company to all persons entitled to receive notice of the meeting at least 5 working days prior to the meeting. Failure to send such notice to any such person will not invalidate the nomination but the meeting, as far as the election of Directors is concerned, must be adjourned until such notices have been sent. However, the accidental omission to give such notice to, or the non-receipt of notice of a meeting by, any person does not invalidate the election of a Director at that meeting.

## **20. BOARD MAY FILL CASUAL VACANCY ON THE BOARD**

**20.1** The Board may appoint any person to be a Director to fill a casual vacancy but subject to the maximum number of Directors provided for under this constitution.

**20.2** The Board may appoint an Executive Director but subject to the maximum number of Directors provided for under this constitution and for a specified time limit.

## **21. SHAREHOLDING QUALIFICATION FOR DIRECTORS**

**21.1** Each Director must hold at least one Share personally or as a director or trustee of a Non-personal Shareholder.

**21.2** The minimum number of Directors in Clause 21.1 shall be five.

**21.3** Additional Directors above five may not be a Shareholder subject to the minimum and maximum number of Directors in Clause 16 and for a specified time limit.

## **22. DIRECTORS TO ELECT CHAIRPERSON OF THE BOARD**

The Directors must elect one of their number as chairperson of the Board. The Chairperson must hold at least one Share personally or as a director or trustee of a Non-personal Shareholder.

## **23. CHAIRPERSON TO HOLD OFFICE ON CERTAIN TERMS**

The chairperson of the Board holds that office until he or she vacates office or the Directors elect a chairperson in his or her place or the shareholders remove him or her from office.

## **24. MEETINGS OF THE BOARD**

The Second Schedule governs the proceedings at meetings of the Board, except where otherwise agreed by all Directors in relation to a particular meeting or meetings. The Third Schedule to the Act does not apply to proceedings of the Board.

## **25. BOARD DELEGATES TO COMPLY WITH REGULATIONS**

In exercising the Board's delegated powers, any committee of Directors, Director, employee or employees of the Company, or any other person must comply with any regulations that the Board may impose.

**26. COMMITTEE PROCEEDINGS**

The provisions of this constitution relating to proceedings of the Board also apply to proceedings of any committee of Directors, except to the extent the Board determines otherwise.

**27. INTERESTED DIRECTOR MUST DISCLOSE INTEREST**

A Director of the Company who is interested in a transaction entered into, or to be entered into, by the Company may only vote on a matter relating to the transaction if such interest is disclosed in writing to the board, but otherwise may act in his or her capacity as a Director in relation to the transaction as if he or she were not interested in the transaction.

**28. BOARD'S POWER TO AUTHORISE REMUNERATION AND OTHER BENEFITS IS LIMITED**

The Board may authorise payments or actions under section 161 of the Act only if the relevant payment or action has been approved by an ordinary resolution or with the prior written agreement or concurrence of all entitled persons.

**29. COMPANY MAY INDEMNIFY DIRECTORS AND EMPLOYEES FOR CERTAIN LIABILITIES**

The Company may indemnify a director or employee of the Company or a related company for any liability or costs for which a director or employee may be indemnified under the Act. The Board may determine the terms and conditions of any such indemnity.

**30. COMPANY MAY EFFECT INSURANCE FOR DIRECTORS AND EMPLOYEES**

The Company may, with the prior approval of the Board, effect insurance for a director or employee of the Company or a related company for any liability or costs for which a company may effect insurance for a director or employee under the Act. The Board may determine the amounts and the terms and conditions of any such insurance.

**31. MANNER OF EXECUTION OF DEEDS**

An obligation which, if entered into by a natural person, would, by law, be required to be by deed, may be entered into on behalf of the Company in writing signed under the name of the Company by:

**31.1** two or more Directors; or

**31.2** one Director together with the Company Secretary.

### **32. DISTRIBUTION OF SURPLUS ASSETS IN KIND**

If the Company is liquidated the liquidator shall, at the direction of shareholders by ordinary resolution, but subject to any other sanction required by the Act:

**32.1** divide among the shareholders in kind the whole or any part of the surplus assets of the Company and for that purpose the liquidator may:

**32.1.1** fix such values for surplus assets as the liquidator considers to be appropriate, and

**32.1.2** determine how the division will be carried out as between shareholders;

and

**32.2** vest the whole or any part of any such surplus assets in trustees upon such trusts for the benefit of such of those shareholders as the liquidator thinks fit,

but so that no shareholder is compelled to accept any shares or other securities on which there is any liability.

### **33. SALE OF RESORT**

In the event that the Resort is to be sold, the Company liquidated and the assets distributed to the shareholders, the shares shall be valued based on the comparative market value of each Entitlement as determined by two registered valuers appointed by the board for that purpose who have appropriate experience along with an arbitrator, if necessary, under the provisions of the Arbitration Act 1996.



## **FIRST SCHEDULE: CALLS, FORFEITURE AND LIENS**

### **1. CLAUSE REFERENCES**

Unless stated otherwise, references to clauses are references to clauses in this Schedule.

### **2. SHAREHOLDERS MUST PAY CALLS AND ENTITLEMENT LEVIES**

- 2.1.** Each Year the Board shall determine the amounts necessary in its opinion to be raised by way of annual contributions from Shareholders for the purpose of meeting the Company's actual or expected liabilities which shall include without limiting the generality thereof, rates and taxes, insurance premiums, wages and salaries, contractual payments, management and administrative costs, maintenance and repair costs, refurbishment costs, a sum as a surplus which is held to cover work identified in the long term maintenance plan, and the costs of complying with any notice requiring work by any competent authority (**annual outgoings**).
- 2.2.** Entitlement Levies are the proportionate share of the annual outgoings payable by each shareholder each Year, being the annual outgoing divided by the number of shares issued by the Company at any given time.
- 2.3.** Entitlement Levies are due and payable in advance on 1 January in each relevant Year or on such other date as is determined by the Board.
- 2.4.** Should the Company at any time become liable to pay any moneys that it is unable to pay forthwith, then it may levy its Shareholders to raise sufficient moneys to cover its liability (**special levy**).
  - 2.4.1.** In respect of each special levy, each Shareholder must contribute to the funds of the Company in respect of each share in the capital of the Company of which the Shareholder is the registered holder a sum of money equal to the proportion of the special levy that each share bears to the total number of issued Shares in the Company from time to time.
  - 2.4.2.** Contributions pursuant to clause 2.4.1 are due and payable at such times as the Board shall determine.
- 2.5.** Despite any other provision of this document, if the Company should go into liquidation or if a receiver or official manager or provisional liquidator be appointed, then the liability of the Shareholders for Entitlement Levies shall cease for so long as the Company shall be in liquidation or receivership or official management or provisional liquidation as the case may be.
- 2.6.** Each Shareholder must pay to the Company by the date upon which the same is due and payable, the amount of all Entitlement Levies due by the Shareholder to the Company. The amount so payable by each Shareholder is a debt due by the Shareholder to the Company

and if the same shall not have been paid within three (3) months of the due date:

**2.6.1.** the Company may sue and recover the amount due; and

**2.6.2.** any amount of Entitlement Levies not paid by 1 February shall bear interest at the rate of 15% per annum or part thereof from the said 1 February until the date it is actually received.

This clause 2.6 is subject to and without prejudice to the provisions of clauses 10 - 16 of this schedule.

**2.7.** The Manager shall cause to be sent to Shareholders a notice of any Entitlement Levies payable by Shareholders six (6) weeks prior to the date due for payment of those Entitlement Levies.

**2.8.** In the event of early payment of any Entitlement Levies by a Shareholder or Shareholders, the Board may at any time declare that a discount applies to such Entitlement Levies at such rate as the Board in its sole discretion determines appropriate.

**2.9.** Unless the Board otherwise determines no Shareholder having paid any Entitlement Levies due by the Shareholder to the Company is entitled to have the same or any part thereof refunded whether the Shareholder ceases to be a Shareholder of the Company or for any reason whatsoever.

**2.10.** The provisions under this clause 2 are in addition to any other indebtedness by the Shareholder to the Company.

**2.11.** Whenever in this document the liability or obligation is imposed on the holder of a share and that share is registered in the names of two or more persons those persons are jointly and severally liable to the Company in respect of that liability or obligation.

### **3. CESSATION OF ENTITLEMENT AND OTHER RIGHTS AND PRIVILEGES**

No Shareholder may exercise any rights or privileges of Shareholding (including but without limiting the generality thereof the right to use his Entitlement) whilst any Entitlement Levies payable by the Shareholder to the Company are due but unpaid.

### **4. CALL MADE WHEN BOARD RESOLUTION PASSED**

A call is regarded as having been made at the time when the Board resolution authorising the call was passed.

### **5. JOINT HOLDERS ARE JOINTLY AND SEVERALLY LIABLE**

The joint holders of a Share are jointly and severally liable to pay all calls for that Share.

### **6. UNPAID CALLS WILL ACCRUE INTEREST**

If an amount called is not paid in full at the time specified for payment, the person from whom the amount is due must pay the Company interest on the amount that remains unpaid at a rate determined by the Board and calculated from the time specified for payment until the day of actual payment. The Board may waive some or all of the payment of that interest.

## **7. AMOUNTS PAYABLE UNDER TERMS OF ISSUE TREATED AS CALLS**

Any amount that becomes payable on issue or at any specified date under this constitution or under the terms of issue of a Share or under a contract for the issue of a Share, will be regarded as being a call duly made and payable on the specified date. If the payment is not made, the relevant provisions of this constitution will apply as if the amount had become payable by virtue of a call made in accordance with this constitution

## **8. BOARD MAY DIFFERENTIATE BETWEEN HOLDERS AS TO CALLS**

On the issue of Shares, the Board may differentiate between the holders of Shares as to the amount of calls to be paid and the times of payment.

## **9. BOARD MAY ACCEPT PAYMENT IN ADVANCE FOR CALLS**

Where a shareholder is willing to advance some or all of the money unpaid and uncalled on any Share or Shares of that shareholder, the Board may accept the amount advanced on the Company's behalf. The Board may pay interest on that amount at a rate agreed between the Board and that shareholder for the period between the date that the amount is accepted and the date that the amount becomes payable pursuant to a call or the date specified for its payment.

## **10. FORFEITURE**

### **10.1. Directors may by notice require payment**

The Directors may during the time that a call, Entitlement Levies, instalment, or other amount remains unpaid on a Share, serve a notice on the shareholder requiring payment of the unpaid call, Entitlement Levies, instalment, or other amount, together with any accrued interest.

### **10.2. Notice must satisfy certain requirements**

The notice served on a shareholder under clause 10 must specify a date not earlier than 10 working days after the date the notice is served by which the payment is to be made. The notice must also state that in the event of non-payment by the appointed time, the Shares to which the call, Entitlement Levies, instalment, or other amount relates, will be liable to be forfeited by the shareholder.

### **10.3. Failure to comply with notice may lead to forfeiture**

Where a valid notice under clause 10.2 is served on a shareholder and the shareholder fails to comply with the notice, then the Board:

**10.3.1** may resolve that any Share for which that notice was given and all distributions authorised and not paid before the notice was served be forfeited; and

**10.3.2** may cancel any share certificate relating to any Share that has been forfeited pursuant to any such resolution.

**10.4.** Board may deal with forfeited Share

A forfeited Share may be sold or otherwise disposed of on such terms and in such manner as the Board thinks fit. However, the Board may cancel the forfeiture at any time before the sale or other disposition on such terms as the Board thinks fit if the call, instalment or other amount that remains unpaid on the Share is paid.

**10.5.** Shareholder whose Shares are forfeited loses rights

**10.5.1** A person whose Shares have been forfeited immediately ceases to be a shareholder in respect of those Shares notwithstanding any other provision of this constitution, and remains liable to pay the unpaid amount he or she owes the Company, but that liability shall cease if the Company receives payment in full of all money owing for those Shares.

**10.5.2** Any dispute or difference arising out of or in connection with forfeiture and or loss of rights under this clause 10, will be referred to the Disputes Tribunal. The Disputes Tribunal has jurisdiction to hear and determine all disputes relating to forfeiture of shares.

**10.6.** Director's statutory declaration is conclusive

A statutory declaration given by a Director that a Share has been duly forfeited on a stated date shall be conclusive evidence of the facts stated in that declaration against any person claiming an entitlement to that Share.

**10.7.** Company may sell forfeited Share

The Company may receive consideration, if any, given for a forfeited Share following a sale or disposition, and may execute a transfer of the Share in favour of the person to whom the Share is sold or disposed of, and register that person as the holder of the Share. That person shall not be bound to see to the application of the purchase money, if any, nor shall the title to the Share be affected by any irregularity or invalidity in the procedures under this constitution in respect of the forfeiture, sale or disposal of that Share.

## **11. COMPANY'S LIEN**

The Company shall have a lien, ranking in priority over all other equities, on:

**11.1** all Shares registered in the name of a shareholder (whether solely or jointly with others);

**11.2** the proceeds of sale of such Shares; and

**11.3** all dividends authorised in respect of such Shares;

for:

- 11.4** unpaid calls, Entitlement Levies, and instalments payable in respect of any such Shares;
- 11.5** interest on any such calls, Entitlement Levies, or instalments;
- 11.6** sale expenses owing to the Company in respect of any such Shares; and
- 11.7** any amounts that the Company may be called on to pay under any statute, regulation, ordinance or other law in respect of the Shares of a shareholder, whether the period for payment has arrived or not.

**12. WAIVER OF LIEN**

Registration of a transfer of Shares on which the Company has any lien will operate as a waiver of the lien, unless the Company first gives notice to the contrary to the transferee.

**13. COMPANY MAY SELL SHARE ON WHICH IT HAS A LIEN**

The Company may sell a Share on which it has a lien in such manner as the Board thinks fit, where:

- 13.1** the lien on the Share is for a sum which is presently payable; and
- 13.2** the registered holder of the Share, or the person entitled to it on his or her death or bankruptcy, has failed to pay that sum within 10 working days after the Company has served him or her with written notice demanding payment of that sum.

**14. THE COMPANY MAY TRANSFER SHARE AND APPLY PROCEEDS**

- 14.1** The Company may receive consideration given for a Share sold under clause 13, and may execute a transfer of the Share in favour of the person to whom the Share is sold, and register that person as the holder of the Share discharged from all calls due prior to the purchase. The purchaser shall not be bound to see to the application of the purchase money, and his or her title to the Shares shall not be affected by any irregularity or invalidity in the proceedings relating to the sale.
- 14.2** The Company must apply the sale proceeds in payment of the sum presently payable on the lien, and the balance, if any, shall (subject to a like lien for sums not presently payable that existed upon the Share before the sale) be paid to the person entitled to the Shares at the date of sale.

## **SECOND SCHEDULE: PROCEEDINGS OF THE BOARD**

### **1. DIRECTOR'S POWER TO CONVENE MEETINGS**

A Director, or any other person at the request of a Director, may convene a meeting of the Board by giving notice in accordance with this Schedule.

### **2. NOTICE TO BE SENT TO DIRECTOR'S ADDRESS**

The notice of meeting must be a written notice delivered by hand to the Director, or sent to the address or facsimile number, or an electronic mail message sent to the electronic mail address, which the Director provides to the Company for that purpose, or if an address or facsimile number, or electronic mail address, is not provided, then a written notice to his or her last place of employment or residence or facsimile number known to the Company.

### **3. NOTICE TO CONTAIN CERTAIN DETAILS**

The notice of meeting must include the date, time and place of the meeting and the matters to be discussed and an indication of the matters to be discussed in sufficient detail to enable a reasonable Director to appreciate the general import of the matters.

### **4. PERIOD OF NOTICE REQUIRED TO BE GIVEN TO DIRECTORS**

At least two days' notice of a meeting of the Board must be given unless the chairperson (or, in the chairperson's absence from New Zealand, any

other Director) believes it is necessary to convene a meeting of the Board as a matter of urgency, in which case shorter notice of the meeting of the Board may be given, so long as at least two hours' notice is given.

## **5. ABSENT DIRECTORS**

Where a Director is absent from New Zealand or another usual country of residence, but supplies the Company with an address or electronic mail address to which notices are to be sent during his or her absence, then notice must be given to that Director. Otherwise, notice need not be given to any Director absent from New Zealand or another usual country of residence.

## **6. DIRECTORS MAY WAIVE IRREGULARITIES IN NOTICE**

Any irregularity in the notice of a meeting, or failure to comply with clauses 1 to 5 in this Schedule is waived if all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or failure, or if all Directors entitled to receive notice of the meeting agree to the waiver.

## **7. METHODS OF HOLDING MEETINGS**

A meeting of the Board may be held either:

- 7.1** By a number of Directors who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
- 7.2** By means of audio, or audio and visual, communication by which a quorum of Directors participating can simultaneously hear each other throughout the meeting.

## **8. QUORUM FOR BOARD MEETING**

The quorum necessary for the transaction of business at a meeting of the Board is 4 Directors. The shareholders may change the number of Directors required for a quorum by ordinary resolution. No business may be transacted at a meeting of the Board unless a quorum is present.

## **9. MEETING ADJOURNED IF NO QUORUM**

If a quorum is not present within 30 minutes after the time appointed for a meeting of the Board, the meeting will be adjourned. The Board shall use its best endeavours to reschedule the meeting to the most appropriate next available date.

## **10. CHAIRPERSON TO CHAIR MEETINGS**

The chairperson of the Board will chair all meetings of the Board at which he or she is present. If the office of chairperson of the Board is vacant, or if at a meeting of the Board the chairperson of the Board is not present within

5 minutes from the time appointed for the meeting, then the Directors present may elect one of their number to chair the meeting.

## **11. VOTING ON RESOLUTIONS**

Each Director has one vote. A resolution of the Board is passed if it is agreed to by all Directors present without dissent or if a majority of the votes cast on it are in favour of it. A Director present at a meeting of the Board may abstain from voting on a resolution, and any Director who abstains from voting on a resolution will not be treated as having voted in favour of it for the purposes of the Act.

## **12. CHAIRPERSON HAS CASTING VOTE**

In the case of an equality of votes, the chairperson of the Board has a casting vote.

## **13. BOARD MUST KEEP MINUTES OF PROCEEDINGS**

The Board must ensure that minutes are kept of proceedings at meetings of the Board. Minutes that have been signed correct by the chairperson of the meeting are evidence of the proceedings at the meeting unless they are shown to be inaccurate.

## **14. WRITTEN RESOLUTIONS OF BOARD PERMITTED**

**14.1** A written resolution signed or assented to by a majority of the Directors then entitled to receive notice of a meeting of the Board and who together would constitute a quorum at a meeting is as valid and effective as if it had been passed at a meeting of the Board duly convened and held. Within 5 working days of a resolution being passed in accordance with this clause, the Company must send a copy of the resolution to every Director who did not sign the resolution or on whose behalf the resolution was not signed.

**14.2** Any written resolution may consist of several copies of the resolution, each signed or assented to by one or more of the Directors. A copy of a written resolution, which has been signed and is sent by email, facsimile or any similar means of communication, will satisfy the requirements of this clause.

## **15. BOARD MAY REGULATE OTHER PROCEEDINGS**

Except as set out in this Schedule, the Board may regulate its own procedure.



### THIRD SCHEDULE: RESORT PARTICULARS

- Item 1** Lake Edge Resort Limited
- Item 2** 612 shares
- Item 3** The property and all furnishing, fittings and equipment therein and known as "Lake Edge Resort Limited"
- Item 4** Lake Edge Resort Share Schedule

Fixed Week	Apartment	Share #	Fixed Week	Apartment	Share #	Fixed Week	Apartment	Share #
<b>1</b>	1	101	3	1	125	52 & 53	1	701
	2	102		2	126		2	702
	3	103		3	127		3	703
	4	104		4	128		4	704
	5	105		5	129		5	705
	6	106		6	130		6	706
	7	107		7	131		7	707
	8	108		8	132		8	708
	9	109		9	133		9	709
	10	110		10	134		10	710
	11	111		11	135		11	711
	12	112		12	136		12	712
<b>2</b>	1	113	4	1	137	<b>Floating Weeks 5 to 51</b>  Share Numbers 149 to 700		
	2	114		2	138			
	3	115		3	139			
	4	116		4	140			
	5	117		5	141			
	6	118		6	142			
	7	119		7	143			
	8	120		8	144			
	9	121		9	145			
	10	122		10	146			
	11	123		11	147			
	12	124		12	148			

## **FOURTH SCHEDULE: RULES OF OCCUPATION**

### **1. BACKGROUND**

- 1.1.** The Rules of occupation are designed to facilitate on behalf of all shareholders the effective operation and management of Lake Edge Resort Limited.

### **2. OBLIGATION OF LAKE EDGE RESORT LIMITED (COMPANY)**

- 2.1.** The Company will maintain, repair and keep in good order and condition all apartments, their common furnishings and fittings and the Resort common property.
- 2.2.** The Company will manage and operate the Resort having regard to the terms of any resolution of shareholders at a general meeting and consistent with good practice and the reputation of the Resort.

### **3. RESPONSIBILITIES OF SHAREHOLDERS/OCCUPIERS**

- 3.1.** Any person occupying an apartment, whether or not the person is a shareholder will fully comply with all the obligations resting upon the shareholder pursuant to the resort operational rules (as amended from time to time), which are located in each apartment.
- 3.2.** The shareholder will keep the apartment during the period of his/her occupancy clean and tidy and leave it in the same condition when ending the occupancy and be responsible for the cost of replacing any breakages or repairing any damage to furniture, fittings, furnishings, crockery, utensils, electronic equipment, floor coverings or the internal structure or walls of the apartment, fair wear and tear excepted.
- 3.3.** The shareholder shall reimburse the Company for any loss or damage suffered by the Company as a result of the carelessness, negligence or wilful act of the shareholder or occupier or any other person who at the invitation of or with the consent and approval of such Shareholder is at the Resort ("shareholder's invitees"). Where the Company is insured against such loss or damage, the shareholder may only be required to pay the excess payable under the Company's insurance in respect of the damage or loss caused. Where the acts or omissions of the shareholder, occupier or shareholder's invitees have made any such insurance void the shareholder shall upon demand compensate and reimburse the Company in full for such loss or damage.