Date: [TBA]

MT CARDRONA STATION
RESIDENTIAL PROPERTY MANAGEMENT AGREEMENT

3 BEDROOM

Parties

1. [Insert registered proprietor as per record of title] (**Owner**)
2. Mt Cardrona Station Resort Limited (**Manager**)

Background

A. The Owner owns the Property.

B. The Owner has requested the Manager to provide property management services to the Owner at the Property in accordance with this Agreement.

Reference schedule

PROPERTY AND COMMERCIAL TERMS	
Property	Address: Legal description: Record of title:
Commencement Date	
Management Fee (select one)	☐ [**Hourly rate: $77 plus GST per hour** (of part thereof). The Manager's fee will be calculated based on the time the Manager spends carrying out the Manager's Duties during the Payment Period] ☐ [**Monthly rate: $360 plus GST per month**]
Payment Period (select one)	☐ [**Monthly**] ☐ [**Quarterly** - (being 1 January, April, July and September)]
Term	
Expenses Limit	$ including GST
OWNER	
Owner's name (as per record of title)	
Owner's email address	
Owner's phone number (including emergency number(s))	
Owner's postal address	
Owner's Designated Person (and contact details if they differ from above)	

Agreement

1. DEFINITIONS AND INTERPRETATION

1.1 In this agreement unless the context otherwise requires:

(a) **Expenses** has the meaning as defined in Schedule 1.

(a) **Manager's Duties** means the Manager's duties listed in Schedule 1.

(a) **Service Contractor Agreements** has the meaning as defined in Schedule 1.

(a) **Service Contractor** has the meaning as defined in Schedule 1.

(a) **Working Day** means any day of the week other than:

(i) Saturday, Sunday Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, Otago Anniversary Day, Matariki and Labour Day;

(ii) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday; and

(iii) a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January in the following year, both days inclusive.

1.2 In this agreement unless the context otherwise requires:

(a) Terms given a meaning in the Schedule have that meaning.

(b) Words referring to the singular include the plural and vice versa.

(c) Any reference to a party includes:

(i) that party's executors, administrators, or permitted assigns; or

(ii) if a company, limited partnership, or any other body corporate, its successors or permitted assigns or both.

(d) Where a party is made up of more than one person, the liability of each of those persons is joint and several.

(e) Reference to any document includes reference to that document as amended, novated, supplemented, or replaced from time to time.

(f) References to statutory provisions will be construed as references to those provisions as amended or re-enacted or as their application is modified by other provisions from time to time.

(g) All periods of time or notice exclude the days on which they are given.

2. APPOINTMENT

2.1 From the Commencement Date the Owner appoints the Manager to carry out the Manager's Duties for the Property for the Term in accordance with the terms of this agreement and on an exclusive basis.

2.2 The Manager accepts the appointment.

3. MANAGEMENT FEE AND EXPENSES

3.1 From the Commencement Date the Owner appoints the Manager to carry out the Manager's Duties for the Property for the Term in accordance with the terms of this agreement and on an exclusive basis.

3.2 The Manager accepts the appointment.

3.3 3. Management Fee and Expenses

3.4 The Owner will pay the Management Fee and Expenses on the 7th Working Day following the start of each Payment Period and following provision of a GST invoice. The Manager may charge the Expenses on a monthly basis in accordance with clause 10.4.

3.5 The parties may also be parties to a "Visitor Accommodation Management Agreement" (**VAMA**) for the Property. If so, the Owner agrees the Manager may use any funds that are to be paid from the Manager to the Owner under that VAMA to pay or set-off any amounts payable by the Owner under this agreement. Within 20 Working Days of making such payment or set-off, the Manager will provide the Owner with a statement that evidences such payment or set-off.

3.6 Time is of the essence regarding any payments due to the Manager by the Owner pursuant to the terms of this agreement.

4. DEFAULT INTEREST

4.1 If the Owner fails to make any payment to the Manager as required by this agreement, the Owner will pay default interest on the full amount owing to Manager at the rate of 15% per annum calculated on a daily basis until payment is made in full, including payment of interest under this clause. This clause is without prejudice to any other rights or remedies of the Manager.

4.2 Default interest due to the Manager pursuant to clause 4.1 is payable by the Owner on demand.

5. TERM

5.1 The Term will start on the Commencement Date and:

5.2 either party may end this agreement at the end of the Term by written notice to the other; and

5.3 the Notice must be given to the other party at least 20 Working Days before the end of the Term.

5.4 If notice is not given in accordance with clause 5.1, or the Term is not otherwise ended under this agreement:

5.5 the Term will be extended on a month-to-month basis; and

5.6 any extended term may be ended in accordance with clause 5.1.

6. OWNER'S REPRESENTATIONS

6.1 The Owner represents, unless otherwise specified in writing, to be unaware of any fault, issue or similar affecting the Property.

6.2 The Owner must promptly notify the Manager in writing if the Owner becomes aware of any fault, issue or similar affecting the Property.

7. OWNER'S DUTIES

7.1 The Owner agrees to promptly:

(a) provide all documentation, records and disclosures as required by the Manager to carry out the Manager's duties in accordance with the terms of this agreement.

(b) notify the Manager of any change in documentation, records or disclosures or any other matter affecting the habitability of the Property.

7.2 The Owner has the sole responsibility:

(a) for all outgoings in respect of the Property, including (but not limited to) local authority rates, regional rates, Mt Cardrona Station Owners Association Incorporated levies, waste management and utilities.

(b) to ensure that the following insurances are always kept current and for making any claim under any insurance policy in relation to the Property:

(i) a comprehensive insurance cover for all buildings on the Property to their replacement value.

(ii) a comprehensive insurance cover for all fixtures, fittings and services that belong to the Owner.

(iii) any other insurances reasonably required by the Manager.

8. 8. MANAGER'S DUTIES

8.1 The Manager will carry out the Manager's Duties and must do so in a competent and efficient manner in accordance with standard industry practices.

8.2 The Manager agrees that it will not charge commission, receive any rebate or receive any other benefit (whether directly or indirectly) in relation to any payments it makes or agreements entered into on behalf of the Owner under this agreement.

9. 9. MANAGER'S AUTHORITY

9.1 The Owner may enter into Service Contract Agreements directly with Service Contractors.

9.2 The Manager may enter into Service Contract Agreements on the Owner's behalf with the Owner's prior written authority.

9.3 In either event, the Owner retains the sole responsibility for any of its obligations under the Service Contracts Agreements.

9.4 The Manager is not liable to the Owner for:

(a) any claims, damages, penalties or losses (including costs) incurred by the Owner;

(b) any liabilities arising under a Service Contract Agreement; or

(c) any damage caused to the Property;

as the result of, or caused or contributed to by, the:

(d) Service Contractors or related to the Service Contract Agreements; or

(e) Manager properly exercising any of its discretions or authorities in accordance with this agreement.

9.5 The Owner indemnifies the Manager against all claims, damages, penalties and losses (including costs) incurred by the Manager in carrying out its duties in accordance with this Agreement.

9.6 The Manager's maximum liability to the Owner under this agreement is capped at three times the annual Management Fee payable from the Owner to the Manager (or a reasonable estimate of the same if the Owner is being charged on an hourly rate basis).

10. EXPENSES

10.1 The Manager may incur expenses (Expenses) on behalf of the Owner:

(a) under the Service Contractor Agreements;

(b) when approved in writing by the Owner; and

(c) without the Owner's prior approval in the following cases:

(i) Expenses not exceeding the Expenses Limit in respect of any one item.

(ii) Expenses made necessary as the result of an emergency.

For the purposes of this clause:

expenses in respect of any one item means all expenses arising from any one set of circumstances irrespective of the number of individual expenses making up the whole that the Manager (acting reasonably) considers need to be undertaken in relation to the Property.

emergency means a situation where the health or safety of any person is at risk, or valuable property belonging to any person is at risk.

10.2 Subject to clause 10.3, the Manager will make payment of the Expenses for the Property on behalf of the Owner and by the due date.

10.3 Any payments for Expenses by the Manager on behalf of the Owner will be made from the Owner's funds held by the Manager. If a payment is required by the Manager that exceeds the balance of Owner's funds held by the Manager, the Manager will not be obliged to make the payment until the Manager is holding sufficient funds on behalf of the Owner.

10.4 To allow the Manager to be in funds to pay the Expenses, the Manager may, from time to time, provide the Owner with written notice stating what the Manager reasonably expects will be the Expenses for the upcoming month(s). The Owner will pay such amount to the Manager on or before the 7th Working Day in the month following the date of such notice. The Manager undertakes to hold such funds and to only use them to pay the Expenses. The Manager will pay any such remaining amount that it holds to the Owner on the expiry or earlier termination of this Agreement.

10.5 To the extent the Manager has not been put in funds under clause 10.4 to pay the Expenses, the Manager may elect (at its sole discretion) to make such payment amd the Owner will reimburse the Manager for such Expenses.

10.6 The Manager will not charge the Owner any commission or receive any rebate or other benefit (either directly or indirectly) in relation to Expenses that are paid by the Manager on behalf of the Owner.

11. RIGHT OF ENTRY

11.1 The Manager and all persons authorised by the Manager and the Service Contractors may enter on the Property at all reasonable times in order to carry out the Manager's duties under this Agreement and the Service Contractor's duties under the Service Contractor Agreements.

11.2 The Manager and the Service Contractor's will cause as little disturbance as possible to any occupants of the Property.

12. TERMINATION

12.1 This agreement continues until ended:

(a) by expiry of the Term in accordance with clause 5 or any renewed term (if applicable); or

(b) by agreement between the parties; or

(c) in accordance with clause 12.2.

12.2 Either party can end this agreement by notice in writing to the other party **(Termination Notice)** if the other party:

(a) does not fulfil any of its obligations under this agreement and either:

(i) the default is material and cannot be remedied; or

(ii) the default can be remedied, but has not been remedied within 10 working days after the other receives written notice of the default, but a party cannot end this agreement under this clause if the default is not material or has been remedied before the other party receives the Termination Notice;

(b) has a liquidator appointed or its board or shareholders propose or pass a resolution to appoint a liquidator;

(c) has a receiver, manager or statutory manager appointed; or

(d) has an application for it to be placed in liquidation presented or advertised.

12.3 Any termination of this agreement will be without prejudice to the rights of either party arising prior to termination.

12.4 Nothing in this clause affects the operation of any clauses in this agreement which are expressed or implied to have effect after its termination. Following the termination of this agreement, the Owner may still have obligations under the Service Contractor Agreements.

13. ASSIGNMENT

13.1 The Manager can assign or transfer its rights and obligations under this agreement to a third party. The Owner will sign all documents reasonably required to record such assignment or transfer within a reasonable time of the Manager's written request. From the date of such assignment or transfer, the Manager will be released from all its obligations under this agreement (except in relation to any breach that existed prior to that date).

13.2 The Manager can, from time to time, sub contract with a third party(ies) to fulfil any of the Manager's rights and obligations under this Agreement (including entering into the Service Contractor Agreements). This clause does release the Manager from its obligations under this agreement.

14. NOTICES

14.1 Any notice or other communication **(Notice)** given under this agreement must be in writing.

14.2 A Notice may be served personally or sent to the Owner 's communication points as noted in the Reference Schedule. Each party will notify the other in writing of any changes to the communication points.

14.3 Notices are deemed served at these times when:

(a) given personally, on delivery;

(b) sent by pre-paid post, on the third Working Day posting; or

(c) if transmitted by email to a party's designated email address and no automated notice of non-delivery is received, on the day of transmission.

14.4 Any Notice served on a day that is not a Working Day or after 5pm on a Working Day is deemed served on the first Working Day after that day.

14.5 Time is of the essence.

15. DISPUTE RESOLUTION

15.1 If either party has any dispute with the other in connection with this agreement:

(a) That party will promptly give full written particulars of the dispute to the other.

(b) A director of each party will promptly meet together and in good faith try to resolve the dispute.

15.2 If the dispute is not resolved within 5 Working Days of written particulars being given (or any longer period agreed to by the parties) the dispute will be referred to mediation by either party giving written notice of such referral to mediation to the other.

15.3 A party must use the mediation procedure to resolve a dispute before commencing any other dispute resolution proceedings.

15.4 The mediation will be conducted by a mediator chosen by the parties or if they fail to agree on such appointment within 10 Working Days of the notice referring the dispute to mediation being given, the mediator will be appointed on request by either party, by the President of the New Zealand Law Society or the President's nominee.

15.5 The parties must always act in good faith and co-operate with each other to promptly resolve any dispute.

15.6 The procedures and timeframes for any mediation will be fixed by the mediator or arbitrator (as appropriate) if the parties cannot agree. The costs of the mediator will be shared equally between the parties.

15.7 The parties must continue to comply with their obligations under this Agreement during the dispute resolution process.

15.8 This clause does not apply to:

(a) any dispute arising in connection with any attempted renegotiation of this agreement; or

(b) an application by either party for urgent interlocutory relief.

16. HEALTH AND SAFETY

16.1 Each party must do all things reasonably necessary to comply with its obligations under the Health and Safety at Work Act 2015 when performing its rights and obligations under this agreement.

16.2 The parties must, so far as is reasonably practicable, consult with, co-operate with, co-ordinate activities with each other, and keep each other reasonably informed on health and safety matters relating to their rights and obligations under this agreement, including informing each other as soon as possible if there is a notifiable event (as that term is defined in the Health and Safety at Work Act 2015) in or around the Property.

17. FORCE MAJEURE EVENT

17.1 The Manager will not be liable for any failure or delay in complying with any obligation imposed on it under this agreement if:

(a) the failure or delay arises directly or indirectly from a cause reasonably beyond its control and not from its fault or insolvency, or an intentional act or omission;

(b) on becoming aware of the cause, notifies the Owner in writing, as soon as reasonably practicable, of the nature and expected duration of, and the obligation affected by, the cause; and

(c) uses its reasonable endeavours to:

(i) mitigate the effects of the cause on its obligations under this agreement; and

(ii) perform its obligations under this agreement on time despite the cause.

18. EXCLUSION OF IMPLIED RELATIONSHIPS

18.1 Nothing contained in this agreement will be deemed or construed to constitute any party a partner, agent, employee or representative of the other party, or to create any trust. This agreement must not be construed as giving to any party any of the rights or subjecting any party to any of the liabilities incidental to a partnership, agency, representative or trust relationship. No party may make any warranties or representations or incur any obligation on behalf of any other party.

18.2 Nothing in this agreement will render either party liable to the creditors of the other of the party, or create any obligations enforceable by any employee, agent or subcontractor of the parties under the Contract and Commercial Law Act 2017.

19. GENERAL

19.1 **Costs:** Except as otherwise provided in this agreement, the parties will meet their own costs relating to the negotiation, preparation, execution and implementation of this agreement.

19.2 **No waiver:** No waiver of any breach of this agreement will be deemed to be a waiver of any other or any subsequent breach. The failure of a party to enforce any provision of this Agreement at any time will not be interpreted as a waiver of the provision.

19.3 **Entire agreement:** This agreement constitutes the entire agreement between the parties as to its subject. It supersedes and cancels any previous agreement, understanding or arrangement whether written or oral. The parties agree that it is fair and reasonable that this clause is conclusive between them, as required by section 50 of the Contract and Commercial Law Act 2017.

19.4 **Severability:** In the event that one or more provisions of this agreement is at any time found to be invalid or otherwise rendered unenforceable, such provision or provisions will be severable from this agreement, so that the validity or enforceability of the remaining provisions of this agreement is not affected.

19.5 **Amendments:** No amendment to or alteration of the terms of this agreement will be binding unless it is in writing and signed by both parties.

19.6 **Counterparts:** This agreement may be signed in counterparts (including electronic copies), all of which taken together will constitute the same agreement.

Signed by the Parties

Signed as **Owner** by:

Owner's Signature:

Owner's Full Name:

Owner's Signature:

Owner's Full Name:

Signed by Mt Cardrona Station Resort Limited as **Manager** by its duly authorised signatory:

Owner's Signature:

Signatory's Full Name:

Signatory's position:

Schedule 1 – Manager's Duties

REPORTS

1. The Manager will send the Owner one report (**Report**) on or before the 20th day of each calendar month.

2. The Report will include full details of everything done by the Manager on the Owner's behalf relating to the Property since the date of the preceding Report, including (but not limited to):

   (a) a statement detailing all financial transactions relating to the Property made by the Manager, including expenses incurred on behalf of the Owner, payments made and received by the Manager or goods and services acquired on behalf of the Owner;

   (b) details of any contracts or agreements entered into by the Manager on behalf of the Owner; and

   (c) a commentary on the condition of all aspects of the Property and the Owner's fixtures and fittings, including details of any maintenance, acquisitions or other services that the Manager identifies as being required at the Property in the next 6 months.

THE PROPERTY

3. The Manager will use its reasonable endeavours to:

   (a) Recommend to the Owner maintenance and service contractors (**Service Contractors**) to carryout, maintenance or repair tasks concerning any part of the Property, landscaping or gardening upkeep, cleaning arrangements, spa pool maintenance (if any), pest control, procurement or disposal of fixtures and fittings, interior or exterior design enhancements.

   (b) If the Owner:

      (i) enters into such contracts or arrangements with Service Contractors directly; or

      (ii) instructs the Manager to enter into such contracts or arrangements on the Owner's behalf (and the Manager agrees to enter into such agreements),

   (together Service Contractor Agreements):

      (iii) regularly review the performance of the Service Contractors under those agreements or arrangements; and

      (iv) the Owner retains the sole responsibility for any duties under contracts or agreements entered into by the Manager on behalf of the Owner.

   (c) Recommend to the Owner any alterations to the Property that may be necessary or desirable.

   (d) Provide any information or records they hold to the Owner to assist the Owner in making any insurance claims in relation to the Property.

   (e) Conduct routine inspections of the Property relating to its upkeep.