Full Council

12 November 2026

Report for Agenda Item | Rīpoata moto e Rāraki take [5]

Department: Assurance, Finance & Risk

Title | Taitara: Queenstown Lakes Community Housing Trust Guarantee Approval

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to respond to the request from the Queenstown Lakes Community Housing Trust (QLCHT), asking that Queenstown Lakes District Council (Council) provide a new guarantee of up to $2,000,000 for the purpose of supporting the Trust's refinancing of the $6,000,000 loan from Central Lakes Trust (CLT) for a period of five years.

This request is a continuation of the existing relationships, where QLCHT is the registered community housing provider and borrower, CLT is the lender, and Council is the guarantor. A Deed of Guarantee for a previous loan with CLT was approved by Full Council in 2016 for a period of 5 years. In December 2020, Council approved providing a new guarantee for the CLT loan for a further 5 years. This loan expires on 21 November 2026, and Council approval to provide a new guarantee is now required to refinance the loan before this expiry date.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;

2. **Approve** Council providing a new Deed of Guarantee in favour of Central Lakes Trust, capped at $2 million, to support Queenstown Lakes Community Housing Trust's refinanced loan facility of $6 million for a further five-year term, subject to:

    a. Queenstown Lakes Community Housing Trust providing an indemnity to Council for all liabilities Council may incur under the guarantee; and

    b. Queenstown Lakes Community Housing Trust meeting all legal and documentation costs associated with the guarantee and indemnity arrangements; and

3. **Delegate** to the General Manager, Assurance, Finance & Risk the authority to approve the final form of, and execute, the Deed of Guarantee and Indemnity with CLT, the indemnity from Queenstown Lakes Community Housing Trust, and associated documentation, subject to any non-material changes to reflect any further legal advice received, noting that any material changes will be returned to Council for approval.

Prepared by:



Name: Emily Irwin
Title: Senior Strategic Planner – Housing
14 October 2026

Reviewed and Authorised by:



Name: Katherine Harbrow
Title: General Manager, Assurance, Finance & Risk
15 October 2026

Context | Horopaki

1. The Queenstown Lakes District Joint Housing Action Plan (JHAP) adopted in August 2023 recognises that housing is one of the biggest challenges the district faces, and that increasing housing supply alone will not address the affordable housing problem. QLCHT is a key partner in delivering the JHAP, and Council works closely with QLCHT to support and achieve JHAP outcomes. In particular, JHAP Action 4 is to *continue to support and amplify the work of the Queenstown Lakes Community Housing Trust and other providers*.

2. Council has entered into a Relationship Framework Agreement (RFA) with the QLCHT which among other things, outlines how Council will support QLCHT in its activities. This is currently being updated, with a paper seeking approval for the refreshed RFA to be considered at the same meeting as this paper.

3. Within the existing RFA, clause 3.10[1] notes that "QLDC support may, from time to time, be necessary to support the Trust's activities, including by way of written assurances or security in the form of guarantees of QLCHT's performance of obligations it incurs to third parties. QLDC may continue to provide performance guarantees on terms and conditions agreed in relation to any request by QLCHT that QLDC do so."

4. In December 2016, Council agreed to provide a guarantee of up to $2m in favour of the Central Lakes Trust (CLT) in relation to QLCHT's payment obligations under its Rental Property five-year loan facility with CLT. In December 2020, Council agreed to provide a new guarantee of up to $2m for a further 5 years. The loan is secured against 11 QLCHT rental properties in Shotover Country – providing a mix of housing tenures. This guarantee enabled QLCHT to obtain preferrable terms and conditions on the loan from CLT which in turn reduced their operating costs.

5. QLCHT has not used the Council guarantee since it was put in place in 2016, and the risk of QLCHT defaulting is minimal with a clean default record in its 19 years of operation.

Analysis and Advice | Tatāritaka me kā Tohutohu

6. QLCHT is in the process of refinancing the loan from CLT for a new amount of $6 million for another 5 years, as the current loan and $2 million guarantee is due to expire on 21 November 2026. This new loan will be used for refinancing the original costs of developing the rental properties, plus some additional debt to help finance new projects, including Toru Central Stage 2.

7. CLT has requested that the Council guarantee remains at $2m. Although the value of the lending is increasing, Council's liability under the guarantee remains unchanged. The liability for Council would continue until the loan is repaid in full (the term ends on 31 November 2031). Generally, this limit would not include additional costs, however it is not explicitly stated whether the $2m limit includes interest, enforcement costs or any other liability. The indemnity is linked to any

[1] Clause 3.12 in updated RFA

obligations QLDC may incur as guarantor to any CLT lending to QLCHT. The costs may be direct or indirect, leaving some scope for broader costs to be claimed.

8. QLCHT has requested (Attachment A) that Council provide a new guarantee related to the CLT loan on the same terms as the existing one, including QLCHT providing an indemnity back to Council. The existing Deed of Guarantee and Indemnity is provided as Attachment B.

9. Officers have assessed the risk of providing the guarantee to be low. QLCHT has a stronger balance sheet than when the current loan was approved (equity as at 31 March 2026 was $82,856,088 compared to $32,227,236 as at 31 March 2021). The loan to value ratio is low at 52% which has reduced as property prices have increased. QLCHT's rents remain very affordable and therefore in high demand. QLCHT has also improved its own financial processes as it grows in scale, meaning better financial oversight and procedures. This includes two Councillors attending QLCHT Board meetings and having full visibility of the financials.

10. In summary, while the terms of the indemnity are the same, there are a few key differences compared to last time:

    - The loan amount is now $6m, compared to $3.2m (it was $4m but has been paid down);
    - QLCHT has a stronger balance sheet and stronger financial controls, supporting a lower risk assessment; and
    - The funding will now be used for additional projects including Toru Central Stage 2, as well as financing rental properties.

11. QLCHT will cover all the legal costs associated with Council providing a new Deed of Guarantee and Indemnity.

12. Option 1 Agree to provide a new Deed Guarantee and Indemnity

    Advantages:

    - Agreement to the proposal will allow the QLCHT to refinance the loan from CLT to support the continued provision of affordable community housing in the district.
    - Agreement to the proposal is consistent with the outcomes described in the RFA, whereby Council supports the activities of QLCHT.
    - Agreement is consistent with the Action 4 of the JHAP, to *continue to support and amplify the work of the Queenstown Lakes Community Housing Trust and other providers*.

Disadvantages:

- Council assumes some financial risk in agreeing to act as guarantor, although this risk is mitigated by the proposed indemnity from QLCHT to Council.

13. Option 2 Do not agree to provide a new Deed of Guarantee and Indemnity

Advantages:

- No additional exposure to financial risk of Council acting as guarantor.

Disadvantages:

- Declining the proposal may be perceived as inconsistent with the RFA and Action 4 of the JHAP.

- Failure to agree to the proposal will likely prevent QLCHT from refinancing the loan with CLT. This may require QLCHT to instead refinance through higher cost banking facilities, reducing the provision of affordable community housing in the district.

14. This report recommends **Option 1** for addressing the matter because it is consistent with the JHAP and the RFA, the risk to QLDC is mitigated by the indemnity, and it reduces costs for QLCHT and therefore supports the continued provision of affordable community housing in the district.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

15. This matter is of medium significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because of its importance to the Queenstown Lakes District and community.

16. The persons who are affected by or interested in the provision of affordable community housing in the district are residents/ratepayers of the Queenstown Lakes district community, Kāi Tahu, Grow Well Whaiora partners, and the business community.

Māori Consultation | Iwi Rūnaka

17. The Council has not consulted with Iwi Rūnaka on this matter. Aukaha and Te Ao Marama Incorporated have had oversight of the JHAP through the Grow Well Whaiora Partnership.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

18. This matter relates to the Community & Wellbeing risk category. It is associated with RISK10056 Ineffective provision for the future planning and development needs of the district within the QLDC Risk Register. This risk has been assessed as having a moderate residual risk rating.

19. The approval of the recommended option will allow Council to implement additional controls for this risk. This will be achieved by supporting QLCHT to provide affordable community housing.

Financial Implications | Kā Riteka ā-Pūtea

20. Council assumes some risk in agreeing to act as guarantor, although this risk is offset by the proposed indemnity from QLCHT to Council. The legal costs associated with the proposed agreements will be fully covered by QLCHT.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

21. The following Council policies, strategies and bylaws were considered:

- Queenstown Lakes District Joint Housing Action Plan 2023-2028
- 2021-2031 Queenstown Lakes Homes Strategy
- The outcomes and principles of the Vision Beyond 2050: Our Strategic Framework | Queenstown Lakes District Council
- Queenstown Lakes Spatial Plan 2021
- Long Term Plan 2024-2034
- The QLDC Proposed District Plan

22. The recommended option is consistent with the principles set out in these documents.

23. This matter is not included in the Long Term Plan/Annual Plan.

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

24. A proposed refinancing and associated Deed of Guarantee and Indemnity will not likely materially alter Council's exposure. Subject to Council approval, a thorough review of the refinance documentation, Deed of Guarantee with CLT and indemnity arrangements with QLCHT will ensure Council’s interests are appropriately protected.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kīaka

25. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; (b) to meet the current and future needs of communities for good-quality, cost-effective, and local — (i) infrastructure; (ii) public services; (iii) performance of regulatory functions; and (c) to support local economic growth and development by fulfilling the purpose set out in paragraph (b). Approving the guarantee will support QLCHT to provide good-quality and cost-effective affordable community housing. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.

26. The recommended option:

- Will help meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses
- Is consistent with the Council's plans and policies; and
- Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

Attachments | Kā Tāpirihaka

A	Letter from Queenstown Lakes Community Housing Trust requesting support
B	Existing 2021 Deed of Guarantee and Indemnity

QUEENSTOWN LAKES Community Housing Trust

Unlocking homes in our community.

5 October 2026

Queenstown Lakes District Council
PO Box 50072
Queenstown

Attention James Stevenson-Wallace

Dear James

REQUEST FOR ROLLOVER OF CLT LOAN GUARANTEE AND INDEMNITY

You may be aware QLCHT and QLDC are currently updating our Relationship Framework Agreement, which will reconfirm and strengthen our aligned goals and strategies.

Within this agreement clause 3.12 notes that "*QLDC support may, from time to time, be necessary to support QLCHT's activities, including by way of written assurances or security in the form of guarantees of QLCHT's performance of obligations it incurs to third parties. QLDC may continue to provide performance guarantees on terms and conditions agreed in relation to any request by QLCHT that QLDC do so.*"

QLDC currently provides a guarantee to Central Lakes Trust (CLT) on the repayment of interest to a maximum amount of $2m over a $43.6m loan QLCHT drew down 21/11/21. QLCHT provides an indemnity back to QLDC for the $2m.

This current loan is due for expiry 21/11/26, and we have agreed with CLT to refinance this loan to a new amount of $6m for another five years. CLT has approved this on the basis that QLCHT secures the rollover of the $2m QLDC guarantee for the new five-year loan.

We respectfully request that QLDC approves this guarantee under the same conditions as 2021, including QLCHT providing an indemnity back to Council on the guarantee.

We welcome any questions you may have for the Trust regarding this proposal.

Ngā mihi

Julie Scott
Chief Executive

CC: Katherine Harbrow and Emily Irwin

ADLS

Second Edition 2016 (3)

DEED OF GUARANTEE & INDEMNITY

PARTICULARS OF GUARANTEE

DEED dated: 29/10/21

GIVEN by:

GUARANTOR(S): **QLCHT Shotover Country Limited (Company no. 5538726) and Queenstown Lakes Community Housing Trust (Registration No. 1966669)**

(If a Guarantor is signing in a limited liability trustee capacity add after their name: (limited liability trustee))

Physical address: **C- RVG Law, Level 3,32 Rees Street, Queenstown 9300**

Postal address: **C- RVG Law, PO Box 1513, Queenstown 9348**

Facsimile: **03 409 2007**

Email: **steve@rvg.nz**

IN FAVOUR of:

BENEFICIARY: **Queenstown Lakes District Council, a body corporate under the Local Government Act 2002**

Physical address: **The Civic Centre, 10 Gorge Road, Queenstown 9300**

Postal address: **Private Bag 50072, Queenstown 9348**

Facsimile: **03 450 2223**

Email: **services@qldc.govt.nz**

IN RESPECT of the obligations and liabilities of:

PRINCIPAL OBLIGOR: **QLCHT Shotover Country Limited (Company No. 5538726)**

Physical address: **C- RVG Law, Level 3,32 Rees Street, Queenstown 9300**

Postal address: **C- RVG Law, PO Box 1513, Queenstown 9348**

Facsimile: **03 409 2007**

Email: **steve@rvg.nz**

In consideration of the Beneficiary agreeing to:

[Insert brief description of what the Beneficiary provides/concedes to the Principal Obligor that is being guaranteed by the Guarantor(s)]

guarantee the obligations of the Principal Obligor to the Central Lakes Trust pursuant to a Term Loan Agreement between the Principal Obligor and the Central Lakes Trust

at the Guarantor(s) request the Guarantor(s) hereby unconditionally and irrevocably guarantee(s) to the Beneficiary the performance of and compliance by the Principal Obligor of all its obligations to the Beneficiary details of which are more fully described below (**guaranteed obligations**), and the Guarantor(s) will further indemnify the Beneficiary in accordance with the provisions set out in the general terms and conditions with effect from the date of this guarantee.

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The terms and conditions that apply to this guarantee (other than those implied by law) are as set out in:

- these Particulars of Guarantee; and
- the General Terms and Conditions.

GUARANTEED OBLIGATIONS: Description of the obligations of the Principal Obligor to the Beneficiary and the relevant documents under which the obligations arise and monies which may be payable in respect of them ("the guaranteed indebtedness"):

[Insert detailed description of guaranteed obligations and also guaranteed indebtedness]

Indemnification by the Principal Obligor of the Beneficiary against any and all liabilities that the Beneficiary may sustain or incur directly or indirectly arising out of the Beneficiary discharging its obligations as guarantor of the obligations of the Principal Obligor to the Central Lakes Trust pursuant to a Deed of Guarantee and Indemnity.

LIMITATIONS OF GUARANTEE:

[Insert details if there is a limit either by amount or proportion of the total guaranteed obligations/guaranteed indebtedness]

None

The following Guarantor(s) enter into this guarantee as limited liability trustees (Refer clause 7 of general terms and conditions):

INDEPENDENT ADVICE

The Guarantor(s) have been advised to obtain independent legal advice prior to entering into this guarantee which is a formal legally binding document.

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EXECUTED as a Deed

SIGNED by the Guarantor*
In the presence of:

Witness signature

Witness name
Julie Scott

Witness occupation
Executive Officer

Witness address
Queenstown

Signature of Guarantor

Print full name
PHILLIP SMITH
Director / ~~Trustee / Authorised Signatory / Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Guarantor

Print full name
JAYNE ELIZABETH MACDONALD
Director / ~~Trustee / Authorised Signatory / Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

SIGNED by the Guarantor*
In the presence of:

Witness signature

Witness name
Julie Scott

Witness occupation
Executive Officer

Witness address
Queenstown

Signature of Guarantor

Print full name
PHILLIP SMITH
~~Director~~ / Trustee / ~~Authorised Signatory / Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Guarantor

Print full name
JAYNE ELIZABETH MACDONALD
~~Director~~ / Trustee / ~~Authorised Signatory / Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

* If this deed is signed under:
(i) a Power of Attorney – please attach a **Certificate of non-revocation** (ADLS form code: 4098WFP); or
(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (ADLS form code: 4997WFP).

Also insert the following wording for the Attorney's signature above:
Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Note: **Signing by a company** – Companies must sign this document in accordance with section 180 of the Companies Act 1993, to ensure it is binding as a deed. In general, this means:
(a) If there are two or more directors of the company, two directors must sign and no witnessing is necessary;
(b) If there is only one director of the company, that director signs and the signature must be witnessed.
Other methods of signing may be permitted by the company's constitution or if an attorney has been appointed.

Note: If this guarantee is given in conjunction with a Consumer Credit Contract as defined by the Credit Contracts and Consumer Finance Act 2003 the initial disclosure statement required to be given to you by the Act is made up of the information in these particulars of guarantee, the general terms and conditions and any relevant document.

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GENERAL TERMS AND CONDITIONS

1.0 Guarantee and indemnity

1.1 Guarantee

Each Guarantor unconditionally and irrevocably guarantees to the Beneficiary the due performance of and compliance by the Principal Obligor with the guaranteed obligations.

1.2 Payment

Each Guarantor as a separate and additional obligation unconditionally and irrevocably undertakes that if, for any reason, the Principal Obligor does not pay when due any guaranteed indebtedness, each Guarantor will pay such amount to the Beneficiary, as a debt due upon demand.

1.3 Obligations joint and several

Unless limited by the terms of the guarantee, the respective obligations of each Guarantor under this deed are joint and several unlimited obligations.

1.4 Indemnity

Notwithstanding anything contained in this guarantee or any other document, should the guaranteed indebtedness or any part of it not be recoverable by the Beneficiary from any Guarantor, or any of the guaranteed obligations not be enforceable against any Guarantor:

(1) whether by reason of:

(a) any legal or other limitation, disability or incapacity of or affecting any Principal Obligor, any Guarantor or the Beneficiary; or

(b) any Principal Obligor or any Guarantor ceasing to be legally liable to pay the guaranteed indebtedness or any part thereof or to perform any of the guaranteed obligations by reason of any law relating to insolvency, liquidation or otherwise; or

(c) any law, judgment or order of any court postponing or reducing or otherwise affecting payment of the guaranteed indebtedness or any part thereof or performance of any of the guaranteed obligations; or

(d) any other fact or circumstance whatsoever; or

(2) whether or not any transaction relating to the guaranteed obligations has been declared void from the beginning or has been subsequently avoided; or

(3) whether or not any matter or fact having or causing a material adverse effect has been or ought to have been within the knowledge of the Beneficiary,

then each Guarantor, as a separate and additional liability under this guarantee, indemnifies the Beneficiary for any loss suffered by the Beneficiary directly or indirectly as a result of any failure by any Principal Obligor to perform any of the guaranteed obligations, and each Guarantor as a principal debtor shall pay to the Beneficiary on demand, and in the manner specified in such demand, a sum equal to the amount of the guaranteed indebtedness or such part thereof and the terms of these general terms and conditions shall (with all necessary modifications) apply as far as possible to this indemnity.

2.0 Nature of guarantee obligations

2.1 Liability as principal debtor

As between each Guarantor and the Beneficiary (but without affecting the obligations of the Principal Obligor) each Guarantor is liable under this guarantee as a sole and principal debtor and not merely as a surety.

2.2 No discharge

No Guarantor is to be discharged, nor are any obligations of the Guarantor(s) to be affected, by anything which, but for this clause, would or might have discharged a Guarantor or affected the Guarantor's obligations, including:

(1) any time, indulgence, waiver or consent whenever given to the Principal Obligor or another person; or

(2) an amendment to the guaranteed obligations or to another security interest, guarantee, indemnity or other agreement (whether or not that amendment might increase the liability of a Guarantor(s) under these general terms and conditions or otherwise); or

(3) the making of, or failure to make, a demand on the Principal Obligor or another person for payment; or

(4) the failure to obtain, or the failure of a person to execute or otherwise be bound by, the guaranteed obligations or another security interest, guarantee, indemnity or other agreement; or

(5) the enforcement of, or failure to enforce, the guaranteed obligations or another security interest, guarantee, indemnity or other agreement; or

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(6) the release of a party from the guaranteed obligations/guaranteed indebtedness or a security interest, guarantee, indemnity or other agreement; or

(7) the dissolution, amalgamation, change in status, constitution or control, reconstruction or reorganisation, death, bankruptcy or insolvency of any party or another person (or the commencement of steps to effect the same); or

(8) the illegality, invalidity, unenforceability of, or defect in, a provision of the guaranteed obligations or a party's obligations under any of them for any reason whatsoever, and whether or not known to the Beneficiary; or

(9) any other matter or thing whatsoever.

The Beneficiary shall be under no liability to any Guarantor in respect of any of these matters, even if that Guarantor's rights of subrogation or otherwise may be prejudiced as a result.

2.3 **Continuing guarantee**

A Guarantor's obligations under this guarantee:

(1) are by way of continuing security, notwithstanding intermediate payments, settlement of accounts or payments or any other matter or thing whatsoever;

(2) are in addition to, are not to be merged in and are without prejudice to, any security interest, guarantee, indemnity or other agreement, whenever in existence, in favour of any person, whether from a Guarantor or otherwise; and

(3) are to remain in full force and effect until the execution by the Beneficiary of an unconditional discharge of the obligations of a Guarantor under this guarantee.

2.4 **Unconditional discharge of guarantee**

If, in the opinion of the Beneficiary:

(1) the Principal Obligor has paid and performed and complied with all the guaranteed obligations and paid all of the guaranteed indebtedness; and

(2) the Beneficiary is under no obligation to make available any further credit, advance or facility under any relevant document in respect of any guaranteed obligations; and

(3) each Guarantor has discharged all its obligations under these general terms and conditions; and

(4) there is no reasonable possibility that all or any portion of the guaranteed indebtedness received or recovered by the Beneficiary from the Guarantor(s) or any other person will or may have to be refunded or repaid under any applicable law (including, without limitation, any law relating to preferences or insolvency),

the Beneficiary will, at the request and cost of the Guarantor(s), execute a discharge of the obligations of the Guarantor(s) under this guarantee.

2.5 Any discharge or any composition or arrangement which a Guarantor may effect with the Beneficiary will be deemed to be made subject to the condition that it will be void if a payment or security interest which the Beneficiary may previously have received or may later receive from a Guarantor or another person in respect of guaranteed obligations is set aside under applicable law or proves to have been, for whatever reason, invalid. In that case:

(1) that payment or security interest will be deemed not to have discharged or affected the obligation of that Guarantor(s) in respect of which that payment or security interest was made, given or received; and

(2) the Beneficiary and each Guarantor will be deemed to be restored to the position in which each would have been, and will be entitled to exercise all the rights which each would have had, if that payment or security interest had not been made or given.

3.0 Notices

The following applies to all notices between the parties to this guarantee, whether authorised by this guarantee or by the general law:

(1) all notices must be served in writing;

(2) all notices may be served by any means prescribed by law or by one of the following means:

(a) where the party is an individual, then in accordance with the provisions of section 354 of the Property Law Act 2007; or

(b) where the party is an incorporated company, then in accordance with the provisions of section 387 of the Companies Act 1993.

(3) If a party changes its physical address and contact details from those specified in the particulars of guarantee that party shall forthwith notify the other parties of such change and the new physical address contact details.

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4.0 Expenses

4.1 **Enforcement expenses**

Each Guarantor will pay on demand all costs and expenses (including all taxes and legal expenses on a solicitor/client basis) sustained or incurred by the Beneficiary as a result of the exercise of, or in protecting or enforcing or otherwise in connection with, its rights under this guarantee.

5.0 Time of the essence

Time shall be deemed to be of the essence in relation to any matter or thing required to be done by the Guarantor(s) including but without limitation the payment of any money or the performance of any obligation under this guarantee.

6.0 Assignment

6.1 **Benefit of this guarantee**

This guarantee is binding upon all parties and their respective successors and, in the case of the Beneficiary, its assignees or transferees.

6.2 **No assignment or novation by Guarantor(s)**

The Guarantor(s) may not assign any rights or novate any obligations or otherwise deal with this guarantee without the prior written consent of both the Beneficiary and the Principal Obligor and then only on such terms and conditions as either the Beneficiary or Principal Obligor may impose as a condition of its consent.

7.0 Trustee Guarantors

7.1 If any person enters into this guarantee as trustee of a trust, then that person warrants that:

(1) that person has power to enter into this guarantee and their obligations under it under the terms of the trust; and

(2) if the trustee is a Guarantor this guarantee is being given for the benefit of and in the interests of the trust; and

(3) all of the persons who are trustees of the trust have approved entry into this guarantee; and

(4) that person has properly signed this guarantee in accordance with the terms of the trust; and

(5) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this guarantee.

7.2 If that person is described in the particulars of guarantee as a limited liability trustee, that person's liability under this deed shall not be personal and unlimited but shall be limited to an amount equal to the value of the assets of the trust that are available to meet that person's liability unless the right of that person to be indemnified from the assets of the trust has been lost and in which case that person's liability under this guarantee shall be personal and unlimited.

8.0 Counterparts

This deed may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same deed. A party may enter into this deed by signing a counterpart copy and sending it to another party, including by facsimile or email.

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Dated

Between
QLCHT Shotover Country Limited (Company no. 5538726) and Queenstown Lakes Community Housing Trust (Registration No. 1966669)

Guarantor

and
Queenstown Lakes District Council, a body corporate under the Local Government Act 2002

Beneficiary

and
QLCHT Shotover Country Limited (Company No. 5538726)

Principal Obligor

DEED OF GUARANTEE & INDEMNITY

Guarantor's Solicitor:

Beneficiary's Solicitor:

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DEED OF GUARANTEE & INDEMNITY

PARTICULARS OF GUARANTEE

DEED dated: 29 OCTOBER 2021

GIVEN by:

GUARANTOR(S): **Queenstown Lakes District Council, a body corporate under the Local Government Act 2002**

(If a Guarantor is signing in a limited liability trustee capacity add after their name: (limited liability trustee))

Physical address: **The Civic Centre, 10 Gorge Road, Queenstown**

Postal address: **Private Bag 50072, Queenstown 9348**

Facsimile: **03 450 2223**

Email: **services@qldc.govt.nz**

IN FAVOUR of:

BENEFICIARY: **Central Lakes Trust (Registration no. 1115557)**

Physical address: **190 Waenga Drive, Cromwell**

Postal address: **PO Box 138, Cromwell 9342**

Facsimile: **03 443 0265**

Email: **info@clt.net.nz**

IN RESPECT of the obligations and liabilities of:

PRINCIPAL OBLIGOR: **QLCHT Shotover Country Limited (Company no. 553 8726**

Physical address: **C- RVG Law, Level 3, 32 Rees Street, Queenstown 9300**

Postal address: **C- RVG Law, PO Box 1513, Queenstown 9348**

Facsimile: **03 409 2006**

Email: **steve@rvg.nz**

In consideration of the Beneficiary agreeing to:
[Insert brief description of what the Beneficiary provides/concedes to the Principal Obligor that is being guaranteed by the Guarantor(s)]
provide a loan of $3,617,900.65 to the Principal Obligor pursuant to a Term Loan Agreement between the Principal Obligor and the Beneficiary

at the Guarantor(s) request the Guarantor(s) hereby unconditionally and irrevocably guarantee(s) to the Beneficiary the performance of and compliance by the Principal Obligor of all its obligations to the Beneficiary details of which are more fully described below **(guaranteed obligations)**, and the Guarantor(s) will further indemnify the Beneficiary in accordance with the provisions set out in the general terms and conditions with effect from the date of this guarantee.

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The terms and conditions that apply to this guarantee (other than those implied by law) are as set out in:

- these Particulars of Guarantee; and
- the General Terms and Conditions.

GUARANTEED OBLIGATIONS: Description of the obligations of the Principal Obligor to the Beneficiary and the relevant documents under which the obligations arise and monies which may be payable in respect of them ("the guaranteed indebtedness"):

[Insert detailed description of guaranteed obligations and also guaranteed indebtedness]

Term Loan Agreement between the Beneficiary and the Principal Obligor for a loan of $3,617,900.65 (as attached) from the Beneficiary to the Principal Obligor

LIMITATIONS OF GUARANTEE:

[Insert details if there is a limit either by amount or proportion of the total guaranteed obligations/guaranteed indebtedness]

$2,000,000

The following Guarantor(s) enter into this guarantee as limited liability trustees (Refer clause 7 of general terms and conditions):

N/A

INDEPENDENT ADVICE

The Guarantor(s) have been advised to obtain independent legal advice prior to entering into this guarantee which is a formal legally binding document.

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EXECUTED as a Deed

SIGNED by the Guarantor*
in the presence of:

Signature of Guarantor

Witness signature

Michael Renier Antonius Theelen
Print full name

~~Director / Trustee~~ / Authorised Signatory / ~~Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Witness name

EXECUTIVE ASSISTANT
Witness occupation

10 GORGE RD, QUEENSTOWN
Witness address

COMMON SEAL - QUEENSTOWN - LAKES DISTRICT COUNCIL - N.Z

Signature of Guarantor

Print full name

~~Director / Trustee~~ / Authorised Signatory / ~~Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

~~**SIGNED** by the Guarantor*~~
in the presence of:

Signature of Guarantor

Witness signature

Print full name
Director / ~~Trustee~~ / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Witness name

Witness occupation

Witness address

Signature of Guarantor

Print full name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

* If this deed is signed under:

(i) a Power of Attorney – please attach a **Certificate of non-revocation** (ADLS form code: 4098WFP); or

(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (ADLS form code: 4997WFP).

Also insert the following wording for the Attorney's signature above:
Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Note: **Signing by a company** – Companies must sign this document in accordance with section 180 of the Companies Act 1993, to ensure it is binding as a deed. In general, this means:

(a) if there are two or more directors of the company, two directors must sign and no witnessing is necessary;

(b) if there is only one director of the company, that director signs and the signature must be witnessed.

Other methods of signing may be permitted by the company's constitution or if an attorney has been appointed.

Note: If this guarantee is given in conjunction with a Consumer Credit Contract as defined by the Credit Contracts and Consumer Finance Act 2003 the initial disclosure statement required to be given to you by the Act is made up of the information in these particulars of guarantee, the general terms and conditions and any relevant document.

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GENERAL TERMS AND CONDITIONS

1.0 Guarantee and indemnity

1.1 Guarantee

Each Guarantor unconditionally and irrevocably guarantees to the Beneficiary the due performance of and compliance by the Principal Obligor with the guaranteed obligations.

1.2 Payment

Each Guarantor as a separate and additional obligation unconditionally and irrevocably undertakes that if, for any reason, the Principal Obligor does not pay when due any guaranteed indebtedness, each Guarantor will pay such amount to the Beneficiary, as a debt due upon demand.

1.3 Obligations joint and several

Unless limited by the terms of the guarantee, the respective obligations of each Guarantor under this deed are joint and several unlimited obligations.

1.4 Indemnity

Notwithstanding anything contained in this guarantee or any other document, should the guaranteed indebtedness or any part of it not be recoverable by the Beneficiary from any Guarantor, or any of the guaranteed obligations not be enforceable against any Guarantor:

(1) whether by reason of:

(a) any legal or other limitation, disability or incapacity of or affecting any Principal Obligor, any Guarantor or the Beneficiary; or

(b) any Principal Obligor or any Guarantor ceasing to be legally liable to pay the guaranteed indebtedness or any part thereof or to perform any of the guaranteed obligations by reason of any law relating to insolvency, liquidation or otherwise; or

(c) any law, judgment or order of any court postponing or reducing or otherwise affecting payment of the guaranteed indebtedness or any part thereof or performance of any of the guaranteed obligations; or

(d) any other fact or circumstance whatsoever; or

(2) whether or not any transaction relating to the guaranteed obligations has been declared void from the beginning or has been subsequently avoided; or

(3) whether or not any matter or fact having or causing a material adverse effect has been or ought to have been within the knowledge of the Beneficiary,

then each Guarantor, as a separate and additional liability under this guarantee, indemnifies the Beneficiary for any loss suffered by the Beneficiary directly or indirectly as a result of any failure by any Principal Obligor to perform any of the guaranteed obligations, and each Guarantor as a principal debtor shall pay to the Beneficiary on demand, and in the manner specified in such demand, a sum equal to the amount of the guaranteed indebtedness or such part thereof and the terms of these general terms and conditions shall (with all necessary modifications) apply as far as possible to this indemnity.

2.0 Nature of guarantee obligations

2.1 Liability as principal debtor

As between each Guarantor and the Beneficiary (but without affecting the obligations of the Principal Obligor) each Guarantor is liable under this guarantee as a sole and principal debtor and not merely as a surety.

2.2 No discharge

No Guarantor is to be discharged, nor are any obligations of the Guarantor(s) to be affected, by anything which, but for this clause, would or might have discharged a Guarantor or affected the Guarantor's obligations, including:

(1) any time, indulgence, waiver or consent whenever given to the Principal Obligor or another person; or

(2) an amendment to the guaranteed obligations or to another security interest, guarantee, indemnity or other agreement (whether or not that amendment might increase the liability of a Guarantor(s) under these general terms and conditions or otherwise); or

(3) the making of, or failure to make, a demand on the Principal Obligor or another person for payment; or

(4) the failure to obtain, or the failure of a person to execute or otherwise be bound by, the guaranteed obligations or another security interest, guarantee, indemnity or other agreement; or

(5) the enforcement of, or failure to enforce, the guaranteed obligations or another security interest, guarantee, indemnity or other agreement; or

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(6) the release of a party from the guaranteed obligations/guaranteed indebtedness or a security interest, guarantee, indemnity or other agreement; or

(7) the dissolution, amalgamation, change in status, constitution or control, reconstruction or reorganisation, death, bankruptcy or insolvency of any party or another person (or the commencement of steps to effect the same); or

(8) the illegality, invalidity, unenforceability of, or defect in, a provision of the guaranteed obligations or a party's obligations under any of them for any reason whatsoever, and whether or not known to the Beneficiary; or

(9) any other matter or thing whatsoever.

The Beneficiary shall be under no liability to any Guarantor in respect of any of these matters, even if that Guarantor's rights of subrogation or otherwise may be prejudiced as a result.

2.3 **Continuing guarantee**

A Guarantor's obligations under this guarantee:

(1) are by way of continuing security, notwithstanding intermediate payments, settlement of accounts or payments or any other matter or thing whatsoever;

(2) are in addition to, are not to be merged in and are without prejudice to, any security interest, guarantee, indemnity or other agreement, whenever in existence, in favour of any person, whether from a Guarantor or otherwise; and

(3) are to remain in full force and effect until the execution by the Beneficiary of an unconditional discharge of the obligations of a Guarantor under this guarantee.

2.4 **Unconditional discharge of guarantee**

If, in the opinion of the Beneficiary:

(1) the Principal Obligor has paid and performed and complied with all the guaranteed obligations and paid all of the guaranteed indebtedness; and

(2) the Beneficiary is under no obligation to make available any further credit, advance or facility under any relevant document in respect of any guaranteed obligations; and

(3) each Guarantor has discharged all its obligations under these general terms and conditions; and

(4) there is no reasonable possibility that all or any portion of the guaranteed indebtedness received or recovered by the Beneficiary from the Guarantor(s) or any other person will or may have to be refunded or repaid under any applicable law (including, without limitation, any law relating to preferences or insolvency),

the Beneficiary will, at the request and cost of the Guarantor(s), execute a discharge of the obligations of the Guarantor(s) under this guarantee.

2.5 Any discharge or any composition or arrangement which a Guarantor may effect with the Beneficiary will be deemed to be made subject to the condition that it will be void if a payment or security interest which the Beneficiary may previously have received or may later receive from a Guarantor or another person in respect of guaranteed obligations is set aside under applicable law or proves to have been, for whatever reason, invalid. In that case:

(1) that payment or security interest will be deemed not to have discharged or affected the obligation of that Guarantor(s) in respect of which that payment or security interest was made, given or received; and

(2) the Beneficiary and each Guarantor will be deemed to be restored to the position in which each would have been, and will be entitled to exercise all the rights which each would have had, if that payment or security interest had not been made or given.

3.0 Notices

The following applies to all notices between the parties to this guarantee, whether authorised by this guarantee or by the general law:

(1) all notices must be served in writing;

(2) all notices may be served by any means prescribed by law or by one of the following means:

(a) where the party is an individual, then in accordance with the provisions of section 354 of the Property Law Act 2007; or

(b) where the party is an incorporated company, then in accordance with the provisions of section 387 of the Companies Act 1993.

(3) If a party changes its physical address and contact details from those specified in the particulars of guarantee that party shall forthwith notify the other parties of such change and the new physical address contact details.

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4.0 Expenses

4.1 **Enforcement expenses**

Each Guarantor will pay on demand all costs and expenses (including all taxes and legal expenses on a solicitor/client basis) sustained or incurred by the Beneficiary as a result of the exercise of, or in protecting or enforcing or otherwise in connection with, its rights under this guarantee.

5.0 Time of the essence

Time shall be deemed to be of the essence in relation to any matter or thing required to be done by the Guarantor(s) including but without limitation the payment of any money or the performance of any obligation under this guarantee.

6.0 Assignment

6.1 **Benefit of this guarantee**

This guarantee is binding upon all parties and their respective successors and, in the case of the Beneficiary, its assignees or transferees.

6.2 **No assignment or novation by Guarantor(s)**

The Guarantor(s) may not assign any rights or novate any obligations or otherwise deal with this guarantee without the prior written consent of both the Beneficiary and the Principal Obligor and then only on such terms and conditions as either the Beneficiary or Principal Obligor may impose as a condition of its consent.

7.0 Trustee Guarantors

7.1 If any person enters into this guarantee as trustee of a trust, then that person warrants that:

(1) that person has power to enter into this guarantee and their obligations under it under the terms of the trust; and

(2) if the trustee is a Guarantor this guarantee is being given for the benefit of and in the interests of the trust; and

(3) all of the persons who are trustees of the trust have approved entry into this guarantee; and

(4) that person has properly signed this guarantee in accordance with the terms of the trust; and

(5) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this guarantee.

7.2 If that person is described in the particulars of guarantee as a limited liability trustee, that person's liability under this deed shall not be personal and unlimited but shall be limited to an amount equal to the value of the assets of the trust that are available to meet that person's liability unless the right of that person to be indemnified from the assets of the trust has been lost and in which case that person's liability under this guarantee shall be personal and unlimited.

8.0 Counterparts

This deed may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same deed. A party may enter into this deed by signing a counterpart copy and sending it to another party, including by facsimile or email.

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ADLS

Second Edition 2016 (3)

Dated 29 OCTOBER 2021

Between
Queenstown Lakes District Council, a body corporate under the Local Government Act 2002

Guarantor

and
Central Lakes Trust (Registration no. 1115557)

Beneficiary

and
QLCHT Shotover Country Limited (Company no. 553 8726

Principal Obligor

DEED OF GUARANTEE & INDEMNITY

Guarantor's Solicitor:

Beneficiary's Solicitor:

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