

## TIMESHARE USE AGREEMENT

between

**DRAKENSBERG SUN HOTEL SHARE BLOCK LIMITED**  
 (Reg. No. 67/007156/06)  
 ("the Company")

and

**THE SOUTH AFRICAN BREWERIES LIMITED**  
 (Reg. No. 69/16025/06)  
 ("the Developer")

as the registered Holder for the time being of all the issued Class "C" shares in the Company, comprising the share blocks as hereafter defined.

## THE PARTIES HEREBY AGREE AS FOLLOWS:

## 1. DEFINITIONS

In this agreement unless the context otherwise requires -

- |      |                                  |   |
|------|----------------------------------|---|
| 1.1  | "the Acts"                       | means collectively, the Share Blocks Control Act No. 59 of 1980 and/or the Property Time Sharing Control Act No. 75 of 1983 or any amendments thereof or any Act which may be promulgated in substitution thereof. References to the Act shall be construed as a reference to either the Share Blocks Control Act or the Property Time Sharing Control Act, as the context may require;   |
| 1.2  | "the Articles"                   | means the Articles of Association of the Company;   |
| 1.3  | "Allocated Loan"                 | means that portion of the Company's total loan obligation which has been allocated between all members of the Company in terms of the Articles;   |
| 1.4  | "the Business Portion"           | means those portions of the Property comprising the restaurants and bars, servery, kitchen, toilets serving the Business Portion and storage facilities serving the restaurants and bars, the conference centre, function and other meeting rooms available for public hire, the curio shop and the food and beverage facilities located on the pool terrace, the rights of use of which portions have been granted to the Holder of the class "E" shares in the capital of the Company;  |
| 1.5  | "the Common Property"            | means the administrative offices, the reception, foyers, lounges and front office facilities, staff change rooms, laundry, launderette, workshops, parking bays, swimming pool, sport and recreational facilities, and all other portions of and facilities located on the Property which are not reserved for the exclusive use of any Holder of a Share Block but are available for use by all Holders of Share Blocks in the capital of the Company, subject to the Articles and the terms and conditions contained in the Use Agreements between the Holders of Share Blocks and the Company; |
| 1.6  | "the "C" shares"                 | mean the "C" class ordinary shares of one cent each for the time being in the Company's authorised or issued share capital, as the context may require;   |
| 1.7  | "the "E" shares"                 | mean the "E" class ordinary shares of one cent each for the time being in the Company's authorised or issued share capital, as the context may require;   |
| 1.8  | "the Food and Beverage Business" | means the conduct of all aspects of the preparation and/or sale of food and beverages, the operation of the conference centre, function and other meeting rooms available for public hire, and the operation of the curio shop on the Business Portion;   |
| 1.9  | "the Holder"                     | means the Holder for the time being of a Share Block, and includes a purchaser thereof who is entitled by virtue of his ownership of the Share Block to the exclusive use of the Unit allocated to that Share Block in terms of the Articles;   |
| 1.10 | "the Hotel Business"             | means the Hotel Business conducted on the Hotel Property from time to time, including but not being limited to the provision of the Hotel Facilities, the changing of linen, cleaning of rooms and public areas of the Hotel, but excluding the Food and Beverage Business;   |
| 1.11 | "the Hotel Facilities"           | means all facilities of whatever nature on the Property which are from time to time in the ordinary course of the conduct of the Hotel Business made available to guests of the Hotel, but excluding those Units made available to Holders of Share Blocks in the Company from time to time;  |
| 1.12 | "the Hotel Property"             | means that portion of the Property on which is erected the buildings out of which is conducted the Hotel Business, which portion is marked as such on the plan pertaining to the Use Agreement pertaining to the "A", "B" and "D" shares and which is marked Annexure "P";  |
| 1.13 | "the Grounds Portion"            | means that portion of the Property, excluding the Business Portion and the Hotel Property, which comprises the open grounds, any improvements thereon and natural bush, which portion is marked as such on the plan annexed to the Use Agreement pertaining to the "F" shares and which is marked Annexure "P", the rights of use of which portion have been granted to the Holder of the class "F" shares in the capital of the Company;   |
| 1.14 | "the Liquor Licence"             | means the wine, malt and spirits liquor licence held in respect of the Property;  |
| 1.15 | "the Manager"                    | means the Manager appointed by the Company from time to time to carry out the Company's obligations in terms of this Agreement;   |
| 1.16 | "Management Agreement"           | means the Agreement in terms of which the Manager is appointed to carry out the Company's obligations in terms of this Agreement;   |

- 1.17 "the Maintenance Week" means the specified Week in each operational year in respect of any Unit which is designated by the Directors to be the Maintenance Week and during which the Company shall have the right of use and access to such Unit for any purpose that may be determined by the Company from time to time including the refurbishing, renovation or maintenance thereof;
- 1.18 "Management Regulations" mean the Management Regulations promulgated in terms hereof;
- 1.19 "Operational Year" means such period of 12 (TWELVE) months as the Directors may determine from time to time and for which levies in terms hereof are assessed;
- 1.20 "the Property" means Remainder of Sub 4 of the Farm Drie Fontein No. 1389, situate in the Development Area of Drie Fontein, Administrative District of Natal, in extent 549,4770 (five four nine point four seven seven zero) hectares and the Farm Stijlberg No. 7283, situate in the County of Weenen, Province of Natal, in extent 71,8837 (seven one point eight eight three seven) hectares including all improvements to the Property;
- 1.21 "the Share Block" means each of the Share Blocks comprising the "C" shares in the share capital of the Company and to which certain parts of the Hotel Property are linked pursuant to the Articles;
- 1.22 "Unit" means a self-catering suite or penthouse forming part of the Hotel Property and, in the case of a suite, comprising a kitchen and one or two bedrooms and bathroom/toilet and in the case of a penthouse (as distinct from a suite) comprising a lounge/diningroom, a kitchen and one or two bedrooms and bathroom/toilet; and which term as herein defined will include the Unit Equipment applicable to such Unit, the rights of use of which have been granted to the Holders of the class "A", "B", "C" and "D" shares in the capital of the Company;
- 1.23 "Unit Equipment" means all fixtures, fittings, furniture, equipment and assets of whatever nature, including crockery, cutlery and linen, which are or will be required for use in the Units, a schedule of which is annexed hereto marked "TUE", and which Unit Equipment may be changed and/or replaced by the Directors as they in their sole discretion think fit from time to time;
- 1.24 "Unit Letting" means the letting to third parties of the rights of occupation of the Units and the right to use the Common Property, Hotel Facilities and all other areas of the Property not reserved for the exclusive use of any person and which are used by occupants of the Units;
- 1.25 "the "E" Class Use Agreement" means the Use Agreement concluded between the Company and the Holder of all the "E" shares;
- 1.26 "Week" means a specified Week as shown attaching to a Share Block in terms of the Articles during which the Holder is entitled to the use of the Unit linked to such Share Block. Each Week commences at 12h00 on a Friday and terminates at 10h00 on the following Friday throughout each period of twelve months and Weeks are consecutively numbered in respect of each year commencing with the first Friday of each year;
- 1.27 save as may be varied herein, words and expressions defined in the Articles and used herein, shall have the meanings ascribed thereto;
- 1.28 words or expressions defined in the Acts and used herein shall have the meanings therein defined;
- 1.29 any words importing the masculine gender shall include the other genders and vice versa and the singular shall include the plural and vice versa;
- 1.30 clause headings are inserted purely for convenience and shall not be relevant in interpreting the contents of the clauses to which they relate.

## 2. RIGHTS OF USE

- 2.1 The Company hereby alienates, cedes and transfers to the Holder the sole right to the exclusive use, free from the payment of any rental therefor, of the Unit for the Week appertaining to his Share Block.
- 2.2 The Holder for himself and his lawful invitees shall have the right during the Week, in common with other members of the Company and lawful users of the remainder of the Property, to the use and enjoyment of the Common Property, subject however to the terms and conditions of this Agreement and such terms and conditions as may be imposed by the Directors of the Company from time to time.
- 2.3 The rights of the Holder hereunder shall endure for as long as he continues to be the Holder or beneficial owner of the Share Block or remains entitled to the transfer thereof and remains in fulfilment of all the terms and conditions of this Agreement and the Management Regulations from time to time laid down by the Directors of the Company.
- 2.4 The Holder acknowledges that the loan obligations of the Company have been allocated to all members of the Company in terms of the annexures to the Articles.
- 2.5 The Holder acknowledges that the use and allocation of the parking bays on the Property will be determined by the Directors from time to time acknowledging that such parking bays vest at all times in the Company.
- 2.6 The Holder acknowledges that the Company has concluded an Option Agreement with the Developer as the Holder for the time being of the "F" shares for the purchase of a certain portion of the Grounds Portion in consideration for the Developer not calling up to its loan amount pertaining to the "F" shares.
- 2.7 Notwithstanding anything to the contrary herein contained, if, in the opinion of the Directors of the Company, the entry to or use of any portion of the Property by the Holder or any person claiming rights of entry or use through or at the instance of the Holder, would result in or constitute a contravention of any law, regulation, consent or licence, especially the Liquor Licence, the Directors shall be entitled to refuse the Holder or such other person, or if they have already gained admission to the Property or relevant part thereof, to require or cause the Holder or such other person forthwith to vacate the Property or relevant part thereof.
- 2.8 The Unit shall be furnished and provided with the Unit Equipment which in terms of annexure "TUE" hereto is specified for such Unit, it being recorded that the Unit Equipment is the Property of the Company and that nothing in this agreement shall vest the Holder with the ownership of any such Unit Equipment or entitle him to remove any such Unit Equipment from the Unit either during or upon the termination of any period the Unit is used by the Holder.
- 2.9 Save for the Developer and as provided in clause 8, the Holder acknowledges that he will have no rights to participate in or have any interest in the business or businesses conducted from time to time in the Business Portion.

- 2.10 The Unit shall be used by the Holder for residential purposes only and for no other purposes whatsoever. The Unit shall be used by persons authorised by the Manager to use the Unit and/or personally by the Holder and by members of his family or his invitees, provided that in any event the numbers of users of the Unit shall not exceed the numbers or such greater number as may be authorised in writing by the Manager from time to time. In the event of the rights of use herein being held by a Company or other body corporate, the Unit shall only be used by such person and members of his family or invitees who may be nominated from time to time by the said Company or body corporate, which use shall be subject to restrictions as to the number of users at any time.
- 2.11 No liability whatever shall rest upon the Company for any -
  - 2.11.1 failure or breach of the Management Agreement by the Manager or his employees; and
  - 2.11.2 things done or omitted by the Manager from time to time; and
  - 2.11.3 interruption or failure of the lifts on the Property or of electrical and/or water services that may be supplied or any other municipal or other services to the Property, irrespective of the cause thereof nor for any consequential damage the Holder may suffer by reason of such failure or interruption.
- 2.12 The Holder acknowledges that:
  - 2.12.1 contractors and workmen appointed by the Company shall be entitled during normal business hours to access to the Unit for the purposes of carrying out such works as may be required to be done from time to time, provided always that the Company will use its best endeavours to procure that such works are preferably carried out during periods when the Holder is not occupying the Unit. If the Holder or any person using the Unit however suffers any inconvenience from such operations or any similar operations conducted in any other part of the building, the Holder and such other person shall have no claim whatever against either the Company, the Developer, or the Manager;
  - 2.12.2 in the event that the refurbishing or renovation operations referred to above are such as to deprive the Holder or any person lawfully claiming use of the Unit or should the Unit for any reason at any time and from time to time not be available for use, no claim whatever will arise against either the Company, the Developer or the Manager, but the Company, or the Manager, shall be entitled to provide the Holder or such other user without extra cost with substantially equivalent temporary accommodation elsewhere in the Hotel Property for the duration of the relevant period or for such time as the Unit is not so available as the case may be;
  - 2.12.3 if any dispute arises at any time as to whether the Holder or other used aforesaid is unable to enjoy beneficial use of the Unit at any time, such dispute shall be determined by the Manager who in making such decision shall act as an expert and not as an arbitrator and whose decision shall be final and binding on the Holder or such other person.

### 3. RIGHTS OF THE DEVELOPER

- 3.1 Conversion
 

Whilst the Developer is the Holder of any of the "A" and/or "B" and/or shares, the Developer shall have the right:

  - 3.1.1 to require that the Company convert all, or part of, the "A" and/or "B" and/or "D" shares then held by the Developer to "C" shares to such extent and in such manner as may be necessary for such shares to be sub-divided and allocated by the Developer so as to enable such shares and share blocks relating thereto to be compatibly assimilated into the Company's time sharing scheme contemplated in the Articles; and
  - 3.1.2 to require the Company to conclude new Use Agreements with the new Holder of the shares converted in terms of clause 3.1.1 above upon the same terms and conditions of the Use Agreement referred to in article 3.5 of the Articles, or upon such other terms and conditions as may be agreed between the Developer and the Company so as to take cognisance of the new circumstances then prevailing.
- 3.2 Developments
 

In the event that the Developer wishes to expand the Hotel Property or any other part of the Property including the Grounds Portion or extend the property timeshare scheme in respect of any part of the Hotel Property or requires the Company to alter its share capital so as to accord rights of use to such portion to other Holders of shares in the Company issued in respect thereof (hereinafter referred to as "the third party"), or the Developer requires the Company to permit the construction or erection by any such third party of any structure, building or improvements on or to any portion of the Property aforesaid as an extension of or addition to the Property or any part thereof, each of the Company and the Holder agree and acknowledge that while the Developer holds all the shares pertaining to the portion of the Property which the Developer wishes to so develop it may so develop the Property and in that regard the Holder:

  - 3.2.1 consents to such development and to the appropriation and utilisation of the Common Property or any other portion of the Property in respect of which the Developer holds all the shares for such purposes;
  - 3.2.2 consents to such structure, building or improvement being incorporated into the property timeshare scheme operated by the Company;
  - 3.2.3 agrees to such structure, building or improvement being linked or tied into the Property so as to become an extension or addition thereto, and to permit the Developer or its nominee and its consultants, agents and contractors such reasonable access and rights in respect of the Property as may be reasonably necessary or requisite in order to enable the relevant work to be carried out;
  - 3.2.4 consents to the Directors of the Company being hereby directed with such power and authority as they may require to conclude such Agreements as may be necessary or requisite to give effect hereto;
  - 3.2.5 consents to this approval being an undertaking in favour of the third party or its nominee which undertaking is declared irrevocable and may be accepted by the third party for itself and its nominee, and pending such acceptance is hereby accepted by the Holder for and on behalf of the third party;
  - 3.2.6 undertakes that they will not in any way interfere with or obstruct the third party in the exercise of its rights as recorded herein;
  - 3.2.7 agrees to support any special or ordinary resolution that may be required to give effect to the terms of any arrangements with the third party or its nominee as set out in terms of this Agreement;
  - 3.2.8 agrees that any development will be designed by and its construction supervised under the control of a professional architect appointed by the Developer and will be so designed and built as to be architecturally and aesthetically compatible and harmonious with, and insofar as is practicably possible to substantially similar standards, specifications and finishes in respect of the exterior of the Hotel Property;
  - 3.2.9 agrees that the design, structure, layout and utility services for the Unit, its decoration, furnishing and general equipping shall be carried out planned and installed in consultation with the Company or its duly appointed representative, and strictly in accordance with plans approved by any competent authority;
  - 3.2.10 acknowledges that prior to the lodging of the plans of the proposed development of the Property for approval by the competent authority, a true copy of such plans together with the architect's sketch plan of the development and a full and comprehensive specification in respect of finishes and other requirements relative to the development shall be lodged by the Developer with the Company or its representative; accepts that during the course of construction the Company or its representative
  - 3.2.11 accepts that during the course of construction the Company or its representative shall have reasonable rights of access to the development for the purposes of inspecting the construction and development of the Property;

- 3.2.12 acknowledges that during the course of any construction or development work contemplated in terms of this clause, the Developer undertakes to use its best endeavours to procure that the attendant disruption and inconvenience to the Company, its members and other lawful users of the Property will be minimised, and the Developer indemnifies the Company and its members and holds each of them harmless against any damages which they or any of them may sustain either to their persons or to the Property or to any Property to whomsoever it may belong arising out of anything that may be done or omitted by the Developer or its contractors during the course of such construction works;
- 3.2.13 agrees that all construction and establishment costs, charges and expenses howsoever incurred and incidental to and in connection with the exercise by the Developer of its rights in terms of this clause and any obligations that may arise hereunder in connection therewith shall be borne and paid for by the Developer, the Company having no obligation or responsibility in connection therewith. In this regard the Holder agrees that such costs, charges and expenses shall be carried out in the name of the Company and the Developer shall immediately loan the Company such sum. The loan thereby created will be apportioned between the Share Blocks to which the relevant development relates.
- 3.3 Sub-Division
- 3.3.1 While the Developer is the Holder of any the "A" and/or "B" and/or "D" and/or "F" shares in the capital of the Company the Developer shall be entitled at its own cost to subdivide the relevant portions of the Property to which these shares relate in such manner as it may elect provided that such sub-division shall be effected in accordance with the directions of and with plans duly approved by the competent authorities.
- 3.3.2 The Developer shall be entitled pursuant to a subdivision in terms of this clause to subdivide the Share Blocks in respect of the relevant portions of the Property to which they relate, into two or more Share Blocks as the Developer may deem fit and to allocate such Share Blocks to the subdivided portions of the Property and pursuant thereto and in the relevant Holder's discretion, to re-allocate the loan obligation and levy liability attaching to the relevant Share Blocks among the new Share Blocks, provided that -
- 3.3.2.1 any person acquiring any additional Share Block/s in accordance with the foregoing provisions shall agree in writing with the Company to be bound by all the relevant terms and conditions contained in the relevant Agreement of Use pertaining to the class of shares, or alternatively and at the request of the Developer, conclude a new Use Agreement in respect of the relevant part of the Property so as to take cognisance of the new circumstances;
- 3.3.2.2 the subdivision of the relevant Share Blocks shall not impose any onerous obligations on any other member of the Company and shall not interfere with the rights of use of any other member.
- 3.4 Consents and Undertakings
- 3.4.1 Each of the Holder and the Company -
- 3.4.1.1 consents to such conversion, alterations, additions and/or sub-division of the Property and to such restructuring of the respective Share Blocks' loan obligations and levy liabilities relating to the conversion, alteration, addition and/or sub-division as may be consistent with the respective rights of the Holders of such Share Block for the time being;
- 3.4.1.2 undertake that they will not in any way interfere with or obstruct the Holder of the relevant Share Blocks in the exercise of their respective rights to convert, alter, extend or subdivide the Property as the case may be;
- 3.4.1.3 agrees to support and procure the due passing of any ordinary or special resolution that may be required to achieve the conversion, alteration, addition and/or sub-division or to alter or re-allocate the relevant Share Blocks' loan obligations and/or levy liabilities as the case may be, and to sign any Agreement of Use in respect thereof as may be requisite or necessary, in order to give legal effect to the rights of the respective Holders of the shares in question. To that end the Holder irrevocably appoints the Developer or its nominee, to the exclusion of the Holder to attend, speak and vote at any meeting of the Company convened for the purpose of considering and adopting such special resolutions, including any special resolution required to amend the Articles of Association of the Company arising out of or in order to give effect to any of the foregoing.
- 3.5 Dispute
- 3.5.1 In the event that any dispute arises between any of the parties to this Agreement as to the interpretation or application of any of the provisions of this clause 3 or as to any matter or thing that may arise out of this clause 3 -
- 3.5.1.1 if the dispute relates to whether any expense or cost is allowable to or payable by the Developer or is to be borne by the Company or any subsequent Holder, or as to the amount of any such expense, or who is to bear responsibility for any financial implication arising out of the construction or administration or development of the Property, such dispute shall be referred to the Company's Auditors for the time being for adjudication who in making their decision shall act as an expert and not as an arbitrator, and who shall have the power and authority to prescribe such rules as they may consider necessary for the purposes of enabling them to reach a decision in such dispute, and their decision on the issue shall be final and binding on the parties hereto;
- 3.5.1.2 in respect of any other issue relative to the foregoing. such dispute shall be referred to the architect appointed in terms of clause 3.2.8 above who shall have the same powers and shall act in the same capacity as the Company's Auditors as specified above, the provisions of which shall apply hereto mutatis mutandis and whose decision on the relevant issue shall be final and binding on the parties hereto.

#### 4. USE AND OCCUPATION

- 4.1 Notwithstanding anything to the contrary in this Agreement contained the Developer may use any Unit for office purposes, provided that such office use is confined to the management, administration or control of the Property, or any part thereof.
- 4.2 The maximum number of persons who may use a Unit shall be -
- 4.2.1 in the case of an Otter Unit - 4 persons;
- 4.2.2 in the case of a one bedroomed Trout Unit - 4 persons;
- 4.2.3 in the case of a two bedroomed Bass Unit - 6 persons;
- provided that the Directors of the Company may in their discretion and on application by any Holder, relax this restriction.
- 4.3 No animals or pets shall be kept or harboured in any Unit.
- 4.4 The Holder shall not allow any of his possessions whatsoever or rubbish, debris, dirt or refuse, to be left in the passages of the Property, nor shall he allow linen or clothing to be hung on the outside of the Property, except in the place which may be specially designated therefor. Carpets and mats shall not be shaken or dusted or beaten over the balconies or through windows. The Holder shall ensure that all refuse and dirt is removed regularly from the Unit and left in the place or places specially designated therefor from time to time.
- 4.5 Any use which the Holder, or any other person claiming rights of use through the Holder, may make of the swimming pool, tennis courts, squash court, and other recreational facilities on the Property shall be entirely at the risk of the Holder or such other person, and the Holder indemnifies and holds harmless the Company against any claims for loss, damage or personal injury arising out of any such use.
- 4.6 The Company undertakes to procure that the Holder and all members of the Holder (if a legal entity) and participants in any Share Block scheme or in the property timeshare scheme operated by the Company, their respective invitees and contractors, and members of the public dealing with such persons, will at all times have and be permitted to have for pedestrian and vehicular traffic due and proper access to the Property and to all portions of the Property which are not reserved for the exclusive use of any person.

- 4.7 Save in respect of those costs and expenses for which the Holder is liable to any third party, in terms of this Use Agreement or other Agreement with the Company, the Company shall be liable for and shall duly discharge the costs of all other electric current and water consumed within the Unit and the use of the facilities hereinbefore referred to, together with any sanitary fees, refuse removal costs and other charges and outgoings that may be levied from time to time in respect of or may be attributable to the Unit by either the Company or by any competent authority, which costs shall be recovered from the Holder by way of levies referred to in clause 11.
- 4.8 The Holder shall not interfere or tamper with the radio diffuser and apparatus serving the Unit, nor overload any of the electrical circuits serving the Unit.
- 4.9 The Holder shall not cause or permit any disorderly conduct of whatsoever nature within the Unit or elsewhere on the Property or do or permit any act, matter or thing in or about the Unit or the Property which shall constitute or cause a nuisance or an inconvenience to the staff employed by the Company upon the Property, to the Company or to any other lawful use of the Property.
- 4.10 The Holder shall at all times comply with all laws and regulations affecting the Property and the Holder's activities therein including the provisions of the Liquor Act, or any amendment or substitution thereof.

## 5. MAINTENANCE

### Maintenance of the Unit

- 5.1 Without limiting the generality of any obligation to maintain the Unit imposed by this Agreement and save as provided for in clause 5.7:
  - 5.1.1 the Holder shall be obliged to keep the Unit in a clean and tidy condition and use the Unit Equipment and all facilities on the remainder of the Property in such manner as will ensure the preservation thereof in the best possible condition, subject always to the relevant provisions of the Management Regulations with regard thereto;
  - 5.1.2 if in the opinion of the Manager, which the Directors may require to be confirmed by them at any time, any repairs or renovations to the Property or the Unit or any portion thereof or the Unit, or any facilities, furnishing or equipment serving the Property of the Unit or available for use by the Holder, are rendered necessary by reason of any act whether accidental, negligent or wilful by the Holder or any member of his household or of any other visitor to or user of the Unit, the Holder shall be liable for the cost of repairing, restoring or renovating the relevant portion of the Property, Unit, or Unit Equipment in question. The costs of such repairs, renovations or restoration shall be a debt due by the Holder to the Company;
  - 5.1.3 where any dispute arises as to whose responsibility it is to maintain any part of the Unit or the Property, such dispute shall be determined by the Directors or by the Manager acting under the delegated authority of the Directors and the decision of the Directors or Manager, as the case may be, shall be final and binding on the parties to the dispute.
- 5.2 Other than as set out in 5.1 above, the Company shall at all times be responsible either itself or through the Manager for procuring the due and proper maintenance of the Unit including without limiting all electrical wiring and fittings an attachments, plumbing installations, piping and apparatus of all fittings whatever, the interior surfaces of all walls and all windows, window frames, fittings and doors, as well as the maintenance of the Movable Property contained in the premises, in a good and sound order and repair, replacing the new as the old become worn out or become lost to the Company, and shall be responsible for all maintenance, repairs and replacements of whatsoever nature, including all repairs and, if necessary, replacements, the clearing of any blockages of drains, sewers, plumbing and sanitary equipment and connections and maintenance and replacement thereof and all repairs and renovations to the premises of whatsoever nature.
- 5.3 It is agreed that the Holder acquires the use of the Unit and the Unit Equipment for the week on a voetstoots basis without any warranties express or implied and in the condition in which it presently stands or will stand when the Holder commences his use thereof. The Company will endeavour to procure that all reasonable steps to remedy any defect in the Unit or the Unit Equipment are taken within a reasonable time of having been given notice thereof. Any items, goods or property brought into the Unit by the Holder shall as concerns the Company be at the sole risk of the Holder, who shall have no claim whatever upon any grounds against the Company for any loss suffered by the Holder howsoever arising.
- 5.4 The Holder undertakes to be bound by any procedures which may be prescribed by the Management Regulations or by the Manager from time to time for the taking of inventories in respect of fixtures, fittings and the Unit Equipment at the commencement and conclusion of the relevant Week or Weeks of occupation.
- 5.5 The Company shall at all times, through the Manager or the Company's agents or servants, be entitled to inspect the Unit used by the Holder, and if dissatisfied with the condition thereof or its contents, it may call upon the Holder forthwith to remedy such defective condition. Should the Holder fail to remedy the defect, the Company shall be entitled forthwith thereafter and without prejudice to any other rights it may have, to put the same into good order and condition, at the expense of the Holder, and to recover from the Holder any expenditure thereby incurred.
- 5.6 The Company's or the Manager's duly authorised workmen shall be permitted to enter the Unit at any reasonable hour of the day, if authorised by the Directors or by the secretary, Manager or supervisor acting under the powers delegated by the Directors, in order to examine the same or to effect repairs thereto pursuant to this Agreement. If the Holder shall not be personally present to open the Unit at any time when and for any reason entry shall be necessary or permissible, then the secretary or the Manager or supervisor or any other duly authorised agent of the Company shall be entitled to enter the Unit without being liable to any claim or cause of action for damage by reason thereof.

### Maintenance of the remainder of the Property

- 5.7 It shall be the duty of the Company either itself or through the Manager -
  - 5.7.1 to procure the due maintenance and repair of the exterior of the entire remainder of the Property not specifically reserved for any Holder both internally and externally including the entertainment, recreational and all other facilities serving the Property and the users thereof, including all furnishings, decor, equipment and appliances and the Movable Property used in and in conjunction with the Property, the swimming pool and equipment, tennis court and equipment and swimming pool areas and all outside tables, chairs and furnishings together with the parking areas, garages and garden areas in good, secure clean and thoroughly tenantable order and condition and from time to time and as and when necessary or requisite to renovate or renew the same;
  - 5.7.2 to maintain in good order and repair and in a clean and tidy condition the passageways, staircases, lifts, walkways, garden improvements, recreational facilities, garden areas, including those garden areas reserved for the exclusive use of any Holder or other person, and all other portions of the Property for which individual members are not responsible;
  - 5.7.3 to effect such insurance over and in respect of the Property and of the Movable Property against such risks as may be deemed fit and proper by the Directors or otherwise in accordance with the relevant resolutions passed by the members of the Company from time to time at general meetings of the Company and to renew such policies;
  - 5.7.4 where any dispute arises as to whose liability it is to maintain any part of the Unit or of the Property, such dispute shall be determined by the Directors of the Company, and the decision of the Directors shall be final and binding on the parties to the dispute.
- 5.8 The Company shall not be responsible for any loss, damage or injury which the Holder, or any person occupying or using the Unit through or at the instance of the Holder, may sustain in the Unit or in or about the Property by reason of any act whatsoever, or neglect on the part of the Company or the Company's servants, nor shall the Company be responsible for any loss, damage or injury of any description which the Holder or any such other person may sustain for any reason including the buildings on the Property or the Unit at any time falling into a defective state, or by reason of any repairs, renovations and/or maintenance work to the rest of the Property which are effected or are to be effected by the Company or any other user thereof, or by reason of such repairs, renovations and maintenance work not being effected timeously or at all, and the Holder shall not be entitled for any of the reasons aforesaid or for any other reason whatsoever to withhold any moneys due to the Company. The Holder indemnifies and holds harmless the Company against any claim brought against the Company by any person occupying or using the Unit or any part thereof through or at the instance of the Holder.

## 6. LETTING

- 6.1 The Holder may let or part with occupation or allow the use of all or any part of the Unit provided:
- 6.1.1 the consent thereto has been given by the Manager, which consent however shall not be unreasonably withheld; and
  - 6.1.2 such other use shall not exceed the Week to which the Holder is entitled to use the Unit; and
  - 6.1.3 as a condition precedent to any such letting and/or parting with use, the Holder shall secure from the lessee or the person to whom occupation or use is given as the case may be, an undertaking in favour of the Company that such lessee or person shall duly observe all such regulations and conditions as are contained herein and which may be reasonably considered as being applicable to a lessee or such other person. Such undertaking shall be on such terms as the Directors of the Company shall from time to time require and it shall be given to the Company prior to such lessee or other person being given occupation of the Unit or relevant part thereof; and
  - 6.1.4 that any breach of any of the provisions of this Agreement or of the Management Regulations by any lessee, user or occupier of the Unit or any part thereof, or by any other person claiming rights of use or occupation through such lessee, user or occupier, shall be deemed to be a breach thereof by the Holder.
- 6.2 The Managers consent shall not be required in respect of the use of the Unit by the spouse, children, parents or grandchildren of the Holder or any person accompanying the Holder or his spouse, children, parents or grandchildren.

## 7. ALLOCATED LOAN

- 7.1 All moneys paid by the Holder in respect of his Allocated Loan shall:
- 7.1.1 be dealt with by the Company in accordance with the provisions of sub-sections (1), (2), (3) and (4) of Section 15 of the Share Blocks Control Act;
  - 7.1.2 as and when such payments are applied by the Company for the redemption of its loan obligation, constitute a loan to the Company for that purpose;
  - 7.1.3 not be repayable to the Holder by the Company unless the Company at its option elects to do so;
  - 7.1.4 be repayable to the Holder, in the event of the Company being wound up, in terms of the Articles;
  - 7.1.5 be free of interest.
- 7.2 Any such loan may be ceded by the Holder to a third party provided that such cession is made to the person to whom the Holder has sold his Share Block and has been approved in writing by the Directors of the Company or the Manager.

## 8. PUT OPTION

- 8.1 Without in any way limiting or affecting any other provisions of this Agreement, the Holder acknowledges and agrees that the Holder, for the time being, of the "E" shares shall be entitled at any time to require the Holder, together with all the other Holders of the "C" shares, (who shall be obliged) to:
- 8.1.1 purchase an undivided share in all the "E" shares and any Allocated Loan pertaining to the "E" shares then held by the Holder of the "E" shares; and
  - 8.1.2 accept the cession and assignment of an undivided share of the Holder of the "E" Class Share's rights and obligations in terms of the "E" Class Use Agreement.
- 8.2 If the Holder of the "E" shares intends to exercise its rights in terms hereof, it may do so by giving 2 (TWO) months' written notice to the Holder to such effect.
- 8.3 The terms and conditions of the resultant sale will be as follows:
- 8.3.1 the effective date of the sale shall be the day that the notice given in terms of clause 8.2 expires;
  - 8.3.2 the purchase price of the members undivided share of the "E" shares and any Allocated Loan pertaining to those shares shall be R1 (ONE RAND);
  - 8.3.3 the purchase price of such undivided share of the "E" shares and the Allocated Loan (if any), shall be paid on demand therefore by the seller thereof;
  - 8.3.4 on the effective date as determined in terms of clause 8.3.1, the Holder of the "E" shares shall deliver to the Holder a certificate detailing the shares sold, transfer declarations in respect thereof duly signed by the registered Holder and currently dated, and a written cession of the Allocated Loan (if any) and a written cession and delegation of the "E" Class Use Agreement.
- 8.4 In the event of the Holder not signing all or any of the documents as are necessary to give effect to this put option within 14 (FOURTEEN) days of the effective date referred to in clause 8.3.1 above, the Holder hereby irrevocably appoints any Director of the Company, to the exclusion of the Holder, to do all such things and to sign all such documents as may be necessary to give effect to the foregoing.
- 8.5 The provisions of this clause shall not preclude the parties concerned from reaching a new or different written Agreement on the variations referred to in this clause.

## 9. INSURANCE

The Holder shall not store or harbour within the Unit and/or anywhere else on the Property any goods which may vitiate any fire insurance policy held by the Company or increase the premium payable in respect of such policy.

## 10. VOETSTOOTS

The Holder shall have no claim against the Company for any defects in the Unit, it being agreed that the Holder acquires use and occupation of the Unit on a voetstoots basis and in the condition in which it presently stands or will stand when the Holder takes occupation.

## 11. LEVY FUND

- 11.1 The Directors may establish and maintain two (2) levy funds, to which end they shall from time to time make levies upon the Holders for the expenses attributable to the different classes of shares. In this regard the directors shall maintain the "C" levy fund in respect of expenses attributable to the "C" shares and the "ABD" levy fund in respect of expenses attributable to the "A", "B" and "D" class of shares.
- 11.2 The Holder shall pay any charges or expenses for any services made available to the Property, the Unit and/or Unit Equipment in respect of the Week during which he is entitled to the use thereof, including without affecting the generality of the foregoing, charges for any recreational and entertainment facilities, telephone calls, transport and any services not recoverable as part of the "C" levy fund.
- 11.3 The "C" levy fund shall be used to meet the expenses attributable to the "C" shares as are determined by the board of Directors from time to time, which expenses shall include, but not be limited to, the repair, upkeep control, management and administration of the Company and the Property, including the Business Portion and the Grounds Portion, and the Movable Property of the Company, including the Unit and/or for the payment of any obligation of the Company in connection therewith, including Unit Letting, and including any rates, taxes and any local authority charges on or in respect of the Property or levies raised against the Company, any charges for the supply of electric current, gas, water, fuel, sanitary and other services to the Company and the Property, the Movable Property and the Unit, for which the Holder is not personally liable, for any services or facilities required by the Company and the covering of any losses suffered by the Company, the payment of any premiums of insurance and for the discharge of any other obligation of the Company, including all the costs, fees and payments which become due and payable from time to time to the Manager and any amount that may become payable by the Company at all.

- 11.4 In the event of the holder of the "E" shares exercising its rights in terms of clause 8 above, the Holder agrees that the expenses attributable to the cost of the use of the Business Portion including the costs incurred in operating the Food and Beverage Business, shall form part of the expenses to be paid out of the "C" levy fund.
- 11.5 The Directors shall estimate the amount which shall be required by the Company to meet the aforesaid expenses during each operational year or any portion thereof, together with the estimated deficiency, if any, as may have resulted from the preceding operational year or portion thereof, and shall make a levy upon the Holder equal as nearly as is reasonably practicable to such estimated amount. The Directors may include in such levies an amount to be held in reserve to meet any anticipated future expenditure not of an annual nature, such as the expenses to be incurred for the redecoration or renovation of the Property and for the replacement of any Movable Property or any part thereof or to meet any obligation of the Company in connection therewith or arising out of any provision of this Agreement.
- 11.6 All such levies shall be payable to the Company annually in one lump sum within 21 (TWENTY ONE) days after written request being made by the Company or the Manager and shall be for the Holder's share of the estimated total expenses of the Company for the operational year.
- 11.7 Notwithstanding the foregoing, in the event that the Holder is the Developer the annual levies shall be paid annually in arrears commencing on the last day of the first month of the operational year.
- 11.8 The Directors may from time to time make special levies upon the Holder in respect of all such costs, expenses and requirements as are either not mentioned in clause 11.1 or are not recoverable pursuant to clause 11.2 and such levies may be made payable in one sum or by such instalments and at such time or times as the Directors shall think fit.
- 11.9 Written notices shall be given in respect of levies payable by the Holder and such notice shall be subject to the provisions relating to notices in the Articles.

11.10 For the purposes of establishing the weekly levy amount -

11.10.1 Week numbers shall, subject to clause 11.10.4, be classified as follows -

Levy Class	Week Numbers	Total
Standard	3 to 12, 16 to 26, 30 to 48	40
Peak	1, 13 to 15, 26 to 29, 49 to 52	<u>12</u>
		<u>52</u>

11.10.2 the levy amount shall be the percentage of the total annual levy budget bearing reference to the levy class and type of accommodation as stated in this paragraph -

Type	Standard %	Peak %
Otter	0.05821	0.06985
One bedroom Trout	0.04851	0.05821
Two bedroom Bass	0.06791	0.08149
Penthouse	0.09702	0.11642

- 11.10.3 the Directors shall be entitled to round the weekly amount to ease calculation and administration thereof. In any Operational Year in which there is a 53rd Friday the Holders of Share Blocks in respect of Week number 52 shall pay an additional levy in that year for such 53rd Week in an amount equivalent to that paid in respect of Week number 52.
- 11.10.4 notwithstanding the above, the Directors in their sole discretion shall be entitled from time to time to reclassify Weeks as standard or peak and vice versa based on school holidays and the consequent preponderance of double occupancy in the suites. The Directors shall advise the Holder at the annual general meeting of the Company of any reclassification. There shall not be more than 12 peak Weeks.
- 11.11 Any amount due by the Holder by way of a levy or instalment of a levy shall be a debt owed by the Holder to the Company and shall be recoverable by the Company. The obligation of a Holder to pay a levy shall cease upon the unlawful termination of the Holder's right of use, save that any arrear levies to the date of such termination shall nevertheless be recoverable from that Holder. No levies and no part of any levy paid by a Holder shall be refundable by the Company on the termination of a Holder's right of Occupation.
- 11.12 Should the Holder fall into arrear with any levy obligation or part thereof or liability in terms of this clause, then without prejudice to any other rights the Company may have hereunder, the Holder shall automatically become liable for and agrees to pay to the Company such reasonable amount as the Directors in their discretion shall deem fit from time to time to compensate the Company for any inconvenience and loss that the Directors or the Manager consider the Company may suffer by reason of such default, together with interest on the amount of the levy obligation or relevant portion thereof reckoned from the due date thereof to date of payment at such rate of interest prescribed by the Directors from time to time but not exceeding the maximum permissible rate allowed from time to time by the Usury Act No. 73 of 1968, as amended.
- 11.13 The Holder shall not acquire the right to use the Unit during the year in respect of which he so falls into arrears. In this respect, it is agreed that if the Holder's levy is payable in one lump sum and if it has not been paid to the Company at least 60 days prior to the commencement date of the Week appertaining to the Holder's Share Block, the Holder will have no right to use the Unit and the subsequent payment of the levy will not, unless the Directors or the Manager otherwise agree in writing, entitle the Holder to the use of the Unit during his Week if such subsequent payment is made prior to the commencement of the relevant Week.
- 11.14 The Holder shall have no right to reclaim from the Company any amount paid by him by way of any contribution or special levy, but in the event of the Holder disposing of his Share Block, the transferee thereof shall be entitled to any credit which may have accrued to the Holder in terms hereof.
- 11.15 All amounts of whatever nature payable to the Company by the Holder shall be paid at such address as the Company may nominate from time to time, provided that the Company shall have the right to appoint agents at any time for the collection of such amounts and to debit the general levy account with all commission and costs incurred by the Company therein.
- 11.16 In the event that any property timeshare scheme should be established or operated in respect of any other part of the buildings on the Property or in respect of any addition or extension thereto at any time, the Company shall be entitled in the interests of rationalising its administration for the greater administrative efficiency of the Company's financial structure, and to such extent and in such manner as the Directors may determine, to agree to and implement the merging or consolidation of the administration of the levy fund conducted by the Company in terms of this clause 11 in respect of the Property, with the administration of any levy fund administered by or in respect of such other timeshare scheme, provided always that the liability of the Holder for the time being for any levy in terms of this clause 11 under such consolidated levy fund, shall not exceed the liability of such Holder in terms hereof as if such merging or consolidation of the levy funds had not taken place. In the event that any dispute should arise as to the application hereof or as to the liability of any Holder hereunder upon such merger or consolidation, such dispute shall be referred for decision to the Auditors for the Company for the time being who in making such decision shall act as experts and not as arbitrators and whose decision shall be final and binding on the parties hereto.
- 11.17 If any dispute arises between the Company and the Holder as to whether an expense is allowable to the Company or to the Holder personally, or as to the amount of any expense allocated to the Holder, such dispute shall be referred to the Company's Auditors for adjudication and their decision on the issue shall be final and binding on the parties.

## 12. CESSION OF RIGHTS

- 12.1 The Holder shall only be entitled to cede his rights herein -
- 12.1.1 to the transferee of the Share Block to which this Use Agreement is linked and together with the Allocated Loan;
  - 12.1.2 simultaneously and together with the transfer of the Share Block unless the Directors agree to defer the transfer of the Share Block;
  - 12.1.3 simultaneously and together with the assignment to and acceptance and agreement of the transferee to be bound by all the Holder's obligations to the Company hereunder and in terms of the Articles;
  - 12.1.4 in the event of the Holder of the "E" shares exercising its rights in terms of clause 8 above:
    - 12.1.4.1 if at the same time the Holder transfers to the transferee of the Share Block to which this Use Agreement is linked, the undivided share in the "E" shares acquired by the Holder in terms of clause 8, together with any Allocated Loan pertaining to the "E" shares; and
    - 12.1.4.2 if at the same time the Holder cedes and assigns all his rights and obligations in the undivided share of the "E" Class Use Agreement acquired by the Holder in terms of clause 8 to such transferee; and
    - 12.1.4.3 the transferee agrees in writing to be bound by all the Holder's obligations in terms of the "E" Class Use Agreement.
  - 12.1.5 subject to the relevant provisions of the Articles and to the Company's prior written consent.
- 12.2 Any such cession and assignment shall be in such form and upon such conditions as the Company may from time to time stipulate.

## 13. TERMINATION

- 13.1 This Agreement shall only remain in full force and effect for so long as the Holder is the Holder or beneficial owner of the Share Block or remains entitled to the transfer thereof, provided that -
- 13.1.1 should the Holder or any person lawfully using or entitled to the use of the Unit fail to vacate the Unit or the Property, as the case may be, and upon the conclusion or at the end of the Week, without first having secured the written consent thereto of the Manager unless the Holder shall have validly concluded an arrangement to continue in use with or have obtained the consent of the Holder entitled to the successive Week/s, and/or
  - 13.1.2 should the Holder commit any other breach of the provisions of this Agreement or of the Articles or of any of the Management Regulations made in terms of this Agreement and should the Holder fail to remedy such breach within seven days of the date of delivery by hand or posting by prepaid registered post of a written notice calling upon him to remedy the same; or
  - 13.1.3 in the event of the Holder committing or suffering a repetition of any breach within a period of three (3) consecutive months after having been warned in writing by the Directors or the Manager to desist therefrom; or
  - 13.1.4 should the Holder -
    - 13.1.4.1 commit or permit the commission of any offence or any contravention of any law which endangers or which may endanger the validity of any Hotel registration, Hotel grading or other licence of whatever nature relating to the Company, the Business Portion or any activities conducted on the Property;
    - 13.1.4.2 cause any material damage to the Unit or any other part of the Property;
    - 13.1.4.3 cause a nuisance to other occupiers of portions of the Property from time to time;
    - 13.1.4.4 commit or permit the commission of any act which places at risk the validity of any insurance policy over the Property;the Company shall be entitled notwithstanding any prior waiver on its part of any of its rights and without prejudice to any other rights it may have, to cancel this Agreement forthwith; and
  - 13.1.5 to obtain repossession of the Unit and for that purpose to take whatever action may be necessary for the immediate ejection of the Holder and/or other user from the Unit, without prejudice to the Company's rights to claim whatever monies may be owed to it, and such damage as the Company may sustain by reason of the Holder's breach or default, including legal expenses of whatever nature; and
  - 13.1.6 without prejudice to the Company's right to sell the Share Block at any stage, the Company shall have the right as agent for and on behalf of the Holder and as a procurator in rem suam to hire out the use of the Unit and to collect all consideration and monies payable by the hiring user in respect of his use thereof, and to deduct therefrom any monies whatsoever that may be owed by the Holder firstly to the Company and thereafter to the person from whom the Holder acquired the Share Block; and
  - 13.1.7 without prejudice to any other rights and without having to obtain the consent of any pledgee seller from whom the Holder acquired the Share Block, to sell the Share Block. The proceeds received by the Company from the said sale shall be applied firstly in reduction of any indebtedness of the Holder to the Company and thereafter to the person from whom the Holder acquired the Share Block, whilst any surplus shall be paid over to the Holder who shall nevertheless remain responsible for any deficiency.
- 13.2 For the purposes of this Agreement any act or omission on the part of any person entitled to the use of the Unit or his invitee shall be deemed to be that act or omission of the Holder.
- 13.3 In pursuance of the Company's rights in terms of the foregoing provision, the Company shall be entitled to give transfer of the shares pertaining to the Share Block and cession of this Agreement to the purchaser for and on behalf of the Holder, who shall forthwith deliver his share certificate to the Company. In the event of a failure so to deliver, the Company shall be entitled to make the necessary entries of transfer in its register of members and records without the share certificates being delivered to it and upon such entries being made, the defaulting Holder shall cease to be a member of the Company and cease to have any further rights hereunder and his share certificate shall be deemed to be cancelled and the purchaser shall be deemed to have good title.

## 14. MANAGEMENT REGULATIONS

The Holder agrees that the Company's Directors, insofar as it shall not be contrary to the provisions of this Agreement, shall be entitled at all times to lay down terms and conditions of use, both in respect of the Unit and the Property generally, including those relating to the use of radios, television sets, aerials, airconditioning units and other electrical appliances and apparatus, blinds and awnings, the use of the swimming Pool, tennis courts and other recreational facilities, the control of parking facilities, and such other matters as the Directors deem fit, for the convenience and comfort and general well-being of all the users of the Property and the appearance and Management of the affairs on the Property, and from time to time to vary, alter or amend the same. In the event of there being any conflict between such Management Regulations and this Agreement, the provisions of this Agreement shall prevail.

## 15. DAMAGE TO OR DESTRUCTION OF BUILDING

- 15.1 In the event of the Property or any buildings on the Property being -
- 15.1.1 totally or substantially destroyed by any cause whatsoever so that the major portion of the Unit to which the Share Block relates cannot be beneficially utilised, the Company shall be entitled to elect whether or not to continue with this Agreement, provided that it shall convey its decision to the Holder in writing not later than three months after the date of the relevant damage to the Property and/or buildings;



- 15.1.2 partially damaged or destroyed by any cause whatsoever but so that the major portion of the Unit to which the Share Block relates can be beneficially used, then this Agreement shall not be terminated, and the Company shall as soon as reasonably practical proceed to rebuild or repair or reinstate the destroyed or damaged portion of the Property and/or buildings and proceed expeditiously to the completion thereof within a reasonable time; provided that should the Company at any time elect to rebuild, repair or reinstate the Property and/or buildings this Agreement shall automatically continue in full force and effect in respect of the restored Property and/or buildings and if the Company shall have terminated this Agreement, such termination shall be set aside and be of no force and effect, notwithstanding anything to the contrary herein contained. The Company shall have the right to change or vary the form of construction of the Property and/or the buildings on such rebuilding or repairing, but the Holder shall be entitled to have substantially the same accommodation as regards the position and area of the Unit enjoyed by him for his period prior to the damage or destruction in such altered or varied construction. Notwithstanding the above or anything else to the contrary herein contained, the Company shall not be bound to expend any more in fulfilling any of its said obligations than that sum which it received from its insurance arising from any of the aforesaid contingencies.
- 15.2 The Holder shall have no claim against the Company for damages or compensation under any of the circumstances set out above or upon the exercise by the Company of any of its rights in terms hereof -
- 15.2.1 arising by reason of his loss of the right of use of the Unit, whether such right be lost permanently or temporarily;
- 15.2.2 arising by reason of the fact that the Company's Movable Property or the Property was not insured or inadequately insured even if such failure to insure or to insure adequately arose from the gross negligence of the Company or any of their respective agents or employees (but subject always to Section 19 of the Share Blocks Control Act);
- 15.2.3 arising out of any winding up consequent upon the destruction of the Company's Property.
- 15.3 Nothing herein contained shall operate to relieve the Holder of liability to the Company or to any other Holder of any shares in the Company who may be entitled to the use of any part of the Property in the event of any destruction or damage contemplated herein arising out of or being attributable to any negligence or breach of this Agreement by the Holder or any person for whom the Holder is responsible in law.

## 16. USE RIGHTS IN RESPECT OF CLASSES "A", "B", "D", "E" and "F" SHAREHOLDERS

The Company has concluded differing Use Agreements with the Holders of the "A", "B", "D", "E" and "F" class shares in the Company, respectively, on the following basis -

- 16.1 a Shareblock Use Agreement with the Holders of the "A", "B" and "D" class shares conferring upon each of them the exclusive use rights to their respective Units;
- 16.2 a Business Portion Use Agreement with the Holders of the "E" class shares conferring upon them the exclusive use rights to the Business Portion;
- 16.3 a Grounds Portion Use Agreement with the Holders of the "F" class shares conferring upon them the exclusive rights to the Grounds Portion.

## 17. MANAGEMENT

- 17.1 The Management, control and administration of the Property and the letting of any Unit, shall be under the direction and control of the Manager, who shall be appointed and employed from time to time pursuant to a Management Agreement concluded between the Company and the Manager for this purpose and who at all reasonable times shall have access to the Property and/or any part thereof for all lawful purposes.
- 17.2 The Company shall procure that the Manager shall on behalf of the Company -
- 17.2.1 and whilst the Property or any portion thereof is utilised for the purposes of conducting therein the business of an Hotel, at all times comply with and ensure the due fulfilment of the Liquor Act and any other competent law to which law this Agreement shall, notwithstanding anything to the contrary herein contained, be subject;
- 17.2.2 carry out all obligations undertaken by the Company from time to time pursuant to this Agreement, and the Use Agreements or other Agreements concluded between the Company and its shareholders from time to time;
- 17.2.3 be responsible for fulfilling all obligations assigned to it pursuant to such Manager's appointment in terms of the Management Agreement, including the enforcement of the Management Regulations;
- 17.2.4 procure the employment of, be responsible for and discharge any supervisor, caretaker and staff or other person engaged to carry out any duties or effect any service in respect of the Property or the Company's business;
- 17.2.5 control the checking in and departure of any person entitled to the use of a Unit;
- 17.2.6 collect and deal with all moneys owing to the Company from time to time by the Holder pursuant to the requirements of the Act;
- 17.2.7 arrange to give effect to the rights of use of the Holder pursuant to this Agreement in accordance with such procedural rules as may be prescribed by the Manager from time to time.
- 17.3 The Holder for himself and for any person using the Unit from time to time undertakes to observe and comply with the lawful directives of the Manager at all times.

## 18. NO WAIVER

No latitude, relaxation, indulgence or extension of time which may be allowed to the Holder in respect of any matter or thing which the Holder is bound to perform or observe in terms hereof, shall under any circumstances be deemed to be a waiver of the Company's rights and the Company shall at all times be entitled to require strict and punctual compliance with each and every provision hereof.

## 19. JURISDICTION

In the event of it being necessary for the Company to take any legal proceedings against the Holder hereunder, the Company shall, at its option, be entitled to take such legal proceedings in the Supreme Court or the Magistrate's Court having jurisdiction in respect of the Holder's person, notwithstanding the fact that such proceedings which might arise are beyond the jurisdiction of such Magistrate's Court and, in either of the foregoing events, the Holder shall be liable for all attorney and client costs and any collection charges incurred by the Company.

## 20. NOTICES

- 20.1 The following addresses are hereby selected as the respective domicilia citandi et executandi for all purposes under this Agreement in respect of the relevant parties-
- 20.1.1 the Company - 4th Floor, Twin Towers East, Sandton City, 2146
- 20.1.2 the Holder - the address as chosen by the Holder in terms of the Sale Agreement in terms of which the Holder purchases the Share Block.
- 20.2 The Holder may by written notice to the Company change his domiciliary address to another address in the Republic of South Africa not being a post office box number or post restante at the expiration of not less than 30 (THIRTY) days' written notice despatched by prepaid registered post to the Company and the Company may by written notice, including advertisement or in any publication sent to all Holders, change its respective domiciliary address.

20.3 All notices delivered or sent by prepaid registered post by any party to the others shall be deemed to have been received at the time of delivery or on the seventh (7th) business day following the date of posting in the Republic of South Africa, as the case may be.

**21. VARIATION OF AGREEMENT**

- 21.1 The Company will not permit any amendment, addition to or alteration of this Use Agreement save and until:
  - 21.1.1 a meeting of all Holders of the class of share in the capital of the Company pertaining to this Use Agreement has been called by the Company on 21 (Twenty One) clear days notice and which notice specifies the intention to change the Use Agreement, the terms and effects of such change and the reasons for such change; and
  - 21.1.2 at the said meeting Holders holding in the aggregate not less than one-fourth of the total number of shares of the class of share pertaining to this Use Agreement is present, in person or by proxy; and
  - 21.1.3 the changes are approved by three-fourths of the Holders present at the meeting in person or by proxy on a show of hands, or, where a poll is demanded, by not less than three-fourths of the total number of shares of the classes entitled to be at the meeting, present in person or by proxy.
- 21.2 If any of the provisions of clause 21.1 are not fulfilled, the meeting shall be deemed to be null and void and no amendment, addition to or alteration of this Agreement shall be capable until the procedure described above has been again implemented.
- 21.3 In the event of any alteration being so agreed in terms of sub-clause 1 above the amendment shall forthwith be binding on every member of the Company in that class of shares.
- 21.4 No variation of this Agreement shall be of any force or effect unless such variation is reduced to writing and signed by the parties or their duly authorised agents.

**22. SIGNATORIES**

22.1 SIGNED by the Company this .....day of.....1996.  
AS WITNESSES:

1. ....

**For: DRAKENSBERG SUN HOTEL SHARE BLOCK LIMITED**

2. ....

Name of Signatory: ..... he by his signature warranting that he has authority to sign this Agreement.

22.2 SIGNED by the Developer this .....day of.....1996.  
AS WITNESSES:

1. ....

**For : THE SOUTH AFRICAN BREWERIES LIMITED**

2. ....

Name of Signatory: ..... he by his signature warranting that he has authority to sign this Agreement.  
Name of Signatory: ..... he by his signature warranting that he has authority to sign this Agreement.

**Update to Notices 20**

**Drakensberg Sun Hotel Share Block Limited**

Registration Number: 67/007156/06

("the Company")

Registered Office  
Palazzo Towers East  
Montecasino Boulevard  
Fourways, 2055

**SCHEDULE OF UNIT EQUIPMENT FOR TIMESHARE UNITS**

**Kitchen**

Table and 4 chairs  
Microwave  
Kettle  
Refrigerator  
Pop-up Toaster  
Four Plate Stove/oven  
Dishwasher  
Sundry Kitchen Utensils to permit cooking  
Crockery and Cutlery to match authorised occupancy.

**Bedroom Area/s**

Beds (4 in Bass suite)  
Two in Trout and Otter suites  
Dress Mirror  
Bedside Lamps  
Framed Pictures  
Rugs  
Bedside Pedestals  
Dressing Table and Chair  
Dressing Table Mirror  
Utility Bin  
Curtains  
Telephone  
2 Easy Chairs in Otter suite  
Linen quantities to match authorised occupancy

**Living Area**

Sleeper Couch  
Extra Couch in Bass and Trout Suites  
Coffee Table  
Standing Lamp  
Wall Lamp  
Rug  
TV Wall Unit  
Curtains  
Ashtrays  
Easy Chair in Otter suite  
Desk with Drawer and Chair in Otter suite

**Bathroom**

Utility Bin  
Towels to match authorised occupancy  
Para Stool in paraplegic unit  
Shower/bath Mat  
Shower Curtain