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MABU4630-012

COMBINED USE AGREEMENT

**TERMS AND CONDITIONS OF THE USE AGREEMENT
FOR THE TIME-SHARE SCHEMES AND THE WHOLE OWNERSHIP SCHEMES
OPERATED BY**

MABULA SHARE BLOCK LIMITED

(Registration No. 80/07801/06)

("MSB")

and

MABULA'S MODJADJI CAMP SHARE BLOCK LIMITED

(Registration No. 86/03130/06)

("MODJADJI")

and

MABULA TIME-SHARING SHARE BLOCK LIMITED

(Registration No. 69/05889/06)

("MTSSB")

upon the respective properties owned by MSB, MTSSB and MODJADJI

1. **DEFINITIONS AND INTERPRETATION**

Unless the context otherwise indicates in this Use agreement:

- 1.1. The words and expressions in this agreement, other than defined in terms of this clause, shall bear the meanings assigned to them in the Share Block Act and the Time-Sharing Act.
- 1.2. The headings of the respective clauses in this agreement are for reference purposes only, and shall not be taken into account in the interpretation of this agreement.
- 1.3. The singular shall include the plural and vice versa. The male gender shall include the female and neuter genders and vice versa.
- 1.4. The following words and expressions shall bear the meanings assigned to them hereunder:
- 1.4.1. accommodation - in the case of a time-sharing interest - in MSB, consisting of-
- 1.4.1.1. the "share blocks", which are 4 bedroom, 8 "sleeper", 4 bathroom chalets which have the general lay-out and design indicated in **Annexure D1**;
- 1.4.1.2. the "split share blocks", which are each 2 bedroom, 4 "sleeper", 2 bathroom split chalets of two sections per building;
- 1.4.1.3. "Leopard Lodge", which is a 3 bedroom, 6 "sleeper", 2 bathroom chalet;
- 1.4.1.4. "Martial Eagle", which is a 4 bedroom, 8 "sleeper", 4 bathroom chalet;
- in MTSSB, consisting of-
- 1.4.1.5. the bush houses, which are 4 bedroom, 8 "sleeper", 2 bathroom units which have the general lay-out and design indicated in **Annexure D2 (2)** hereto;
- 1.4.1.6. the bush bungalows, which are 2 bedroom, 6 "sleeper", 1 bathroom bungalows, which have the general lay-out and design indicated in **Annexure D2(1)**;
- 1.4.1.7. the bush camps, which are 6 bedroom, 12 "sleeper" units consisting of 3 chalets with own bathrooms and a central unit, which have the general lay-out and design indicated in **Annexure D2(3)** hereto;
- in Modjadji, consisting of-
- 1.4.1.8. the bush cabins, which are 1 bedroom split 4 "sleeper", 1 bathroom units, which have the general lay-out and design indicated in **Annexure D3(1)** hereto;
- 1.4.1.9. the bush cottages, which are 2 bedroom, 6 "sleeper", 2 bathroom units, which have the general lay-out and design indicated in **Annexure D3(2)** hereto;
- 1.4.1.10. the chalets, which are 3 bedroom, 8 "sleeper", 2 bathroom units, which have the general lay-out and design indicated in **Annexure D3 (3)** hereto;
- 1.4.1.11. the bush retreats, which are 4 bedroom, 10 "sleeper", 2 bathroom units, which have the general lay-out and design indicated in **Annexure D3(4)** hereto;
- constructed or to be constructed upon the land pursuant to the time sharing scheme and which will be used for time-sharing purposes and not for use in common by all holders, and includes the movables therein;
- 1.4.2. agreement or this agreement - this Use Agreement;
- 1.4.3. the Articles - the Articles of the respective company upon which the accommodation is situated;
- 1.4.4. the bush bungalow / the bush cabin / the bush cottage / the bush house / the bush retreat / the bush camp / the chalet / the share block (in the context of the physical building or unit) / the split

share block - the respective unit which is the accommodation situated upon the land and attaching to the share block, and in respect to which the time share scheme relates;

- 1.4.5. business facilities - any area of the land on which improvements of a permanent nature have been erected or may be erected by the company or the holder entitled in terms of the Articles and/or this agreement to erect improvements of a commercial nature on the land and to operate businesses from such improvements, which business facilities are only for the common benefit of all holders and the public in terms of and subject to the management regulations and which business facilities include the business facilities situate or to be situate on areas of the MSB property marked "BFO1" on the plans annexed to the MSB Articles which shall confer upon the developer, or its successor-in-title a permanent and continuous right of use thereto ;
- 1.4.6. common facilities - any improvements of a permanent nature erected by the company on the common property and in respect of which a share block is not allocated.
- 1.4.7. common property - the area of the land to be common property as defined in the Time-Sharing Act.
- 1.4.8. company - either MSB, MTSSB or MODJADJI, as the case may be, being the company in which the owner owns the share block and owning the immovable property upon which the accommodation or site is situate;
- 1.4.9. directors - the directors of the company, and for so long as MABULA is managed by the combined board of directors of MSB, MTSSB and MODJADJI in terms of the Articles, the directors appointed to the MABULA BOARD;
- 1.4.10. the developer - the developer as defined in terms of the Share Blocks Act;
- 1.4.11. developer's loan account - such amount as is owed by the company to the developer on loan account.
- 1.4.12. holder - the registered owner of the shares comprising the share block in terms of Section 133 of the Companies Act (No 61 of 1973), and includes a purchaser thereof who has purchased subject to a suspensive condition, irrespective as to whether such condition has been fulfilled, and further includes a purchaser who has not yet taken transfer of the shares comprising the share block, but who may be entitled to utilise his time-sharing interest, or other interest in terms of the Articles;
- 1.4.13. interest - in regard to the use of the land, a continuous right of use of the relevant site, referred to in the Schedule, subject to any restriction imposed in the permit granting the consent in terms of Section 5(1)(a) of the Share Blocks Act, arising from the agreement until the company is liquidated or all the shares are cancelled.
- 1.4.14. levy - the holder's share of the total costs and expenses of maintaining, controlling, managing and operating the scheme, and more fully described in the Articles and referred to in clauses 14 and 22;
- 1.4.15. the land - the MSB property, the MTSSB property or the MODJADJI property, as the case may be, upon which the accommodation or site, as the case may be, is situate, and should the context so state or indicate, shall mean the combined areas of immovable property constituting the Mabula game reserve;
- 1.4.16. Lodge - the hotel & resort complex known as Mabula Game Lodge situated on the MSB property allocated to the Lodge Shareblock in terms of the Articles and this agreement;
- 1.4.17. Lodge Shareblock - means share block No. 01SB BF01 in MSB to which the rights to use the lodge attach, in terms of the Articles and this agreement;
- 1.4.18. MABULA - the Share Block and Time-Sharing scheme operated on the MSB property, the MTSSB property and MODJADJI property, and the Mabula game reserve, and should the context so indicate or if expressly stated, shall include the Lodge;
- 1.4.19. Mabula Board - the combined board of directors of MSB, MTSSB and MODJADJI established in terms of the Articles, to manage and administer MABULA including the scheme.
- 1.4.20. Mabula game reserve - the game reserve operated on the MSB property, the MTSSB property, the MODJADJI property, and the MWR land, and any other land which forms part of the servitude areas from time to time, upon which the game is permitted to inhabit and which the members of the company have rights of traverse from time to time, or in respect of which game owned by MSB, MTSSB and MODJADJI and/or the owner of the game is entitled to roam and

graze upon;

- 1.4.21. maintenance time module - one (1) week in each time-share accommodation which is to be used by the Company for maintenance purposes;
- 1.4.22. managing agent - the person appointed from time to time to manage the scheme pursuant to the management agreement, and in the event that no managing agent is currently in office, the manager or managers appointed by the directors to manage the time share scheme and/or the Mabula game reserve and/or the scheme;
- 1.4.23. management agreement - in the event that a managing agent has been appointed by the directors, the agreement for the time being between the company and the managing agent to manage, control and administer the time share scheme and/or the Mabula game reserve and/or the scheme;
- 1.4.24. management regulations - such regulations, directions, procedures, rules or the like made by the directors and/or the managing agent;
- 1.4.25. MODJADJI - Mabula's Modjadji Camp Share Block Limited No 86/03130/06 and includes its successors-in-title;
- 1.4.26. MODJADJI property - the Remaining Extent of Portion 1 of the farm Kwarriehoek No 475, Registration Division K.Q., Northern Province, measuring 2037,2098 hectares, registered in the name of MODJADJI;
- 1.4.27. movables - the movable property contained in the accommodation and referred to in Section 4(1)(M) of the Time- Sharing Act and specified in the Inventory of Movables in Annexure B1, B2 or B3, as the case may be.
- 1.4.28. MSB - Mabula Share Block Limited No 80/07801/06 and includes its successors-in-title.
- 1.4.29. MSB property - the Remaining Extent of the farm Flora 508, Registration Division K.Q., Northern Province, measuring 575,5375 (five seven five comma five three seven five) hectares, registered in the name of MSB;
- 1.4.30. MTSSB - Mabula Time-Sharing Share Block Limited No 69/05889/06 and includes its successors-in-title.
- 1.4.31. MTSSB property - the land described as the Farm HABITAT 477, Registration Division KQ, Northern Province, measuring 338,6949 hectares, registered in the name of MTSSB;
- 1.4.32. "MWR" - MABULA WILDLIFE RESORT (PROPRIETARY) LIMITED (Registration No. 91/02501/07), formerly Mabula - SST (Proprietary) Limited, formerly Soundprops 1051 Investments (Proprietary) Limited (and its successors-in-title or assigns);
- 1.4.33. "MWR properties" -
 - 1.4.33.1. the Remaining Extent of the Farm FAUNA No.521, Registration Division K.Q.Northern Province, measuring 412,0042 (four one two comma zero zero four two) hectares, registered in the name of MWR in terms of Deed of Transfer No. T62141/91;
 - 1.4.33.2. Portion 4 of the Farm WITWAL No. 523, Registration Division K.Q. Northern Province, measuring 212,0024 (two one two comma zero zero two four) hectares, held by MWR in terms of Deed of Transfer No. T62143/91;
 - 1.4.33.3. Portion 5 of the Farm WITWAL No. 523, Registration Division K.Q. Northern Province, measuring 212,0024 (two one two comma zero zero two four) hectares, held by MWR in terms of Deed of Transfer No. T62143/91;
 - 1.4.33.4. Portion 6 of the Farm WITWAL No. 523, Registration Division K.Q. Northern Province, measuring 212,0024 (two one two comma zero zero two four) hectares, held by MWR in terms of Deed of Transfer No. T62143/91;
 - 1.4.33.5. Portion 9 of the Farm WITWAL No. 523, Registration Division K.Q. Northern Province, measuring 205,567 (two zero five comma five six seven) hectares, held by MWR in terms of Deed of Transfer

- No. T62144/91;
- 1.4.33.6. Portion 10 of the Farm WITWAL No. 523, Registration Division K.Q. Northern Province, measuring 205,5677 (two zero five comma five six seven seven) hectares, held by MWR in terms of Deed of Transfer No. T62144/91;
- 1.4.33.7. the Remaining Extent of Portion 3 (a portion of Portion 1) of the Farm WITFONTEIN 526, Registration Division K.Q. Northern Province, measuring 342,6128 (three four two comma six one two eight) hectares, held by MWR in terms of Deed of Transfer No. T62142/91;
- 1.4.33.8. Portion 5 (a portion of Portion 1) of the Farm WITFONTEIN 526, Registration Division K.Q. Northern Province, measuring 475,6963 (four seven five comma six nine six three) hectares, held by MWR in terms of Deed of Transfer No. T62145/91; and
- 1.4.33.9. Portion 6 (a portion of Portion 3) of the Farm WITFONTEIN 526, Registration Division K.Q. Northern Province, measuring 342,6128 (three four two comma six one two eight) hectares, held by MWR in terms of Deed of Transfer No. T62145/91;
- 1.4.34. "the objects" - the objects of the MABULA CONSORTIUM in establishing the joint management relationship for MABULA set out in article 17.4;
- 1.4.35. "the properties" - collectively the MSB property, the MTSSB property, the MODJADJI property and the MWR properties and if the context so requires or is expressly stated, includes the property adjacent to the aforesaid properties over which MSB, MTSSB and MODJADJI have or may in the future have reciprocal rights of way and traverse for game viewing purposes;
- 1.4.36. "the time-share directors" - the 2 (two) directors to the MABULA BOARD nominated by the time-sharers in accordance with article 13.2;
- 1.4.37. Republic - The Republic of South Africa;
- 1.4.38. scheme - the property time-sharing scheme and share block scheme in respect of the accommodation, common facilities, common property, business facilities, the sites and land in terms of the Share Blocks and Time-Sharing Acts;
- 1.4.39. Share Blocks Act - The Share Blocks Control Act (No 59 of 1980);
- 1.4.40. shares - the shares comprising the Share Blocks;
- 1.4.41. site - a site on the MSB property or the MODJADJI property, to be used for whole owner sites or business sites, as the case may be, in accordance with the Articles;
- 1.4.42. site improvements - any improvement erected, alternatively, to be erected on the site and more fully referred to in clause 19;
- 1.4.43. time module - subject to the discretion of the directors to, at any time, amend or alter the commencement time and termination time of any time module (but not the day of commencement or the day of termination of any time module), a time module shall consist of weeks, weekends or week days, and are numbered consecutively in a Year, and which arise in the first week of a Year, and terminate with W52 (week 52) or WE52 (weekend 52) or WD52 (week day 52), and in the case where a 53rd (fifty third) week occurs in a Year, W53 (week 53) or WE53 (weekend 53) or WD53 (weekday 53).
- 1.4.44. time module - time modules being :
- 1.4.44.1. "week-end" (i.e. "WE") - a period of three consecutive days commencing at 12 noon on a Friday and ending at 12 noon on the immediately succeeding Monday, provided that a holder may only utilise his time-sharing Interest for a week-end from 15h00 on the commencement date to 10h00 on the termination date;
- 1.4.44.2. "weekdays" (i.e. "WD") - a period of 4 (four) consecutive days from 12 noon on a Monday to 12 noon on the following Friday, provided that a holder may only utilise his time-sharing interest for a week from 15h00 on the commencement date to 10h00 on the termination date; and

1.4.44.3. "week" - a period of 7 consecutive days commencing on a Friday at 12 noon, and ending on the following Friday at 12 noon, provided that the holder shall only be entitled to utilise his time-sharing interest during a time-module from 15h00 on the commencement date thereof until 10h00 on the termination date thereof.

Provided that **time modules** are numbered consecutively for a year, commencing with week-end number one (1) and weekday number one (1), which together comprise the first week of the year;

1.4.45. Time Sharing Act - the Property Time Sharing Control Act (No 75 of 1983);

1.4.46. time sharing interest or time share interest - the time-sharing interest in the accommodation conferred by the Share Blocks in MSB as indicated in **Annexure A1**, in MTSSB as indicated in **Annexure A2** and in MODJADJI, as indicated in **Annexure A3** comprising the share blocks and any further accommodation to be utilised for time-sharing residential purposes, if any, erected on the land pursuant to the Articles and the movables used in conjunction therewith, arising from this agreement until either the Company is liquidated or the said share blocks are cancelled, whichever event occurs first and which said time-sharing interest consists of:

1.4.46.1. the right to or interest in the recurrent and annual exclusive use, possession and occupation of the accommodation for time-sharing residential purposes; and

1.4.46.2. the right to or interest in the recurrent and annual and exclusive use of the movables; and

1.4.46.3. the right to, or interest in, the recurrent annual use, in common with other holders, of the common property, common facilities and business facilities in terms of this agreement and the management regulations,

for the time modules in respect of the Share Blocks referred to the schedules annexed hereto as **Annexure A1**, **Annexure A2** and **Annexure A3** and any further accommodation to be utilised for time-sharing residential purposes erected on the sites in accordance with the Articles;

1.4.47. Time Module Table - the time module table, for the time-sharing interests, a copy of which is obtainable from the managing agent upon request;

1.4.48. whole owner share block - the share block, with whole ownership rights in terms of the Articles of MSB or MODJADJI, as the case may be, in accordance with the schedules annexed as **Annexure A1** and **Annexure A3**, held by the holder;

1.4.49. Year - a year which commences at 12h00 on the first Friday of January in each and every calendar year.

2. **RECORDALS**

2.1. MSB, MTSSB, MODJADJI and MWR together with various of their shareholders have entered into a joint management agreement for the joint management and administration of the properties, the Mabula game reserve and Mabula (excluding the Lodge, which is to be operated by such person as the holder of the Lodge Shareblock may deem fit).

2.2. MSB, MTSSB, MODJADJI and MWR have concluded servitudes of reciprocal rights of traverse over their respective properties.

2.3. This agreement records the standard terms and conditions for the time share schemes operated by MSB, MTSSB and MODJADJI on the MSB property, the MTSSB property and the MODJADJI property, respectively and the whole-ownership scheme operated by MSB on the MSB property and MODJADJI on the MODJADJI property.

3. **ARTICLES**

In the event of any conflict between this agreement and the Articles, the provisions of the Articles shall prevail.

PART B - RIGHTS AND OBLIGATIONS OF A HOLDER AND THE COMPANY IN REGARD TO THE ACCOMMODATION AND TIME SHARING INTEREST

4. **UTILISATION OF TIME-SHARING INTEREST**

4.1. The holder shall utilise the time-sharing interests subject to the management regulations and the rights of the company/managing agent under this agreement, the management agreement and the Articles.

- 4.2. The holder may not leave the area encompassing the accommodation unless accompanied by a person appointed by the managing agent.
- 4.3. The holder shall utilise the time-sharing interests with due regard to the nature of the scheme.
5. **THE MOVABLES/REFURBISHMENT ETC**
- 5.1. It is recorded that the accommodation is furnished with the movables and that the ownership thereof vests in the company.
- 5.2. The holder shall be entitled to use the movables as specified in **Annexure B1, B2 or B3**, as the case may be, subject to such movables being available and appropriate, in conjunction with his time-sharing interest and may accordingly not remove the movables from the accommodation. Where unavailable or inappropriate, the company shall substitute such movables with movables of a similar quality and in the event of a dispute, the matter shall be referred to arbitration in terms hereof.
- 5.3. The company is entitled from time to time to replace the movables when necessary, provided that such replacement shall not result in a material change in the general nature or standard of the movables.
- 5.4. If at any time the accommodation is required to be renovated or refurbished, the following provisions shall apply:
- 5.4.1. The company or the managing agent shall be entitled to access to the accommodation, provided that the company will use its best endeavours to ensure that such renovation is carried out during the maintenance time module. The holder shall have no claim whatsoever against the company in this regard;
- 5.4.2. the holder shall have no claim against the company in the event that the holder cannot utilise his time-sharing interest but the company will endeavour to provide the holder without any cost with substantially equivalent temporary accommodation in other accommodation and such cost, if any, to the company shall be deemed to be part of the levy fund.
6. **USE OF ACCOMMODATION**
- 6.1. Subject to clause 4, the accommodation shall be used for residential purposes only and for no other purpose whatsoever without the prior written consent of the directors.
- 6.2. The time-sharing interest shall be utilised personally by the holder or his invitees, provided that in regard to the invitees there is compliance with the management regulations in regard thereto and provided further that the number of persons utilising the time-sharing interest shall not exceed the number of beds provided in the relevant accommodation.
7. **EXTENSIONS OF THE TIME SHARE SCHEME (IMPROVEMENTS)**
- 7.1. A holder acknowledges being aware and it is recorded that the developer in his capacity as the original seller of the Share Blocks and the developer's successor-in-title has reserved the right to extend the scheme by erecting improvements on the land as provided for in the Articles.
- 7.2. Subject to the provisions of clause 7.1:-
- 7.2.1. a holder is obliged to permit the developer to exercise its rights to extend the scheme;
- 7.2.2. the holder irrevocably authorises the company to increase its loan obligation by an amount equal to the cost of the improvements and the allocation thereof pursuant to the Articles;
- 7.2.3. the holder acknowledges and understands that the common property will be utilised from time to time to give effect to the developer's rights in this regard and the holder shall have no claim against the developer in this regard;
- 7.2.4. the developer shall be entitled in its discretion to allocate share blocks to the improvements in order to confer upon the holder of such Share Blocks, a time sharing interest in respect of such improvements and the holder agrees to the developer so acting, hereby irrevocably appointing the developer as his agent to attend any general meeting of the company and to vote for a motion by special resolution in terms of which such allocation is made or confirmed.
8. **USE OF TIME-SHARING INTEREST BY OTHERS**
- 8.1. Subject to clause 8.2, the holder, as long as he is the owner of the time-sharing interest, may permit or allow any other person to utilise his time-sharing interest, provided that the holder shall not allow such utilisation unless he shall have notified the managing agent in such form as the managing agent may require (prior to the utilisation by such other person). Should the holder fail to observe the aforesaid, and without prejudice to any

rights that the company may have, the managing agent shall be entitled to deny admission to the person or require the said person to vacate the accommodation forthwith.

- 8.2. The company shall not be deemed to have waived any of its rights as a result of any action contemplated by clause 8.1.

9. **MANAGEMENT**

- 9.1. The management, control and administration of the land and the scheme, including the accommodation, movables and the utilisation of the time-sharing interest, shall be under the control of the MABULA BOARD, and any managing agent appointed and employed from time to time in terms of a management agreement.
- 9.2. It is recorded that managing agent, *inter alia*, shall:-
- 9.2.1. carry out all obligations undertaken by the company from time to time pursuant to this agreement;
 - 9.2.2. be responsible for fulfilling all obligations assigned pursuant to such managing agent's appointment in terms of the management agreement, including the enforcement of the management regulations;
 - 9.2.3. employ, and discharge any supervisor, caretaker and staff or any other persons engaged to carry out any duties or effect any service in respect of the scheme;
 - 9.2.4. duly service the accommodation in such manner as the managing agent deems appropriate;
 - 9.2.5. control and arrange the checking in and departure of any person entitled to utilise the time-sharing interest;
 - 9.2.6. in the name of the company collect and deal with all monies owing from time to time by the holder pursuant to the provisions of the Share Blocks Act;
 - 9.2.7. control the general use of the accommodation by the holders for the holders' mutual comfort; and
 - 9.2.8. arrange to give effect to the time-sharing interests of the holders pursuant to this agreement and in accordance with the management regulations.
- 9.3. The holder from time to time undertakes to observe and comply with the lawful directions of the managing agent at all times, and a failure to observe such directions, shall constitute a breach of this agreement.
- 9.4. The holder agrees that the MABULA BOARD and/or managing agent shall be entitled at all times to lay down the terms and conditions of use and maintenance both in respect of the accommodation and of the land generally including those relating to the care and upkeep of the accommodation, the movables,

the use of radios, television sets and aerials, electrical appliances, fire places, recreational facilities, the use of the land, the allocation and use of parking facilities, the parking and use of motor vehicles and any such matters as the directors and/or managing agent deems fit for the general control, administration, use and enjoyment of the land, and accommodation and the general convenience, comfort and well-being of the users of the land and from time to time vary, alter or amend same. In the event of there being any conflict between such management regulations and this agreement, the provisions of such management regulations shall prevail.

10. **HOLDERS' OBLIGATIONS**

- 10.1. The holder of a time share interest shall not make any alterations or additions or improvements of whatsoever nature to the accommodation.
- 10.2. The holder of a time share interest shall be obliged to keep the accommodation in a clean, tidy and hygienic condition.
- 10.3. The holder of a time share interest shall utilise his time-sharing interest, and all facilities on the land in such manner as will not cause damage, and as will ensure the preservation thereof in the best possible condition, subject always to the management regulations in regard thereto.
- 10.4. If the holder of a time share interest damages any part of the accommodation, movables and land whether accidentally, negligently or wilfully, the holder shall be liable for the cost of repairing or replacing the same. The costs of such repairs or replacements shall be an amount due to the company as if it were part of that holder's levy.
- 10.5. If the managing agent is dissatisfied with the condition of the accommodation or the movables after use thereof, it may call upon that holder of a time share interest forthwith to remedy such defective condition. Should the said holder fail to remedy the defect, the company shall be entitled forthwith and without prejudice to any other right which it may have, to put the same in good order at the expense of the holder and to recover from the holder. Any expenditure incurred is to be regarded as if it were part of that holder's levy.
- 10.6. Any property or persons brought on to the accommodation or land by the holder of a time share interest shall be at the sole risk of the holder, who shall have no claim whatsoever against MSB, MTSSB, MODJADJI, and/or MWR or any of their directors, officers, employees or agents, or any of the owners of the game on the properties or the owners of any of the adjacent properties over which members have or may in the future have rights of traverse for any loss suffered by the holder in such a case, howsoever arising.
- 10.7. The holder of a time share interest undertakes to be bound by the Management Regulations for the taking of inventories in respect of the movables at the commencement and conclusion of the relevant time modules.

11. **MAINTENANCE**

- 11.1. The company shall maintain and repair the accommodation, the land and movables in a good, secure and clean and thoroughly tenable order and condition and from time to time, and as and when necessary renovate or replace the same.
- 11.2. It is agreed that the holder of a time share interest acquires the time-sharing interest on a voetstoets basis without any warranties expressed or implied and in the condition in which the accommodation and land presently stand.
- 11.3. The company will endeavour to procure that all reasonable steps are taken to remedy any defect within a reasonable time.
- 11.4. The company or their duly authorised agent including the managing agent shall be permitted to enter the accommodation at all reasonable times in order to inspect the same or effect repairs thereto. If the holder is not personally present to open the accommodation or for any reason it is necessary, the company shall be entitled to enter the accommodation without being liable to any claim for any loss suffered by the holder as a result thereof.
- 11.5. The holder acknowledges that the developer will hold and will not dispose of at least one share block conferring at least one time sharing interest for at least one week in respect of each accommodation, which will be utilised for maintenance purposes in terms of the Articles. The Developer as holder of such share blocks will not be obliged to contribute to the levy fund referred to in Section 13 of the Share Blocks Act in respect thereof.

12. **DAMAGE TO THE ACCOMMODATION**

- 12.1. In the event of the majority number of the accommodation being:
- 12.1.1. In the opinion of the directors destroyed to the extent that the accommodation cannot be beneficially utilised, the directors shall, subject to clause 12.4, in their discretion be entitled to

elect whether or not to continue with this agreement; provided that it shall notify the holders of the time share interest not later than three months after the date of the relevant damage to the accommodation, of its decision; or

12.1.2. partially damaged or destroyed but so that the majority of/or the accommodation can be beneficially utilised, then this agreement shall not terminate, and the company shall as soon as is reasonably practical, proceed to rebuild, repair or reinstate the destroyed or damaged portions of the accommodation; provided that:

12.1.2.1. the company shall be obliged to expend only such amount as it recovers from its insurers; and

12.1.2.2. the company shall have the right to vary the form of construction of the accommodation provided the holder has substantially the same accommodation in the same position, which the holder hereby accepts.

12.2. The holder of the time share interest shall have no claim against the company for damages or compensation under any of the circumstances set out in clause 12.1 or upon the exercise by the company of any of its rights in terms of clause 12.1:

12.2.1. arising by reason of his loss of his time-sharing interest whether such loss be permanent or temporary;

12.2.2. arising by reason of the fact that the accommodation was not insured or adequately insured even if such failure to insure or adequately insure arose from the negligence of the company or any of its agents or employees, but always subject to Section 19 of the Share Block Act; and

12.2.3. arising out of the winding up of the company consequent upon the destruction of the accommodation save for claims (if any) especially provided for in the Articles.

12.3. Nothing contained in clause 12.1 shall operate to relieve the holder of a time share interest of any liability to the company or to any other holder, in the event of any destruction or damage contemplated in this clause arising out of or being attributable to any negligence of the holder or breach of this agreement by the holder.

12.4. In the event of clause 12.1.1 being applicable, the company may only by special resolution be entitled to proceed in terms of clause 12.1.1 to wind up the company.

13. RENTAL POOL

13.1. If the holder does not want to make use of his time-sharing interest, and wishes the managing agent to attempt to lease the same, (and in the case of MTSSB, should the member not comply with the provisions of clause 17.2) he shall notify the company to attempt to lease the same, provided that:

13.1.1. any rental actually received (i.e. less discounts, credit card and similar charges) shall be placed into a common pool; and

13.1.2. the funds comprising that common pool shall, after deduction of a commission equivalent to such percentage thereof as the company may from time to time determine, in favour of the company, be distributed amongst holders who have so notified the managing agent in the proportion such holder's time module bears to all other such time modules.

13.2. Payment from such common pool for such time module, shall be made as soon as possible thereafter to the holder thereof.

14. LEVY

14.1. Without derogating from the provisions of the Articles, the levy fund referred to in Section 13(1) of the Share Blocks Act, shall comprise all and any costs incurred by the company in managing, controlling and administering the scheme, replacing the movables and maintaining the corporate existence of the company, and shall include without limitation any costs or expenses or disbursements for supply of current, fuel, gas, water, sanitary and other services, insurance premiums, or costs and fees payable to the managing agent, and all and any costs of whatsoever nature attributable to the proper management, control and administration of the scheme and the company.

14.2. The directors shall estimate the amount which shall be required by the company to meet the aforesaid expenses during each year or portion thereof together with the estimated deficiency, if any, as may have resulted from the previous year or portion thereof, and in accordance with the provisions of the Articles, shall at every Annual General Meeting of the company present a budget to the meeting setting out how the levy for the following year shall be raised upon the holders. Such levy shall then be raised upon the holders of the company for an amount

which is equal, as is reasonably practical, to such estimated amount, and subject to the Articles. The directors may include in such levy an amount to be held in reserve to meet any anticipated future expenditure not of an annual nature, including the expenses to be incurred for the renovation of the accommodation, movables and common facilities.

- 14.3. All such levies shall be payable to the company in such manner as the directors may from time to time decide, after notification being made by the company or the managing agent. Notwithstanding the foregoing, in the event that the holder is the developer the annual levies payable in respect of the share block, shall be payable in accordance with the Articles.
- 14.4. The directors may from time to time make special levies upon the holders of the company in respect of all such costs and expenses required to be made as are not referred to in clause 14.1, and such levies may be made payable in one sum or in instalments, and at such times that the directors may deem fit.
- 14.5. The directors shall be entitled to round off the levy to the nearest R10,00 (ten rand) to ease the calculation and administration thereof.
- 14.6. Subject to clause 14.1, the levy attributable to the accommodation, shall be calculated and be in the proportions as set out in the Articles.
- 14.7. Where the company extends the scheme as envisaged in clause 7 and in the Articles, the obligation on the holder (including the developer) to pay the levy, shall only arise on the completion of the said improvements.
- 14.8. In any year where there is a 53rd (fifty third) time module, the holder of the share block in respect of the 52nd week shall pay the levy attributable to such 53rd (fifty third) time module, in an amount equivalent to that paid in respect of the said 52nd week. Such holder of the share block in respect of the time module for the 52nd week, shall be entitled to the occupation and possession of such 53rd (fifty third) time module as if he were the owner of a time sharing interest in respect thereof.
- 14.9. The developer as holder of the share block conferring the time-sharing interest referred to in clause 11.5, shall not be obliged to contribute any amount in respect thereof to the levy fund, provided that if they are leased such income accrues to the company and the developer cedes his right to such income to the company before it accrues to him.
15. **CESSION OF RIGHTS - TIME SHARE INTEREST**
- 15.1. The holder of a time share interest shall only be entitled to cede and assign his rights herein:-
- 15.1.1. to the transferee of the shares together with the holder's *pro rata* share of the loan obligation or developer's loan account, as the case may be;
- 15.1.2. simultaneously and together with the transfer of the shares and the time-sharing interest;
- 15.1.3. simultaneously and together with the assignment to and acceptance of the agreement by the transferee, to be bound by all the holder's obligations to the company in terms of this agreement and in terms of the Articles;
- 15.1.4. subject to the relevant provisions of the Articles and with the company's prior written consent.
- 15.2. Any such cession and assignment shall be in such form and upon such terms and conditions as the company may notify the holder.
16. **TERMINATION - TIME-SHARE SCHEMES**
- In the event that the holder of a time share interest breaches any provision of this agreement, and the holder agrees that every breach shall be deemed to go to the root of this agreement and in regard to every obligation of the holder, time is of the essence, then without prejudice to any other remedies which the company may have, the company shall be entitled to:
- 16.1. impose a fine on the holder in such amount as the directors may deem reasonable, but subject to the Articles and/or
- 16.2. suspend the holder's right to utilise his time-sharing interest; or
- 16.3. cancel this agreement by giving the holder notice thereof, in which event the company shall be obliged to exercise its lien over the shares comprising the share block, so that the shares, the holder's *pro rata* share of the developers loan account and the time-sharing interest (which are not divisible) are disposed of pursuant to the lien in terms of the Articles; provided that

- 16.3.1. In the event that the company suspends the holder's right to exercise his time-sharing interest, the company may lease the holder's time sharing interest upon such terms and conditions as it deems fit and to apply such income in payment of any indebtedness of the holder to the company;
- 16.3.2. a certificate by the company or its authorised agent shall be *prima facie* proof that the holder is in breach of his obligations in terms of this agreement and of any amount due by the holder to the company;
- 16.3.3. the company shall not be entitled to exercise its rights in terms of clause 16.3 unless and until it shall have given the holder 14 (fourteen) days notice to remedy the breach, provided that in the case of the positive malperformance, the company shall have the right in its discretion to waive such a breach by the holder; and
- 16.3.4. the fine referred to in clause 16.1 shall be deemed to be part of that holder's levy.

**PART C - PROVISIONS RELATING TO SPECIFIC TIME-SHARE SCHEMES
OR UNITS**

17. **MTSSB**
- 17.1. The time module for accommodation in respect of accommodation on MTSSB property shall be a week. Time modules are numbered consecutively in respect of each year commencing with the first Friday of each year.
- 17.2. Unless the holder has notified the managing agent 6 months before the commencement of his time module that he wishes to utilise his time sharing interest for the full period of his time module and has received written confirmation thereof, the holder shall only be entitled to the utilisation of his time module for the period commencing at 15h00 on the commencement thereof to 10h00 on the Monday which immediately follows the commencement of the time module.
- 17.3. Where no notification in terms of clause 17.2 has been given and confirmed, the holder shall be entitled, provided he notifies the managing agent 6 months before the commencement of his time module, to occupy other accommodation as the case may be, in lieu of the utilised portion of his time sharing interest for such period, at such time and subject to such conditions as the managing agent may in its discretion determine; always subject to such accommodation being available and failing such notification the remainder of the holder's time module shall be dealt with by the managing agent in terms of clause 13.

PART D - WHOLE-OWNERSHIP SCHEME

18. **UTILISATION OF SITE BY WHOLE OWNER**
- 18.1. Subject to clause 19, the holder shall utilise the site only for:
- 18.1.1. the erection of the site improvements as defined in the Articles and the management regulations from time to time; and
- 18.1.2. for living purposes and for no other purpose whatsoever.
- 18.2. The owner shall not be entitled to operate a property timesharing scheme as defined in the Timesharing Act, in respect of his site or the site improvements.
The holder is not permitted to occupy the site other than for the purposes of utilising the interest. A site may not be occupied in any temporary structure including a tent, a caravan, and the like without the directors' consent.
- 18.3. The holder of a whole ownership shall utilise the whole ownership interest-
- 18.3.1. subject to the rights of the company/managing agent in terms of this agreement, the management agreement and the Articles;
- 18.3.2. subject to the management regulations.
- 18.4. The holder of a whole ownership interest shall utilise the whole ownership interest with due regard to the nature of the scheme.
- 18.5. Without the consent of the managing agent, the holder of a whole ownership interest may not leave the area encompassing the site unless accompanied by a person appointed by the managing agent from time to time.
- 18.6. The holder may not, without the prior consent of the directors, make use of any apparatus to supply electricity, which will make any sound whatsoever.

19. **SITE AND SITE IMPROVEMENTS**

19.1. It is recorded that the holder of a whole owner share block is entitled to the exclusive use of the site relating to such share block in terms of this agreement.

19.2. In this regard, a holder of a whole owner share block agrees and acknowledges that:-

19.2.1. the holder will erect on the site, improvements of a permanent nature only and which will be used solely for living accommodation in respect of the land and in particular without derogating from the foregoing that the holder may not occupy the site improvements for a period of longer than 3 (three) months in any calendar year.

19.2.2. The site improvements shall provide sleeping accommodation for a maximum of 8 (eight) or such other maximum number as may have been or may be approved by the developer persons, i.e. adults, children but excluding servants) at any time, and not more than 8 (eight) or such other maximum number as may have been or may be approved by the developer, such persons shall at any time and for any purposes be accommodated, whether temporarily or permanently, on the site;

Provided that, with the consent of the directors, which shall be exercisable by the managing agent, more than 8 (eight) or such other maximum number as may have been or may be approved, people may be admitted provided on admission the holder pays such charge as is determined from time to time by the directors in terms of the "Current Charge List", published from time to time.

19.2.3. For the purposes of this clause, infrastructure means the following:

19.2.3.1. **Eskom installation in regard to the supply of electricity to a dwelling site;**

19.2.3.2. potable water supply;

19.2.3.3. septic tank sewerage system; and

19.2.3.4. access bush roads;

Provided that such infrastructure will be furnished **in terms of the guidelines for engineering practice, as adapted for rural recreational projects.**

19.2.4. **The holder of a whole owner share block or the purchaser thereof shall be responsible for ensuring that the infrastructure is installed to the site at its cost**, but under the control and supervision of the company. The infrastructure on the land shall be of at least the standard required in terms of the said guidelines for engineering practice as adapted for rural recreational projects. If the company undertakes to install the infrastructure, the seller undertakes to lend the necessary monies to the Company, free of interest on account or security, to give effect to the foregoing. The company shall maintain and repair the infrastructure to the boundary of the site **once the infrastructure has been installed to the required standard.**

The costs thereof will form part of the levy fund. Notwithstanding the foregoing, neither of MSB, MTSSB or MODJADJI shall be liable for damages of whatsoever nature should the supply of water or electricity or sewerage or access to the site be interrupted or disconnected.

19.2.5. The holder of the whole owner share block can erect the site improvements only within the area of the site and on no other area whatsoever.

19.2.6. Access by motor vehicle to the site will be provided by the company, and no other access may be used or made by the holder.

19.2.7. The area of the site is indicated on the land with reference to a beacon consisting of a cemented pole, numbered with the relevant site number. The site area shall consist of a radius of 30 (thirty) metres of such beacon.

19.2.8. The site improvements shall only be erected after the holder has submitted to the directors, a plan of the site improvements in such form and with such information as the directors may reasonably require or as is required by Law from time to time. After such submission, and approval by such authority as may be required by Law, the directors shall finally approve or disapprove the site improvements. In the event of disapproval, the directors shall give the

holder written reasons therefor within 60 (sixty) days of receipt of such plan. If approved, the Directors shall notify the holder accordingly and the holder may commence with the erection of the site improvements, subject to such requirements of Law and the company requires as may be applicable. The directors shall be entitled to require that the siting and construction of the site improvements be supervised by an architect appointed by the company, at the holder's expense.

19.2.9. Without derogating from the Directors power to approve or disapprove the site improvements, and subject to the requirements of any authority, the site improvements shall comply with the following:-

19.2.9.1. The site improvements shall consist of 1 (one) building only unless otherwise approved by the Directors. No other buildings of a permanent or other nature shall be erected on the site. The total floor area of the building shall not exceed 250 (two hundred and fifty) square metres (save unless the directors, in regard to any particular application, permit a larger area).

19.2.9.2. The siting of the building shall be regulated to protect the amenities of any other site, or any infrastructure of the scheme which may be affected thereby.

19.2.9.3. No fencing or walling of the site, or the site improvements shall be permitted.

19.2.10. During the building of the site improvements and thereafter:

(a) sites must be kept clean at all times of any kind of rubbish including empty cement bags, empty paint tins, lunch wrappers, food tins and the like;

(b) on completion of the work, all builders' rubbish and surplus material must be removed immediately;

(c) under no circumstances, must builders' material be off loaded on the hardened surface of any access road but only on the site area;

(d) cement or concrete may not be mixed on any road but only within the area of the site; and

(e) builders or employees shall not be permitted to reside on the site during the construction of the improvements and any alterations or additions to the site.

19.2.11. A holder of a whole owner share block hereby waives his right of retention in respect of the site improvements against the company, hereby acknowledging that he is aware of the consequences of his waiver and understands the same.

19.2.12. It is recorded that:

19.2.12.1. a holder of a whole owner share block may not be an "owner-builder";

19.2.12.2. a holder of a whole owner share block may only appoint such builders as are approved from time to time by the directors; and

19.2.12.3. the intention of this clause is to ensure that buildings are erected with the minimum amount of noise and disturbance and the minimum number of employees of builders, on the land at any given time.

19.3. USE OF SITE IMPROVEMENTS

19.3.1. The site improvements shall be used for living purposes only and for no other purpose whatsoever without the prior consent of the Directors.

19.3.2. The interest shall be utilised personally by the holder.

19.3.3. Irrespective of the number of persons which constitute the holder, the holder may permit the interest to be utilised only by a maximum of three natural persons. Such persons shall be entitled to be accompanied by the maximum number of people permitted in terms of the Articles and clause 19.2 of this agreement. In this regard the holder shall annually in advance before

the 31st of December of each year, notify the Directors of the three persons who will so utilise the interest for the following year. In the event of failure to notify the Directors as such, no person whomsoever shall be entitled to utilise the interest until such notification is given.

- 19.4. **NUMBER OF OCCUPANTS WHO OCCUPY DWELLING SITE**
- 19.4.1. Subject to 19.2.8, a dwelling site shall provide sleeping accommodation for a maximum of 8 (eight) or such other maximum number as may have been or may be approved by the developer, persons (i.e. adults, children but excluding servants) at any time, not more than 8 (eight) or such other maximum number as may have been or may be approved by the developer, persons shall at any time and for any purposes be accommodated, whether temporarily or permanently, on the dwelling site.
- 19.4.2. With the consent of the directors, which shall be exercisable by the managing agent, more than 8 (eight) or such other maximum number as may have been or may be approved, persons may be accommodated on the dwelling site, provided that on admission to the Land, the holder pays such charge as is determined from time to time by the Directors, in terms of the "Current Charge List" published from time to time.
- 19.5. **HOLDERS' OBLIGATIONS IN RESPECT OF THE SITES & SITE IMPROVEMENTS**
- 19.5.1. Provided a holder complies with clause 19 a holder of a whole owner share block shall be entitled to make any alterations or additions or improvements of whatsoever nature to the site or site improvements.
- 19.5.2. The holder of a whole owner share block shall be obliged to keep the site in a clean, tidy and hygienic condition.
- 19.5.3. The holder of a whole owner share block shall utilise his interest, and all facilities on the land in such manner as will not cause damage, subject always to the management regulations in regard thereto.
- 19.5.4. If the holder of a whole owner share block damages any part of the land or site improvements whether accidentally, negligently or wilfully, the holder shall be liable for the cost of repairing or replacing the same. The costs of such repairs or replacements are part of that holder's levy.
- 19.5.5. If the managing agent is dis-satisfied with the condition of the site, it may call upon that holder of the whole owner share block forthwith to remedy such defective condition. Should the holder fail to remedy the defect, the company shall be entitled forthwith and without prejudice to any other right which it may have, to put the same in good order at the expense of the holder and to recover from the holder. Any expenditure incurred is to be regarded as if it were part of that holder's levy.
- 19.5.6. Any property or persons brought on to the site or land by the holder of a whole owner share block shall be at the sole risk of the holder who shall have no claim whatsoever against the MSB, MTSSB, MODJADJI and/or MWR or their directors, officers, employees or agents, or the owners of any of the property adjacent to the properties in respect of which the members have or may in the future have a right of way and traverse, or the owner/s of any game on the properties for any loss suffered by the holder in such a case, howsoever arising.
- 19.6. **MAINTENANCE OF SITES AND SITE IMPROVEMENTS**
- 19.6.1. The company shall maintain only the land, excluding the sites or site improvements, in a good condition and from time to time.
- 19.6.2. The holder of a whole owner share block shall maintain the site improvements including the interior thereof and movables situate therein, and the site at his own cost and expense and shall be obliged to insure the site improvements for the full replacement value thereof, and produce proof of such insurance from time to time to the company.
- 19.6.3. It is agreed that the holder of a whole owner share block acquires the interest on a voetstoets basis without any warranties expected or implied and in the condition in which the site and land presently stand.
- 19.6.4. The company will endeavour to procure that all reasonable steps are taken to remedy any defect for which it is responsible within a reasonable time.
- 19.6.5. The company or their duly authorised agent including the managing agent shall be permitted to enter the site or site improvements at all reasonable times in order to inspect the same, if the

holder of a whole owner share block is not personally present to open the site improvements and for any reason it is necessary, the company shall be entitled to enter the site improvements without being liable to any claim for any loss suffered by the holder of a whole owner share block as a result thereof.

19.6.6. The company is obliged to insure against damage caused by veld fire however the cause arises, which costs shall form part of the levy.

19.7. **DAMAGE**

19.7.1. It is recorded that the site improvements shall be insured by the holder of the whole owner share block relating to the site and site improvements.

19.7.2. In the event of damage to the site improvements, the holder of the whole owner share block relating to the site improvements, shall be obliged to repair the damage or rebuild the site improvements.

20. **TERMINATION - WHOLE-OWNERSHIP SCHEMES**

In the event that the whole owner breaches any provision of this agreement, the company shall be entitled to:

20.1. impose a fine on the holder of the whole owner share block in such amount as the directors may deem reasonable, but subject to the Articles; and/or

20.2. suspend the holder of the whole owner share block's right to utilise his whole-owner interest; or

20.3. cancel this agreement by giving the holder of the whole owner share block notice thereof, in which event the company shall be obliged to exercise its lien over the shares comprising the share block, so that the shares, the holder's *pro rata* share of the developers' loan account (if any) and the whole-owner interest (which are not divisible) are disposed of pursuant to the lien in terms of the Articles; provided that

20.3.1. In the event that the company suspends the whole owner's right to exercise his whole-ownership interest, the company may lease the whole-owner's interest upon such terms and conditions as it deems fit and to apply such income in payment of any indebtedness of the whole owner to the company;

20.3.2. a certificate by the company or its authorised agent shall be *prima facie* proof that the whole owner is in breach of his obligations in terms of this agreement and of any amount due by the whole owner to the company;

20.3.3. the company shall not be entitled to exercise its rights in terms of clause 20.3 unless and until it shall have given the whole owner 14 (fourteen) days notice to remedy the breach, provided that in the case of the positive malperformance, the company shall have the right in its discretion to waive such a breach by the holder of the whole owner share block; and

20.3.4. the fine referred to in clause 20.1 shall be deemed to be part of that whole owner's levy.

21. **CESSION OF RIGHTS**

21.1. The holder of the whole owner share block shall only be entitled to cede and assign his rights herein:-

21.1.1. to the transferee of the shares together with the holder's *pro rata* share of the developers loan account;

21.1.2. simultaneously and together with the transfer of the shares and the time-sharing interest;

21.1.3. simultaneously and together with the assignment to and acceptance of the agreement by the transferee to be bound by all the holder's obligations to the company in terms of this agreement and in terms of the Articles;

21.1.4. subject to the relevant provisions of the Articles and with the company's prior written consent.

21.2. Any such cession and assignment shall be in such form and upon such terms and conditions as the company may notify the holder.

22. **LEVY**

Subject to the Articles, the provisions of clauses 14.1, 14.2, 14.3, 14.4, 14.5, 14.6 and 14.7 shall apply *mutatis mutandis* to the whole of the whole owner share block.

PART E - THE LODGE RIGHTS**23. USE AGREEMENT IN RESPECT OF THE LODGE SHAREBLOCK**

- 23.1. The provisions of this agreement in so far as it relates to the property Time-Sharing Scheme, shall not apply to the Lodge Share Block.
- 23.2. The holder of the Lodge Share Blocks shall:
- 23.2.1. be entitled to the continuous use in perpetuity of the dwellings and lodge;
- 23.2.2. be entitled to use the land, dwellings and the Lodge for the purposes provided in the Articles; and
- 23.2.3. not be liable to contribute to the levy except to the extent set out in the Articles.

PART F - GENERAL**24. PROOF OF ARREARS**

A certificate by the Company or the managing agent or their agent shall be *prima facie* proof that a purchaser is in arrear with the payment of the levy or otherwise in breach of his obligations in terms of this agreement.

25. DOMICILIA

It is recorded that the company and the holder's *domicilia citandi et executandi* for all purposes of this agreement shall be at the holder's address as furnished to the company in terms of the Articles of Association of the company. In regard to the company, the company's registered address in terms of the Articles of Association of the company, shall serve the same purpose.

26. NOTICES

- 26.1. Any notices for all purposes of this agreement shall be:
- 26.1.1. In writing,
- 26.1.2. sent by registered post or delivered;
- 26.1.3. addressed to the respective party at his *domicilium citandi et executandi* referred to in 25; and
- 26.1.4. deemed to be received by the party to whom it is addressed at the time of delivery thereof, or on the 7th (seventh) day following the posting thereof, excluding the day on which it is posted, in the Republic, as the case may be.
- 26.2. The onus of proof in regard to the receipt of any notice given shall be on the recipient of the notice, provided the sender proves compliance with clause 26 above.

27. INSURANCE

The directors shall ensure that they comply with Section 19(1) of the Share Block Act. Until the first general meeting of the company, the directors shall ensure that the accommodation is insured against such damage as the Directors may reasonably require.

28. OWN RISK/INDEMNITIES

The holder of the time share interest and the whole owner share block acknowledges that he uses the accommodation and any of the facilities of Mabula, including the game viewing facilities at his own risk, and he shall have no claim of any nature whatsoever against either one or more of MSB, MTSSB, MODJADJI and/or MWR, or its officers, employees, agents, guests or invitees or the owners of any of the properties adjacent to the properties in respect of which the members have or may in the future have rights of way and traverse or the owner/s of any of the game as a result of any damage suffered, whether pecuniary or physical and the holder hereby indemnifies MSB, MTSSB, MODJADJI and/or MWR, or its officers, employees, agents, guests or invitees or the owners of any of the properties adjacent to the properties in respect of which the members have or may in the future have rights of way and traverse or the owner/s of any of the game as against any claim by the holder or any of the holder's family, guests or invitees to Mabula.

- 28.1. MSB, MTSSB, MODJADJI and/or MWR, or its officers, employees, agents, guests or invitees or the owners of any of the properties adjacent to the properties in respect of which the members have or may in the future have rights of way and traverse or the owner/s of any of the game shall not be responsible for and the holder of either the time sharing interest or the whole owner share block indemnifies the aforesaid parties against any loss, damage or injury which the said holder or any person utilising the time-sharing interest or the whole owner share block which the holder or such person may sustain in the accommodation or land or the properties by reason of any act whatsoever or neglect on the part of the aforesaid parties, nor shall the aforesaid parties be responsible

for, and the said holder indemnifies the aforesaid parties against any loss, damage or injury whatsoever which the holder or any such other person may sustain by reason of the accommodation or land at any time falling into a defective state or by reason of repairs, and/or maintenance work not been effected timeously or at all. The said holder shall not be entitled for any of the reasons aforesaid, or for any other reason whatsoever, to withhold any monies due to the company.

29. **CONSENTS**

Where any consent/approval is required for any act by a party such consent shall

29.1. be in writing and signed by the party or his authorised agent, whose consent/approval is required;

29.2. be given prior to the party taking such action; and

29.3. not be unreasonably withheld.

30. **SEVERALIBILITY**

In the event of any provision of this agreement being unenforceable for any reason whatsoever, then such provision shall be deemed to be separate and severable, without in any way affecting the validity or enforceability of the remaining provisions.

31. **DISPUTE**

The provisions of the Articles relating to the determination of any disputes shall apply *mutatis mutandis* to any dispute in respect of this agreement.

32. **LIEN**

It is recorded that the company has a lien over the holders shares in terms of the Articles.

33. **ACTS OF LESSEES ETC**

For all purposes of this agreement, any act or omission on the part of any occupant of the accommodation including a lessee, sub-lessee or occupant or user of the accommodation or invitee of the holder, shall be deemed to be the act or omission of the holder.

34. **STIPULATIO ALTERI**

If any provision of this agreement is in favour of a third party, the provisions thereof shall constitute a *stipulatio alteri* in favour of such third party and may be accepted by the third party at any time during the currency of the agreement.

35. **AMENDMENT OF USE AGREEMENT**

The company may, by special resolution, amend, alter, add to or repeal this Use Agreement.

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ANNEXURE A1

ANNEXURE A1

SCHEDULE OF SHARE BLOCKS IN MSB RELATING TO THE TIME SHARE
SCHEME AND WHOLE OWNER SCHEME IN THAT COMPANY

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ANNEXURE A2

ANNEXURE A2

SCHEDULE OF SHARE BLOCKS IN MTSSB RELATING TO THE TIME SHARE
SCHEME IN THAT COMPANY

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ANNEXURE A3

SCHEDULE OF SHARE BLOCKS IN MODJADJI RELATING TO THE TIME SHARE
SCHEME AND WHOLE OWNER SCHEME IN THAT COMPANY

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ANNEXURE B1

MABULA LODGE SHARE BLOCK LIMITED

LIST OF MOVABLES

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ANNEXURE B2

MABULA TIME-SHARING SHARE BLOCK LIMITED

LIST OF MOVABLES

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ANNEXURE B3

MABULA'S MODJADJI CAMP SHARE BLOCK LIMITED

LIST OF MOVABLES

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ANNEXURE C

ARCHITECT'S CERTIFICATE IN TERMS OF SECTION 7(1)

OF THE TIME-SHARING ACT

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ANNEXURE D

PLANS OF CERTAIN OF THE ACCOMMODATION

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ANNEXURE E1

SKETCH PLAN OF THE LAY OUT OF THE ACCOMMODATION SITES OF MABULA SHARE BLOCK LIMITED

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ANNEXURE E2

MTSSB

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ANNEXURE E3

MODJADJI

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ANNEXURE F

FINANCIAL STATEMENTS OF MABULA SHARE BLOCK LIMITED, MABULA TIME-SHARING SHARE BLOCK LIMITED
AND MABULA'S MODJADJI CAMP SHARE BLOCK LIMITED

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