

FIVE ASSEGAIS

C O U N T R Y E S T A T E

APPENDIX CS 1

CONDITIONS OF USE

1 INTERPRETATION

- 1.1 In this agreement, unless inconsistent with or otherwise indicated by the context -
- 1.1.1 "the Act" means the Share Blocks Control Act, 59 of 1980, as amended, including all regulations thereunder;
- 1.1.2 "the/this agreement" and "conditions of use" mean this document, entitled "conditions of use", and the appendices hereto;
- 1.1.3 "the architect" means Fred de Kock & Partners Inc., architects of Stellenbosch or such other architect as may from time to time be appointed by the developer;
- 1.1.4 "the articles" means the articles of association of the share block company;
- 1.1.5 "A share" means an "A" redeemable preference share in the capital of the country club company;
- 1.1.6 "calendar year" means a period of 12 months commencing on 1 January and terminating on 31 December;
- 1.1.7 "B share" means a "B" redeemable preference share in the capital of the country club company;
- 1.1.8 "the commencement date" means the date which the architect certifies as the date on which the development is sufficiently progressed to allow holders occupation of the residential sites for the purpose of erecting dwellings;
- 1.1.9 "the common property" means the whole of the property excluding the residential portion, the country club portion and the hotel portion;
- 1.1.10 "corporate holder" means any holder who is not a private holder and includes, but is not limited to, companies, close corporations, trusts, partnerships, syndicates and the like;
- 1.1.11 "the country club" means Leopard Creek Country Club, a duly constituted club;
- 1.1.12 "the country club company" means FIVE ASSEGAIS COUNTRY ESTATE, a company registered in the Republic of South Africa, the holder of the country club share block;
- 1.1.13 "the country club constitution" means the constitution of the country club, a copy of which is attached hereto as Appendix CSL1;
- 1.1.14 "the country estate plan" means the plan of the country club attached hereto as Appendix CS1.2, as may be amended in terms hereof;
- 1.1.15 "the country estate portion" means that portion of the property on which the golf course, the club house, the sports facilities, the maintenance facilities, the gate and the golf course staff quarters are to be established, as indicated by shading on the country club plan;
- 1.1.16 "the developer" means Five Assegais country estate, a company registered in the Republic of South Africa, also defined as "the seller";
- 1.1.17 "the development" means the whole of the improvement of the property by the share block company contemplated in this agreement, as indicated on the layout plan;
- 1.1.18 "the directors" means the directors of the share block company from time to time;
- 1.1.19 "dwelling" means a dwelling constructed on a residential site in accordance with the conditions of use;
- 1.1.20 "the finance charge rate" means the Published prime overdraft rate of ABSA Bank Limited in Johannesburg from time to time;
- 1.1.22 "guest" in relation to a holder or nominated occupant means any person entering upon the property at the invitation of the holder or nominated occupant and includes, but is not limited to
- 1.1.22.1 family, friends, invitees, employees, agents and the like of the holder; and
- 1.1.22.2 nominated occupants of the holder including family, friends, invitees, employees, agents and the like of the nominated occupants;
- 1.1.23 "holder" means the registered holder(s) of a residential share block and includes both corporate holders and private holders and his/their successor(s) in title;
- 1.1.24 "the hotel portion" means that portion of the property on which the Brides Leap hotel and the hotel staff quarters are situated, as indicated on the layout plan;
- 1.1.25 "the layout plan" means the surveyor's layout plan of the development, as amplified by the residential site descriptions, the originals of which are filed in the protocol of notary public, Jan Willem Dreyer, under number 141/1993, a reduced copy of the plan being attached hereto as Appendix CS1.3;
- 1.1.26 "the levy" means the Manual levy payable by each holder to the share block company as calculated in terms of these conditions of use;
- 1.1.27 "linked claim" means a proportionate share of the seller's total claims against the share block company, allocated to each of the share blocks in the amounts indicated in Appendix CS1.4;
- 1.1.28 "the management agreement" means the agreement for the time being between the share block company and the manager (if any) relating to the management and control of the development or any part thereof;
- 1.1.29 "management regulations" means regulations made by the share block company or the manager or both of them in accordance with 7.4;
- 1.1.30 "the manager" means the person (if any) appointed by the share block company from time to time to manage and control the development or any part thereof;
- 1.1.31 "nominated occupant" in relation to a holder means a person nominated by the holder in terms of 4;
- 1.1.32 "the occupation date" means the date which the architect certifies as the date on which the development is sufficiently progressed to allow holders the beneficial use and enjoyment thereof;
- 1.1.33 "the offer to purchase" means the document entitled "offer to purchase" to which this agreement is attached;
- 1.1.34 "the parties" means the holder, the developer and the share block company;
- 1.1.35 "private holder" means any holder who is a natural person;

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- 1.1.36 "the property" means portion 1&2 of the farm BERMONDSEY 391 JT, AND PORTION 9 OF THE FARM BOSCHHOEK Registration Division JU, Transvaal, measuring approximately 894.3 hectares,
- 1.1.37 "the residential portion" means the aggregate of the residential sites;
- 1.1.38 "residential share block" means a number of shares in the share block company (each residential share block being constituted by the shares in the share block company set out in Appendix CS1.4) which entitles the registered holder of those shares to exercise the rights of use in respect of the residential site bearing the same number as the registration number of the share block, including such rights of use;
- 1.1.39 "residential site" means a residential site described and indicated as such on the layout plan and in the residential site descriptions;
- 1.1.40 "the residential site descriptions" means the book containing detailed descriptions of each of the residential sites, a copy of which may be obtained from the share block company;
- 1.1.41 "rights of use" means the rights described in 3;
- 1.1.42 "the seller" means FIVE ASSEGASI COUNTRY ESTATE a company registered in the Republic of South Africa, also defined as "the developer";
- 1.1.43 "the service areas" means those portions of the property (other than the residential portion) which are from time to time designated by the share block company as areas required for administration and for accommodation of employees of the share block company or the manager;
- 1.1.44 "the share block company" means FIVE ASSEGAIS Share Block Limited, a share block company registered as such in the Republic of South Africa;
- 1.1.45 any reference to the singular includes the plural and vice versa;
- 1.1.46 any reference to natural persons includes legal persons and vice versa;
- 1.1.47 any reference to a gender includes the other genders.
- 1.2 Where appropriate, meanings ascribed to defined words and expressions in 1.1 above, shall impose substantive obligations on the parties.
- 1.3 The clause headings in this agreement have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.4 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.5 This agreement shall be governed by and construed and interpreted in accordance with the law of the Republic of South Africa.

2 CLASSES OF SHARE BLOCKS

- 2.1 It is recorded that there are three classes of share blocks in the share block company.
- 2.2 The 251 residential share blocks entitle the holders thereof to exercise the rights of use.
- 2.3 The country club share block (of which there is only one) entitles the holder thereof to the exclusive use of the country club portion subject to the terms and conditions contained in the country club use agreement referred to in 2.5.
- 2.4 The hotel share block (of which there is only one) entitles the holder thereof to the exclusive use of the hotel portion subject to the terms and conditions contained in the hotel use agreement referred to in 2.5.
- 2.5 The rights of use of the holders of the Country club and hotel share blocks are not governed by these conditions of use but are governed by two separate use agreements, the country club use agreement and the hotel use agreement, copies of which are available for inspection at the office of the Registrar of Companies. The rights of use of the holders of those two classes of share blocks are restricted to the country club portion and the hotel portion respectively and the holders of those share blocks have limited rights of use of the common property.

3 RIGHTS OF USE

3.1 Every holder shall be entitled to

3.1.1 the exclusive use, Occupation and enjoyment of the residential site linked in terms of the articles to the residential share block of which he is the registered holder; and

3.1.2 the shared use of the common property in common with all the other holders,

subject to the articles, these conditions of use and the conditions imposed in terms of the authority granted by the Director of Local Government in terms of the Public Resorts Ordinance (Transvaal) until liquidation of the share block company or cancellation of all the share blocks.

3.2 A holder's rights of use shall be exercised -

3.2.1 in the case of a corporate holder, by that holder's nominated occupants (subject to a maximum of four nominated occupants); and

3.2.2 in the case of a private holder by that holder personally and in addition by that holder's nominated occupants (subject to a maximum of three nominated occupant),

and shall not be ceded, transferred or made over to any third party other than in accordance with these conditions of use.

3.3 The rights of a holder described in these conditions of use shall endure for as long as he continues to be the beneficial owner of a residential share block and remains in compliance with these conditions of use.

3.4 These conditions of use shall be enforceable by the share block company against each holder and each nominated occupant and by each holder and each nominated occupant against the share block company.

3.5 Every private holder and every nominated Occupant shall at all times on the property bear on his person and display to the manager on request the current membership card issued to that private holder or nominated occupant, as the case may be, identifying him as such.

3.6 All rights of use granted in terms of these conditions of use are granted subject to the provisions of the conditions of use, the articles, the management agreement, the management regulations, the country club constitution and the rules of the country Club applying from time to time, copies of which may be obtained from the share block company against payment of the cost of preparing the copies.

3.7 The share block company shall be entitled to require any person to sign, before entering upon the property, a written waiver of all claims against the share block company, the country club, the country club company, Ingwenya Group Properties (Proprietary) Limited ("the hotel company"), the seller, the manager and their employees arising from any loss, damage or injury which such

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person may sustain on or about the property from any cause whatsoever and whether or not such loss or damage is occasioned by any act or omission of the share block company, the country Club, the country Club company, the hotel company, the seller, the manager or any of their employees, failing which the share block company shall be entitled to deny such person access to the property.

3.8 The holder indemnifies the share block company, the country club,

the country club company, the hotel company, the seller and the manager against all claims arising from any loss, damage or injury which the holder, his nominated occupants or guests may sustain on or about the property from any cause whatsoever and whether or not such loss or damage is occasioned by any act or omission of the share block company, the country club, the country club company, the manager, the seller or any of their employees.

3.9 Each holder and each nominated occupant shall be entitled to have guests on their residential site and on the common property but the share block company shall be entitled to establish limits on the number of guests that any holder may invite at any one time provided that in any event the number of guests staying overnight may not exceed ten.

3.10 No holder shall without the prior written approval of the share block company erect or construct or permit the erection or construction on the property of any structure of any type whatsoever (whether of a permanent or temporary nature) other than a dwelling.

3.11 No holder shall be entitled to operate a property time sharing scheme as defined in the Property Time Sharing Control Act, 1983, or any other similar scheme in respect of his residential site.

3.12 Should any holder cause any damage to the common property or any improvements erected on the common property whether accidentally, negligently or wilfully, the holder shall be liable for the cost of repairing or replacing what has been damaged.

3.13 No holder of a residential share block shall have access

3.13.1 to the service areas without the consent of the manager,

3.13.2 to the country club portion otherwise than as a member or guest of a member of the country club;

3.13.3 to the hotel portion otherwise than as a guest of the Malelane Sun Hotel or its successor-in-title.

3.14 No holder shall without the prior written approval of the manager place, store, keep or permit to be placed, stored or kept, upon any portion of the property otherwise than in a dwelling or out-buildings, any personal property regarded as unsightly by the manager.

3.15 Until such time as the developer has sold all the residential share blocks, the developer, its authorised contractors, representatives, agents and employees shall be entitled to maintain on the property a sales office, a business office and promotional facilities as well as any such other facilities as the developer may regard as reasonably required, convenient or incidental to the sale of the remaining residential share blocks.

3.16 The share block company, its authorised contractors, representatives, agents and employees shall have the right to traverse the whole of the property for the purpose of the construction of all the improvements included in the development as contemplated in the layout plan and the country club plan.

4.1.2 every private holder shall notify the share block company in writing of the full names, addresses and occupations of not more than three natural persons,

who shall be entitled to use and enjoy, as nominated occupants of the corporate holder or private holder, as the case may be, the rights referred to in 3.1 during the immediately succeeding calendar year.

4.2 Should the share block company not receive a notification of any change in nominated occupants from a holder, it shall be deemed for the following year that the nominated Occupants of that holder remain the same.

4.3 No holder shall without the prior written consent of the share block company be entitled to change his nominated occupants or any of them otherwise than as contemplated in this clause.

4.4 The nominated occupants nominated in the offer to purchase shall be the first nominated occupants of the holder contemplated in this sub-clause.

5 THE COUNTRY ESTATE

The parties record that in terms of the constitution of the country club, membership of the country club is limited to persons

5.1 who are holders of "A" or "B" shares in the country club company and

5.2 who are private holders or nominated occupants of private holders or corporate holders who have been invited to membership of the country club by the committee of the country club.

6 DWELLINGS

6.1 Every holder shall be entitled to construct a dwelling on the residential site linked to the residential share block held by the holder, provided that

6.1.1 the plans and specifications of the dwelling shall conform to one of the designs prescribed by the developer and shall not depart from such design without the written approval of the architect;

6.1.2 the plans and specifications of the dwelling are approved in writing in advance by the architect;

6.1.3 the dwelling shall be constructed in a good, proper and workmanlike manner and in accordance with all statutory requirements and the conditions of title of the property and all other conditions attaching to any consents or other authority obtained in connection with the development;

6.1.4 no dwelling shall provide sleeping accommodation for more than ten persons including adults, children and servants;

6.1.5 the design and construction of the dwelling shall be harmonious with the remainder of the development;

6.1.6 construction of a dwelling shall not commence prior to the commencement date;

6.1.7 no exterior alterations, including the application of paint to the exterior, shall be made to the dwelling without the prior written consent of the share block company.

6.2 In constructing a dwelling the holder shall use his best endeavours Ours to minimise inconvenience to other holders and their guests.

6.3.1 The area, boundaries and building lines of each residential site are indicated on the layout plan as read with the residential site descriptions.

6.3.2 The siting of any buildings or similar structures to be erected on a residential site shall be done with reference to the beacon on the residential site reflecting the residential site number and shall be subject to the prior written approval of the architect.

4 NOMINATED OCCUPANTS

4.1 By no later than 30 November of each calendar year -

4.1.1 every corporate holder shall notify the share block company in writing of the full names, addresses and occupations of not more than four natural persons;

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- 6.3.3 The holder may not erect any buildings or similar structures otherwise than within the building lines and boundaries of his residential site.
- 6.3.4 During construction on a residential site and thereafter
- 6.3.4.1 the residential site shall be kept clean at all times of any rubbish or building rubble;
- 6.3.4.2 building material may only be off-loaded on the residential site and not on the surface of any access road;
- 6.3.4.3 cement or concrete may only be mixed on the residential site and not on the surface of any access road.
- 6.4 Any holder shall be entitled to make alterations or additions or improvements to the dwelling constructed on his residential site provided that the provisions of this clause shall apply mutatis mutandis to the making of any such alterations, additions or improvements as if it were the construction of a new dwelling.
- 6.5 No holder may
- 6.5.1 use any other access to his residential site other than the access roads provided by the share block company;
- 6.5.2 fence or wall his residential site or the improvements on his residential site.
- 6.6 Every holder acknowledges that his guests and he may be inconvenienced by construction activities on or about the property. No holder shall have any claim against the share block company, the developer or any other holder as a result thereof.
- 6.7.1 In order to preserve the natural atmosphere and environment of the development and to limit nuisance and inconvenience to the members, the construction of dwellings on residential sites may, subject to 6.7.2, be limited by the developer to successive periods of two calendar years during which such building operations shall be permitted, interspersed with successive periods of three calendar years during which no such building operations shall be permitted.
- 6.7.2 The first period of three calendar years during which no building operations shall be permitted, if the developer so determines, shall commence immediately after the termination of the third completed calendar year following the commencement date or on such later date as the developer in its discretion may determine.
- 6.7.3 The provisions of this sub-clause shall not be construed as prohibiting normal or necessary maintenance or repairs or minor construction work being carried out. For purposes of this sub-clause minor construction work shall mean construction work, the total cost of which does not exceed 5% of the price of the residential share block and the total time for completion of which does not exceed one month. No minor construction work shall be carried out during the period from the beginning of April until the end of August or from the beginning of December until the end of January of any year during any period when no building operations are permitted.
- 6.8 The dwelling to be constructed by a holder on a residential site shall be used solely for residential purposes and for no other purposes whatever.
- 6.9 Subject to 16.2.2, no dwelling shall be let.
- 6.10 The manager shall be entitled to enter upon and within any dwelling, at any reasonable time, whether or not in the presence of a holder, for the purpose of -
- 6.10.1 making emergency repairs therein;
- 6.10.2 abating any nuisance or any dangerous, unauthorised, prohibited or unlawful activity being conducted or maintained in such dwelling;
- 6.10.3 protecting property rights and the welfare of the other holders and nominated occupants, or
- 6.10.4 performing any other function reasonably related to the performance by the share block company of its responsibilities in terms of the conditions of use, provided that such right of entry shall be exercised in such manner as to avoid any unreasonable or unnecessary interference with the possession, use and enjoyment by the occupant of such dwelling and shall be preceded by reasonable notice to the occupant thereof whenever the circumstances permit.
- 6.11 The conditions of this agreement relating to the use of a dwelling shall apply to every holder, his nominated occupants and their guests. No guest may use, occupy or enjoy a residential site in the absence of the holder or his nominated occupant, without the prior written approval of the share block company.
- 6.12 The share block company shall procure that the architect shall at the appropriate time certify the commencement date and the Occupation date to the holders by written notice.

7 MANAGEMENT

- 7.1 The management, control and administration of the development (including but not limited to servicing and maintenance of common property) shall be under the direction and control of the share block company provided that the share block company shall be entitled (but not obliged) to engage and pay for a manager to undertake such management, control and administration in terms of a management agreement.
- 7.2 The share block company shall make available electricity and water for household purposes to the residential site at the cost of the holder.
- 7.3 The share block company and/or manager, as the case may be, shall -
- 7.3.1 carry out all obligations undertaken by the share block company from time to time in terms of this agreement relating to the management, control and administration of the development;
- 7.3.2 be entitled to enforce the management regulations;
- 7.3.3 be entitled to engage and dismiss staff;
- 7.3.4 collect and deal with all monies owing from time to time by the holders to the share block company pursuant to the requirements of the Act;
- 7.3.5 control the general use of the residential sites by holders, nominated occupants and guests for the mutual comfort of all holders, nominated occupants and guests;
- 7.3.6 control the general conduct of all people making use of the common property and the facilities erected on the common property;
- 7.3.7 install, maintain and enforce such security measures on or about the development as the share block company may deem appropriate;
- 7.3.8 generally take such measures as may be necessary to ensure the harmonious and secure use and enjoyment of the development by all holders, nominated occupants and their guests.
- 7.4.1 The share block company and/or the manager, as the case may be, shall be entitled to make management regulations from time to time regulating the use, enjoyment, maintenance and control of the development including regulations relating to the care and upkeep of residential sites and dwellings; the use of sound equipment, television sets and aerials, air conditioning machines and other electrical appliances; the erection of blinds and awnings; the use of fireplaces and recreational facilities;

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the allocation and use of parking facilities; the regulating of parking and general movement of traffic; and generally all such other matters as the share block company and/or the manager may deem fit for the general management and control of the development and for the general convenience, comfort and well-being and the protection from hazards of all users of the development.

- 7.4.2 The share block company and/or the manager, as the case may be, shall be entitled from time to time to vary or amend any management regulations so made.
- 7.4.3 The management regulations shall apply equally to all holders, nominated occupants and guests.
- 7.5 The holders shall observe and comply with and procure that their nominated occupants and guests observe and comply with the lawful directives of the manager and a failure to observe such directives shall constitute a breach of the provisions of this agreement by the holder.
- 7.6 The share block company shall not be liable for -
- 7.6.1 anything done or omitted to be done by the manager from time to time;
- 7.6.2 any breach of the management agreement by the manager or any of its employees;
- 7.6.3 any interruption or failure of electrical or water services or any other service that may be supplied to the property regardless of the cause thereof and whether or not such interruption or failure is occasioned by any act or omission by the share block company or the manager or any of their respective employees.
- 7.7 Should there be any conflict between the management regulations and these conditions of use, these conditions shall prevail.
- 8.1 The share block company shall be responsible for the maintenance of the common property in a good, clean and secure order and condition and shall, as and when necessary, renovate or renew any improvements on the common property.
- 8.2 The holder shall be responsible for the maintenance of the interior and the exterior of the dwelling erected on the residential site and the garden around the dwelling and the holder shall in addition, prior to the erection of a dwelling, maintain the residential site in a tidy state.
- 8.3 The share block company shall make available services for maintaining the exterior of dwellings, gardens around dwellings and undeveloped residential sites, which services shall be made available to holders and nominated occupants at rates determined by the share block company from time to time.
- 8.4 Should a holder fail to maintain the exterior of his dwelling, his garden or his undeveloped residential site in a proper state, the share block company shall be entitled but not obliged to do the necessary maintenance work and to recover the cost of doing so from the holder. No holder shall on any account have any claim against the share block company or the manager on account of its failure to perform such maintenance work.
- 8.5 Notwithstanding the foregoing no holder, nominated occupant or guest shall have any claim against the share block company in respect of any defects now existing or coming into existence in any buildings, structures or improvements forming part of the development.

Until the date of the first annual general meeting of the share block company, the share block company shall be entitled to insure the improvements on the common property for an amount and against the risks determined by the share block company in its discretion.

- 9.2 Dwellings constructed by a holder shall be insured by such holder for such amount and with such insurance company and against such risks as the holder may consider appropriate, it being expressly provided that the share block company shall have no responsibility with regard thereto.
- 9.3 Any property brought onto the property by the holder or his nominated occupants or by guests shall be at the sole risk of the holder or his nominated occupants or guests and none of them shall have any claim whatsoever against the share block company in respect of any loss or damage to such property howsoever arising.
- 9.4 The holder, his nominated occupants and their guests shall use the residential site, the common property and the facilities erected on the common property entirely at their own risk.

10 LEVIES AND CHARGES

- 10.1 The holder shall be responsible for and shall pay for all electricity and water consumed at his residential site to the extent that same may be separately metered. The holder shall pay to the share block company or the relevant authority, as the case may be, such deposits as may be applicable.
- 10.2 The directors shall establish and maintain a levy fund, sufficient, in the sole opinion of the directors, for the repair, upkeep, control, management and administration of the share block company and of the common property, for the payment of local authority charges levied in respect of the residential portion and the common property; for any charges for the supply of electric current, gas, water, fuel and sanitary and any other services to the residential portion and the common property; for the covering of any losses suffered by the share block company; for the payment of any premiums of insurance of the share block company's assets; for the discharge of any other obligation of the share block company and generally for such matters as may be provided by the Act.
- 10.3 For the purposes of 10.2, the directors shall estimate the total amount which shall be required by the share block company to meet the expenses described in 10.2 incurred during each calendar year or any portion thereof, together with the estimated deficiency, if any, which resulted from the preceding year or portion thereof and the share block company shall levy contributions upon the holders in respect of each of the residential sites, calculated by dividing the total amount by 201 or by the total number of residential share blocks sold and delivered by the seller as at the time of doing the calculation, whichever is greater.
- 10.4 The share block company shall furnish each holder with a certificate recording the holder's share of the amount estimated in terms of 10.3.
- 10.5 If the estimate of the total costs in any year proves to be inadequate every holder's proportionate share of the shortfall shall be calculated by the share block company mutatis mutandis in accordance with the provisions of 10.3 and the share block company shall furnish each holder with a certificate recording the holder's share of the shortfall.
- 10.6 Every holder shall within 30 (thirty) days of receipt of the certificate referred to in 10.4 or 10.5 pay his estimated share of such costs to the share block company.
- 10.7 If any holder has paid more than his share of the total costs as finally determined, the excess shall not be refunded to that holder but shall be retained and applied to the discharge of that holder's future liability in terms hereof unless the holder elects to have the amount concerned refunded to him.

9 INSURANCE AND RISK

- 9.1 The share block company shall insure and keep insured the improvements on the common property from time to time for such value and against such risks as the holders may determine by resolutions passed at general meetings of the share block company.

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- 10.8 In addition it levies payable in terms of this clause, every holder shall pay to the share block company its charges for any services performed by the share block company on his behalf.
- 10.9 No levies contemplated in this clause shall be payable in respect of the country Club portion and the hotel portion and no amount shall be paid from the levy fund referred to in 10.2 in respect of the country club portion or the hotel portion.
- 10.10 Notwithstanding anything to the contrary contained in this clause, the share block company may from time to time make special levies upon the holders -
- 10.10.1 in respect of all such costs and expenses as are not described in 10.2;
- 10.10.2 to supplement the share block company's capital account for purposes of making capital improvements or alterations, at such times as the share block company may deem fit and such Levies^{shaft} not necessarily be levied strictly in the ratio and proportion contemplated in 10.3 should it be necessary to make provision for particular requirements attaching to certain specific residential sites.

11 HOLDERS

- 11.1 The holder, his nominated occupants and their guests shall -
- 11.1.1 not cause any nuisance of any nature whatsoever to other holders, ^{nominated} occupants or guests and what constitutes a nuisance shall be determined by the manager in his sole discretion;
- 11.1.2 not do or omit to do anything which contravenes any licence, authority, consent or permit held by the share block company necessary for the establishment, use and enjoyment of the development;
- 11.1.3 conserve all fauna and flora on or about the property;
- 11.1.4 not plant anything on the property which has not been approved in advance by the share block company or the manager;
- 11.1.5 not hunt or discharge fire-arms on the property nor bring any fire-arms on the property without the prior written consent of the share block company;
- 11.1.6 not bring any motorised generators or power plants or any Other similar noise making object or apparatus onto the property without the prior written consent of the share block company;
- 11.1.7 not use or cause to be used any motor cycles with a capacity of less than 1 500 cc on the common property;
- 11.1.8 not bring any pets onto the property;
- 11.1.9 not collect fire wood on the property nor make fires in any areas which are not demarcated for the making of fires;
- 11.1.10 comply with all reasonable directives of the share block company and of the manager.
- 11.2 Any residential share block held by a corporate holder who is not a legal person shall be registered in the name of the corporate holder as a single holder and as if it were a legal person and such corporate holder shall in all respects be represented as against the share block company by such one of the nominated occupants of the corporate holder as the share block company nominates.

12 RESALE

- 12.1.1 Any resale of a residential share block shall take the form of a sale and transfer of the shares constituting the share block, a cession of the linked claim and a simultaneous cession and delegation of the selling holder's rights and obligations in terms of the conditions of use.

- 12.1.2 A holder shall, if he wishes to transfer his residential share block and linked claim, furnish the share block company with proof to its satisfaction that the holder has ceded his rights and delegated his Obligations in terms of these conditions of use to the proposed transferee, and that the proposed transferee has accepted such cession and delegation.
- 12.1.3 The cessions and the delegation shall be in writing and in a form approved by the share block company.
- 12.1.4 The developer hereby agrees to the cession and delegation and the share block company hereby agrees not to withhold its consent to the cession and delegation Unreasonably.
- 12.1.5 No holder shall be entitled to cede his rights or delegate his obligations in terms of these conditions of use otherwise than pursuant to a resale as contemplated in this sub-clause. Should any amount be owing by the holder under the agreement in terms of which he acquired the residential share block and the linked claim, the holder shall prior to such cession and delegation obtain the written consent of the person from whom he acquired the residential share block and the linked claim.
- 12.2.1 Every resale of a residential share block or an undivided share of a residential share block shall be effected only through the agency of the country club or any person or body nominated in writing by the country club.
- 12.2.2 The selling holder shall be responsible for and shall pay agent's commission on such resale at the then current rate charged by the country Club which shall not exceed the rate determined by the Institute of Estate Agent, (Northern Transvaal Branch) from time to time.
- 12.2.3 Should a holder sell a residential share block through the agency of any other person, such holder shall be obliged to pay to the country club an amount equal to the agent's commission which the country club would have earned on the sale had the sale been done through its agency.

13 AMENDMENT

- 13.1 These conditions of use may be amended, repealed or added to by special resolution of the share block company.
- 13.2 The share block company shall have the right at its discretion to make minor variations to the layout plan and the country-club plan including the design and layout of any building or Structure to be erected on the common property provided that the location and extent of residential sites shall not be altered without the prior written consent of the relevant holders.

14 SERVITUDE

- 14.1 It is recorded that for purposes of the development, stormwater drains, water supply pipelines and canals, sewerage pipes and other similar structures are required to be installed. It is further recorded that a water canal for the supply of water to neighbouring properties traverses the property.
- 14.2 The holders agree that the developer and the share block company shall have access to and be entitled to lay pipes under and construct canals over the common property and the residential sites provided that no such pipes or canals shall be within the building lines of the residential sites.
- 14.3 The holders agree that the share block company shall be entitled to register servitudes over the common property and the residential sites if deemed necessary in respect of the pipes, canals and other structures referred to in 14.1.

14.4 The holder hereby grants the share block company power of attorney to register any such servitude in accordance with the provisions set out in this clause.

15 GOLF COURSE AND HOTEL

15.1 The maintenance of the golf course and the other improvements on the country club portion shall be the sole and exclusive responsibility of the country club company.

15.2 The maintenance of the hotel portion shall be the sole and exclusive responsibility of the holder of the share block relating to the hotel portion.

15.3 Holders, nominated occupants and guests shall be entitled to -
 1 the use of the golf course and the clubhouse only in accordance with the constitution and rules of the country club and upon payment of the requisite charges; and

15.12 the use of the hotel portion only as guests of the Malelane Sun Hotel and upon payment of the requisite charges.

16 BREACH

16.1 If a holder, his nominated occupant or their guest -

16.1.1 commits a breach of any of the provisions of the conditions of use or the articles or the management regulations or any or all of them and fails to remedy such breach within 7 (seven) days of delivery of written notice to the relevant holder requiring such breach to be remedied; or

16.1.2 commits a breach of the same or similar provision of the conditions of use or the articles or the management regulations or any or all of them on two or more occasions during any 12 (twelve) month period after having been warned in writing by the share block company or the manager to desist therefrom,

then and without prejudice to any other rights which the share block company may have in terms hereof or at law, the share block company shall be entitled to implement the provisions of 16.2 as against the relevant holder on giving written notice to the relevant holder and to recover from the holder concerned all amounts which that holder may then owe to the share block company, together with interest thereon calculated at a rate 2% in excess of the finance charge rate from the due date thereof until the date of payment.

16.2 Should the share block company be entitled to act in terms of this sub-clause 16.2 by virtue of the provisions of 16.1, it shall be entitled -

16.2.1 to obtain possession of the residential site of the holder concerned and for that purpose to take whatever action may be necessary for the immediate eviction of the holder and any other occupier from the residential site concerned, without prejudice to the share block company's right to recover whatever money may be owed to it and such damage as the share block company may sustain by reason of the breach or default, including all legal expenses; and

16.2.2 as agent for and on behalf of the holder concerned to let the residential site and any improvements on it at a rental determined by the share block company on behalf of the holder and to collect all consideration and money payable by the tenant in respect of his use thereof and to deduct therefrom any money whatsoever owed by the holder to the share block company before paying the balance to the holder concerned; and

16.2.3 without prejudice and in addition to any other rights which the share block company may have, as agent for and on behalf of the holder concerned (for which purpose the holder hereby appoints the share block

company as its attorney and agent, with power of substitution), to sell the residential share block and the linked claim at a price determined by the share block company on behalf of the holder and to apply the proceeds received by the share block company from the sale in reduction of any indebtedness of the holder to the share block company whilst any surplus shall be paid over to the holder who shall nevertheless remain responsible to the share block company for any deficiency.

16.3 For all purposes of these conditions of use any act or omission on the part of the nominated occupant of a holder or his guest, shall be deemed to be the act or omission of the holder concerned. Any notice given to a guest or nominated occupant of a holder by the share block company shall be deemed to be notice also to the holder concerned.

16.4 In pursuance of the share block company's rights in terms of the foregoing provisions, the share block company shall be entitled to give transfer of ownership of the residential share block and the linked claim and cede and delegate the holder's rights and obligations in terms of the conditions of use to the purchaser for and on behalf of the holder concerned, who shall on demand deliver his share certificates to the share block company and in the event of a failure so to deliver, the share block company shall be entitled to make the necessary entries of transfer in its register of holders without the share certificates being delivered to it and upon such entries being made, the defaulting holder shall cease to be a holder and cease to have any further rights hereunder and his share certificates shall be deemed to be cancelled and the purchaser shall be deemed to have good title.

16.5 For purposes of giving effect to any of the provisions contained in this clause the holder hereby authorises the share block company to sign all documents and do all things necessary on behalf of the holder.

17 ARBITRATION

17.1 Should any dispute arise between the parties in connection with -

17.1.1 the formation or existence of;

17.1.2 the implementation of;

17.1.3 the interpretation or application of the provisions of;

17.1.4 the parties' respective rights and obligations in terms of or arising out of, or the breach or termination of;

17.1.5 the validity, enforceability, rectification, termination or cancellation, whether in whole or in part of;

17.1.6 any documents furnished by the parties pursuant to the provisions of,

this agreement or which relates in any way to any matter affecting the interests of the parties in terms of this agreement, that dispute shall, unless resolved amongst the parties to the dispute, be referred to and be determined by arbitration in terms of this clause.

17.2 Any party to this agreement may demand that a dispute be determined in terms of this clause by written notice given to the other parties.

17.3 This clause shall not preclude any party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.

17.4 The arbitration shall be held 17.4.1 at Johannesburg;

17.4.2 with only the legal and other representatives the parties to the dispute present thereat;

17.4.3 mutatis mutandis in accordance with the provisions (it the Supreme Court Act, 59 of 1959, the rules made in terms of that act and the practice of the division of the Supreme Court referred to in 17.9;

17.4.4 otherwise in terms of the Arbitration Act, 42 of 1965, it being the intention that the arbitration shall be held and completed as soon as possible.

17.5 The arbitrator shall be, if the matter in dispute is principally -

17.5.1 a legal matter, a practising advocate or attorney of Johannesburg of at least 15 (fifteen) years' standing;

17.5.2 an accounting matter, a practising chartered accountant of Johannesburg of at least 15 (fifteen) years' standing;

17.5.3 any other matter, any independent person, agreed upon between the parties to the dispute.

17.6 Should the parties to the dispute fail to agree whether the dispute is principally a legal, accounting or other matter within 7 (seven) days after the arbitration was demanded, the matter shall be deemed to be a legal matter.

17.7 Should the parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of 17.2, the arbitrator shall be appointed at the request of either party to the dispute by the President for the time being of the Transvaal Law Society according to the provisions of 17.5.

17.8 The decision of the arbitrator shall be final and binding on the parties to the dispute and may be made an order of the court referred to in 17.9 at the instance of any of the parties to the dispute.

17.9 The parties hereby consent to the jurisdiction of the Supreme Court of South Africa (Witwatersrand Local Division) in respect of the proceedings referred to in 17.3.

17.10 The parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 17.8.

17.11 The provisions of this clause -

17.11.1 constitute an irrevocable consent by the parties to any proceedings in terms hereof and no party shall be entitled to withdraw therefrom or claim at any such proceedings that it is not bound by such provisions;

17.11.2 are severable from the rest of this agreement and shall remain in effect despite the termination of or invalidity for any reason of this agreement.

18 NOTICES AND DOMICILIUM

18.1 The parties choose as their domicilia citandi et executandi their respective addresses set out in this clause for all purposes arising out of or in connection with this agreement at which addresses all processes and notices arising out of or in connection with this agreement, its breach or termination may validly be served upon or delivered to the parties.

18.2 For purposes of this agreement the parties' respective addresses shall be -

18.2.1 as regards the developer and the share block company at the registered office of the share block company;

18.2.2 as regards the holder at his residential site,

or at such other address, not being a post office box or poste restante, of which the party concerned may notify the other in writing.

18.3 Any notice given in terms of this agreement shall be in writing and shall -

18.3.1 if delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

18.3.2 if posted by prepaid registered post be deemed to have been received by the addressee on the 8th (eighth) day following the date of such posting;

18.3.3 if transmitted by facsimile be deemed to have been received by the addressee 1(one) day after despatch, unless the contrary is proved.

18.4 Notwithstanding anything to the contrary contained in this agreement, a written notice or communication actually received by one of the parties from another including by way of telex or facsimile transmission shall be adequate written notice or communication to such party.

19 WHOLE AGREEMENT

This agreement constitutes the whole agreement between the parties as to the subject-matter hereof and no agreements, representations or warranties between the parties other than those set out herein are binding on the parties.

20 VARIATION

No addition to or variation, consensual cancellation or novation of this agreement and no waiver of any right arising from this agreement or its breach or termination shall be of any force or effect unless reduced to writing and signed by all the parties or their duly authorised representatives.

21 RELAXATION

No latitude, extension of time or other indulgence which may be given or allowed by any party to any other party in respect of the performance of any obligation hereunder or the enforcement of any right arising from this agreement and no single or partial exercise of any right by any party shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this agreement or estop such party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.