

Annexure "A"

USE AND OCCUPATION AGREEMENT

Made and entered into by and between :

ROYAL VICTORIA (A) SHARE BLOCK LTD

Registration Number: _____

(hereinafter referred to as the "Company")

Of

(being business address of the Seller in the Republic of South Africa and its chosen domicilium citandi et executandi in terms of this agreement)

And

WATERBERG MINERALE BRON (PTY) LTD

Company Registration Nr 1968/012926/07

(hereinafter referred to as the "Shareholder")

Of

22 Koelenhof Road, Northcliff, Randburg

(being the residential or business address of the Purchaser in the Republic of South Africa and its chosen domicilium citandi et executandi in terms of this agreement)

Postal address: _____

Work telephone number: _____

Facsimile address: _____

Cell number: _____

E-mail address: _____

1 DEFINITIONS AND INTERPRETATIONS

In this Agreement of Sale unless the context clearly indicates the contrary intention:

1.1 words importing:

- 1.1.1 any one gender include the other two genders;
- 1.1.2 the singular include the plural and vice versa, and
- 1.1.3 natural persons include created entities (corporate or unincorporated) and vice versa;

1.2 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings namely:

- 1.2.1 "the Unit" is the unit number _____, Block _____ situated on the Property as specified in the site development plan annexed hereto marked Annexure "X" and on the schedule marked Annexure "X1" and which in terms of the Company's Memorandum and Articles of Association will be linked to a share block, which in turn will have an allocated loan apportioned to it and will be linked to a time module;
- 1.2.2 "the Property" means means proposed Erven 14, 15, 17 to 23, 25, 28 to 31, 33 to 100 and 102 to 126 Wonderkrater Vakansie Dorp and those proposed sectional title units which will be built on Erf 8 Wonderkrater Vakansie Dorp which are marked in red on the site development plan annexed hereto marked Annexure "X";
- 1.2.3 "the Act" is the Share Blocks Control Act 59 of 1980, as amended, and any regulations promulgated in terms thereof;
- 1.2.4 "rental pool" is the rental pool established by the developer known as the Royal Victoria rental pool;
- 1.2.5 "the Share Block" is each of the share blocks:
 - 1.2.5.1 numbered as indicated in the Company's Memorandum and Articles of Association;

- 1.2.5.2 which consists of the number of shares in the Company indicated in the said Memorandum and Articles of Association, which shares have a nominal value as shown in the said Memorandum and Articles of Association;
- 1.2.5.3 which in terms of the Company's Memorandum and Articles of Association affords to its beneficial owner the right to use a unit in terms of a Use and Occupation Agreement for the Fixed-time Module Number 1 (to which it is linked in the said Memorandum and Articles of Association) during each year;
- 1.2.6 "the Allocated Loan" means the portion of the Company's total loan obligation (as defined in the Act) which has been allocated to the Share Block in the Company's Memorandum and Articles of Association in terms of the Act;
- 1.2.7 "the Loan Obligation" is the total loan obligation as defined in the Act;
- 1.2.8 "the Time Module" means the period of occupation of the Unit in each calendar year allotted to the holders of a Share Block in terms of the Company's Articles of Association and this agreement once the unit is ready for beneficial occupation.;
- 1.2.9 "the Fixed-time Module Number 1" in relation to a Share Block is that continuous period of seven days in each year fixed with reference to the Time-share Calendar (shown as attaching to the Share Block in terms of the Company's Articles of Association) which period commences in the commencing year at 16h00 on the commencing Friday in that year and terminates at 10h00 on the following Friday, where:
- 1.2.9.1 the commencing Friday is that Friday of each year which in terms of the schedule contained in the said Memorandum and Articles of Association, is linked to the Share Block; and
- 1.2.9.2 the commencing year is the first calendar year during which the Fixed-time Module Number 1 occurs after the date of this agreement once the unit is ready for beneficial occupation;

- 1.2.10 "the Time-share Calendar" means the Time-share Calendar as utilised by RCI from time to time being the first two years of which are annexed hereto marked Annexure "C";
- 1.2.11 "the Common Property" means the whole of the balance of the Property which is not occupied by units and shall be understood in the context in which the term "common property" is used in the Sectional Titles Act 95 of 1986, as amended, and the common property shall be defined in accordance with the definition of that term in the said Act, mutatis mutandis applied to the unit land;
- 1.2.12 "the Sale Agreement" means the agreement, to which the Use and Occupation Agreement will be attached, in terms of which the members of the public will acquire the share blocks from the Seller.
- 1.2.13 "the Seller" means Waterberg Minerale Bron (Pty) Ltd;
- 1.2.14 "the Developer" means Waterberg Minerale Bron (Pty) Ltd;
- 1.2.15 "the managing agents" means the managing agents as appointed from time to time;
- 1.3 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the agreement;
- 1.4 Where any number of days are prescribed in this agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday, or Public Holiday, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or Public Holiday.
- 1.5 Expressions defined in this agreement shall bear the same meaning in schedules or annexures to this agreement which do not themselves contain their own definitions.
- 1.6 No provision herein shall be construed against or interpreted to the disadvantage of any party by reason of such party having or being deemed to have structured or drafted such provision.

- 1.7 The head notes to the clauses in this agreement are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate;
- 1.8 The rule of construction that the agreement shall be interpreted against the party responsible for the drafting or preparation thereof, shall not apply;
- 1.9 If any obligation or act is required to be performed on a particular day it shall be performed (unless otherwise stipulated) by 16:00 on that day;
- 1.10 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.11 The words "shall" and "will" and "must" used in the context of any obligation or restriction imposed on a party have the same meaning.

2 RIGHT TO OCCUPY AND USE THE UNIT AND COMMON PROPERTY

- 2.1 The Shareholder has the sole and exclusive right to the use, occupation and enjoyment of the Unit (furnished in accordance with clause 14.1.5 below) free of rental for the Time Module linked to the Share Block in terms of the Company's Articles of Association.
- 2.2 The Shareholder acknowledges that he is aware of the fact that the exclusive right to the use, occupation and enjoyment of the Unit vests in other shareholders of the Company at all other times.
- 2.3 The Shareholder is furthermore entitled during the Time Module to be present on the Common Property and to use it in conjunction with the Unit. The right to be present on and use the Common Property in conjunction with the other Units on the Common Property is given to all other shareholders of the Company and the Shareholder's right to such use is therefore to be exercised in conjunction with the rights of the said other shareholders.
- 2.4 The Shareholder's rights described in clauses 2.1 to 2.3 shall at all times be exercised subject to the terms and conditions contained or referred to in this agreement and to the management rules issued from time to time by the Company's directors as provided for in clause 17.

- 2.5 The rights acquired by the Shareholder in terms of this agreement endure for so long as the Shareholder remains the beneficial owner of the Share Block and complies with all the terms and conditions contained or referred to in this agreement.

3 USE

- 3.1 The Unit shall be used by the Shareholder, only for the accommodation of the Shareholder and his invitees and for no other purpose whatsoever. The Unit shall not be occupied at any time by:

3.1.1 more than four natural persons in the case of a one bedroom unit;

3.1.2 more than six natural persons in the case of a two-bedroom unit;

3.1.3 more than ten natural persons in the case of a four-bedroom unit.

Should the Shareholder be a company or other legal person the Unit shall be used and occupied by such person or persons as may be indicated in writing by such legal person from time to time, but the use and occupation by such persons shall be subject to all the terms contained or referred to in this agreement and furthermore subject to the prior written consent of the directors of the Company which consent shall not be unreasonably withheld.

- 3.2 No Shareholder shall keep in the unit any goods or materials which may vitiate any fire policy held by the Company or any Shareholders or increase the premium payable in respect of such policy.
- 3.3 The use of the units shall at all times be subject to the management rules as may be determined by the board of directors from time to time.
- 3.4 If, in the opinion of the Managing Agent appointed to run the affairs of the Company, any repairs or renovations to the Unit or any other movable property situated therein are rendered necessary by reason of any act, whether accidental, negligent or wilful by a specific Shareholder or invitee of such Shareholder or any visitor occupier of the Unit who occupied or visited the Unit at the time when such Shareholder was entitled to occupy the Unit, such Shareholder shall be liable for the costs of repairing, restoring and renovating the property in question. The costs of such repairs, renovations or restoration shall be a

debt due by such Shareholder to the Company and the Company shall be entitled to proceed to recover such monies from such Shareholder should such debt not be paid.

4 **ELECTRICITY AND WATER**

- 4.1 The Company's expenditure relating to the consumption of electricity and water by shareholders in or around the units shall be included in the expenditure contemplated in clause 9.1 below and shall be paid by shareholders as part of the annual levy contemplated in clause 9. Each shareholder shall be liable for an equal proportionate amount of the total expenditure as contemplated in clause 9.1.
- 4.2 The Company shall not be liable towards the Shareholder for any damage which may be suffered by the Shareholder if the services in the Unit, such as the provision of electricity and water and sewerage facilities, are interrupted whether or not such interruption is due to the Company's fault.
- 4.3 Furthermore, the Shareholder shall not be entitled to cancel this agreement or to withhold any payment due in terms of this agreement by virtue of such interruption.

5 **LETTING**

The Shareholder shall be entitled to let or otherwise temporarily alienate his right to occupy the Unit through the rental pool provided that:

- 5.1 the Shareholder shall at all times remain bound to each and every provision of this agreement;
- 5.2 no party shall be entitled to occupy the Unit or the Common Property unless such party first signs an undertaking in favour of the Company to be bound by the management rules and by such of the terms of this agreement as the Company's directors may reasonably regard as being applicable to such party;
- 5.3 the Shareholder shall be liable unto the Company and/or the other shareholders for everything done or omitted by the said party in the Unit or on the Common Property. Any act or omission on the part of any party who has been given occupation of the Unit by a Shareholder or through such Shareholder including a lessee, sub-lessee or invitee of such Shareholder shall be deemed to be an act or omission of such Shareholder.

- 5.4 The Shareholders shall only be entitled to let the Unit through the rental pool and then only in respect of the period when they are entitled to occupy the Unit.

6 MAINTENANCE

- 6.1 Fair wear and tear excepted, the Shareholder shall be liable for any damage done intentionally, negligently or without fault to the Unit or to any fittings, fixtures or appurtenances in the Unit by the Shareholder or by any of his invitees or by any party occupying or using the Unit by arrangement with the Shareholder as contemplated in clause 5.
- 6.2 Fair wear and tear excepted, the Shareholder is obliged to keep the Unit and all fittings, fixtures and appurtenances and movables in it in a clean and neat condition.
- 6.3 Subject to the provisions of clause 6.1 and clause 6.2 any expenditure or provisions therefore for the maintenance, upkeep or repair of the Unit or any movables in it shall be debited to the levy fund contemplated in clause 9.
- 6.4 In the event of a dispute as to whether the Shareholder or the Company (the latter via the levy fund) is liable for any expenditure relating to the maintenance, upkeep, repair or cleanliness of the Unit or any fittings, fixtures or appurtenances in it, such dispute shall be decided by the Company's directors whose decision shall be final and binding on the Shareholder.
- 6.5 The Company shall not be liable for any loss or any inconvenience which may be caused to any Shareholder by reason of any damage or absence of repair to the Unit notwithstanding that such loss or inconvenience arises out of any act or omission whether negligent or not on the part of the Company or its servants or agents.

7 CARE OF UNIT

The Shareholder shall under no circumstances alter or effect any changes to the Unit or to any fittings, fixtures or appurtenances in it whether such alterations or changes are of a structural nature or not. Furthermore the Shareholder shall not drive any nails, screws or similar objects into any part of the Unit or any of the fittings, fixtures or appurtenances in it nor shall the Shareholder remove anything from the Unit.

8 **CONDITION OF UNIT/VOETSTOOTS**

The Shareholder accepts the Unit and everything in it and also the Common Property on a voetstoots basis and in the condition in which those items are on the date of this agreement. The Shareholder shall have no claim whatsoever against the Company by virtue of the condition of the Unit or any fittings, fixtures or appurtenances in it.

9 **LEVIES**

9.1 The Company's directors shall create and maintain a fund of moneys collected by them from time to time from the Company's shareholders. This function may be delegated to the managing agent. The amount so levied on shareholders shall be decided in the absolute discretion of the Company's directors and shall in their discretion be sufficient to provide for:

9.1.1 the proper maintenance, control, management and administration of the Company;

9.1.2 the proper maintenance and upkeep of the units including their movable contents and the Common Property;

9.1.3 any cost relating to the provision to the Common Property of electricity, water, fuel, sewerage services and refuse removal services, if any; provided that such costs shall not include any amount for which individual shareholders are directly liable to the Company, otherwise than by way of this levy;

9.1.4 any professional or other services which may be required by the Company as well as provisions for any loss which the Company may have suffered or may in future suffer;

9.1.5 the affiliation fees in respect of RCI.

9.1.6 insurance premiums for which the Company may be liable from time to time;

9.1.7 the fees payable from time to time to the managing agent;

- 9.1.8 all amounts due to the Developer
- 9.1.9 any other costs, expenditure, disbursements or liability of the Company which is not directly payable to the Company by its shareholders otherwise than by way of this levy;
- 9.1.10 any expenses not specifically referred to herein, but contemplated in the Act;
- 9.2.1 The directors shall in respect of every calendar year estimate the amount which will be required by the Company in order to defray the costs referred to in clause 9.1 as well as any deficiency which may exist in the fund with regard to the previous calendar year. The directors shall by way of levies on the shareholders collect an amount as near as possible to the said estimated amount. The directors are entitled in addition to the matters specifically provided for in clause 9.1 to include an amount to be retained as a provision for any future contingent expenditure not of a current nature.
- 9.2.2 The annual amount payable by shareholders to the levy fund shall be paid annually in advance on the first day of June every calendar year.
- 9.2.3 Any shareholder who acquires his share block during any calendar year in respect of a time module which for that calendar year has already lapsed, shall not be liable for any levy payment for that calendar year. Conversely, any shareholder acquiring a share block during any calendar year in respect of a time module which for that calendar year occurs after the date of acquisition of the share block shall be liable for payment of his full levy payment for that calendar year.
- 9.3 If the directors deem it necessary or expedient they shall be entitled, in addition to the amounts levied in terms of clause 9.1 and 9.2 from time to time to levy special amounts from the shareholders to defray any expenditure of the Company contemplated in clause 9.1 or 9.2 which was not included in the estimate of the Company's annual expenditure. A special levy may be collected in a single payment or in instalments of such amounts and payable over such periods as the directors may determine.
- 9.4.1 The Company shall as and when determined by the directors despatch a written notice to each shareholder notifying him of the amount levied in terms of this clause (9) and such notice shall be subject to the provisions of this agreement relating to notice; provided however that any shareholder who alleges that a notice in terms of this clause has not

been given to him shall bear the onus of proof thereof if such notice was despatched to him by prepaid registered mail to his address contained in the Company's address list in which event, unless the contrary is proved, such notice will be deemed to have been received by the Shareholder and its contents to have come to the Shareholder's notice on the fifth day after the date on which it was posted.

- 9.4.2 The failure by the Company to give the above-mentioned notice timeously to the Shareholder does not preclude the Shareholder's liability for payment of the levy or give rise to any other rights on behalf of the Shareholder.
- 9.4.3 All amounts due in terms of this clause (9) are payable as and when the directors so decide and after notice has been given by the Company of such amounts.
- 9.5 The amount levied in terms of this clause (9) shall be levied on all units on the balance of the Property.
- 9.6 Payment of any amount due by the Shareholder in terms of this clause (9) may be claimed from the Shareholder by the Company. The Shareholder's obligation to pay the levy ceases when the Shareholder's rights in terms of this agreement cease; provided further that in the event of the cancellation of this agreement by the Company due to the Shareholder's breach the Company's right to claim damages from the Shareholder shall not be affected by this provision. The Shareholder shall not be entitled to claim repayment of any amount contributed by him to the levy fund, whether or not such amount may have been paid by the Shareholder in respect of any period after the date upon which his rights in terms of this agreement were terminated.
- 9.7 Without prejudice to any other rights which the Company may have, the Shareholder shall not be entitled to occupy or use the Unit or be present on the Common Property while any amounts due by him in terms of this clause are in arrears.

10 THE SHAREHOLDER'S LOAN AGREEMENT WITH THE COMPANY

- 10.1 The Shareholder is aware of the fact that he, in terms of the Company's Memorandum and Articles of Association, as well as all other shareholders of the Company, is or will be

bound to a loan agreement with the Company in terms of which an amount of money has been or will be loaned to the Company which amount is indicated in the Company's Memorandum and Articles of Association as the Allocated Loan attaching to the Share Block for the Time Module. (The said amount is referred to and defined in this agreement as "the Allocated Loan".) The said amount together with all other amounts which may be due by the Company to the Shareholder on loan account, if any, shall never be repaid by the Company to the Shareholder. Should the Company, however, at any time resolve (as set out below) to go into voluntary liquidation, any dividend which may be available for distribution will be distributed amongst shareholders.

- 10.2 The resolution of the Company referred to in the previous subclause shall be a resolution of not less than 75% (SEVENTY-FIVE PERCENT) in number of the shareholders of the Company (which shareholders shall not include share block developers as defined in the Act) and who have the right to vote at the relevant meeting and which shareholders shall together hold not less than 75% (SEVENTY-FIVE PERCENT) of the total votes of all shareholders in the Company excluding shareholders who are share block developers.
- 10.3 As soon as the total amount due by the Shareholder in respect of his Allocated Loan has been paid to the Company the Company shall upon the written request of the Shareholder furnish the Shareholder with a written certificate to that effect.

11 LIEN

- 11.1 Save as is provided herein, the Company shall have a first lien on every share and share block for all amounts owed to it, including the costs of any proceedings instituted by the Company and whether the period for the payment thereof has actually arrived or not.
- 11.2 For the purposes of enforcing such lien the directors may, subject to clause 11.3, sell the share at such time or times and in such manner and upon such terms and conditions as they may think fit. No sale shall be made in terms of this clause unless such sum is presently payable and remains unpaid notwithstanding 14 (FOURTEEN) days' notice to the Shareholder, stating the amount and demanding payment of such sum, and stating the directors' intention to sell if payment has not been made within the said period of 14 (FOURTEEN) days.
- 11.3 Should any share be subject to any pledge in respect of which the Company shall have received written notice, the Company shall give such pledgee 21 (TWENTY-ONE) days'

notice to the address furnished by the pledgee to the Company, to remedy the breach of the holder, failing which the Company shall be entitled to proceed with the sale.

- 11.4 Save as is provided herein, no pledgee shall have any prior claim against the Company.
- 11.5 The net proceeds of any such sale shall firstly be applied in or towards the satisfaction of the amount owed to the Company, and the balance, if any, shall then be paid to any pledgee or the Shareholder as the case may be.
- 11.6 Upon any such sale as aforesaid, the directors may enter the Purchaser's name in the register of shareholders of the Company and the Purchaser shall not be bound to see to the application for the purchase money, nor shall his title to the shares be affected by the irregularities or invalidity in the proceedings in relation to the sale.
- 11.7 An affidavit by a director or the secretary of the Company that the share has been duly sold in accordance with this clause shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to such share or its proceeds. Such affidavit, and a receipt of the Company for the purchase price of the share, shall constitute a good title to such shares and the validity of the sale may not be impeached by any person.

12 **CESSION OF AMOUNTS ADVANCED BY SHAREHOLDERS TO THE COMPANY**

In addition to the lien created in clause 11 in favour of the Company on the Shareholder's shares, all amounts which are advanced from time to time by the Shareholder to the Company are hereby ceded to the Company as security for the Shareholder's outstanding obligations towards the Company from time to time. Such cession shall be a continual covering security. The Shareholder shall not be entitled to cede or otherwise transfer or alienate his right, title and interest in any such amounts or any part thereof without the Company's prior written consent excepting together with an alienation by the Shareholder of this shareholding in the Company, his Allocated Loan and his rights in terms of this agreement. Should the Company agree to a cession or other alienation of such amounts the cession or other alienation shall nevertheless not be binding on the Company in spite of the Company's consent having been granted, if the Shareholder breaches the provisions of this agreement in such a manner that the Company becomes entitled to enforce the provisions of clause 16 of this agreement against the Shareholder and in such event any claim by a cessionary or other receiver of the said amount, shall be subject to the Company's claim and shall only be satisfied after all amounts due by the Shareholder to the

Company have been paid in full. Should the Company act against the Shareholder in terms of the provisions of clause 16 of this agreement, the Company shall, however, be obliged to give the same notice to the said cessionary or other receiver as it is obliged to give to the Shareholder in terms of clause 16 in order to afford the said cessionary or other receiver an opportunity of remedying the Shareholder's breach.

In spite of the Company's lien on the Shareholder's shares, no shares shall be sold or otherwise alienated, unless at the same time and as part of the same indivisible transaction the Shareholder's rights and obligations in respect of the Allocated Loan and Use and Occupation Agreement are sold or alienated and vice versa.

13 **CESSION OF RIGHTS BY SHAREHOLDERS**

13.1 The Shareholder is only entitled to cede or otherwise transfer, alienate or waive his right, title and interest in this agreement together with:

13.1.1 the alienation or waiver by him of his shares in the manner prescribed in and subject to the terms of the Company's Memorandum and Articles of Association and furthermore subject to the terms of this agreement; and

13.1.2 the alienation or waiver by him of his rights in terms of the Allocated Loan and the shares on condition that they are alienated in favour of the same party in a single indivisible transaction. No such alienation or waiver shall be effective unless the right is thereby given to the person in whose favour the alienation is made, to occupy the Unit subject to all the provisions contained or referred to in this agreement and in the Company's Memorandum and Articles of Association.

13.2 The Company shall not register any party who acquires shares from the Shareholder as a shareholder of the Company until satisfactory evidence has been produced to the Company that the Shareholder's rights and obligations in terms of this Use and Occupation Agreement have been ceded and delegated to that party and furthermore that the Shareholder's rights and obligations in respect of the Allocated Loan have been ceded and delegated to that party.

13.3 As the Shareholder has entered into this agreement in respect of all the units in respect of which he has the right of occupation, it shall be entitled separately to cede or otherwise transfer, alienate or waive its right, title and interest under this agreement in respect of each individual unit (together with the share block and allocated loan to which such unit is

linked in terms of the Company's Memorandum and Articles of Association) for each of the time modules (to which such unit is linked in the said Articles of Association). No party to the said Shareholder who has alienated its rights shall be entitled to regard this agreement as divisible in any manner and thus any subsequent alienation of rights under this agreement shall include all the rights of the alienating party who will not be entitled to alienate any rights for a shorter period than the Time Module.

14 THE COMPANY'S RIGHTS AND OBLIGATIONS

14.1 The Company is:

- 14.1.1 obliged to maintain the Common Property in a good and tidy condition and defray its costs in this regard out of the levy fund;
- 14.1.2 obliged to procure such insurance relating to the Unit and all other improvements on the Property against such risks and for such amounts as the shareholders of the Company may from time to time decide in a general meeting and to maintain or renew such policies from time to time and to pay the premiums regularly and to defray its costs in this regard out of the levy fund;
- 14.1.3 entitled through any representative or agent at all reasonable times to enter the Unit in order to inspect it. Should the Company not be satisfied with the condition of the Unit, it shall be entitled to require the Shareholder immediately to comply with his obligations relating to the condition of the Unit. Should the Shareholder fail to comply with the said request by the Company, the Company shall be entitled to notify the Shareholder in writing to restore the Unit to its required condition and should the Shareholder fail to comply with such notice within 14 (FOURTEEN) days after such notice has been given, the Company shall be entitled, without prejudice to any other rights which it may have, to restore the Unit into the required condition and to claim any expenditure so incurred from the Shareholder.
- 14.1.4 if authorised thereto by the directors or the Company's secretary or manager, entitled itself or through its authorised agents or employees to enter the Unit at any time in order to effect necessary maintenance or repairs to it in which event the Shareholder shall have no claim against the Company for damages, remission of his levy liability or otherwise;

14.1.5 obliged at all times to keep the Unit adequately furnished and equipped for occupation and use by the permitted number of persons provided that:

14.1.5.1 the Company's directors shall in their discretion from time to time decide the exact nature, quantity and quality of the movables;

14.1.5.2 movables are and remain the property of the Company;

14.1.5.3 the Company may, if the directors so decide from time to time, add to, replace or vary such movables;

14.1.5.4 the Shareholder may not remove any of the said items from the Unit or the Property and shall use them with due care for their preservation and good condition.

15 **LOSS, DAMAGE, DEATH OR INJURY**

The Company shall not be liable for any loss or damage suffered by the Shareholder or any person occupying the Unit or the Property while the Shareholder or such other person is in occupation of the Unit or the Property. Furthermore, the Company shall not be liable for the injury or death of the said parties while in occupation of the Unit or the Property. The Company's liability is excluded whether or not the said loss, damage, injury or death was caused directly or indirectly by the negligence or gross negligence of the Company or any of its officials, shareholders, employees or agents and whether or not it was caused by the fact that the Unit or the Property is in a defective condition. The Shareholder shall furthermore not be entitled to withhold payment of any amount due to the Company or to cancel this agreement by virtue of any such loss, damage, injury or death. The Shareholder hereby indemnifies the Company against any claim which may be made against the Company by any party who obtains his rights to occupy or use the Unit or the Property through the Shareholder.

16 **TERMINATION**

This agreement shall only be of force and effect while the Shareholder remains the beneficial owner of the Share Block or while he remains entitled to the transfer thereof; provided that:

- 16.1 should the Shareholder fail to comply punctually with any provision of this agreement or of the management rules issued in terms of clause 17 or of the Company's Memorandum and Articles of Association and should such failure be of such a nature that it can be remedied and should the Shareholder have been notified in writing by prepaid registered mail to remedy the failure and should it not have been remedied 14 (FOURTEEN) days after the said notice; or
- 16.2 should the Shareholder fail to comply punctually with any of the provisions referred to in clause 16.1 and should the failure be of such a nature that it cannot be remedied and should the Shareholder have been notified in writing by prepaid registered mail to desist from the particular breach and not to repeat it and should he at any time within a period of six months after such notice repeat the relevant breach or failure;

then the Company shall be entitled notwithstanding any previous latitude or indulgence and without prejudice to any other rights which it may have, to cancel this agreement summarily and in the event of such cancellation:

- 16.2.1 the Company shall be entitled to repossess the use of the Unit and for this purpose to take any steps necessary to evict the Shareholder or any person occupying through the Shareholder from the Unit without prejudice to the Company's rights to claim the immediate payment of all amounts due to it and which are in arrear together with such damages as the Company may have suffered due to the Shareholder's breach including legal costs on an attorney and client scale; and
- 16.2.2 the Company shall be entitled as agent for and on behalf of the Shareholder and in the Shareholder's name to let the Unit and to collect rental and all other amounts due by the lessee thereof and out of such amounts to defray all amounts due by the Shareholder to the person from whom the Shareholder acquired the Share Block and thereafter to defray all amounts due to the Company and thereafter to pay any remaining balance to the Shareholder. The remedy in this clause shall not prejudice the Company's right to sell the Shareholder's Share Block together with his right, title and interest in this agreement and the Allocated Loan; and
- 16.2.3 the Company shall be entitled without prejudice to any other rights which it has, but subject to the rights of any seller of the Share Block who has a lien on the

shares and with such seller's permission, to sell the Shareholder's Share Block together with all amounts which may have been advanced by the Shareholder to the Company and his rights under this agreement and the Allocated Loan. Such sale may be made on behalf of and in the name of the Shareholder. The proceeds of the sale shall in the first instance be utilised to redeem any amount due by the Shareholder to the person from whom the Shareholder acquired the Share Block and thereafter to redeem any amount due by the Shareholder to the Company. Should any balance remain after the said amounts have been reduced it shall be paid to the Shareholder, but should the proceeds be insufficient to redeem the said amounts, the Shareholder shall remain liable for the shortfall.

This document constitutes an irrevocable power of attorney by the Shareholder in favour of the Company given in rem suam, to represent the Shareholder and to bind him to the sale contemplated in clause 16.2.

17 MANAGEMENT RULES

17.1 Apart from the provisions of the Act, the Company's Memorandum and Articles of Association and of this agreement, the Unit and the Property (including the use of the Common Property) shall be controlled and managed by way of rules.

17.2 The Company's directors shall make the said rules which shall become binding as soon as they have been adopted by a resolution of the directors. Any rule made by the directors as set out above may be set aside:

17.2.1 in writing by a majority in value of the shareholders of the Company; or

17.2.2 by a majority in value of the shareholders of the Company in a general meeting of shareholders.

17.3 The Company's directors may from time to time revoke any rule or alter it or add to it; provided that any rule so revoked, altered or added may be set aside:

17.3.1 in writing by a majority in value of the Company's shareholders; or

17.3.2 by a majority in value of the Company's shareholders in a general meeting of shareholders.

- 17.4 The above-mentioned rules may relate to the control, management, administration, use and enjoyment of the Unit and the Common Property. Without derogating from the generality of the foregoing, the said rules may in particular relate to the following:
- 17.4.1 the level of noise caused by the use of radios, other sources of music, television and the playing of musical instruments;
 - 17.4.2 the limitation and use of television aerials, air-conditioning and any other electrical equipment and of sun blinds;
 - 17.4.3 the neatness and general appearance of the Unit and the Common Property;
 - 17.4.4 the general behaviour of the Shareholder and other occupiers and users of the Unit and the Common Property so as to ensure that no shareholder or other occupier creates a nuisance in an unit or on the Common Property;
 - 17.4.5 the right to traverse or be in the town or the game farm belonging to the Developer;
 - 17.4.6 the use of any facilities of the Unit and the Common Property which may be available to the Shareholder;
 - 17.4.7 such other matters in the interest of the comfort and general well-being of occupiers of units.
- 17.5 Should any rule made in terms of this clause (17) clash with any provision of this agreement, the provision of this agreement shall prevail.

18 DAMAGE TO THE UNIT/INSURANCE

- 18.1 Should the Unit be materially damaged or destroyed the Company shall be obliged as soon as practically possible to restore or rebuild it. The Shareholder shall, however, have no claim for damages, or for cancellation of this agreement if as a result of such damage or destruction he is not able to occupy the Unit nor shall he have any such claim against the Company by virtue of any other consequence of such damage or destruction. The Company shall be entitled when restoring or rebuilding the Unit to alter the form or

method of construction thereof, provided that the altered unit shall be materially of the same dimensions and be materially in the same location on the Common Property as the previous unit. In spite of the foregoing provisions of this clause, the Company shall not be obliged in restoring or rebuilding any damaged or destroyed unit to expend more than the amount received by the Company from its insurances under a claim lodged in respect of the said damage or destruction.

- 18.2 The Company is obliged to restore or rebuild a damaged or destroyed unit as set out in this clause 18.1 in spite of the fact that the damage or destruction may have been caused by the fault of a shareholder. Without prejudice to any other rights which the Company may under such circumstances have against the Shareholder, the Company shall be entitled to claim from the Shareholder any damages suffered by it as a result of such damage or destruction caused by his fault.
- 18.3 The Company is obliged to keep all the units on the Property insured for their full replacement value from time to time against damage and/or destruction by fire and such other risks as dwellings are customarily insured against. The Company shall timeously pay the premiums and shall from time to time adjust the amount of the insurance cover if this is necessary to keep the units insured at all times for their full replacement value.
- 18.4 Should the Shareholder be precluded from occupying the Unit during the Time Module due to it having been damaged or destroyed as contemplated in clause 18.1, the Company shall refund to the Shareholder his annual levy contribution (not including any special levy as contemplated in clause 9.3).
- 18.5 In the event of a dispute concerning any matter arising out of the provisions of clause 18.1, 18.2, 18.3 or 18.4 the dispute will be decided by an architect appointed by the Company's directors and his decision will be final and binding on the parties. His account for deciding the issue will be paid by the party against whom the decision is mainly given.

19 SECTIONAL TITLE

It is recorded that the units which will be situated on Portion 8 Wonderkrater Vakansie Dorp will be sectional title units. It is recorded further that it is not the Company's intention to cause a sectional title register to be opened in respect of the balance of the units and the Common

Property but that the Company may change such intention by way of an ordinary resolution held at a general meeting of the Company.

20 **WARRANTY**

The Company hereby warrants unto the Shareholder that:

- 20.1 the original registered owner of each share block in the Company concluded a written use and occupation agreement with the Company relating to each unit and each time module and that all the said use and occupation agreements are subject materially to the same terms and conditions as are contained in this agreement;
- 20.2 the Company shall not agree to any amendment, addition or consensual cancellation of any of the said use and occupation agreements without the prior written consent of not less than 75% (SEVENTY-FIVE PERCENT) in number of the Company's shareholders from time to time.

21 **INDULGENCE**

No indulgence by the Company with regard to the performance by the Shareholder of any obligation in terms of this agreement, shall under any circumstances prejudice the Company's rights or novate this agreement and the Company shall in spite of such indulgence at all times be entitled to enforce punctual performance by the Shareholder of all obligations assumed under this agreement.

22 **CLASHING PROVISIONS**

In the event of a clash between the provisions of this agreement and the provisions of the Act, the provisions of the Act shall prevail.

23 **COMMENCEMENT OF RIGHTS AND OBLIGATIONS**

In spite of the fact that the Shareholder's right to occupy, use and enjoy the Unit is limited to the Time Module during every year once the relevant unit is ready for beneficial occupation, the

parties' rights and obligations in terms of this agreement commence as soon as this agreement has been signed by the Company and the Shareholder..

24 **MANAGEMENT**

It is recorded that the Company will enter into a management agreement with the managing agents for the management of the units and the Common Property and the provision of certain facilities to occupiers of units.

SIGNED at _____ on this _____ day of _____ 20__

Witnesses:

1 _____

2 _____

(Signatures of witnesses)

(Signature of authorised signatory)

SIGNED at _____ on this _____ day of _____ 20__

Witnesses:

1 _____

2 _____

(Signatures of witnesses)

(Signature of authorised signatory)

