

ANNEXURE "C"**USE AGREEMENT TORTUGA SHARE BLOCK (PTY) LTD**

The Company and the member hereby contract on the terms and conditions set out herein.

1. SCHEDULE OF DEFINITIONS

Words signifying the singular shall include the plural and vice versa and words importing one gender shall include the other.

Save as provided herein, or unless the context otherwise requires, words and phrases defined or used in the MoI and the acts shall have the same meanings in this agreement.

The clause headings in this agreement have been inserted for reference purposes only, and shall not be taken into account in interpreting it.

Unless inconsistent with or otherwise indicated by the context, the following words and expressions shall bear the meanings assigned to them hereunder.

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| 1.1. "act/s" | shall mean either one or all of the following: The Share Blocks Control Act, Act 59 of 1980, as amended; Property Time-Sharing Control Act, Act 75 of 1983 as amended; The Companies Act, Act 71 of 2008 as amended; and any regulation promulgating in terms of the Acts from time to time; |
| 1.2. "architect's certificate" | shall mean the certificate issued by the architect in respect of the units which have been erected, certifying that they have been erected in accordance with the approved plans and that they are suitable for occupation and in respect of the units which have not yet been erected certifying, as and when the units have been erected, that they have been erected in accordance with the approved plans and that they are suitable for occupation; |
| 1.3. "buildings" | shall mean the buildings known as Tortuga Share Block (Pty) Ltd which are located on Portion 30 (a portion of portion 2) of Erf 1015, Port Edward Township, with extent 8,589 square Meters; |
| 1.4. "calendar " | shall mean the time module table for the following year, to be compiled annually by the directors on or before 30 September in each successive year (provided that the school time table has been supplied and released by the relevant Department), which shall include the commencement and termination dates of all time modules; |
| 1.5. "company" | shall mean TORTUGA SHARE BLOCK (PTY) LTD with registration number 2007/009492/07; |
| 1.6. "companies act" | shall mean the companies act 71 of 2008 as amended from time to time including any regulation promulgated in terms of the act from time to time; |
| 1.7. "developers" | shall mean CAST ARENA or its successors; |
| 1.8. "directors" | shall mean the directors of the company; |
| 1.9. "effective date" | shall mean the date as stated on the architect's certificate of occupation or the date of the initial occupation period, whichever is the later; |
| 1.10. "exclusive use areas" | shall mean the terraces, stoeps and balconies allocated to the units on the plans; |
| 1.11. "Levy fund" | shall mean the fund established by the company in terms of Section 13 of the Act; |
| 1.12. "levy contribution" | shall mean the contribution to the levy fund to share in the costs and expenses contemplated in section 13(1) of the share blocks act in proportion |



- to the number of shares to the total number of issued shares of the company.
- 1.13. "manager" shall mean the person appointed from time to time to manage and supervise the property and the scheme conducted thereon;
- 1.14. "managing agent" shall mean the Management company appointed by the Board from time to time, and currently is Vacation Recreational Services (Pty) Ltd or its successors;
- 1.15. "member" shall mean its successors and assigns and any reference to the "member" shall, when used in the context of the occupation and use of the unit and the common property, include the member, any persons to whom the member has temporarily or permanently transferred his right of occupation in terms thereof and the members of their respective families, their invitees, guests, servants, employees, tenants and agents and any person that occupies the chalet during the allocated time module;
- 1.16. "Mol" shall mean the company's filed Memorandum of Incorporation as amended from time to time;
- 1.17. "movables" shall mean the furniture, fixtures, furnishings, bed linen, refrigerators and other movable items in the unit from time to time;
- 1.18. "occupier" shall mean when used in the context of the occupation and use of the unit/module and the common property, include the member, any persons to whom the member has temporarily or permanently transferred his right of occupation in terms thereof including exchanges, members and their respective families, their invitees, guests, servants, exchanges and agents;
- 1.19. "ownership" shall mean the owner of the Share Block who shall be entitled to the use of the unit subject to the terms of this Use Agreement, which may only be altered by way of a court order or agreement between the parties.
- 1.20. "plans" shall mean the approved development and building plans;
- 1.21. "properties" shall mean Portion 30 (a portion of portion 2) of Erf 1015, Port Edward Township, with extent 8,589 square meters;
- 1.22. "time-sharing act" shall mean the property time-sharing control act 75 of 1983 as amended from time to time including any regulation promulgated in terms of the act from time to time;
- 1.23. "premises" shall mean the Improvements erected on the properties;
- 1.24. "rules" shall mean the rules (including any house rules and regulations made there under) or any amendment thereof from time to time;
- 1.25. "scheme" shall mean the share block scheme operated by the company in respect of the buildings;
- 1.26. "share block" shall mean the specific share block to which the use of a module is linked pursuant to this use agreement;
- 1.27. "share blocks act" shall mean the Share Blocks Control Act 59 of 1980 including any regulation promulgated in terms of the act from time to time;
- 1.28. "unit" shall mean any chalet in the buildings on the property, which is furnished pursuant to Clause 3 below and which provides sleeping accommodation for a specified number of persons, being 4 and 6 persons and which is linked to a share block pursuant to this use agreement of the company;
- 1.29. "use" shall mean use as contemplated by the Acts;
- 1.30. "week / module / timeshare interest" shall mean a continuous period of 7 (seven) days commencing at 16h00 on the commencing day and terminating at 10h00 on the

termination day;

- 1.31. "53rd Week" shall mean in any module where there is a 53rd (fifty third) week or time module, the utilisation of such time module shall accrue to the holder of the 52nd week and the holder of the 52nd week shall be entitled to the occupation and possession of the 53rd (fifty third) time module as if he were owner of a timesharing interest in respect thereof. The holder of the 52nd week shall in respect of such 53rd week be liable for a levy payable in respect thereof.

2. OCCUPATION

- 2.1. From the effective date the member shall for as long as he continues to hold the share block and complies with the provisions of this agreement:
- 2.1.1. be entitled for the duration of the module during each calendar year, to the exclusive use and enjoyment of the unit, the exclusive use areas as holder of the shares in terms of the MoI of the company;
 - 2.1.2. be entitled during the same period to the use and enjoyment of those parts of the common property not subject to rights of exclusive use by other members in terms of the scheme; and
 - 2.1.3. be entitled to grant occupation of the module to 3rd parties in terms of Clause 10.2 hereof.
- 2.2. If the member does not intend to exercise his rights in terms of Clause 2.1 during any module, he may, not less than 6 (Six) weeks before the commencement of the module, notify the managing agent in writing. In such event, if the managing agent rents out the unit for the whole or any part of the module, the member shall be entitled to 75% of the charge for the module.
- 2.3. The member shall have the right during the week to the use of the common property in common with the other members of the company and users of the remainder of the property, subject: -
- 2.3.1. to such terms and conditions as may be imposed by the directors from time to time.
- 2.4. The rights of the members hereunder shall endure for the duration of the share block scheme.
- 2.5. The member acknowledges that he will have no rights to participate or have any interest in the business or businesses conducted from time to time by the holder of such shares that may convey commercial interests.
- 2.6. The unit shall be used for residential purposes only and for no other purpose whatever. The unit shall be used personally by the member and/or occupier provided that in any event the number of users of the unit shall not exceed the number of persons prescribed by Clause 1.28. In the event of the rights of use herein being held by a company or other corporate body, the unit shall only be used by such person that may be nominated from time to time by the said company or corporate body.
- 2.7. With regard to the development rights owned by virtue of "A" class shares the owner shall at all times have the continuous right of use for development purposes of such property as specified in the approved development plan.
- 2.8. No liability shall rest upon the company for –
- 2.8.1. anything done or omitted by the company, managing agent, manager, agents and staff from time to time; and
 - 2.8.2. any interruption of whatever nature including failure of electrical and/or water services that may be supplied or any other municipal or other services to the property, irrespective of the cause thereof nor for any consequential damage the member may suffer by reason of such failure or interruption.

3. FURNISHING AND MAINTENANCE OF UNITS

- 3.1. In respect of Time-Sharing units
- 3.1.1. The units shall be furnished and provided with the movable property which in terms of the annexure hereto is specified for such unit, it being recorded that the movable

property is the property of the company and that nothing in this agreement shall vest the member with the ownership of any such movable property or entitle him to remove any such movable property from the unit during or upon termination of any week that the unit is used by the member. Notwithstanding the foregoing, the company shall be entitled from time to time with the authority of a resolution of its directors to vary or add to the movable property described in the annexure hereto, provided that such variation or addition shall not result in any substantial change in the general nature or standard of such movable property and provided further than any major refurbishment of the premises/units (whether alone or together with other units) shall require the approval of the company in a shareholders meeting.

- 3.1.2. The company shall service the unit or procure that the unit is serviced and without detracting from the generality of the foregoing, the company shall, in particular, provide that the unit will be cleaned every day except public holidays and Sundays and supply a change of linen once a week. The company shall also furnish the following i.e. all furniture, fixtures, fittings, furnishings, refrigerators, stoves and bed linen and shall subject to the provisions of this agreement regarding the replacement by a member maintain the abovementioned items in a good, clean and usable condition. The company reserves the right to charge extra for daily maid-cleaning service.

3.2. In respect of Whole Ownership

- 3.2.1. Subject to an alternative arrangement between each member in respect of whole ownership, the owner of each share block shall be obliged to maintain both the interior and the exterior of all or any improvements erected on the site allocated to such member in good, proper and tenable condition and shall also be responsible to effect such repairs as may from time to time become necessary so as to maintain the improvements to a standard commensurate with the overall development of the scheme. Such maintenance shall include all repairs and maintenance to exterior and interior walls, electricity cables, plumbing, sewerage and water supply in and around the site and shall also maintain and replace the movable property on the site.
- 3.2.2. Should the member not maintain the improvements on the site in terms of the provisions the manager or the company shall be entitled to effect whatever repairs he may deem necessary to maintain the improvements in a good and proper tenable condition at the expense of the member and shall be entitled to recover the costs of such repairs and maintenance from the member. To this end the manager or the company shall be entitled at all reasonable times to inspect such improvements and shall furthermore at all reasonable times be entitled to access to the improvements of purposes of carrying out all necessary repairs and renovations at the expense of the member should the member fail to do so.
- 3.2.3. The owner of each share block shall be obliged to furnish his unit at his own expense but to a standard commensurate to the rest of the scheme.
- 3.2.4. If at any time the unit requires to be refurbished or renovated, the company, the developer, or the manager shall be entitled themselves and their respective contractors and workmen during normal business hours to access to the unit for the:
- 3.2.4.1. Purposes of carrying out such works as may be required to be done from time to time provided always that the company and the developer will use their respective best endeavours to procure that such works are preferably carried out during the maintenance week, if any. If the member or any person using the unit however suffers any inconvenience from such operations conducted in any other part of the building, the member and such other person shall have no claim whatever against the company, the developers or the manager.
- 3.2.5. In the event that the refurbishing or renovation operations referred to above are such as to deprive the member or any person lawfully claiming use of the premises or beneficial use thereof or should the premises for any reason at any time and from time to time not be available for use, no claim whatever will arise against either the company, the developer, or the manager, but the company, the developer, or the manager shall be entitled to provide the member or such other user, without extra cost to the member or other user with substantially equivalent temporary accommodation elsewhere in the scheme for the duration of the relevant week or for such time as the units are not so available as the case may be.



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- 3.2.6. If any dispute arises at any time as to whether the member or other user aforesaid is unable to enjoy beneficial use of the unit at any time, such dispute shall be determined by the manager who in making such decision shall act as an expert and not as an arbitrator and whose decision shall be final and binding on the member or such other person.
- 3.2.7. Notwithstanding anything to the contrary herein contained in the event that the manager is of the opinion that the admission to use any part of the property by the member or any person claiming any right to use the unit through or at the instance of the member, would result in or constitute a contravention of any law the manager will be entitled to refuse admission to the property by the member or such person, or if such person has gained admission thereto, to require or cause the member or such person to leave or vacate the property forthwith.

4. CONDITIONS OF OCCUPATION

- 4.1. From the occupation date the member –
- 4.1.1. shall at all times, as long as this agreement shall remain in force, comply with the laws of the Republic of South Africa, the Mol, this use agreement and the rules and procure compliance with the above mentioned of any member, invitee of a member or any guest making use of the unit.
- 4.1.2. shall waive all claims against the company for any loss or damage to property or any injury to person which the member may sustain in or about the unit, the buildings or the common property and indemnify the company against any such claim that may be made against the company by any member for any loss or damage to property or injury to a person suffered in or about the unit or the common property howsoever such loss or damage to property or injury to person may be caused.
- 4.1.3. shall be liable for and pay a levy contribution an annual levy for each week owned, of the amount determined by the directors from time to time.

5. LEVY

- 5.1. The directors of the company shall establish and maintain a levy fund to which end they shall from time to time make levies upon members of the company in such amounts as are in their opinion sufficient for the repair, upkeep, control, management of the property and administration of the company and of those portions of the property for which individual members are not personally liable, for the payment of rates, taxes and any other local authority charges on the property, any charges for the supply of electric current, gas, water, fuel, sanitary and other services to the property for which the individual members are not personally liable, and services required by the company for the covering of any losses suffered by the company, the payment of any premiums of insurance and for the discharge of any other obligation of the company and the company is authorised to employ and remunerate such persons as may be necessary to fulfil any function of maintenance and or control.
- 5.2. The directors shall estimate the amount which shall be required by the company to meet the aforesaid expenses during each operational year or any portion thereof, together with the estimated deficiency, if any, as may have resulted from the preceding operational year or portion thereof, and shall make a levy upon the members of the company equal as nearly as is reasonably practicable to such estimated amount. The directors may include in such levies an amount to be held in reserve to meet any anticipated future expenditure not of an annual nature, such as the expenses to be incurred for the redecoration or renovation of the company's property and for the replacement of any movables or any part thereof.
- 5.3. The purchaser acknowledges being aware of the provision of the Mol of the company with regard to the levies which will be calculated and raised by the directors of the company, and are payable in terms of the Mol and use agreement of the company.
- 5.4. The costs of which Levy is raised and consists of three basic Categories:
- 5.4.1. Costs to be borne exclusively by the holders of share blocks conferring Time-Sharing interest.
- 5.4.2. Costs to be borne exclusively by the holders of share blocks conferring sole or whole ownership interest.



- 5.4.3. Costs to be borne by the holders of all share Blocks in respect of the common areas and common services or charges.
- 5.5. The total levy for weeks owned shall be made payable annually in advance on the 1st of September for the upcoming financial year. Subject to an alternative arrangement, should the levy not be paid on the 1st day of the September then and in that event the company shall be entitled to charge interest on the arrear levies at a rate to be determined by the directors from time to time
- 5.6. The directors may from time to time make special levies upon the members of the company in respect of all such costs, expenses and requirements as are mentioned herein and such levies may be payable in one sum or by such instalments and at such time or times as the directors shall think fit.
- 5.7. Notices shall be given in respect of levies payable by members of the company and such notices shall be subject to the provisions relating to notices in the MoI.
- 5.8. Every levy which is made by the directors pursuant to these provisions shall be made and levied in accordance with the levy contribution.
- 5.9. Any amount due by the member by way of a levy or instalment of a levy shall be a debt owed by the member to the company and shall be recoverable by the company and any arrear amounts in respect of the levies shall bear interest in terms of clause 22 hereof and/or in terms of the MoI at the election of the Directors. The obligations of a member to pay a levy shall cease upon the lawful termination of the member's right of use, save that any arrear levies to the date of such termination shall nevertheless be recoverable from the member. No levies and no part of any levy paid by a member shall be refundable by the company on the termination of a member's right of occupation.
- 5.10. Should the member be in arrear with any levy obligation, he shall not be entitled to occupy the unit for his period until such time as he has paid all his arrears; before a member may exchange, space bank the unit, the levy must be paid up to date.
- 5.11. The company shall at all times be and remain the owner of the movables and the member agrees that the member's right to the use of the movables shall be limited to the module/s and that the member shall not be entitled to remove any of the movables from the unit. The member shall be obliged to exercise reasonable care to ensure that the movables are maintained in good order and repair. If at the end of the module the company, in its sole discretion, determines that any of the movables have been damaged or removed, then the member shall upon request pay the costs of replacement of or repair of any particular item, which amount shall be payable in addition to the levy, fair wear and tear of the movables excepted. The member hereby waives all claims against the company for any loss or damage to property or any injury to person which the member may sustain in or about the unit, the buildings or the common property and indemnifies the company against any such claim that may be made against the company by any member of the member's family or the member's invitees, employees, or agents for any loss or damage to property or injury to person suffered in or about the unit or the property howsoever such loss or damage to property or injury to person may be caused.
- 5.12. The company shall be entitled to deny the member access to the unit until such time as he has paid any levy due in terms hereof together with any accrued interest or costs in connection therewith.
- 5.13. The member shall pay in respect of each "A" Class share block held by him that part allocated to him of the amount as certified by the manager of the total expenses referred to in Clause 5 which have been allocated to the unit which he is entitled to occupy, such payment to be made on the first day of the financial year, as defined in clause 5.5 above.
- 5.14. In the event of whole ownership units and business sites:
- 5.14.1. The company shall be entitled to negotiate an arranged lesser levy with any holders in respect of a specific unit / share block and business sites. In the event of the relevant "B" shares being sold separately the full levy in terms hereof shall be payable in respect of those shares.
- 5.14.2. In the case of share blocks sold on the basis set out in Clause 3.2 the company shall be entitled to negotiate the lesser levy on the basis that the company will not be obliged to perform all the obligations or services referred to in this clause. In the event of the shares comprising those share blocks being sold on a Time-Sharing basis the holders of these

shares shall be obliged to obtain the consent of the company in writing and shall only be entitled to sell such shares subject to the normal conditions regarding levies contained herein. The provisions of this clause shall apply *mutatis mutandis* (the necessary changes being made) in the event of a purchaser purchasing all 52 weeks in a unit.

6. OBLIGATIONS OF THE COMPANY

- 6.1. The company and the directors shall, in respect of the buildings, the common property, the unit, the member and the scheme: -
- 6.1.1. Maintain the exterior portion of the property, including the pool, garden and all roofs and gutters, in good repair and from time to time and as and when necessary, renovate and repair the same.
 - 6.1.2. Maintain in good order and repair and in a clean and tenantable condition the interior of each unit and all such other portions of the property which are not reserved for the exclusive use of the member.
 - 6.1.3. Affect such insurances over and in respect of the property against damage in accordance with the relevant resolutions passed by the members of the company from time to time at shareholder meetings of the company and renew such policies.
 - 6.1.4. Maintain in good order and repair and in a clean and usable condition all the furniture, furnishings, fixtures, fittings, refrigerators, glassware and shall replace such items and maintain them to their original standard during the currency of this agreement.
- 6.2. These obligations shall be financed from the levy fund.
- 6.3. Insofar as may be necessary ensure that all or any of the functions referred to above which are to be carried out by the manager in terms of the agreement, are in fact carried out by the manager and to ensure the fulfilment by the manager of its obligations in terms of the agreement.

7. VOETSTOOTS

- 7.1. Occupation of the unit is accepted by the member voetstoots (as it stands) without any warranty or representation of any nature whatsoever.

8. SECURITY / PLEDGE

- 8.1. As security for the due and punctual performance of all his/her obligations in terms hereof, the member hereby pledges the share block, his member's interest in this Use Agreement and his right of occupation in terms thereof, to the company in accordance with the provisions as contained in the Mol.

9. CESSION OF MEMBER'S RIGHTS AND LETTING

- 9.1. The member shall only be entitled to cede his interest in this agreement if simultaneously therewith he transfers his shares in the manner provided by and subject to the Mol of the company and the terms of this agreement, and thereby confers upon such person the exclusive use and enjoyment of the unit. If however, a purchaser has purchased the shares on suspensive conditions and has not yet taken transfer of those shares; such purchaser shall be required to obtain the prior written consent of the seller to the resale of those shares and the cession of his rights herein. Before transfer is affected into the name of the transferee, the company shall require satisfactory proof that the member has ceded his interest in this agreement to the transferee, and that the transferee has duly assumed all the transferor's obligations to the company.
- 9.2. The member may freely let the unit for the duration of his module or allow another or others to occupy the unit during such module, provided that such other persons sign an undertaking to be bound by the provisions of this Use Agreement provided that for all purposes of this agreement any act or omission on the part of any occupant of the Time-Share unit including a lessee, sub-lessee or occupant of the user of the Time-Share unit or invitee of the purchaser, shall be deemed to be the act or omission of the purchaser.
- 9.3. A member who has purchased a whole ownership unit and holds all the shares in respect of such unit shall not be entitled to cede his interest other than on the basis of ceding his whole interest and

all his shares as a whole and shall not be entitled to sell his shares individually to more than 1 (One) person or legal person. The owner of a whole ownership unit may at the discretion of the developer sell all his shares to the developer who shall be entitled to dispose of those shares on a Time-Sharing basis in its discretion.

10. RIGHTS OF THE COMPANY

- 10.1. Should the member fail to maintain the said unit in good order and condition, the company shall, after 14 (fourteen) days' written notice to the member, be entitled, without prejudice to any other rights it may have, to put the same into good order and condition at the expense of the member, and to recover from the member any expenditure thereby incurred.
- 10.2. The company's duly authorised agent or workmen shall be permitted to enter the unit at any reasonable hour of the day, if authorised by the directors or by the secretary, manager or supervisor acting under powers delegated by the directors, in order to examine the same or to affect repairs thereto, or to any part of the buildings. If the member shall not be personally present to open the unit at any time when for any reason entry be necessary or permissible, then the secretary or manager or supervisor or other duly authorised agent of the company shall be entitled to enter the unit, without being liable to any claim or cause of action for damages by reason thereof, provided that during such entry such person shall take reasonable care not to cause damage or loss to the member's property.
- 10.3. If the member fails to discharge any of his obligations in terms hereof, the company may, without detracting from any other rights it might have and without notice discharge such obligation on the member's behalf and recover the costs of doing so from the member.
- 10.4. The company may, at any time the body of members are present at the relevant meeting, consider that the persistent acts or omissions of a member are prejudicial to the enjoyment of other members or to the general harmony of the units, compel a member, by resolution, to sell this share block and cede his Use Agreement for a cash consideration, to any person nominated by the directors of the company. The cash consideration shall be the cash price at which a similar share block and Use Agreement were last sold or the best possible cash which can be obtained within 90 (Ninety) days, whichever is the lower.

11. TERMINATION

11.1. TERMINATION ON BREACH

- 11.1.1. This agreement shall remain in full force and effect unless cancelled by the Company under the following conditions:
- 11.1.1.1. if the member fails to pay any amount owing to the company on due date and thereafter fails for a further period of 14 (Fourteen) days after notice by the company to the member to pay such amount; or
- 11.1.1.2. if the member breaches any of the terms or conditions of this agreement, which breach is capable of being remedied, and fails to remedy that breach within 14 (Fourteen) days after notice by the company to the member requiring it to do so; or
- 11.1.1.3. if the member breaches any of the terms or conditions of this agreement, which breach is not capable of being remedied, either within the period of notice referred to in Clause 11.1.1.2 or at all, and at any time within a period of 6 (Six) months after notice has been given to the member by the company requiring the member not to commit any further breach of this agreement, the member commits such a further breach;
- 11.1.1.4. or should the member cause any material damage to the premises or any other part of the property:
- 11.1.1.5. then the company shall be entitled, without prejudice to any other rights which it may have (and in particular without prejudice to its right to claim and recover damages suffered by the company as a result of such breach) to cancel the agreement; and
- 11.1.1.6. to declare all amounts owing by the member to the company, whether then due and payable or not, immediately due and payable, and the member shall in such

event be liable to make immediate payment of such amounts;

- 11.1.1.7. to obtain repossession of the unit;
- 11.1.1.8. as agent for and on behalf of the member, to let the unit and to collect all rents and monies payable by the tenant under such lease, and to deduct there from any monies whatsoever that may be owed by the member to the company; and/or
- 11.1.1.9. to sell or dispose of or realise in any other manner (on such terms and conditions as the company may in its sole discretion deem fit) the rights pledged by the member to the company in terms of Clause 8 hereof.

12. BUILDINGS

12.1. If the buildings are damaged or destroyed, the company agrees that it will, as soon as is practicable, repair or rebuild the same. The member shall have no claim against the company by reason of the unit being unfit for occupation or for any other reason whatsoever. The company however reserves to itself the right to change or vary the form of construction of the building or unit on such rebuilding or repairing, but the member shall have the same accommodation as regards the position and area of building enjoyed by him prior to destruction in such altered or varied construction. Notwithstanding the above, the company shall not be bound to expend any more in fulfilling any of its said obligations than that sum which it may receive from its insurers arising from any of the aforesaid contingencies.

13. RULES

13.1. The rules may be varied by the company prior to adoption: -

- 13.1.1. so as to confer the exclusive right of use of exclusive use areas in accordance with the provisions of this agreement;
- 13.1.2. to ensure proper management and administration of the Scheme, and the usage of same by Members;
- 13.1.3. so as to comply with the requirements of any future bondholder;
- 13.1.4. if the variation is of a formal nature only; or
- 13.1.5. if the company reasonably believes the amendment is necessary or desirable for the proper management and administration of the scheme.

14. WARRANTIES AND REPRESENTATIONS

14.1. The company hereby warrants: -

- 14.1.1. that save as provided in Clause 18, the developer has concluded or will conclude a written agreement of use with the company in respect of each unit in the building, each of the agreements being subject to the same terms and conditions as are herein contained, save that exclusive use areas will be allocated in terms hereof; and
- 14.1.2. the company will not permit any amendment, addition or alteration to the Use Agreement pertaining to any unit without approval by special resolution of a general meeting of the company of such change, addition or amendment or alteration.

15. PAYMENTS

15.1. All amounts payable by the members to the company in terms of this Use Agreement shall be paid to the company, without deduction or set-off and free of exchange at the managing agent's office or to such other person or company and at such other address as the company may from time to time notify the member.

16. NOTICES

16.1. All notices required to be given by the company to the members in terms of this agreement shall be given in writing and delivered by any means as prescribed for notices in terms of the Mol.

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17. GENERAL

- 17.1. No relaxation which the company may allow the member at any time in regard to the carrying out of any of the member's obligations in terms of this agreement shall prejudice or constitute a novation or a waiver of any of the company's rights in terms of this agreement.
- 17.2. This agreement contains all the terms and conditions of the agreement between the company and the member relating to the subject matter thereof, and the company has made no representations, given no warranties and agreed on no terms in regard to such subject matter other than as stated herein.
- 17.3. The member shall not be entitled to retain or delay payment of any amount owing to the company in terms of this agreement on the grounds that there is any defect in the unit.
- 17.4. No variation of this agreement shall be of any force or effect unless reduced to writing and signed by the company and the member.
- 17.5. It is expressly agreed that this agreement does not constitute a lease or any form of tenancy.
- 17.6. If any provisions of this agreement conflict with the share blocks act or the property time sharing control act or the unalterable provisions of the Companies Act, the acts shall prevail.

18. THE DEVELOPER WARRANTS THAT

- 18.1. They will conclude written agreements of use with the company in respect of the unit for each period in the property, each of the agreements being subject to the same terms and conditions as are herein contained
- 18.2. No latitude, relaxation or indulgence or extension of time which may be given to the member in respect of any matter or thing which the member is bound to perform or observe in terms hereof shall under any circumstances be deemed to be a waiver of the company's rights and the company shall at all times be entitled to require strict and punctual compliance with each and every provision hereof.
- 18.3. The member shall in terms of Section 14 of the share blocks act, be liable to the Company for the loan obligation.

19. SEPARATE AND SEVERABLE

- 19.1. In this paragraph:
- 19.1.1. "*pro non scripto*" shall mean never been written;
- 19.1.2. "*ab initio*" shall mean from the beginning.
- 19.2. Insofar as any specific provision or provisions of this agreement, its annexures or the Use Agreement may, by ruling of a court, be held or by statute or by regulations in terms of any statute of parliament be ruled contrary to or having the affect of being contrary to the provisions or intent of any law at the time hereof in force.
- 19.3. Then such provision shall be deemed to:
- 19.3.1. be *pro non scripto*;
- 19.3.2. distinct and severable here from without however detracting from or affecting the enforceability for the rest and remainder of this agreement, the annexures or the Use Agreement, as the case may be;
- 19.3.3. To the extent that it may render this agreement either void ab initio or voidable at the instance of either the parties then:
- 19.3.3.1. every provision of this agreement shall be deemed *pro non scripto*;
- 19.3.3.2. the parties shall, in the absence of any contrary law or agreement, then conclude and restore the status quo ante of this agreement, subject to any contrary provisions at law.

20. INTEREST ON ARREARS

20.1. All arrear or outstanding payments due in terms of this agreement and which are not paid on due date shall bear interest.

20.2. The interest rate shall be determined by the directors from time to time, subject to in as far as is lawful.

20.3. Such interest shall be calculated monthly in advance from the date that such amount became due until date of actual payment and shall be considered as a penalty interest to accrue to the levy fund.

20.4. The interest may at the election of the directors be compounded monthly.

SIGNED BY THE MEMBER AT _____ ON THIS _____ DAY OF _____ 20__

AS WITNESSES:

1 _____

MEMBER (DULY AUTHORISED)

2 _____

SIGNED BY THE COMPANY AT _____ ON THIS _____ DAY OF _____ 20__

AS WITNESSES:

1 _____

COMPANY (DULY AUTHRORISED)

2 _____

ANNEXURE "D"

TORTUGA SHARE BLOCK (PTY) LTD

CALENDAR 2014

Week	Friday to Friday	Friday to Friday Arrival date	Friday to Friday Departure date	Seasons	MODULES
1	3 Jan - 10 Jan	3/01/2014	10/01/2014	P3	P01
2	10 Jan - 17 Jan	10/01/2014	17/01/2014	P1	F01
3	17 Jan - 24 Jan	17/01/2014	24/01/2014	R	F02
4	24 Jan - 31 Jan	24/01/2014	31/01/2014	W	F03
5	31 Jan - 7 Feb	31/01/2014	7/02/2014	W	F04
6	7 Feb - 14 Feb	7/02/2014	14/02/2014	W	F05
7	14 Feb - 21 Feb	14/02/2014	21/02/2014	W	F06
8	21 Feb - 28 Feb	21/02/2014	28/02/2014	W	F07
9	28 Feb - 7 Mar	28/02/2014	7/03/2014	W	F08
10	7 Mar - 14 Mar	7/03/2014	14/03/2014	W	F09
11	14 Mar - 21 Mar	14/03/2014	21/03/2014	W	F10
12	21 Mar - 28 Mar	21/03/2014	28/03/2014	R	F11
13	28 Mar - 4 Apr	28/03/2014	4/04/2014	P3	P02
14	4 Apr - 11 Apr	4/04/2014	11/04/2014	R	F12
15	11 Apr - 18 Apr	11/04/2014	18/04/2014	R	F13
16	18 Apr - 25 Apr	18/04/2014	25/04/2014	R	F14
17	25 Apr - 2 May	25/04/2014	2/05/2014	P1	P03
18	2 May - 9 May	2/05/2014	9/05/2014	R	F15
19	9 May - 16 May	9/05/2014	16/05/2014	B	F16
20	16 May - 23 May	16/05/2014	23/05/2014	B	F17
21	23 May - 30 May	23/05/2014	30/05/2014	B	F18
22	30 May - 6 Jun	30/05/2014	6/06/2014	B	F19
23	6 Jun - 13 Jun	6/06/2014	13/06/2014	B	F20
24	13 Jun - 20 Jun	13/06/2014	20/06/2014	R	F21
25	20 Jun - 27 Jun	20/06/2014	27/06/2014	R	F22
26	27 Jun - 4 Jul	27/06/2014	4/07/2014	P2	P04
27	4 Jul - 11 Jul	4/07/2014	11/07/2014	P2	P05
28	11 Jul - 18 Jul	11/07/2014	18/07/2014	P2	P06
29	18 Jul - 25 Jul	18/07/2014	25/07/2014	R	F23
30	25 Jul - 1 Aug	25/07/2014	1/08/2014	B	F24
31	1 Aug - 8 Aug	1/08/2014	8/08/2014	B	F25
32	8 Aug - 15 Aug	8/08/2014	15/08/2014	B	F26
33	15 Aug - 22 Aug	15/08/2014	22/08/2014	B	F27
34	22 Aug - 29 Aug	22/08/2014	29/08/2014	B	F28
35	29 Aug - 5 Sep	29/08/2014	5/09/2014	B	F29
36	5 Sep - 12 Sep	5/09/2014	12/09/2014	B	F30

37	12 Sep - 19 Sep	12/09/2014	19/09/2014	B	F31
38	19 Sep - 26 Sep	19/09/2014	26/09/2014	B	F32
39	26 Sep - 3 Oct	26/09/2014	3/10/2014	R	F33
40	3 Oct - 10 Oct	3/10/2014	10/10/2014	P3	P07
41	10 Oct - 17 Oct	10/10/2014	17/10/2014	R	F34
42	17 Oct - 24 Oct	17/10/2014	24/10/2014	W	F35
43	24 Oct - 31 Oct	24/10/2014	31/10/2014	W	F36
44	31 Oct - 7 Nov	31/10/2014	7/11/2014	W	F37
45	7 Nov - 14 Nov	7/11/2014	14/11/2014	W	F38
46	14 Nov - 21 Nov	14/11/2014	21/11/2014	W	F39
47	21 Nov - 28 Nov	21/11/2014	28/11/2014	W	F40
48	28 Nov - 5 Dec	28/11/2014	5/12/2014	R	P08
49	5 Dec - 12 Dec	5/12/2014	12/12/2014	R	P09
50	12 Dec - 19 Dec	12/12/2014	19/12/2014	P3	P10
51	19 Dec - 26 Dec	19/12/2014	26/12/2014	P4	P11
52	26 Dec - 2 Jan 2015	26/12/2014	2/01/2015	P4	P12