

ARTICLE 103.2  
ANNEXURE "B"

**USE AGREEMENT NGWENYA 4 SHARE BLOCK LIMITED  
FOR SYNDICATION SALES**

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

SCHEDULE OF DEFINITIONS

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

1.1 "The company" NGWENYA 4 SHARE BLOCK LIMITED (Reg. No. 2005/005826/06)

1.2 "The member" ..... its successors and assigns.

1.3 "The share block" Share Block Nos..... (Lodge Nos.....) representing a syndication interest in the lodge referred to herein in the share capital of the company and to which the use of the section is linked pursuant to the Articles of Association of the company.

1.4 "The properties" The properties shall mean Remainder of Portion 79 (a Portion of Portion 73) of the farm Tenbosch 162 Registration Division J.U. Province of Mpumalanga; In extent 1,6802 ha,

and

Remaining Extent of Portion 68 (a Portion of Portion 20 Whisky) of the farm Tenbosch 162 Registration Division J.U. Province of Mpumalanga; In extent 3,5525 ha,

and

Portion 99 (a Portion of Portion 80 Whisky) of the farm Tenbosch 162 Registration Division J.U. Province of Mpumalanga; In extent 2,0280 ha,

Or any subsequent alteration to the property description in accordance with a fresh Surveyor General's approved diagram, provided that the property shall remain in extent approximately 7,2607 hectares.

It is recorded that the Developer may add to the property by including other portions of land to be purchased, and may subtract from the property by transferring that portion of land allocated to his shares.

1.5 "The developers" Ngwenya International (Proprietary) Limited.

1.6 "The buildings" the buildings known as NGWENYA 4 which are on the property.

1.7 "Lodge" any lodge on the property, which is furnished pursuant to Clause 2.6 below and which provides sleeping accommodation for either two, four, six, eight or ten persons and which is linked to a share block pursuant to the Articles of Association of the company.

- 1.8 "The movables" means the furniture, fixtures, furnishings, bed linen, refrigerators and other movable items in the section from time to time.
- 1.9 "The plans" the plans annexed hereto.
- 1.10 "The exclusive use areas" The terraces, stoeps and balconies allocated to the lodges on the plans.
- 1.11 "The levy quota" the fraction used as the basis for determining the member's share of the costs and expenses contemplated in Section 13(1) of the Act and which is reflected in Clause 3.2.6 below.
- 1.12 "The effective date" is the date of architect's certificate of occupation (which date shall be a date within two years from date of signature hereof) or the date of the initial occupation period, whichever is the latter.
- 1.13 "The act" 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 61 of 1973 as amended; and any regulation promulgating in terms of the Acts from time to time.
- 1.14 "The sectional titles act" The Sectional Titles Act, 1971.
- 1.15 "The rules" the rules (including any house rules and regulations made thereunder) contained in Schedule 1 and Schedule 2 of Annexure "D" hereto or any amendment thereof from time to time in force.
- 1.16 "The directors" the directors of the company.
- 1.17 "Levy fund" the fund established by the company in terms of Section 13 of the Act.
- 1.18 "The scheme" the share block scheme operated by the company in respect of the buildings owned by it.
- 1.19 "Use" use as contemplated by the Acts.
- 1.20 "Time unit"
- 1.20.1 The compilation of the annual calendar will be at the discretion of the Directors.
- 1.20.2 The following schedule is a schedule of the share blocks in respect of syndication interests with reference to the particular time modules in which they relate.

The "C" class shares shall consist of 15 600 (Fifteen Thousand Six Hundred) shares allocated to syndication lines in 150 different syndication chalets, and the schedule reads as follows. The X factor denotes the syndication lodge and each unit number to which the share block relates. The C denotes the "C" class share to be allocated and the column alongside the C shall denote the share block number allocated to a particular week or syndication line. The SL shall denote the syndication line which shall consist of four syndication weeks and shall be allocated shares as follows:

Each syndication line shall be allocated 2 (Two) "C" class shares per week. Each whole ownership lodge shall be allocated 104 (One Hundred and Four) "C" class shares.

The Share Blocks in respect of syndication interests shall be numbered as "C" class shares confirming the interest of syndication and shall be as defined in the Memorandum and Articles of Association.

- (a) denoted by an original figure being an 'S' for syndication share block;
- (b) the first and second digits identify the Share Blocks by reference to their number;
- (c) the third and fourth digits are an abbreviation of the words "Share Block"; and
- (d) the fifth, sixth and seventh digits refer to the particular syndication line.

#### OCCUPATION ROSTER

The occupation roster in respect of Syndicated Ownership interests is explained as follows:

1. The roster shall apply to all syndication and whole ownership lodges.
2. Each year is divided into 13 (thirteen) Syndication Lines.
3. All the periods making up the Syndication Lines have been divided into 13 (thirteen) groups of 4 (four) weeks each and such group of weeks shall be known as a Syndication Line. For the purpose of identification, each Syndication Line is allocated an alpha character A, B, C, D, E, F, G, H, I, J, K, L or M.
4. The Syndication Lines contain the weeks as set out in the following table of columns (identified by the numerals (1) to (13)), where each Syndication Line contains the weeks in the columns below the Syndication Line for the year 2005.
5. Week 1 shall relate to the first Friday in 2005, and thereafter to the first Friday of each and every consecutive year. The week numbers from 1 thereafter shall follow consecutively as the weeks of the year proceed from Friday to Friday.

Syndication Line	A	B	C	D	E	F	G	H	I	J	K	L	M
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	10	11	12	52	1	2	3	4	5	6	7	8	9
Week	22	23	24	16	17	18	13	14	15	25	19	20	21
Numbers	35	36	37	31	32	33	28	29	30	38	26	27	34
	49	50	51	42	43	44	45	46	47	48	40	41	39

For each year following the year 2005, each Syndication Line shall contain the weeks in the column numbered one greater than the previous year, except that the Syndication Line containing the Weeks in column (13) in the previous year shall then contain the weeks listed in column (1) [i.e. in the year 2006 Syndication Line A shall contain the weeks listed in column (2) and Syndication Line M shall contain the weeks listed in column (1), and in the year 2007, Syndication Line A shall contain the weeks listed in column (3) and Syndication Line M shall contain the weeks listed in column (2).

- 1.21 "The operating company" Ngwenya International (Pty) Limited and the word "Management Company" shall have a similar meaning.
- 1.22 "The architect's certificate" the certificate issued by the architect in respect of the lodges 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 lodges which have not yet been erected certifying, as and when the lodges have been erected, that they have been erected in accordance with the approved plans and that they are suitable for occupation.
- 1.23 "The manager" the person appointed from time to time to manage and supervise the property and the scheme conducted thereon.

- 1.24 "The perpetual ownership" the owner of the Share Block shall be entitled to the use of the lodges subject to the terms of the Use Agreement in perpetuity.
- 1.25 Any reference to the member shall when used in the context of the occupation and use of the lodge 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.
- 1.26 Words signifying the singular shall include the plural and vice versa and words importing one gender shall include the other.
- 1.27 Save as provided herein, or unless the context otherwise requires, words and phrases defined or used in the Act or the Sectional Titles Act shall have the same meanings in this agreement.
- 1.28 The clause headings in this agreement have been inserted for reference purposes only, and shall not be taken into account in interpreting it.
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 time unit during each calendar year, to the exclusive use and enjoyment of the lodge, the exclusive use areas and the movable property and until redemption of the shares in terms of the Articles of Association 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 sublet the section in terms of Clause 8 hereof.
- 2.2 If the member does not intend to exercise his rights in terms of Clause 2.1 during any time unit, he may, not less than 6 (Six) weeks before the commencement of the time unit, notify the operating company in writing. In such event, if the operating company hires out the lodge for the whole or any part of the time unit, the member shall be entitled to 75% of the charge for the lodge. Such amount shall be set off against any amounts which are then due to the company in terms hereof, and the balance shall be paid to the member.
- 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 in perpetuity.
- 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 owner or any occupant of any part of the property not subject to the Time-Sharing scheme.
- 2.6 The premises shall be used by the member for residential purposes only and for no other purpose whatever. The premises shall be used personally by the member and members of his family or his invitees, provided that in any event the number of users of the premises shall not exceed the number of persons prescribed by Clause 1.7, at any time without the prior written consent of the Manager. In the event of the rights of use herein

being held by a company or other body corporate, the premises shall only be used by such person and members of his family or his invitees who may be nominated from time to time by the said company or body corporate, which use shall be subject to the restrictions as to the number of users at any one time, and further shall be subject to the prior approval of the Manager in the ordinary course of business, which approval shall not be unreasonably withheld.

2.7 No liability shall rest upon the company for -

2.7.1 anything done or omitted by the Manager from time to time; and

2.7.2 any interruption or 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.

2.8 FURNISHING AND MAINTENANCE OF LODGES

2.8.1 In respect of Syndication Lodges

2.8.1.1 The premises shall be furnished and provided with the movable property which in terms of the annexure hereto is specified for such premises, 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 premises during or upon termination of any week that the premises are 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 that any major refurbishment of the premises (whether alone or together with other premises) shall require the approval of the company in General Meeting.

2.8.1.2 The company shall fully service the lodge or procure that the lodge is fully serviced and without detracting from the generality of the foregoing, the company shall, in particular, clean the rooms every day excluding Sundays and public holidays 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.

2.8.2 In respect of Whole Ownership of lodge

2.8.2.1 The owner of each share block shall be obliged to maintain the interior of all or any improvements erected on the site allocated to such member in good, proper and tenantable 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 interior walls and the interior reticulation for electricity, cables, plumbing, sewerage and water supply in and around the site and shall also maintain and replace the furnishings in the lodge under certain circumstances.

2.8.2.2 Should the member not maintain the improvements on the site in terms of the provisions of Sub-clause 2.8.2.1, 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 tenantable 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 for purposes of carrying out all necessary repairs and renovations at the expense of the member should the member fail to do so.

- 2.8.2.3 The owner of each share block shall be obliged to furnish his lodge at his own expense but to a standard commensurate to the rest of the scheme.
- 2.9 If at any time the premises require 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 premises for the :
- 2.9.1 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 premises 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 either the company, the developers or the manager.
- 2.9.2 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 premises are not so available as the case may be.
- 2.9.3 If any dispute arises at any time as to whether the member or other user aforesaid is unable to enjoy beneficial use of the premises 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.
- 2.10 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 premises 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.
- 2.11 Notwithstanding anything to the contrary herein contained, the Purchaser acknowledges that the holders of class "D" shares shall be entitled to the exclusive use and enjoyment of that portion of the property not used for exclusive use or construction of lodges, and may at some time chose to subdivide the property and transfer out that property held under the "D" class shares. Also, the holder of the "A" and "D" class shares may at any time add to the property by consolidating other property with the property herein described, and may thereafter erect further lodges on the property after the allocation thereto of shares.
3. CONDITIONS OF OCCUPATION
- 3.1 From the occupation date the member -
- 3.1.1 shall at all times as long as this agreement shall remain in force, comply with the provisions of Section 32 (excluding Section 32(f)) of the Sectional Titles Act and with the rules as if he were the owner of the lodge in terms of that Act and procure compliance with the rules by a member of the family of the member, invitees, guests, servants, employees, tenants and agents. Provided that such of the provisions of the Sectional Titles Act and the rules as cannot, under the circumstances, be applicable or are impliedly substituted by the provisions of this agreement, shall not be binding on the member;

3.1.2 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 lodge, the buildings or the common property and indemnify the company against any such claim that may be made against the company by any member of the member's family or members' invitees, employees, or agents for any loss or damage to property or injury to person suffered in or about the lodge or the common property howsoever such loss or damage to property or injury to person may be caused;

3.1.3 shall be liable for and pay to the levy fund an annual levy for each week owned, of the amount hereinafter determined.

## 3.2 LEVY

3.2.1 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.

3.2.2 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.

3.2.2.1 The purchaser acknowledges being aware of the provision of the Articles of Association 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 Articles of Association of the company.

3.2.2.2 The costs of which service fee is raised and consists of two basic Categories:

- (i) Costs to be borne exclusively by the holders of share blocks conferring syndication interests.
- (ii) Costs to be borne exclusively by the holders of share blocks conferring whole ownership interest.

3.2.3 The total levy due shall be made payable annually on the 1st day of the financial year. The company's financial year is the 1st day of March to the 28th day of February in a particular year. Should the levy not be paid on the 1st day of the financial year then and in that event the company shall be entitled to charge interest on the arrear levies at the maximum interest allowed by law.

The company reserves the right to deny occupation to any member to their lodge or week if their levies are in arrears.

It is agreed between the parties that the owners of syndication rights shall be entitled, by prior arrangement with the managing agent, to pay their levies in twelve equal instalments annually.

3.2.4 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 in Clause 3.2.1 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.
- 3.2.5 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 Articles of Association.
- 3.2.6 Every levy which is made by the directors pursuant to these provisions shall be made and levied for each week or portion of week owned by the member and furthermore taking into account the size of the lodge owned.
- 3.2.7 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 at the rate equivalent to a rate equal to the maximum rate referred to in the Usury Act and promulgated thereunder by the Minister from time to time. 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.
- 3.2.8 Should the member be in arrear with any levy obligation, he shall not be entitled to occupy the lodge 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.
- 3.3 The company shall at all times be and remain the owner of the movables, with the exception of whole ownership syndication lodges, where the owner of all 53 weeks shall be the owner of the movables inside the chalet, and the member agrees that the member's right to the use of the movables shall be limited to the time unit/s and that the member shall not be entitled to remove any of the movables from the lodge. 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 time unit 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 lodge, 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 lodge or the property howsoever such loss or damage to property or injury to person may be caused.
- 3.4 The company shall be entitled to deny the member access to the lodge until such time as he has paid any levy due in terms hereof together with any accrued interest or costs in connection therewith.
- 3.5 The company shall fully service the lodge or procure that the lodge is fully serviced and without detracting from the generality of the foregoing, the company shall, in particular, clean the rooms every day excluding Sundays and public holidays 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 replacement by a member maintain the abovementioned items in a good, clean and usable condition.
- 3.6 The member shall pay in respect of each "C" 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 3.2.1 which have been allocated to the lodge which he is entitled to occupy, such payment to be made on the first day of the financial year.
- 3.6.1 The initial levies allocated to each share block representing a syndication interest are reflected in Clause 7 of the information schedule annexed hereto in respect of the various types of lodges and time periods in each year.



- 3.7 The annual levy payable per week, midweek, weekend owned as at the date hereof in respect of the time unit hereby sold is currently the amount as stated in Clause 1.1.34 of the definition section forming part of the Agreement of Sale forming part hereof.
- 3.8.1 The company shall be entitled to negotiate a lesser levy with any purchaser who is the holder of all the "C" shares in respect of a specific lodge, i.e. a purchaser who is an owner of a whole ownership lodge. In the event of the relevant "C" shares being sold separately the full levy in terms hereof shall be payable in respect of those shares.
- 3.8.2 In the case of share blocks sold on the basis set out in Clause 3.8.1 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 or in Clause 4 hereof. 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 in the event of a purchaser purchasing all 52 weeks in a lodge and acquiring 104 "C" ordinary shares.

#### 4. OBLIGATIONS OF THE COMPANY

- 4.1 The company and the directors shall, in respect of the buildings, the common property, the lodge, the member and the scheme:-
- 4.1.1 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.
- 4.1.2 Maintain in good order and repair and in a clean and tenantable condition the interior of each lodge and all such other portions of the property which are not reserved for the exclusive use of the member.
- 4.1.3 Effect 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 general meetings of the company and renew such policies.
- 4.1.4 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.
- 4.1.5 These obligations shall be financed from the levy fund in certain circumstances where the higher and fully inclusive levy is paid.
- 4.1.6 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.

#### 5. LOAN OBLIGATIONS

- 5.1 The member assumes no responsibility for that portion of the loan obligation attaching to the share block purchased by himself, as these obligations have been assumed in its entirety by Ngwenya International (Pty) Ltd.

#### 6. VOETSTOOTS

Occupation of the lodge is accepted by the member voetstoots without any warranty or representation of any

nature whatsoever.

7. SECURITY

As security for the due and punctual performance of all his obligations in terms hereof, the member hereby pledges the share block and the member's interest in this Use Agreement and his right of occupation in terms thereof, to the company. The company shall be entitled at any time at its discretion to call upon the member to deliver the member's copy of the Use Agreement and the shares together with duly signed share transfer forms in respect of the share block to the company in order to perfect the pledge (subject to the preferent rights of any other person).

8. CESSION OF MEMBER'S RIGHTS AND LETTING

8.1 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 Articles of Association of the company and the terms of this agreement, and thereby confers upon such person the exclusive use and enjoyment of the lodge. 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 effected 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.

8.2 The member may freely let the lodge for the duration of his time unit or allow another or others to occupy the lodge during such time unit, 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 lodge including a lessee, sub-lessee or occupant of the user of the Time-Share lodge or invitee of the member, shall be deemed to be the act or omission of the member.

8.3 A member who has purchased a whole ownership lodge and holds all the shares in respect of such lodge shall not be entitled to cede or transfer his interest other than on the basis of ceding one or more multiples of the 13 lines of occupation rights in the four seasons in the year as contained in the occupation calendar attached hereto and forming part hereof. The owner of a whole ownership lodge 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.

9. RIGHTS OF THE COMPANY

9.1 Should the member fail to maintain the said lodge 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.

9.2 The company's duly authorised agent or workmen shall be permitted to enter the lodge 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 effect repairs thereto, or to any part of the buildings. If the member shall not be personally present to open the lodge 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 lodge, 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.

9.3 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.

9.4 The company may, at any time the body of members 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 lodges, 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 lesser.

#### 10. TERMINATION ON BREACH

This agreement shall remain in full force and effect unless cancelled by the Company under the following conditions:

10.1 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

10.2 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

10.3 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 10.2 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;

10.4 or should the member :

10.4.1 cause any material damage to the premises or any other part of the property;

10.5 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

10.5.1 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;

10.5.2 to obtain repossession of the lodge;

10.5.3 as agent for and on behalf of the member, to let the lodge and to collect all rents and monies payable by the tenant under such lease, and to deduct therefrom any monies whatsoever that may be owed by the member to the company; and/or

10.5.4 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 7 hereof.

10.5.5 If the managing agent or share block company or developer takes any action against the member as contemplated herein, the share holder agrees to pay to the seller or share block company or managing agent all the costs and expenses incurred by the seller, share block company or managing agent, as between an attorney and his own client and if the rights in terms of this Use Agreement are for any reason cancelled, then the shareholder hereby irrevocable and in rem suam appoints as his duly authorised agent to act on his behalf,

the managing agent, can authorise the managing agent to take all steps that may be necessary or requisite to effect transfer of the shares held by the defaulting member, to a purchaser or transferee thereof.

11. BUILDINGS

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 lodge 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 lodge 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.

12. RULES

The rules (as set out in Annexure "D") may be varied by the company prior to adoption :-

- 12.1 so as to confer the exclusive right of use of exclusive use areas in accordance with the provisions of this agreement and Annexure "B" and "C" ;
- 12.2 so as to comply with the requirements of any future bondholder;
- 12.3 if the variation is of a formal nature only; or
- 12.4 if the company reasonably believes the amendment is necessary or desirable for the proper management and administration of the scheme.

13. WARRANTIES AND REPRESENTATIONS

The company hereby warrants :-

- 13.1 that save as provided in Clause 22, the developer has concluded or will conclude a written agreement of use with the company in respect of each lodge 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
- 13.2 the company will not permit any amendment, addition or alteration to the Use Agreement pertaining to any lodge without approval by special resolution of a general meeting of the company of such change, addition or amendment or alteration.

14. PAYMENTS

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 :- Ngwenya 4 Share Block Limited c/o Carl John Attorneys at 26 Duiwe Laan, Sedgfield, 6573 or to such other person or company and at such other address as the company may from time to time notify the member.

15. NOTICES

- 15.1 All notices required to be given by the company to the member in terms of this agreement shall be given in writing and delivered by hand or sent by prepaid post to the lodge comprising the lodge, if during a member's use period, and at his domicilium.

- 15.2 A notice sent by prepaid post shall be deemed, unless the contrary is proved, to have been received within 10 (Ten) days after the date of posting.
- 15.3 The member chooses domicilium citandi et executandi at the lodge for all purposes under this agreement, during his use period, and at the address shown in Clause 1.1.3 of the Agreement of Sale, at all other times.

#### GENERAL

16. 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. 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.
18. 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 lodge.
19. No variation of this agreement shall be of any force or effect unless reduced to writing and signed by the company and the member.
20. It is expressly agreed that this agreement does not constitute a lease or any form of tenancy.
21. If any provisions of this agreement conflict with the Act, the Act shall prevail.
22. The developers warrant that :
- 22.1 They will conclude written agreements of use with the company in respect of each lodge for each period in the property, each of the agreements being subject to the same terms and conditions as are herein contained, except insofar as any variation thereto arises by virtue of Schedule "C" hereto.
- 22.2 The developers shall be the holders of share block number 1 and all unsold share blocks.
- 22.3 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.
- 22.4 In the event of any provision of this agreement conflicting with the Act or the Sectional Titles Act, the Act or as the case may be, the Sectional Titles Act shall prevail.
- 22.5 Ngwenya International (Pty) Limited being the holder of share block number 1, consisting of the "A" ordinary shares of the company and the developer being the holder of the unsold par value shares in the capital of the company will be entitled to further develop the property and the buildings at their discretion and shall also be entitled to acquire further properties and develop such properties at their discretion, and furthermore reserves the rights as contained in the Articles with regard to subdivision.
- 22.6 The developer will be the only person who incurs any liability whatsoever in respect of the loan obligations of the company, in terms of Section 14 of the Share Blocks Control Act and for the purposes of acquiring additional property and erecting additional buildings in terms of Clause 22.5 hereof.
- 22.7 The developer may require the company to subdivide the share block held by it into further share blocks, and

to allocate the new share block to time units in any of the newly developed stands, buildings, parts of the buildings and to enter into Use Agreements in the same form as this agreement in respect of each such time unit.

23. SEPARATE AND SEVERABLE

Insofar as any specific provision or provisions of this agreement, its annexure 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.

23.1 Then such provision shall be deemed to

23.1.1 be pro non scripto;

23.1.2 distinct and severable herefrom without however detracting from or affecting the enforceability for the rest and remainder of this agreement, the annexure or the Use Agreement, as the case may be;

23.2 To the extent that it may render this agreement either void ab initio or voidable at the instance of either the parties then

23.2.1 every provision of this agreement shall be deemed pro non scripto;

23.2.2 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.

24. EXTENSION OF SCHEME AND IMPROVEMENTS

24.1 It is recorded that the property owned by the company is capable of further development by the erection of further lodges to not exceed 1 (One) lodge per 500m<sup>2</sup> or a total of 2 400 (Two Thousand Four Hundred) beds whichever is the greater and other related facilities and the company may at some time in the future construct these additional facilities. That the developer in his capacity as seller has reserved the right to extend the scheme by erecting improvements thereon as provided for inter alia by the Articles of Association of the company, and shall be entitled to subdivide and either sell such property or to further develop the property by the building thereon of a hotel or whole ownership lodges subject however to the restriction that the company may only erect lodges or a hotel on the basis that there will be no more than 1 (One) lodge per 500 m<sup>2</sup> on the whole of the property. In this regard:

24.1.1 the member is obliged to permit the developer to exercise his rights as aforesaid;

24.1.2 the member irrevocably authorizes the company to increase its loan obligation by an amount equal to the costs of the improvements and the allocation thereof pursuant to the said Articles and the provisions of the Share Blocks Control Act, to newly created share blocks;

24.1.3 the member acknowledges and understands that the common property will be utilised from time to time to give effect to the developer's rights in this regard and the member shall have no claim against the developer in this regard;

24.1.4 the developer shall be entitled in its discretion to convert as many of the "A" shares into "C" shares as may be necessary and to allocate share blocks to the improvements and the member agrees to the developer so acting hereby irrevocably appointing the developer as his agent to attend any general meeting of the company and to vote for a motion in terms of which such allocation is made or confirmed;

24.1.5 The company has in terms of its Articles of Association reserved the right to raise loans totalling a further R20,000,000.00 (TWENTY MILLION RAND) at some stage in the future for the purpose of erecting the improvements and the members agree to the company so acting and registering a mortgage bond over the property owned by the company in favour of the lender as security for such loan. The provisions of this clause shall be deemed to be a reference to Section 14(b) of the Share Blocks Control Act. The member/purchaser by his signature hereto authorises the company to pass the necessary resolutions to give effect to the provisions of this clause.

24.2 If the company buys any additional land or can acquire additional land the development shall be increased in size but by no more lodges than that number of lodges equivalent to 1 (One) lodge per 500m<sup>2</sup> of the size of the property so acquired.

24.3 The seller in its discretion may effect the improvements in each phase as it deems appropriate.

24.4 The developer reserves the right to further subdivide the property and to sell that portion of the property which is not used for the current development. That portion of the property which is not used for the current development shall be held by the A ordinary shares.

25. PENALTY ON ARREARS

All arrear or outstanding payments due in terms of this agreement and which are not paid on due date shall bear interest at the maximum rate allowed in terms of the Usury Act such interest to be calculated from due date until date of actual payment and shall be considered as a penalty interest to accrue to the levy fund.

SIGNED by the member at ..... on this ..... day of .....

AS WITNESSES:

1. ....  
MEMBER

2. ....

SIGNED by the company acting through its duly authorised offices at ..... on this ..... day of .....

AS WITNESSES:

1. ....  
COMPANY

2. ....

**Annexure "CI.1"**

The following schedule is a schedule of the share blocks in respect of syndication interests with reference to the particular time modules in which they relate.

The "C" class shares shall consist of 15 600 (Fifteen Thousand Six Hundred) shares allocated to syndication lines in 150 different syndication chalets, and the schedule reads as follows. The X factor denotes the syndication lodge and each unit number to which the share block relates. The C denotes the "C" class share to be allocated and the column alongside the C shall denote the share block number allocated to a particular week or syndication line. The SL shall denote the syndication line which shall consist of four syndication weeks and shall be allocated shares as follows:

Each syndication line shall be allocated 2 (Two) "C" class shares per week. Each whole ownership lodge shall be allocated 104 (One Hundred and Four) "C" class shares.

The Share Blocks in respect of syndication interests shall be numbered as "C" class shares confirming the interest of syndication and shall be as defined in the Memorandum and Articles of Association.

- (a) denoted by an original figure being an 'S' for syndication share block;
- (a) the first and second digits identify the Share Blocks by reference to their number;
- (b) the third and fourth digits are an abbreviation of the words "Share Block"; and
- (c) the fifth, sixth and seventh digits refer to the particular syndication line.

**OCCUPATION ROSTER**

The occupation roster in respect of Syndicated Ownership interests is explained as follows:

1. The roster shall apply to all syndication and whole ownership lodges.
2. Each year is divided into 13 (thirteen) Syndication Lines.
3. All the periods making up the Syndication Lines have been divided into 13 (thirteen) groups of 4 (four) weeks each and such group of weeks shall be known as a Syndication Line. For the purpose of identification, each Syndication Line is allocated an alpha character A, B, C, D, E, F, G, H, I, J, K, L or M.
4. The Syndication Lines contain the weeks as set out in the following table of columns (identified by the numerals (1) to (13)), where each Syndication Line contains the weeks in the columns below the Syndication Line for the year 2005.
5. Week 1 shall relate to the first Friday in 2005, and thereafter to the first Friday of each and every consecutive year. The week numbers from 1 thereafter shall follow consecutively as the weeks of the year proceed from Friday to Friday.

Syndication Line	A	B	C	D	E	F	G	H	I	J	K	L	M
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	10	11	12	52	1	2	3	4	5	6	7	8	9
Week	22	23	24	16	17	18	13	14	15	25	19	20	21
Numbers	35	36	37	31	32	33	28	29	30	38	26	27	34
	49	50	51	42	43	44	45	46	47	48	40	41	39

For each year following the year 2005, each Syndication Line shall contain the weeks in the column numbered one greater than the previous year, except that the Syndication Line containing the Weeks in column (13) in the previous year shall then contain the weeks listed in column (1) [i.e. in the year 2006 Syndication Line A shall contain the weeks listed in column (2) and Syndication Line M shall contain the weeks listed in column (1), and in the year 2007, Syndication Line A shall contain the weeks listed in column (3) and Syndication Line M shall contain the weeks listed in column (2).



***Annexure "C2"***

Shareblock Number <i>A1</i>	Number of Shares <i>58 800 "A"</i>	Levy <i>Nil</i>
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***Annexure "C3"***

Shareblock Number <i>B1</i>	Number of Shares <i>15 600 "B"</i>	Levy <i>Nil</i>
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***Annexure "C4"***

Shareblock Number <i>D1</i>	Number of Shares <i>10 000 "D"</i>	Levy <i>Nil</i>
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## NOTES:

1. Schedule C1 reflects the shareblock number and in brackets the number of "C" shares in the shareblock for the relevant unit and time period. The X factor denotes the unit number which becomes the prefix to the shareblock number. Units shall be numbered 1.1 to 24.104.
2. Schedule C2 reflects shareblock No.A1 consisting of all the ordinary "A" shares which entitles the holder of Shareblock number 1 to all the unsold weeks and the maintenance weeks if any, the administration centre, conference centre and recreational section.
3. Schedule C3 reflects shareblock number C consisting of all the ordinary "B" shares which entitles the holder of shareblock number 1 to the timeshare units.
4. Schedule C4 reflects shareblock number D which entitles the holder of shareblock No.1 to occupy and develop all the undeveloped property of the company and to sell and/or further add land.