

REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION

Name of Company: LE PETIT SALON SHARE BLOCK LIMITED

Registration Number: 1958/001653/06

("the Company")

Incorporation

- (1) The Company is incorporated as a Share Block Profit Company, as defined in the Companies Act, 2008.
- (2) The Company is incorporated in accordance with, and governed by-
 - (a) The unalterable provisions of the Companies Act, 2008 that are applicable to Profit companies;
 - (b) The alterable provisions of the Companies Act, 2008 that are applicable to Profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and
 - (c) The provisions of this Memorandum of Incorporation.

NOTE 1

This Memorandum of Incorporation contains statutory provisions of the Share Blocks Act in **Annexure 1** that shall apply to the Company.

NOTE 2

The Memorandum of Incorporation contained in Form CoR 15.1 B of the Companies Regulations, 2011 shall not apply to the Company.

This MOI was adopted in accordance with a proposal by the Board issued on 20..... and adopted by a special resolution taken by the voting Members at a general meeting of the Company held on 20.....

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ANNEXURE 1 – SHARE BLOCKS ACT STATUTORY PROVISIONS

ANNEXURE 2 –SHARE REGISTER

ANNEXURE 3 - CALENDAR

ANNEXURE 4 – USE AGREEMENT

1. INTERPRETATION

In the interpretation of this MOI and unless contrary to or excluded by the subject or context:

1.1 any word herein signifying:

1.1.1 the singular shall include the plural and vice versa;

1.1.2 the masculine shall include the feminine and the neuter;

1.2 any word herein which is defined in the Act and is not defined in article 1.6 shall bear that statutory meaning in this MOI;

1.3 any word, phrase or sentence herein which is not defined in the Act or in article 1.6 shall bear its usual meaning;

1.4 each term, power or authority herein shall be given the widest possible interpretation;

1.5 phrases as defined in the Share Blocks Act shall have the meanings so assigned and words importing Persons shall include those legal entities defined in article 1.6.15;

1.6 each of the following words and expression herein shall have the meaning stated opposite it and, where applicable, shall include the word or expression stated opposite it:

1.6.1 "Act" shall mean the Companies Act, 71 of 2008, as amended from time to time;

1.6.2 "Board" shall mean the Board of Directors for the time being of the Company elected in terms of article 17;

1.6.3 "Company" shall mean this Company;

- 1.6.4 "Buildings" means the buildings erected on the immovable property described below and known as "THE SEAPOINTER":
- Sections 1 to 40 in the Sectional Title Scheme Number 31/1987 known as HILBANOR-STANMAR, situate on Erf No.602, Sea Point West, Province of the Western Cape.
- 1.6.5 "Chairman" shall mean the Chairman of the Board for the time being of the Company elected in terms of article 17.13;
- 1.6.6 "Director" shall mean a director for the time being of the Company elected in terms of article 17;
- 1.6.7 "Electronic Communication" shall bear the same meaning as set out in section 1 of the Electronic Communication and Transaction Act, 25 of 2002;
- 1.6.8 "General Meeting" shall mean any general meeting of the Company or any adjournment thereof, including an annual general meeting convened in terms of article 10.1 as the case be;
- 1.6.9 "Income Tax Act" shall mean the Income Tax Act, 58 of 1962, as amended from time to time;
- 1.6.10 "Member" shall mean the holder of Shares being Members of the Company referred to in article 6.11;
- 1.6.11 "MOI" shall mean the Memorandum of Incorporation of the Company as contained in this document, as duly amended from time to time;

Le Petit Salon Share Block Limited
Memorandum of Incorporation

- 1.6.12 "Month" means a calendar month;
- 1.6.13 "Office" shall mean the registered office for the time being of the Company;
- 1.6.14 "Period" means the numerical Friday on which a share block holder's period of occupation begins in respect of the relevant portion of the Company's buildings, commencing at 15h00 on the Friday specified and terminating at 10h00 hours on the following Friday, all such periods being reflected on **Annexure 3** hereto and the calendar of all periods attaching to all share blocks in the capital of the Company as compiled by the Directors annually in advance, with the following provisos, namely:
- (i) Period number 1 shall mean the week starting on the first Friday of the calendar year and all further periods shall follow consecutively.
 - (ii) The time between each period of use shall be a service period during which the Company shall have occupation of the said portions of the Company's building and property for the purpose of cleaning the same for subsequent occupation unless the relevant share block holder is entitled to two or more periods of use in which event there shall be no intervening service period between each such period of use.
 - (iii) The Member holding period number 52 shall be entitled in any year in which there is a 53rd Friday to an additional period of seven days commencing from such 53rd

Friday at the time aforesated and terminating at the aforesated time, on the same terms and conditions as those applicable to any other period.

- 1.6.15 "Person" shall include any natural person, company or body corporate, a statutory body, a partnership or an association of persons, as the case may be, having the legal capacity required in terms of the laws of the Republic;
- 1.6.16 "Republic" shall means the Republic of South Africa;
- 1.6.17 "Share" shall mean that set out in Section 1 of the Share Blocks Act and relates to the share block granting a right of use to the holder thereof;
- 1.6.18 "Share Blocks Act" shall mean the Share Blocks Control Act No.59 of 1980, as amended, and the regulations promulgated from time to time in regard thereto;
- 1.6.19 "Share Block Developer" is as defined in Section 1 of the Share Blocks Act and its successor in title and assigns;
- 1.6.20 "Sign" shall include the reproduction of signature lithography, printing with an india-rubber stamp or any other electronic communication process partly the one and partly the other process and "signature" has the corresponding meaning;
- 1.6.21 "the Statutes" means the Companies Act, the Share Block Act and the Timesharing Act, as may be applicable, and every other Act for the time being in force

concerning companies and affecting the Company;

1.6.22 "Timesharing Act" shall mean the Property Timesharing Control Act No. 75 of 1983, as amended, and the regulations promulgated from time to time in regard thereto;

1.6.23 "Use Agreement" shall mean any agreement conferring a right to, or an interest in, the use of immovable property in respect of which a share block scheme is operated, and is **Annexure 4** attached hereto;

1.6.24 "Writing" shall include printing, typewriting, lithography or any other electronic communication process, or partly one and partly the other;

1.6.25 "Year" means a calendar year.

2. PURPOSE AND OBJECTS OF THE COMPANY

2.1 The main purpose and object of the Company is to operate a share block scheme in respect of the Buildings in accordance with the Share Blocks Act and the Timesharing Act entitling a Member to use specified parts of the Buildings in accordance with the Use Agreement entered into between the Member and the Company.

3. POWERS AND CAPACITY OF THE COMPANY

3.1 The Company has the powers and capacity of a Person.

3.2 Notwithstanding the omission from this MOI of any provision to that effect, the Company may do anything which the Act, the Share Blocks Act and the Timesharing Act empowers a Company to do.

- 3.3 The Company is restricted in its powers and capacity in terms of the provisions of the Share Blocks Act and other provisions for the control of the business of the Company, and these are recorded in **Annexure 1** hereto.

4. CONDITIONS

- 4.1 The Company shall ensure that the whole of its activities are directed to the furtherance of its main and stated objects.
- 4.2 The Company shall utilise its assets and income to advance its stated objects for which it has been established.

5. MEMORANDUM OF INCORPORATION AND COMPANY RULES

- 5.1 Save for correcting patent errors in spelling, punctuation, reference, grammar or similar defects, which the Board is empowered to do in terms of Section 17(1) of the Act, all other amendments of the MOI shall be effected in accordance with Section 16(1) of the Act.
- 5.2 This MOI does not restrict, limit or qualify the power of the Board to make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act or this MOI, in accordance with the provisions of sections 15(3) to 15(5) of the Act.
- 5.3 If the Board makes any rules, it must file and publish a copy of those rules in the manner prescribed in the Act.
- 5.4 If the Board alters the MOI or any rules made by it, in terms of Section 17(1) of this Act, it must publish a notice of such alteration in the manner prescribed by the Act.

6. SHARE CAPITAL

- 6.1 The authorized and issued share capital of the Company is R176.80 (One Hundred and Seventy Six Rand and Eighty Cents) divided into 17680

(Seventeen Thousand Six Hundred and Eighty) ordinary par value Shares of 0.1c (One Cent) each of which:

- 6.1.1 15080 (Fifteen Thousand and Eighty) consisting of "A" class ordinary par value shares of 1c (One Cent) each, apportioned among 29 (Twenty Nine) share blocks comprising 520 (Five Hundred and Twenty) Shares each;
- 6.1.2 2600 (Two Thousand Six Hundred) consisting of "B" class ordinary par value shares of 1c (one cent) each, apportioned among 260 (Two Hundred and Sixty) share blocks comprising 10 Shares each; in accordance with **Annexure 2** hereto.

6.2 The Shares comprising each share block:

- 6.2.1 Shall confer on the holder thereof from time to time the right to use and occupy that portion of the Company's Buildings and property as specified in **Annexure 3** and in the Use Agreement entered into between the Company and such holder, **Annexure 4** hereto, for the period specified in **Annexure 3** and subject to the terms and conditions of **Annexure 4**;
- 6.2.2 Oblige the holder thereof from time to time to lend to the Company as a fixed loan, on the terms and conditions set out in the Use Agreement, the amount specified in **Annexure 2**.

6.3 Upon acquisition of Shares, the Member acquired the right to, and usage interest as referred to in the Use Agreement.

6.4 None of the Shares in the capital of the Company which are not apportioned among the share blocks referred to in sub-Article 6.1 above may be issued otherwise than on the authority of a special resolution of the Members of the Company and subject to the proviso that if they are so issued, such Shares shall be apportioned among the share blocks, and the Shares comprising each such share block shall confer on the holder the rights referred to in sub-article 6.2.1 above, subject to the terms and conditions set out in and referred to in that sub-article.

- 6.5 All Shares of the Company shall:
- 6.5.1 Confer a right to vote at any meeting of the Company;
 - 6.5.2 Confer the same vote as every other Share in the Company;
 - 6.5.3 Confer a right to an interest in the use of the Buildings in accordance with the provisions of the **Annexures 3 and 4** hereto.
- 6.6 Save as is otherwise hereinafter provided for and subject to the provisions of the Share Blocks Act and without prejudice to any special rights previously conferred on the holder of existing Shares in the Company, any Share may be issued with such special rights or subject to such restriction as the Company may from time to time determine.
- 6.7 If at any time the share capital is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class but always subject to the conditions of article 6.4 above) may be varied with the consent in writing of the holder of three-fourths of the issued Shares of that class or with the sanction of a resolution passed at a separate General Meeting of the holders of the Shares of the class, and the provisions of Section 65 of the Act shall *mutatis mutandis* apply to the said resolution and meeting as if the resolution were a special resolution. To every such separate General Meeting the provisions of this MOI relating to General Meetings shall *mutatis mutandis* apply save that the necessary **quorum shall be 3 (three) Persons representing thirty three and one third percent (33.3%) of the voting rights** that are entitled to be exercised by Members present in person or by proxy of all the issued Shares of the class. This article does not curtail the power of the Company to vary the rights attached to any Share which has not been issued, subject to the provisions of article 6.4 above being adhered to.
- 6.8 The Company may from time to time by special resolution increase the share capital by such sum divided into Shares of such amount, or may increase the number of its Shares of no par value to such number, as the resolution shall prescribe.

- 6.9 New Shares shall be subject to the same provisions as to transfer, transmission and otherwise as the Shares in the original share capital.
- 6.10 The Company may by special resolution:
- 6.10.1 consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares or consolidate and reduce the number of the issued Shares of no par value;
 - 6.10.2 increase the number of its issued no par value Shares of smaller amount than is fixed by this MOI;
 - 6.10.3 sub-divide its existing Shares or any of them into Shares of smaller amount than is fixed by this MOI;
 - 6.10.4 cancel any Shares which at the date of the passing of the resolution, have not been taken by any person, or which no person has agreed to take;
 - 6.10.5 reduce its share capital, stated capital, any capital redemption fund or any share premium account in any manner and with, and subject to, any incident authorized and consent required by law;
 - 6.10.6 convert any of its Shares whether issued or not into Shares of another class.
- 6.11 The Company shall maintain at its registered office a Share register of the Members of the Company and the registration, transfer, issue and certification of Shares shall be in accordance with the provisions of Sections 50 and 51 of the Act.
- 6.12 Every Person whose name is entered in the Share register shall be entitled to one certified copy of a certificate for all the Shares attached to the share block/s and use rights registered in his name or to several certified certificates in respect of each of the share blocks. Every original Member shall be entitled to one certified copy of a Share certificate free of charge but for every subsequent certificate the Directors may make such charge as from time to time they may think fit; provided that if a Share certificate is defaced, lost or destroyed, it may be renewed on the payment of such fee, and on

such terms, if any, as to the evidence and indemnity as the Directors may think fit.

- 6.13 Share certificates shall be issued under the authority of the Directors and as prescribed by the Act.

7. LIEN ON SHARES

- 7.1 The Company has a first and paramount lien and a pledge on every Share for the amounts due to it by the holder of such Share whether payment has become due or not. The amounts so due to the Company shall include the costs of any acts performed or proceedings instituted by the Company in its efforts to recover such amounts.
- 7.2 The Company shall not be obliged to recognise the pledge by a Member of any Share in the Company to a third party but as soon as an amount becomes due and payable by a Member to the Company, all Shares held by such Member shall from that moment become pledged by such Member to the Company.
- 7.3 In the event of such Member holding the original Share certificate, then in such event, the Member shall hold the certificate relating to the pledged Share as agent for the Company. A Share shall remain so pledged until the amount due has been settled or the Share has been realised as provided in article 7.5.
- 7.4 Notwithstanding anything to the contrary contained in this MOI the Company shall, upon the issue or replacement of a Share certificate to a Member, retain possession of the Member's original Share certificate/s and shall hold the same in pledge as security for all and any amounts which may be or become owing by the Member to the Company.
- 7.5 The Company shall be entitled to realise any Share on which it has a lien in terms of article 7.1 and any Share becoming pledged to it in terms of article

7.2 and or article 7.3 and/or article 7.4 by realising such Share in the following manner:

- 7.5.1 the holder of the Share shall be given 15 business days notice in writing in accordance with article 22;
 - 7.5.2 the notice shall state the amount of the claim, demand payment thereof within the said period of notice and advise the Member that if the amount due remains unpaid the Share shall be sold to recover so much of the debts as may be realised by the sale;
 - 7.5.3 the sale shall be by way of a tender process or in such other duly publicised manner as in the *bona fide* opinion of Directors would realise a more favourable price in the circumstances.
- 7.6 The net return of any such sale shall be applied in respect of the amount due to the Company and the Member shall remain liable for any shortfall. In the event of an over recovery the credit balance, if any, shall be paid to the Member upon demand.
- 7.7 On any sale as aforementioned the Directors may enter the name of the purchaser in the Share register of the Company.
- 7.8 Except as herein further provided, an affidavit by a Director or the secretary of the Company that the Share has been duly sold in accordance with the provisions of the preceding sub-article shall be conclusive evidence of the facts therein stated as against all Persons laying claim to such Shares or the proceeds thereof, and such affidavit and the receipt by the Company of the purchase price of Shares shall be conclusive proof of the rights to such Shares.

8. TRANSFER AND TRANSMISSION OF SHARES

- 8.1 No Share in the capital of the Company shall be capable of being held independently from all the other Shares contained in the same share block, and no Share may be transferred except simultaneously with and to the same

transferee as the whole of the other Shares included in the same share block, and together with the transfer, cession and assignment of:

- 8.1.1 the relevant portion of the loan obligation allocated to the share block in question, and
 - 8.1.2 the Use Agreement pertaining to the share block in question and the assumption by the transferee of all the transferor's obligations thereunder.
- 8.2 Save as otherwise provided in this MOI or in the terms of the issue of any class of Shares:
- 8.2.1 Prior to the transfer of Shares to any transferee, the levies and any other amounts due and payable to the Company by the Member must be settled in full, unless otherwise resolved by the Directors.
 - 8.2.2 Save for the transfer of Shares by a Member or by his executors or administrators or other legal representatives to the spouse or any descendant or ascendant of such Member, no Shares may be transferred without the prior written consent and approval of the Directors of the Company, which consent shall not be unreasonably withheld.
 - 8.2.3 Notwithstanding anything to the contrary in this sub-article, no consent by the Directors shall be necessary for the transfer of any Shares held by the Share Block Developer.

9. MEMBERSHIP LEVIES

It is recorded that substantially the whole of the Company's funding shall be derived from Member levies contribution in accordance with the provisions of Section 13 of the Share Blocks Act and the Use Agreement, the levies being currently exempt from taxation in terms of Section 10(1)(e) of the Income Tax Act.

10. GENERAL MEETINGS

- 10.1 The Company shall in each year hold an annual General Meeting; provided that:

- 10.1.1 not more than 15 (fifteen) months shall elapse between the date of one annual General Meeting and that of the next; and
- 10.1.2 not more than 6 (six) months shall elapse between the date of the Company's financial year end and the date of the annual General Meeting.

- 10.2 The Directors shall have the power to convene other General Meetings of the Company at such time and place as the Directors determine.

- 10.3 The Directors shall also convene other General Meetings where a requisition is made by the number of Members of the Company as required by the Act, failing which such a meeting may be convened by the requisitionists themselves in accordance with the Act.

- 10.4 General Meetings convened in accordance with Sections 61 and 64 of the Act shall be held at such time and at such place as is determined in terms of those sections.

11. NOTICE OF GENERAL MEETINGS

- 11.1 Subject to the provisions of the Act:
 - 11.1.1 not less than 15 business days notice in Writing shall be given to all Members;

- 11.2 The notice period as provided for in article 11.1 shall be exclusive of the day on which the notice is served or deemed to be served and inclusive of the date of the meeting.

- 11.3 The notice of a General Meeting shall state-
 - 11.3.1 the place, day and hour of that meeting; and
 - 11.3.2 the matters which will be considered, and may be voted on, at such meeting.

- 11.4 A meeting of the Company shall, notwithstanding the fact that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed by all of the Members present having a right to attend and vote at the meeting.
- 11.5 The inadvertent omission to give notice of a meeting to, or the non-receipt of a notice of a meeting by any Person entitled to receive such notice, shall not invalidate the proceedings at that meeting.
- 11.6 As may be appropriate at the discretion of the Directors, and available, the Company may provide for participation by Members by electronic communication.

12. PROCEEDINGS AT GENERAL MEETINGS

- 12.1 Members must present reasonably satisfactory identification before attending and participating in the meeting.
- 12.2 The annual General Meeting shall deal with and dispose of all matters prescribed by the Act, including the presentation of the Directors' report, annual audited financial statements, the audit committee report, the social and ethics committee report, if applicable, the election of Directors, the appointment of an auditor and the election of an audit committee, and may deal with any other business laid before it.
- 12.3 Subject to the provisions of the Act, no business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, subject to the provisions of Section 64 (3) of the Act, **a quorum at any General Meeting shall be no less than 3 (three) Persons representing at least 1% (one percent) of the share capital**, and who are entitled to vote and who are present in person or by proxy at the commencement and throughout the meeting.

- 12.4 If within half-an-hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved, in any other case it shall stand adjourned to a date 7 (seven) business days later and if at such adjourned meeting a quorum is not present within half-an-hour after the time appointed for the meeting, the Members present in person and by proxy shall be a quorum.
- 12.5 The Chairman shall preside as Chairman at every General Meeting of the Company.
- 12.6 If at a General Meeting there is no Chairman or the Chairman is not willing to act or is not present within 10 (ten) minutes after the time appointed for holding the meeting, 1 (one) of the Directors present shall be Chairman of the meeting.
- 12.7 Subject to the provisions of the Act, the Chairman of the meeting may, with the consent of the majority of Members present at any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

13.VOTES OF MEMBERS AT GENERAL MEETINGS

- 13.1 Every Member who is represented either in person or by proxy at a General Meeting shall have 1 (one) vote per Share held by such Member.
- 13.2 At a General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, in which case the Members or their proxy shall have one vote for all Shares held, and in the event of a poll the Member or his proxy shall have one vote for every Share held.
- A poll may be called or demanded (before or after the declaration of the result of the show of hands) by:
- 13.2.1 the Chairman of the meeting; or

- 13.2.2 by at least 5 (five) Members present in person or by proxy having the right to vote at meetings; or
 - 13.2.3 by any Member or Members present in person or by proxy having the right to vote at the meeting and representing not less than 10% (ten percent) of the total voting rights of all Members having the right to vote at the meeting.
- 13.3 Any demand for a poll may be withdrawn.
- 13.4 The poll shall be taken in such a manner as the Chairman of the meeting directs and the results of the poll shall be deemed to be the result of the meeting.
- 13.5 Where a poll is not demanded a declaration by the Chairman of the meeting that a resolution has been passed as well as the making of an entry to that effect in the book containing the minutes of the proceedings of General Meetings, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution, that the resolution was so passed.
- 13.6 In the case of an equality of votes, the Chairman of the meeting shall have a second casting vote unless the Members otherwise determine in the General Meeting.
- 13.7 For an ordinary resolution to be adopted at a Members meeting, it must be supported by more than 50% of the Members who voted on the resolution, as provided in Section 65 (7) of the Act.
- 13.8 For a special resolution to be adopted at a Members meeting, it must be supported by at least 75% of the Members who voted on the resolution, as provided in Section 65 (9) of the Act.
- 13.9 A special resolution adopted at a Members meeting is required in addition for;
- 13.9.1 Issue of Shares.

- 13.9.2 Variation of rights attached to the Shares when the share capital is divided into different classes.
 - 13.9.3 Alienation of the Company's immovable property.
 - 13.9.4 Alteration of the share capital.
 - 13.9.5 As may be required in terms of the Act, the Share Blocks Act, the Timesharing Act and this MOI.
 - 13.9.6 The dissolution or winding up of the Company.
- 13.10 In the case of joint holders, the vote of the Person whose name appears first in the register of Members and tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders.

14. RESOLUTION PASSED BY SIGNATURE OF ALL MEMBERS

- 14.1 Subject to the provisions of Section 65 (7) of the Act, an ordinary resolution in Writing signed by the majority of Members of the Company entitled to attend and vote at a General Meeting shall be as valid and effective as if it had been passed at a General Meeting properly held on the date on which the last signature is affixed.
- 14.2 Such resolution may consist of several documents in the same form, each of which is signed in terms of this article, by sufficient Members to constitute a quorum and shall be deemed (unless a statement to the contrary is made on that resolution) to have been passed on the closing date stated in the notice which shall be no less than 20 (twenty) business days after the posting date.

15. RECORDS OF GENERAL MEETINGS

- 15.1 The Directors shall cause a record to be made of the proceedings at every General Meeting, including all resolutions passed at such meetings and shall cause such record and all resolutions passed to be inserted in a book provided for that purpose, or in electronic format.
- 15.2 Any copy of any record or resolution referred to in article 15.1, which purports to be signed by any Director or the Chairman, shall be *prima facie* evidence of the matters stated herein.

16. PROXIES

- 16.1 A Member may appoint a proxy to attend a General Meeting on the Members behalf.
- 16.2 The instrument appointing a proxy shall be in Writing and signed by the appointer or by his agent duly authorised in writing or, if the appointer is a Person other than a natural Person, accompanied by a resolution of its Directors or other governing body authorising the Person named in the proxy to act as its representative at any meeting of the Company.
- 16.3 The holder of a general or special power of attorney, whether he is himself a Member or not, given by a Member, shall be entitled to attend meetings and to vote, if duly authorised under the power to attend and take part in the meeting.
- 16.4 The instrument appointing a proxy to vote at a meeting of the Company shall be deemed also to confer authority to demand or join in demanding a poll, and for the purpose of Section 63 (7) of the Act, a demand by a proxy shall be the same as a demand by a Member.
- 16.5 The instrument appointing a proxy and the power of attorney or the other authority, if any, under which it is signed, shall be deposited at the Office not less than 48 (forty-eight) hours before the time for holding the meeting at which the Person named in the instrument proposes to vote and in default of complying herewith, the instrument of proxy shall not be treated as valid.
- 16.6 No instrument appointing a proxy shall be valid after the expiration of 12 (twelve) months from the date when it was signed, unless so specifically stated in the proxy itself and no proxy shall be used at an adjourned meeting which could not have been used at the original meeting.
- 16.7 The instrument shall be in the following format:

“LE PETIT SALON SHARE BLOCK LIMITED”

I/We _____ of _____
 being a Member of LE PETIT SALON SHARE BLOCK LIMITED, holding
 _____ number of Shares, representing
 _____ votes, hereby appoint _____ of
 _____ or failing him, _____
 of, _____ or failing him the Chairman of the Meeting as my
 proxy to vote for me and on my behalf at the Annual General Meeting (as the case may be)
 of the Company to be held on the _____ day of _____ 20__ and at any
 adjournment thereof as follows:

	In favour of	Against	Abstain
Resolution to _____			
Resolution to _____			
Resolution to _____			

(If columns 1, 2 or 3 are not completed, then my proxy may vote or abstain from voting as he deems fit)

* (Indicate instruction to proxy by way of a cross in space provided above).

SIGNED THIS _____ DAY OF _____ 20__.

SIGNATURE

Note 1: A Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his stead, and such proxy need not also be a Member of the Company.

Note 2: This Proxy shall be binding upon the Member until such time as the Member personally withdraws it and it is limited to the voting on the Special and Ordinary Resolutions referred to herein. Unless otherwise instructed, the proxy will vote as he thinks fit. A Member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, speak and vote in his stead. The proxy nominated need not be a Member of the Company.

Any alteration or correction made to this form of proxy (excluding the deletion of alternatives) must be initialled by the signatory. Documentary evidence establishing the authority of a Person signing this form of proxy in a representative capacity (i.e. on behalf of a Company, Close Corporation or Trust) must be attached to this form.

The completion and lodging of this form of proxy will not preclude the relevant Member from attending the meeting and speaking and voting in Person thereat, to the exclusion of any proxy appointed in terms thereof, should such Member wish to do so.

Emailed and facsimile copies of this proxy form must be duly verified before the commencement of the meeting to be eligible for acceptance. If any one of the requirements contained herein is not fulfilled, the proxy form and/or the nomination of the proxy will be null and void.

Proxy holders must present reasonably satisfactory identification before attending and participating in the meeting.

17. ELECTION OF DIRECTORS

- 17.1 Not less than three (3) nor more than seven (7) Directors shall be appointed and at each annual General Meeting one half (1/2) of the Directors shall retire from office.
- 17.2 Nominations for Directors must be submitted to the Company's Office not less than forty eight (48) hours before the meeting provided that nominations may be made at the meeting if approved by a majority attending the meeting and with the consent of the nominee/s.
- 17.3 The Directors to retire every year shall be those who have been longest in office since their last election, but as between Persons who become Directors in the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot. A retiring Director shall be eligible for nomination and re-election.
- 17.4 In the event of there being an uneven number of Directors on the Board, the Directors shall determine which Directors in longest office since their last election shall retire.
- 17.5 The Members of the Company other than the Share Block Developer shall, if they:
- 17.5.1 do not exceed ten (10) in number, have the right to appoint at least one of the Directors of the Company; and
 - 17.5.2 exceed ten (10) in number, have the right to appoint at least two (2) of the Directors of the Company.
- 17.6 The Company shall not fail to take steps to ensure the appointment of the Director or Directors referred to in article 17.5, and, notwithstanding anything to the contrary contained in any law, a Share Block Developer shall not be entitled to vote on a proposed resolution to remove, under the provision of article 18.1.8, any Directors so appointed.

- 17.7 In the event of any Person howsoever being entitled to appoint the majority of the Directors of the Company, that Person or his representative shall guarantee compliance with any obligation of the Company specified in this MOI.
- 17.8 The Share Block Developer shall, subject to the provisions of article 17.5 above, have the right to appoint the majority number of Directors of the Company for so long as he is the holder of any of the Company's issued Shares and for so long as he is guarantor of the Company's bond obligations.
- 17.9 Subject to the provisions of Section 66 (2)(b), the Company may from time to time in a General Meeting increase or reduce the number of Directors.
- 17.10 Provided that the Board of Directors shall comprise not less than three (3) Directors, any casual vacancy occurring on the Board of Directors may be filled by the Directors, but the Director so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose stead he is appointed was last elected as Director.
- 17.11 The appointment of 2 (two) or more Persons as Directors of the Company by a single resolution shall not be moved unless a resolution that it shall be so moved has first been agreed to by the meeting without any vote against it.
- 17.12 In the event that the resolution referred to in article 17.11 is not moved each person nominated as a Director shall be voted in individually.
- 17.13 The Directors may elect a Chairman of their meeting and determine the period for which he is to hold office, but if no such Chairman is elected, or if at any meeting the Chairman is not present within five (5) minutes after the time appointed for holding the same, the Directors may elect one of the other Directors to be Chairman of the meeting.
- 17.14 Each Director shall have the power to nominate with the approval of the Board, any Person whether he is a Member or not, to act as alternate Director

in his place during his absence or inability to act as such Director, and on such appointment being made, the alternate Director shall, in all respects, be subject to the terms, qualifications and conditions existing with reference to the other Directors of the Company. A Director whilst also acting as a alternate Director, shall at any meeting of the Directors be entitled to two (2) votes.

17.15 The alternate Directors, whilst acting in the stead of the Directors who appointed them, shall exercise and discharge all the powers, duties and functions of the Directors they represent. The appointment of an alternate Director shall be revoked, and the alternate Director shall cease to hold office, whenever the Director who appointed him ceases to be a Director or gives notice to the secretary of the Company that the alternate Director representing him has ceased to do so.

18.DISQUALIFICATION AND REMOVAL OF DIRECTORS AND ALTERNATE DIRECTORS

18.1 In addition to the provisions of Section 69 of the Act any Director or alternate Director shall cease to be a Director of the Company on the happening of any of the following events:

18.1.1 his estate is finally sequestrated;

18.1.2 he files a petition for the surrender of his estate as insolvent;

18.1.3 he is placed under curatorship by any court of competent jurisdiction;

18.1.4 he delivers a notice of his resignation at the Office with effect from:

18.1.4.1 the date on which that notice is delivered; or

18.1.4.2 any later date stated in that notice to which the Directors agree;

18.1.5 if he fails to attend meetings of Directors, without prior apology and/or without good cause for 6 (six) consecutive months without appointing an alternate to represent him;

- 18.1.6 if he is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare his interest and the nature thereof in the manner required by the Act;
 - 18.1.7 passes, publishes or causes to be published any information to the press or media, directly or indirectly, which information is confidential or which information will bring the reputation of the Company in disrepute and/or intends to be detrimental to the Company in any way;
 - 18.1.8 if, the Director is removed by an ordinary resolution in a General Meeting of Members in accordance with Section 71 of the Act.
- 18.2 Neither a Director nor an alternate Director shall be disqualified from acting as such if he is not a Member of the Company.

19. POWERS AND DUTIES OF DIRECTORS

- 19.1 The business of the Company shall be managed by the Directors who may pay all expenses of the Company, and may exercise all such powers of the Company as are required by the Share Blocks Act, or by this MOI, to be exercised by the Company in a General Meeting.
- 19.2 A Director may himself act, or any firm of which he is a Member be appointed by the Board to act, in a professional capacity (other than as auditor) for the Company, or any other Company in which the Company is interested, and he or his firm shall be entitled to reasonable remuneration for those professional services.
- 19.3 A Director may be employed by or hold any office of profit under the Company or under any subsidiary or holding Company in conjunction with the office of Director, other than that of auditor of the Company or of any subsidiary Company, and any remuneration paid to him shall be in addition to any Director's fees paid by the Company.
- 19.4 The Directors may exercise the voting powers conferred by the Shares held by the Company in any other Company or exercisable by them as Directors of

that other Company in any manner they deem fit, notwithstanding any financial interest which they may have in the exercise of those voting powers.

- 19.5 A Director, including a Person who is to become a Director, shall not be disqualified by his office from entering into contracts, arrangements or dealings with the Company, nor shall any contract, arrangement or dealing with the Company be voided, nor shall a Director be liable to account to the Company for any profit arising out of any contract, arrangement or dealing with the Company by reason of such Director being a party to or interested in or deriving profit from any such contract, arrangement or dealing and being at the same time a Director of the Company or by reason of the fiduciary relationship thereby established, but the nature of his interest shall be declared by him in accordance with the provisions of the Act.
- 19.6 A Director shall not be deemed to be interested in any contract or arrangement merely because his alternate or a Director for whom he is an alternate is so interested.
- 19.7 A Director shall not be disqualified by his office from holding any financial interest or office in any other Company or business which has similar interests to those of the Company or any of its subsidiaries or which is engaged in a business of a similar nature to the business carried on by the Company or by any of its subsidiaries.
- 19.8 In terms of the Act, the Directors will be paid reasonable reimbursement for expenses incurred in advancing the objects of the Company and may receive Directors remuneration as determined in a General Meeting of shareholders by special resolution.
- 19.9 The Directors may subject to the provisions of the Statues, from time to time, in their discretion, raise or borrow from the Members or other Persons any sum or sums of money for the purposes of the Company, provided that the amounts in the aggregate so raised or borrowed from time to time shall not exceed such amount as may be determined by the Company in a General Meeting from time to time.

19.10 The Directors may raise or secure the repayment of such monies in such manner and upon such terms and conditions in all respects as they think fit.

20. PROCEEDINGS OF DIRECTORS

20.1 At the commencement of each year, the Directors shall determine the number of Directors' meetings to be held in that year.

20.2 Any Director is at all times entitled to convene a meeting of the Directors by giving ten (10) business days notice to all Directors, or such shorter notice as may be agreed to by all the Directors.

20.3 The quorum necessary for the transaction of any business of Directors:

20.3.1 shall not be less than three (3) Directors.

20.3.2 If any Director has or any Directors have been appointed in terms of the provisions of article 17.5, the number of Directors required for a quorum at any meeting of the Directors of the company, shall include that Director or at least one of those Directors, as the case may be.

20.4 The Directors may participate in a meeting of the Directors by means of conference telephone or similar equipment by means of which all Persons participating in the meeting can hear each other at the same time and any such participation in a meeting shall constitute presence in Person at the meeting.

20.5 All resolutions and actions of the Directors shall be by way of a majority of votes. In the event of an equality of votes, the Chairman shall have a second or casting vote.

20.6 Subject to the provisions of Section 75(5) of the Act, a Director may not vote in respect of any contract or proposed contract with the Company in which he is interested, or any matter arising there from.

- 20.7 Subject to the provisions of the Act, a resolution in Writing signed by a majority of Directors, shall be as valid and effective as if it had been passed at a meeting of the Directors duly called and constituted. Any such resolution may consist of several documents in a like form, each signed by one or more of the signatories to the resolution. A resolution of Directors passed in terms of this article shall be placed in the minute book of the Company and shall be noted at the next succeeding meeting of Directors and shall be signed by the Chairman of that meeting, whereupon the provisions of Section 73(8) of the Act shall be deemed to apply to the resolution.
- 20.8 All acts done by any meeting of the Directors or a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or Person acting as aforesaid or that they are or any of them were disqualified, be as valid as if every such Person had been duly appointed and were qualified to be a Director.
- 20.9 If within half an hour after the time appointed for a meeting, a quorum of Directors is not present, then the meeting shall stand adjourned to a day not earlier than five (5) working days, and not later than ten (10) working days after the date of the meeting, as may be decided, and if at such adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the Directors present shall form a quorum.

21. RECORDS OF DIRECTORS' MEETINGS

- 21.1 The Directors shall cause minutes to be made of all appointments of officers made by the Directors, the names of the Directors present at each general meeting of the Directors and all resolutions passed by the Directors at all meetings of the Directors.
- 21.2 Minutes of any resolution and proceedings mentioned in article 20.7 appearing in one of the minute books of the Company shall be proof of the facts therein stated if signed by-

- 21.2.1 the Chairman of the meeting to which it relates; or
 - 21.2.2 any Person present at the meeting and appointed by the Directors to sign in the Chairman's place; or
 - 21.2.3 the Chairman of a subsequent meeting of the Directors.
- 21.3 Any extracts from or copy of those minutes purporting to be signed by the Chairman of that meeting or any Director shall be *prima facie* proof of the facts therein stated.

22.NOTICES

- 22.1 A notice may be given by the Company to any member in accordance with Regulation 7 of the Companies Act.
- 22.2 Notice of every General Meeting shall be given to the auditor, for the time being, of the Company.
- 22.3 Any notice shall be deemed to be served in accordance with Annexure 3 (Table CR3) of the Regulations of the Companies Act.

23.WINDING-UP

- 23.1 Upon dissolution of the Company, the assets which remain after payment of the debts and liabilities of the Company and the costs of liquidation, shall be applied as follows:
 - 23.1.1 To repay to the Members the amount paid up on the Shares respectively held by the Members.
 - 23.1.2 To repay to the Members all amounts paid in respect of the Company's loan obligation, providing that such refund shall be reduced by the amount that any such Member is in arrear with any debt due to the Company as at the date of winding up of the Company.
 - 23.1.3 The balance remaining after the payments referred to in sub-articles 23.1.1 and 23.1.2 shall be paid to the Members in proportion to the

number of Shares held by each Member to the total issued share capital.

24. INDEMNITY

Subject to the provisions of Section 77 of the Act, the members of the Board and officers of the Company shall be indemnified by the Company against all proceedings, costs and expenses incurred by reason of any claim made against them in connection with their conduct of the affairs of the Company.

25. LIMITATION OF LIABILITY OF DIRECTORS

Each Director, alternate Director, manager, executive officer and other officer of the Company, and person employed by the Company as its auditor, shall be indemnified by the Company against any liability incurred by him from time to time in that capacity in defending any proceedings (whether civil or criminal) in which judgement is given in his favour or in which he is acquitted or in respect of any of those proceedings which are abandoned or in connection with any application made under Section 78 of the Act in which relief is granted to him by a Court of competent jurisdiction.

26. ARBITRATION

26.1 In the event of any dispute or difference arising between the Company and/or Directors and/or the Members (hereinafter referred to as "the parties") as to the interpretation of the Use Agreement and/or any other agreement between the parties and/or the Statutes and/or the rights and/or obligations of the parties arising from the MOI, such dispute or difference shall be referred to an arbitrator who shall settle the dispute in terms of and subject to the principles and conditions of the Arbitration Act No. 42 of 1965 as amended.

26.2 The arbitrator shall be appointed by agreement between the parties, provided that in the event of the parties failing to agree on the appointment of an arbitrator within 14 (fourteen) days after receipt of the notice to do so, the

party requesting arbitration proceedings may request the Chairperson, for the time being, of the Society of Advocates of the High Court of South Africa of the High Court Division in which the Buildings are situate, to appoint an arbitrator.

- 26.3 The decision of the arbitrator shall be final and binding and may be made an order by any court to whose jurisdiction the parties to the dispute are subject.

27.DIVIDENDS AND RESERVE

- 27.1 The Company may at the annual General Meeting declare dividends but no dividends shall exceed the amount recommended by the Directors.
- 27.2 The Directors may from time to time pay to the Members such interim dividends as appear to the Directors to be justified by the profits of the Company.
- 27.3 No dividend shall be paid otherwise than out of profits, or bear interest against the Company.
- 27.4 The Directors may, before recommending any dividends, set aside out of the profits of the Company such sums as they think fit as a reserve or reserves, which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied and, pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the company) as the Directors may from time to time think fit. The Directors may also without placing the same to reserve carry forward any profits which they may think prudent.
- 27.5 Notice of any dividend that may have been declared shall be given in the manner provided for in article 22 to the Persons entitled to share therein.
- 27.6 Every dividend or other moneys payable in cash in respect of shares may be paid as the Directors may from time to time determine.

Le Petit Salon Share Block Limited
Memorandum of Incorporation

27.7 The Company shall not be responsible for the loss in transmission of any document sent through the post to the registered address of any Member, whether or not it was so sent at his request.

Le Petit Salon Share Block Limited
Memorandum of Incorporation

2013

<i>Week Module Name</i>	<i>Start Date</i>	<i>End Date</i>
1	04/01/2013	11/01/2013
2	11/01/2013	18/01/2013
3	18/01/2013	25/01/2013
4	25/01/2013	01/02/2013
5	01/02/2013	08/02/2013
6	08/02/2013	15/02/2013
7	15/02/2013	22/02/2013
8	22/02/2013	01/03/2013
9	01/03/2013	08/03/2013
10	08/03/2013	15/03/2013
11	15/03/2013	22/03/2013
12	22/03/2013	29/03/2013
13	29/03/2013	05/04/2013
14	05/04/2013	12/04/2013
15	12/04/2013	19/04/2013
16	19/04/2013	26/04/2013
17	26/04/2013	03/05/2013
18	03/05/2013	10/05/2013
19	10/05/2013	17/05/2013
20	17/05/2013	24/05/2013
21	24/05/2013	31/05/2013
22	31/05/2013	07/06/2013
23	07/06/2013	14/06/2013
24	14/06/2013	21/06/2013
25	21/06/2013	28/06/2013
26	28/06/2013	05/07/2013
27	05/07/2013	12/07/2013
28	12/07/2013	19/07/2013
29	19/07/2013	26/07/2013
30	26/07/2013	02/08/2013
31	02/08/2013	09/08/2013
32	09/08/2013	16/08/2013
33	16/08/2013	23/08/2013
34	23/08/2013	30/08/2013
35	30/08/2013	06/09/2013
36	06/09/2013	13/09/2013
37	13/09/2013	20/09/2013
38	20/09/2013	27/09/2013
39	27/09/2013	04/10/2013
40	04/10/2013	11/10/2013
41	11/10/2013	18/10/2013
42	18/10/2013	25/10/2013
43	25/10/2013	01/11/2013
44	01/11/2013	08/11/2013
45	08/11/2013	15/11/2013
46	15/11/2013	22/11/2013
47	22/11/2013	29/11/2013
48	29/11/2013	06/12/2013
49	06/12/2013	13/12/2013
50	13/12/2013	20/12/2013
51	20/12/2013	27/12/2013
52	27/12/2013	03/01/2014

ANNEXURE 2

Apartment Number	Share Block Number	Number of each shares of 1 cent each
A Class		
001	1	520
002	2	520
106	3	520
107	4	520
201	5	520
202	6	520
203	7	520
204	8	520
205	9	520
206	10	520
207	11	520
301	12	520
302	13	520
303	14	520
304	15	520
305	16	520
306	17	520
307	18	520
401	19	520
402	20	520
403	21	520
404	22	520
405	23	520
501	24	520

Le Petit Salon Share Block Limited
Annexure 2 – Share Register

502	25	520
503	26	520
601	27	520
602	28	520
603	29	520
		<u>15 080</u>
B Class		
101	30.01 to 30.52	520
102	31.01 to 31.52	520
103	32.01 to 32.52	520
104	33.01 to 33.52	520
105	34.01 to 34.52	520
		<u>2 600</u>
TOTAL		<u>17 680</u>

2013

Week	Module Name	Start Date	End Date
1		04/01/2013	11/01/2013
2		11/01/2013	18/01/2013
3		18/01/2013	25/01/2013
4		25/01/2013	01/02/2013
5		01/02/2013	08/02/2013
6		08/02/2013	15/02/2013
7		15/02/2013	22/02/2013
8		22/02/2013	01/03/2013
9		01/03/2013	08/03/2013
10		08/03/2013	15/03/2013
11		15/03/2013	22/03/2013
12		22/03/2013	29/03/2013
13		29/03/2013	05/04/2013
14		05/04/2013	12/04/2013
15		12/04/2013	19/04/2013
16		19/04/2013	26/04/2013
17		26/04/2013	03/05/2013
18		03/05/2013	10/05/2013
19		10/05/2013	17/05/2013
20		17/05/2013	24/05/2013
21		24/05/2013	31/05/2013
22		31/05/2013	07/06/2013
23		07/06/2013	14/06/2013
24		14/06/2013	21/06/2013
25		21/06/2013	28/06/2013
26		28/06/2013	05/07/2013
27		05/07/2013	12/07/2013
28		12/07/2013	19/07/2013
29		19/07/2013	26/07/2013
30		26/07/2013	02/08/2013
31		02/08/2013	09/08/2013
32		09/08/2013	16/08/2013
33		16/08/2013	23/08/2013
34		23/08/2013	30/08/2013
35		30/08/2013	06/09/2013
36		06/09/2013	13/09/2013
37		13/09/2013	20/09/2013
38		20/09/2013	27/09/2013
39		27/09/2013	04/10/2013
40		04/10/2013	11/10/2013
41		11/10/2013	18/10/2013
42		18/10/2013	25/10/2013
43		25/10/2013	01/11/2013
44		01/11/2013	08/11/2013
45		08/11/2013	15/11/2013
46		15/11/2013	22/11/2013
47		22/11/2013	29/11/2013
48		29/11/2013	06/12/2013
49		06/12/2013	13/12/2013
50		13/12/2013	20/12/2013
51		20/12/2013	27/12/2013
52		27/12/2013	03/01/2014

ANNEXURE 4

LE PETIT SALON SHARE BLOCK LIMITED

USE AGREEMENT

NOTE:

1. Any references in the attached to the 'Companies Act' are to be read as references to the Companies Act No.71 of 2008, as amended.
2. Any references in the attached to the 'Articles of Association' are to be read as references to the Company's Memorandum of Incorporation.
3. Any reference to a manager or management company or is to be read as reference to the Managing Agent appointed from time to time by the Directors.

Use and Occupation Agreement

MEMORANDUM OF AGREEMENT

entered into between:

Le Petit Salon Shareblock Limited

(the "COMPANY")

and

Trafalgar Timeshare Resorts (Pty) Ltd

Contracting for itself as the registered holder for the time being of all the shares of the COMPANY comprising the Share Block specified herein and also, for each successive holder from time to time of the said shares (hereinafter called "the HOLDER").

IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

- 1.1. For the purposes of this Agreement unless the context indicates to the contrary:-
- 1.1.1. **"Ancillary documents"** means those documents which are held by the COMPANY at the address of the Manager (as defined herein) at Suite 15 Mangrove Beach Centre, Somtseu Road, Durban and which include the COMPANY'S Memorandum and Articles of Association, a Schedule of Movables specifying the movables with which the Apartments are equipped, a Schedule setting out details of the shares, share blocks, loans and participation quotas allocated to the Apartments in the premises ("the Schedule of Shares and Loans") and the Management Regulations.
 - 1.1.2. **"Apartment"** means that apartment in the Building which the HOLDER has a right to use for a specified period during each year by virtue of his ownership of certain shares in the COMPANY.
 - 1.1.3. **"Building"** means the building known as The Seapointer, Marais Road, Sea Point, Cape Town.
 - 1.1.4. **"Contract of Sale"** means the Contract of Sale, including the Conditions of Sale to which this Agreement was annexed, whereby the developer first sold the Share Block to the HOLDER or a predecessor in title to the HOLDER.
 - 1.1.5. **"Loan Portion"** means that portion of the COMPANY'S loan obligation which is allocated in terms of Section 14(2) of the Share Blocks Control Act and Clause 3 hereof to the holders of all Share Blocks.
 - 1.1.6. **"Movable Property"** means the movable property referred to in Clause 2.4 hereof.
 - 1.1.7. **"Manager"** means the Manager referred to in Clause 7.1 and, where the context permits or requires, will include the person employed by the Manager to carry out its functions in terms of this Agreement.
 - 1.1.8. **"Participation Quota"** means the decimal fraction, set out in the Schedule of Shares and loans forming part of the ancillary documents which is used for the purpose of calculating the share of the common expenses of the COMPANY to be allocated to the Apartment from time to time.

- 1.1.9. **"Property"** means the immovable property on which the Building is situated.
- 1.1.10. **"Property Timesharing Control Act"** means that Act No.75 of 1983, or any amendment thereof or any Act which may be promulgated in substitution thereof.
- 1.1.11. **"Share Block"** means the share block comprising the shares in the COMPANY and registered in the name of the HOLDER, the acquisition and ownership of which by the HOLDER entitles him to the use of the Apartment.
- 1.1.12. **"Share Blocks Control Act"** means that Act No.59 of 1980 or any amendment thereof or any Act which may be promulgated in substitution thereof.
- 1.1.13. **"Use Period"** means, in relation to that part of the building to which the time-sharing scheme applies, that period during which in terms of the Contract of Sale and of the Schedule to the COMPANY'S Articles of Association, the HOLDER is entitled to the use and occupation of the Apartment.
- 1.2. Words or expressions defined in the Share Blocks Control Act and the Property Timesharing Control Act shall have the meanings therein defined.

2. USE AND OCCUPATION BY VIRTUE OF SHARE BLOCK

- 2.1. The HOLDER of an "A" Class Share Block in respect of any Apartment and Parking Bay which does not form part of the time-sharing scheme in the Building shall have the sole and exclusive use and occupation thereof and the right to use in common with other lawful occupants of the COMPANY'S property such parts of the common property as shall from time to time not be reserved by the COMPANY for the sole and exclusive use of any other occupant of the Building or of itself.
- 2.2. The HOLDER of a "B" Class Share Block in respect of any Apartment and Parking Bay which does form part of the time-sharing scheme in the Building shall have the sole and exclusive use thereof and the right to use in common with other lawful occupants of the COMPANY'S property such parts of the common property as shall from time to time not be reserved by the COMPANY for the sole and exclusive use of any other such occupant, or of itself, for a 7(seven) day period commencing in each year on the numerical Friday specified in the Schedule to the COMPANY'S Articles of Association (the Use Period), subject to the following conditions:
 - 2.2.1. each Use Period shall commence at 15h00 on the Friday specified and shall, save as provided in Clause 2.2.2, terminate at 10h00 on the following Friday;
 - 2.2.2. the time between each Use Period shall be a service period during which the COMPANY shall have occupation of the Apartment for the purpose of cleaning it for subsequent occupation, unless the HOLDER is entitled to two or more consecutive Use Periods in which event there shall be no intervening service period between each such Use Period;
 - 2.2.3. the HOLDER who is entitled to Use Period No.52 shall in any year in which there is a 53rd (Fifty-third) Friday, have the right to an additional period of 7 (seven) days commencing from such 53rd (Fifty-third) Friday and terminating at 10h00 on the 1st (First) Friday of the following year, and there shall be no intervening service period between the consecutive Use Periods to which the HOLDER is entitled.
- 2.3. Notwithstanding the provisions of Clause 2.2 the HOLDER of a "B" Class Share Block in the time-sharing scheme shall be entitled, in respect of any year, to apply in writing to the MANAGER not less than three (3) months prior to the date upon which his Use Period commences for such Use Period to form part of the COMPANY'S Flexi-Pool Scheme.
- 2.4. The Apartment referred to in 2.2 shall be furnished and provided with the movable property which is set out in the Schedule of Movables forming part of the ancillary documents in relation to the type of Apartment to which the HOLDER is entitled.
- 2.5. Nothing in this Agreement shall vest the HOLDER with the ownership of any such movable property or entitle him to remove any such property from the Apartment during or upon the termination of any Use Period the Apartment is occupied by the holder.

Le Petit Salon Share Block Limited
Annexure 4 - Use and Occupation Agreement

- 2.6. The right of use and occupation granted to the HOLDER shall be subject to:-
- 2.6.1. the provisions of the Share Blocks Control Act, and the Property Timesharing Control Act and,
 - 2.6.2. the provisions of the COMPANY'S Articles of Association, and
 - 2.6.3. the due observance by the HOLDER or by anyone who occupies through him of all the terms of this Agreement and of all Management Regulations made from time to time and included among the ancillary documents.
- 2.7. The rights of use and occupation hereby granted to the HOLDER shall continue for as long as, but no longer than, he is the registered holder of the Share Block and the COMPANY is the owner of the property as defined in Clause 1.
- 2.8. If the HOLDER wishes to alienate his Share Block and any loan account or other claim standing to his credit in the books of the COMPANY, the board of directors of the COMPANY may refuse to approve the transfer of the Share Block unless it is satisfied that the prospective alienee has agreed to accept all the obligations of the HOLDER in terms of the Use Agreement and may require such alienee to execute such documents as the Board, in its sole discretion, deems necessary to give effect to the foregoing.
- 2.9. If the HOLDER shall be entitled to the use of all amenities in the building subject to the control of the use of these amenities as required by the Manager from time to time.

3. LOAN PORTION

- 3.1. All moneys paid by the HOLDER in respect of his portion shall:-
- 3.1.1. be dealt with by the COMPANY in accordance with the provisions of sub-sections (1), (2), (3) and (4) of Section 15 of the Share Block Control Act;
 - 3.1.2. as and when such payments are applied by the COMPANY for the redemption of its loan obligation, constitute a loan to the COMPANY for that purpose;
 - 3.1.3. not be repayable to the HOLDER by the COMPANY unless the COMPANY at its option elects to do so;
 - 3.1.4. be repayable to the HOLDER in the event of the COMPANY being wound up;
 - 3.1.5. be free of interest.
- 3.2. Any such loan may be ceded by the HOLDER to a third party provided that such cession is made to the person to whom the HOLDER has sold his Share Block and has been approved in writing by the directors of the COMPANY.

4. CONTRIBUTIONS TO LEVY FUND

- 4.1. The COMPANY shall establish and maintain a levy fund in respect of the share block scheme which fund shall be sufficient, in the opinion of the directors of the COMPANY, to provide for:-
- 4.1.1. the payment of all amounts due by the COMPANY including any charges for municipal rates and other municipal charges on or for services to the immovable property, general charges in respect of any telephone service to the BUILDING, the payment of any premiums of insurance maintained in respect of the immovable property and for public and third party liability and of whatever other kind may be required to cover any operation of the COMPANY, the payment for all services required by the COMPANY for general servicing of the Apartments, the maintenance and repair, including provision for future maintenance and repair, of facilities in the BUILDING and for the discharge of any other obligation relative to the BUILDING as a whole;
 - 4.1.2. the payment of all services required by the COMPANY for special services rendered to the Apartment in respect of making beds, providing for and attending to the linen and the laundering thereof, and for servicing the COMPANY'S movable property in the Apartments, including any electrical appliances such as refrigerators, stoves, airconditioning units and

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- television sets, the payment of any premiums of insurance maintained by the COMPANY in respect of such movable property and the cost of such managerial services as relate solely to superintending and attending to the proper control of the Apartments, the movable property therein and any problems relating to the occupation thereof; and
- 4.1.3. the cost of managerial services provided in terms of the Management Agreement referred to in Clause 7 other than those costs which arise out of the services undertaken by the Manager as set forth in Clause 4.1.2 and to meet the costs of maintaining and repairing the interior of the apartments including any movable property therein and refurbishing and replacing carpets, curtains, furniture and other furnishings and electrical appliances as aforesaid, as and when deemed necessary in the opinion of the Manager.
- 4.2. The HOLDER of a share block comprising "B" Class Shares shall pay any charges or expenses for any services especially made available to the Apartment and/or the occupants thereof in respect of the Use Period to which the HOLDER is entitled including, without affecting the generality of the foregoing, charges for telephone calls processed through the central switchboard in the COMPANY'S building and such charges or expenses shall not be borne by the levy fund.
- 4.3. At the end of each financial year or as soon thereafter as convenient the Auditor of the COMPANY shall determine and certify the total expenses of the COMPANY and the pro rata share payable by the HOLDER in terms of Clause 4.4, and this certificate shall be conclusive proof and final and binding on all holders. If the HOLDER'S pro rata share of such expenses is:-
- 4.3.1. less than the amount paid in terms of Clause 4.4.3 the difference shall be credited to him;
- 4.3.2. in excess of the amount paid, the HOLDER shall pay such excess forthwith.
- 4.4. The HOLDER shall be liable to contribute to the levy fund as follows:
- 4.4.1. the total expenses provided for in Clauses 4.1.1 and 4.1.2 shall be allocated among the Apartments by apportioning to each such Apartment a part of such expenses in proportion to the participation quota relating to such Apartment;
- 4.4.2. if he is the HOLDER of a share block comprising "B" Class Shares, the expenses provided for in Clause 4.1.3 shall be allocated among the Apartments forming part of the time-sharing scheme in the BUILDING by apportioning to each such Apartment a part of such expenses in proportion to the participation quota relating to such Apartment.
- 4.5. The HOLDER shall pay in respect of each Share Block held by him which:-
- 4.5.1. comprising "A" Class Shares, the amount apportioned to the Apartment concerned in terms of Clause 4.4.1;
- 4.5.2. comprising "B" Class Shares one fifty-second (1/52nd) part of the amount apportioned to the Apartment concerned in terms of Clauses 4.4.1 and 4.4.2.
- Such payment to be made 30 days prior to the first day of the month in which the Use Period commences: provided that any HOLDER who, in terms of Clause 2.2.3 is entitled in any year to an additional period of seven days, shall not be liable to pay any additional levy for such additional period.
- 4.6. In addition to any pre-estimate of expenses in terms of Clause 4.4 the directors may from time to time make special levies upon the members in respect of any expenses referred to in Clause 4.2 and such levies shall be paid in such manner and at such times as the directors may prescribe.
- 4.7. The HOLDER shall have no rights to reclaim from the COMPANY any amount paid to it by way of any monthly contribution or special levy but in the event of the HOLDER disposing of his Share Block the transferee thereof shall be entitled to any credit which may have accrued to the HOLDER in terms of Clause 4.3.1.

5. ALTERATIONS

- 5.1. The HOLDER shall not make any structural alterations to the interior of the Apartment unless he has obtained the prior written consent of all the appropriate authorities, the Manager and all other HOLDERS who are entitled to the use and occupation of the Apartment during other periods.
- 5.2. In granting any such consent the Manager shall be entitled to prescribe the type and colour of any decorative or other structure, its mode of annexation to the building and the hours during which any work thereon may not be performed.

6. LETTING OF APARTMENT

- 6.1. The HOLDER shall have the right, subject to Clauses 6.2 and 6.3, to let or sub-let or otherwise allow occupation of the Apartment but only if the HOLDER has received the prior written consent of the Manager (which shall not be unreasonably withheld) and such lease, sublease or other arrangement to allow occupation has been entered into through the agency of the Manager.
- 6.2. The Manager shall be entitled:-
 - 6.2.1. to determine the terms (other than the rental) of such lease, sublease or other arrangement; and
 - 6.2.2. to charge the HOLDER the applicable Estate Agents' Tariff for its servicesProvided that the HOLDER may allow occupation of the Apartment otherwise than through the agency of the Manager, if such occupation is pursuant to any arrangement made by the HOLDER with an international organisation approved by the COMPANY which provides for the exchange of use periods with other time-sharing schemes on a reciprocal basis.
- 6.3. Notwithstanding the provisions of Clauses 6.1 and 6.2:-
 - 6.3.1. the COMPANY shall not be deemed to have waived any of its right against the HOLDER under this Agreement by any consent given by the Manager in terms of Clause 6.2;
 - 6.3.2. the party by whom the Apartment is to be occupied must have furnished a written undertaking to the COMPANY (on such terms as the Manager may approve) duly to observe all the terms of the Management Regulations and not to allow more persons to occupy the Apartment than the number specified in the Schedule;
 - 6.3.3. the provisions of Clause 6.2 shall not apply to TRAFALGAR TIMESHARE RESORTS (PROPRIETARY) LIMITED while it is the HOLDER of any Share Block in the COMPANY, subject only to its lodging with the COMPANY, before any such third party enters into occupation of the Apartment or Flat, an undertaking by such third party in accordance with the Clause 6.3.2.

7. MANAGEMENT

- 7.1. The management of the COMPANY'S movable and immovable property and the servicing and maintenance thereof shall be under the direction and control of the Manager, namely ATTADALE PROPERTIES (PROPRIETARY) LIMITED, trading as H. LEWIS INVESTMENTS, which has entered into a contract with the COMPANY to carry out for a period of 20 (twenty) years, certain management services on behalf of the COMPANY for the purposes of this agreement.
- 7.2. The Manager shall:
 - 7.2.1. carry out all the obligations of the COMPANY pursuant to Clause 8.1;
 - 7.2.2. repair, maintain, repaint, remodel, furnish or refurnish any Apartment or any part thereof and any movables therein;
 - 7.2.3. pay all out-goings on behalf of the COMPANY including insurance premiums, rates assessments, service charges and other expenses of a similar nature;
 - 7.2.4. employ any such contractors as may be required for the purpose of this clause and engage such accounting and legal services as may be required;

- 7.2.5. employ and discharge any person engaged to carry out any duties or effect any service in respect of the COMPANY'S property or business;
- 7.2.6. generally control the use and occupation of the Building by holders for their mutual benefit and comfort and to this end shall be entitled to prescribe regulations and at any time to amend such regulations relating to the use and maintenance of the property and of the Apartment and to the use of radios, sound equipment, television sets and aerials, airconditioning machines and other electrical apparatus, blinds and awnings, recreational facilities, parking on the common property and motor vehicles and to such other matters as the Directors may, at any time, authorise the Manager to deal with;
- 7.2.7. arrange for the letting, subletting or other form of occupation of the Apartment in terms of Clause 6.

8. MAINTENANCE

- 8.1. The COMPANY shall ensure that from the levy funds maintained in terms of Section 13 of the Share Blocks Control Act, there shall be kept in good order and maintained:
 - 8.1.1. the immovable property other than such portion/s thereof as referred to in Clause 8.2;
 - 8.1.2. the movable property with which any Apartment is furnished and supplied;
 - 8.1.3. the interior of any Apartment including plumbing and sanitary fittings, electrical fittings and appliances as described in Clause 4.2.1 and other interior fittings generally of any Apartment.
- 8.2. The COMPANY shall not be liable for any loss or inconvenience which may be caused to the HOLDER by reason of any damage, or absence of repair, to any of the COMPANY'S movable or immovable property, including the interior of any Apartment notwithstanding that such loss or inconvenience arises out of any act or omission whether negligent or not, on the part of the COMPANY or its servants or agents.

9. USE OF APARTMENT

- 9.1. The Apartment shall be used by the HOLDER for residential purposes only and for no other purpose whatsoever. The Apartment shall be occupied personally by the HOLDER and by no more than the number of persons in all, including the HOLDER, as specified in Schedule "A" of the ancillary documents. In the event of the right of use being held by a body corporate, the Apartment shall be occupied by such person who may be nominated from time to time by the body corporate and approved in writing by the Manager which approval shall not be unreasonably withheld.
- 9.2. Notwithstanding anything contained in Clause 6 no HOLDER who has the right to occupy an Apartment shall be entitled to sell or alienate any portion of such Use Period for any specified period each year upon terms which are similar in effect to the terms of this Agreement: "provided that this clause shall not preclude Trafalgar Timeshare Resorts (Pty) Limited while it is the HOLDER of any Share Block in the COMPANY from extending the time-sharing scheme in terms of Clause 14".
- 9.3. No HOLDER shall store or keep within the Apartment any goods or material which may vitiate any fire insurance policy held in respect of the Building or Movable property or increase the premium payable in respect of such policy.
- 9.4. If in the opinion of the Manager any repairs or renovations to the COMPANY'S movable property or the building, including the interior of the Apartment, are rendered necessary by reason of any act, whether accidental, negligent or wilful by the HOLDER or any member of his household or of any other visitor to or occupier of such Apartment, the HOLDER shall be liable for the cost of repairing, restoring and renovating the movable or immovable property in question. The cost of such repairs, renovations or restoration shall be a debt due by the HOLDER to the COMPANY, and the COMPANY shall be entitled to proceed in terms of Clause 15 should such debt not be paid.

10. ELECTRICITY AND WATER

The COMPANY shall not be liable for any interruption or failure of the lift in the building or of the electrical and or water services that may be supplied and or any other Municipal or other services to the property, irrespective of the cause thereof, nor for any consequential damage the HOLDER may suffer by reason of such failure or interruption.

11. DAMAGE TO OR DESTRUCTION OF BUILDING

- 11.1. The COMPANY shall throughout the period of this Agreement ensure that the Building and any other structures on the property, and the movable property, are kept reasonably insured against destruction or damage by fire and or storm and such other risks and contingencies as it may from time to time determine, and in the case of destruction and or damage of the building it shall, subject to the provisions of the Articles of Association, apply the whole of the moneys received by it from the proceeds of any applicable insurance policy to the repair or replacement of the Building and the movable property.
- 11.2. In the event of the Building being replaced by a new building, pursuant to the provisions of Clause 11.1 the HOLDER shall (subject to the sufficiency of the said insurance monies) be entitled to accommodation in such new building or buildings which, having regard to the rights of other holders of share blocks with occupation rights, is as nearly as may be reasonably practicably comparable to the accommodation enjoyed by him in the existing building, and he shall also be entitled to all the like rights and be subject to all the like obligations in regard to such new accommodation as are granted or imposed upon him in respect of the Apartment.
- 11.3. The HOLDER shall have no claim against the COMPANY for damages:-
- 11.3.1. arising by reason of his loss of the right of occupation of the Apartment from causes beyond the control of the COMPANY whether such right be lost permanently or temporarily;
- 11.3.2. arising by reason of the fact that the COMPANY'S movable or immovable property was not insured or inadequately insured even if such failure to insure or to insure adequately arose from the gross negligence of the COMPANY;
- 11.3.3. arising out of any winding up consequent upon the destruction of the COMPANY'S property.
- 11.4. The COMPANY shall not in any way be responsible for the property and effects of whatsoever nature or kind of any occupant of the building aforesaid, or for any damage which may be caused through defects in the Building or howsoever arising including leakage, collapse of structure or fittings, insects or dampness and no warranty of any nature as to the state of the property over which rights of occupation have been assigned is given by the COMPANY.

12. SECTIONAL TITLE

No application will be made for the opening of a sectional title register in respect of the Building.

13. CESSION OF RIGHTS

- 13.1. Save that the HOLDER shall not be entitled to cede or assign any of his rights herein other than to the transferee of the Share Block held by him and subject to the Articles of Association of the COMPANY and to the COMPANY'S prior written consent, the HOLDER may cede and assign the whole of his rights herein to any such transferee provided that such transferee shall assume liability for all the HOLDER'S obligations in terms of this Agreement but not cession and/or assignment shall be binding upon the COMPANY until it has given its consent as aforesaid and until it has received formal written notice of such cession and/or assignment.
- 13.2. Any such cession and/or assignment shall be in such form and upon such conditions as the COMPANY may from time to time stipulate.

14. EXTENSION OF TIME-SHARING SCHEME

- 14.1. The HOLDER acknowledges that certain Apartments in the Building in respect of which Trafalgar Timeshare Resorts (Pty) Limited owns the relevant Share Blocks do not form part of the time-sharing scheme and that the said Trafalgar Timeshare Resorts (Pty) Limited may from time to time or at any time wish to include all or some of such Apartments in the said scheme.
- 14.2. The HOLDER, by his signature hereto:-
- 14.2.1. consents to the inclusion of any further Apartments owned by Trafalgar Timeshare Resorts (Pty) Limited in the timesharing scheme subject only to the holders of the Share Blocks relating to such Apartments being subject to a Use Agreement in the same terms as this Agreement; and
- 14.2.2. hereby authorises Trafalgar Timeshare Resorts (Pty) Limited and grants it an irrevocable power of attorney in *rem suam* to receive notice of any general meeting of the COMPANY, which may be required to alter the COMPANY'S share capital solely for the purpose of extending the time-sharing scheme to other Apartments in the Building and to attend and vote in the place of the HOLDER for any resolutions which may be required for such purpose.

15. BREACH OF AGREEMENT

- 15.1. Should the HOLDER:-
- 15.1.1. fail to pay the COMPANY any instalment or any amount due in terms of this Agreement or commit or cause a breach of any of the provisions of this Agreement or of the management Regulations and remain in default for a period of 14 (fourteen) days from the date upon which a notice requiring him to remedy the breach is delivered to him by hand or by prepaid registered post; or
- 15.1.2. commit or allow a breach of any of the provisions of this Agreement or of the Management Regulations of such a nature that it cannot practicably be remedied upon the receipt of a notice as is envisaged in 15.1.1 and thereafter commit or allow a further breach of the same nature within 12 (twelve) months after delivery to him by hand or by prepaid registered post requiring him to desist from and/or not to repeat or allow the repetition of such breach; or should the HOLDER or the occupant concerned breach the undertaking referred to in the proviso to this Clause, the COMPANY shall have the right to cancel this Agreement forthwith: provided that if the HOLDER or any person occupying his Apartment or Flat creates a disturbance by making excessive noise or otherwise contravening any of the Management Regulations to an extent which, in the opinion of the Manager, constitutes a nuisance to any other occupants of the building, the Manager shall have the right to require the HOLDER or such occupant, as the case may be, forthwith to vacate the Apartment and the HOLDER or such occupant shall forthwith vacate as required and shall not be permitted to resume occupation until he has signed a written undertaking to desist from the conduct complained of.
- 15.2. If the COMPANY cancels this Agreement in terms of Clause 15.1 it shall also be entitled:
- 15.2.1. to eject the HOLDER and or any person claiming title under him from the Apartment occupied by him or allotted to him for occupation;
- 15.2.2. to sue the HOLDER for the instalment or other amount due;
- 15.2.3. to sell the shares of such HOLDER for which purpose the COMPANY is hereby constituted the agent of the HOLDER irrevocably and in *rem suam*. From the proceeds of such sale the COMPANY shall deduct and retain whatever monies may be due to it by the HOLDER and pay the net balance to him.
- 15.3. In pursuance of its rights in terms of Clause 15.2 the COMPANY shall be entitled to give transfer of the shares to the purchaser on behalf of the holder who shall forthwith deliver his share certificates

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to the COMPANY. In the event of failure to deliver, the COMPANY shall make the necessary entries of transfer in its register of members without the share certificate being delivered to it and upon such entries being made the defaulting HOLDER shall cease to be a member and his share certificates shall be deemed to be cancelled and the purchaser shall be deemed to have good title.

16. DOMICILIUM

The HOLDER chooses as his **domicilium citandi et executandi** and as the address at which notices may be delivered to him, the Apartment in respect of which he has the right of occupation.

SIGNED at DURBAN this 1st day of JUNE 1988

AS WITNESSES

1. J CLARKE
2. G VAN DEN BERGH

ND SCHAEFER

LE PETIT SALON SHARE BLOCK LIMITED
(COMPANY)

SIGNED at DURBAN this 1st day of JUNE 1988

AS WITNESSES

1. J CLARKE
2. G VAN DEN BERGH

WAM GILES

TRAFALGAR TIMESHARE RESORTS (PTY)
LIMITED (HOLDER)