

ZEBULA – Controlling Bodies

[Comprising of the i. Body Corporate Sectional Scheme Mabalingwe 12, ii. Body Corporate Sectional Scheme Mabalingwe 13 and iii. Kareefontein HOA]
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22 November 2021

CONTRACTOR & LETTING AGENTS REQUIREMENTS TO OPERATE ON ZEBULA

Version 1.0

1. PREFACE

Relevant extracts from the **Commercial Agreement** effective 1 March 2019 (“Agreement”) and agreed between the Mabalingwe 12 Body Corporate (hereinafter known as “Maba12BC”), the Mabalingwe 13 Body Corporate (hereinafter known as “Maba13BC”), the Kareefontein Landowner’s Association NPC (hereinafter known as the “Association”) (together the “Controlling Bodies”) and Zebula Country Club Proprietary Limited (hereinafter known as “ZCC”). *[A copy of this Agreement is available at the onsite ADMIN offices at Main Gate]*

“In terms of this Agreement ZCC holds the right to operate, for its own commercial gain, certain Commercial Activities on Zebula on the Terms and Conditions set out herein. ZCC has, in terms of previous such similar commercial agreements purported to have held the exclusive right to operate, for its own commercial gain, certain Commercial Activities on Zebula. This Agreement will supersede / replace all previous agreements or understandings and any such previous commercial arrangements or agreements.”

“ZCC is entitled to undertake the Commercial Activities summarised on Schedule A, for its benefit. The terms and conditions are detailed in this agreement.

- *No Owner or other party may conduct commercial or competing activities on Zebula where the parties have agreed **exclusivity** without the specific consent of the Controlling Bodies and approval of ZCC; and*
- *ZCC shall consult with the Management Committee before rescinding any approval given to any party to conduct commercial or competing activities in said circumstance referred to in this Agreement*

Joint Board of Trustees of the Controlling Bodies:

Mabalingwe 12 Trustees: Grant Krog (Chairman), Thinus Laas, Eileen Caramanus, Margriet Luchs, Anton Roets, Frank Hislop

Mabalingwe 13 Trustees: Raymond Wright, Wicus Olivier, Les Godwin

Kareefontein HOA Directors: Piet Swart, Armando Maraschin

SCHEDULE A - COMMERCIAL ACTIVITIES

NO.	<u>Description of Activity</u>	<u>Nature of Commercial Right</u>
1.	Operation of: <ul style="list-style-type: none"> • 18-hole Golf Course, halfway house, • pro shop, golfers change rooms and storage rooms, • putting green, driving range, chipping green, and • golf cart rental 	Exclusive
2.	Operation of: <ul style="list-style-type: none"> • Club House and reception area, • restaurants and kitchen, bar, conference facilities, and • commercial offices. 	Exclusive
3.	Retail Shop next to Club House and Storage Facilities	Exclusive
4.	Animal interactive, educational centre/structures that may include snakes, reptiles, lions, tigers, cheetahs, meerkats, crocodiles, genets, birds, and caracal	Exclusive
5.	Outside Boma facilities	Exclusive
6.	Spa, with double storey facilities with pools and treatment rooms	Exclusive
7.	Pool area with gym, squash court, change rooms, "tuck shop", putt-putt course, and large sand play pit	Exclusive
8.	2 (two) tennis courts	Exclusive
9.	40 (forty) Commercial Lodge bedrooms, of which only 20 developed at the date of this agreement	Exclusive
10.	Staff Housing	Exclusive
11.	Repair workshop	Exclusive
12.	Tarred Airstrip and ZCC owned Hangars	Exclusive
13.	Mountain biking	Exclusive
14.	Commercial/paid for Game viewing drives (no more than ten vehicles at any given time)	Exclusive
15.	Commercial/paid for Bush activities, including, but not limited to, bush walks	Exclusive
16.	Commercial Activity booking centre	Exclusive
17.	Supervised / guided quad biking (on pre-approved trails)	Exclusive
18.	Waterberg Lodge Management	Exclusive
19.	Maintenance services	Non-Exclusive
20.	Housekeeping and Laundry facilities	Non-Exclusive
21.	Property Sales	Non-Exclusive
22.	Property Rentals	Non-Exclusive <i>[But ZCC Remains A Preferred Service Provider]</i>

EXCLUSIVE RIGHTS

ZCC has exclusive right to operate these activities solely for its own commercial gain.

NON-EXCLUSIVE RIGHTS

ZCC does not have the exclusive right to operate these activities. In this regard, it is noted and agreed that the Controlling Bodies will consider applications by certain outside organisations / service providers / contractors ("Contractors") to tender for these rights on a non-exclusive basis. The Owners will be required to contract directly with the approved contractors for these services. It is the intention and commitment of the Controlling Bodies to actively manage and monitor the approved contractors to ensure that;

- they adhere to the Conduct Rules on Zebula,
- they comply with relevant legislation / regulations governing their respective service offerings, and
- their services are of a high standard.”

“The Controlling Bodies will retain a master list of all approved contractors on behalf of the Owners. The Controlling Bodies will evaluate and update this list on a regular basis. Such contractors must prove compliance with employment regulations, statutory regulations, and all other regulations under which ZCC is required to and is operating. To protect the Owners and also to ensure a fair opportunity for ZCC the Controlling Bodies evaluation of approved contractors will include surprise site reviews / audits, Owner feedback. The Controlling Bodies will determine from time to time any additional procedures they may deem appropriate.”

Relevant extracts from the **MANAGEMENT AND CONDUCT RULES** presented and approved at the combined Special General Meeting and Annual General Meeting held 29 June 2019. [A copy of said Rules is available at the onsite ADMIN office at the Main Gate or on the Zebula Controlling Bodies website www.bczebula.co.za].

2. COMMERCIAL ACTIVITIES

The Commercial Agreement defines ZCC’s right to operate, for its own commercial gain, certain Commercial Activities on Zebula on the Terms and Conditions set out therein.

No Owner or other party may conduct commercial or competing activities on Zebula where the Parties have agreed exclusivity without the specific consent of the Controlling Bodies and approval of ZCC, which shall not unreasonably be withheld, and ZCC shall consult with the Management Committee before rescinding any approval given to any party to conduct commercial or competing activities in said circumstance.”

“It is the responsibility of Owners to ensure that they are aware of these Conduct Rules and that their employees, **contractors**, guests and visitors or any other person occupying or working in or around the Unit or Stand is aware of, and to the best of their ability, complies with, these Rules. For the avoidance of doubt ZCC is also an Owner and these rules apply to ZCC equally as they do to all Owners.

Any action, intentional or otherwise, that is not compliant with these Rules will be considered an offence. The Management Committee has instructed the Manager(s) to reasonably sanction, in their own good and fair discretion, any offense and these sanctions may include, but not be limited to, restricted access to common property, financial penalties etc.”

3. **DISCLAIMER:**

ANY PERSON ENTERING THESE PREMISES DO SO ENTIRELY AT THEIR OWN RISK. THE TRUSTEES, DIRECTORS, OWNERS, MANAGEMENT, OFFICERS, AGENTS, **CONTRACTORS** AND EMPLOYEES WILL NOT BE HELD LIABLE FOR ANY HARM CAUSED, OR DEATH, OR LOSS, OR DAMAGES, WHETHER DIRECT OR INDIRECT, CAUSED TO ANY PERSON ENTERING THESE PREMISES AND MAKING USE OF THE FACILITIES AND SERVICES AVAILABLE. BY ENTERING YOU IDEMNIFY AND HOLD THE TRUSTEES, OWNERS, MANAGEMENT, OFFICERS, AGENTS, CONTRACTORS AND EMPLOYEES HARMLESS FROM ANY CLAIMS OR ANY THIRD PARTIES, BROUGHT ABOUT DIRECTLY OR INDIRECTLY BY YOUR ACTIONS.

THE OWNERS AND MANAGEMENT RESERVE THE RIGHT TO SEARCH ANY PERSON OR PROPERTY OR VEHICLE FOR ANY UNAUTHORISED ITEMS IN YOUR POSSESSION AND TO RETAIN SUCH ITEMS FOR FURTHER INVESTIGATION.

NO FIREARMS OR ANY OTHER TYPE OF DANGEROUS WEAPONS OR HAZARDOUS GOODS OR MATERIALS ARE ALLOWED TO BE BROUGHT ONTO THE PREMISES WITHOUT THE EXPRESS WRITTEN CONSENT OF THE BOARD OF TRUSTEES AND/OR MANAGEMENT.

RIGHT OF ADMISSION IS RESERVED, AND MANAGEMENT SHALL HAVE THE RIGHT TO DENY ANY PERSON ACCESS TO THE FACILITIES OR PREMISES.”

4. **MAINTENANCE AND APPEAL AND INSURANCE**

Maintenance and appeal

Owners are solely responsible for the maintenance of their individual buildings and immediate surrounding infrastructure developed and / or owned by the Owner (internal and external maintenance and appeal commensurate with the nature of a 4 Star Estate).

All improvements and appropriate ongoing maintenance of their Unit and Stand, including, but not limited to,

- all external walls and fixtures,
- roofs,
- driveways and carports and dedicated / marked parking bays,
- pools and Jacuzzi's,
- patios / verandas / wooden / concrete decks, braai and boma areas,
- generator enclosures,
- lighting conductors (poles and immediate / related infrastructure),
- areas clearly utilised as part of the Unit / Stand, and
- other developed areas / infrastructure in the immediate vicinity of their buildings.

No storage of any plant or material on a completed home site is permitted without the direct written consent of the Management Committee which may not unreasonably be withheld.”

5. CONTRACTORS

Although ZCC provides certain services to Owners as outlined in the Commercial Agreement, Owners are entitled to use their own contractors to provide similar services where these are not exclusive, as defined in the Commercial agreement, to ZCC. The Owners should, however, ensure the following when engaging the services of an external contractor (service provider);

- a. That the contractor is registered and is a known / reputable entity;*
- b. That contractor is registered with the relevant governing bodies in such industry;*
- c. The contractor employs South African Citizens and / or individuals with necessary working permits;*
- d. The contractor is registered with the Controlling Bodies and has provided the Management Committee with all the necessary statutory documents requested;*
- e. The contractor has liability and 3rd party insurance to the recommended minimum value of R15 000 000 (fifteen million Rand). This minimum value is a guideline based on the extent of damage that could result from an intentional / careless act / incident;*
- f. Contractor provides a quote and invoices according to the quote; and*
- g. Contractor completes the work to all necessary standards and complies with these Rules including, but not limited to, leaving the Unit / Stand neat and clean when finished.*

The Contractor or his personnel are not permitted in the Estate outside the normal business hours (07h30 to 17h30), except where a contractor attends to an emergency. Owners are required to notify the Manager(s) of such an incidence for the Manager(s) to notify security and access control. No contractor or his personnel shall overnight on Estate except with prior written approval of the Management Committee.

Should the Bodies Corporate or it's appointed Manager(s) have any reasonable reservations about the conduct of the contractor and/or subcontractor (including their employees), the Bodies Corporate reserves the right to suspend all services (building or repair or otherwise) until such time that such conduct is rectified which it may do at any time on notice to the Owner, contractor and/or subcontractor, all of whom shall have no recourse against the Bodies Corporates or its employees in this regard.

The Controlling Bodies may circulate a contractor Code of Conduct and / or standard operating procedure document ("SOP") independent of these RULES should further clarity be required by Owners.

In addition, the Controlling Bodies will formulate and maintain a register of approved Contractors that may be updated from time to time based on the outcomes of the contractor behaviour and breach of the compliance requirements."

6. PURPOSE

Included under the “PREFACE” section of this document are relevant extracts from the **Commercial Agreement** and the **Management and Conduct Rules** which have been presented and approved in previous Special and Annual General Meetings. All Owners are required to have a working knowledge of these documents and are required to comply with the terms and conditions therein.

Only Contractors who have submitted their credentials for accreditation by the Zebula Bodies Corporate / Joint Board of Trustees (JBOT) will be permitted to carry out work on the Site.

The Aim of this document is to ensure that all Owners are provided further guidance regarding their obligations regarding the use of Contractor services when attending to their responsibilities regarding “*Maintenance and appeal and insurance*” of their respective properties on Zebula.

- 6.1 Have undergone a vetting process to ensure that they are legitimate i.e. is registered and is a known / reputable entity;
- 6.2 To ensure that through the vetting process assets on Zebula and persons are safeguarded;
- 6.3 To ensure that the necessary Occupational Health and Safety aspects are upheld;
- 6.4 To ensure that all staff working on Zebula are not a risk to the estate or people i.e. the contractor employs South African Citizens and / or individuals with necessary working permits and appropriate background criminal record checks when employing staff;
- 6.5 To ensure that the service received from contractors is of the highest standard and complies with the requirement that internal and external maintenance and appeal of all buildings and other infrastructure remains commensurate with the nature of a 4 Star Estate;
- 6.6 To ensure that all Contractors are required to comply with a consistent set of minimum compliance standards such that they are all provided a fair and reasonable opportunity to provide services to Owners on Zebula i.e. the playing fields are level; and
- 6.7 To ensure that all people inclusive of contractor’s employees are safeguarded by the country’s laws and that companies are compliant with said laws i.e. the contractor is registered with the relevant governing bodies in such industry who are responsible for compliance and oversight.

7. MINIMUM DOCUMENTATION REQUIREMENTS FOR ALL CONTRACTORS

- 7.1 Proof of Registration for the Company / Close Corporation / Sole Proprietor.

- 7.2 Proof of Commercial Public Liability Insurance to an appropriate value given the services offered – guideline is of R15 000 000 (fifteen million Rand) and must be inclusive of, theft of personal effects, fire, negligence, defective workmanship.
- 7.3 Proof of fully comprehensive motor vehicle insurance for vehicles accessing Zebula and all drivers to have a valid driver's licence.
- 7.4 Proof of SARS registration.
- 7.5 Tax clearance certificate from SARS (most recent financial period).
- 7.6 Proof of Registration with UIF to be provided.
- 7.7 Proof that the entity is registered with Workmen's compensation.

Proof that all minimum requirement with relations to labour are met.

8. REQUIREMENTS FOR STAFF OF CONTRACTORS

- 8.1 All staff to have a valid South African Identity Book / Passport / Work Permit.
- 8.2 All staff members to have a Police clearance certificate.

9. ADDITIONAL REQUIRMENTS FOR BUILDING AND/OR MAINTENANCE CONTRACTORS

- 9.1 Proof that the company is registered with the NHBRC.
- 9.2 In the case of Electricians, a valid wireman's license to be provided.
- 9.3 In the case of Electricians, proof that the company is registered with the National Bargaining Council for Electrical Industry.

10. ADDITIONAL REQUIRMENTS FOR HOUSEKEEPING CONTRACTORS

- 10.1 Registration with a national bargaining council or sectorial organization, if applicable.

11. ADDITIONAL REQUIREMENTS FOR LETTING AGENTS AND/OR PROPERTY SALES AGENTS

- 11.1 Proof of fidelity certificate.
- 11.2 Proof of EAAB Certificate.

12. CONTRACTOR QUALIFICATION

12.1 ACCREDITED CONTRACTORS

As previously documented only Contractors who have submitted their credentials for accreditation by the Zebula Bodies Corporate / Joint Board of Trustees (“JBOT”) will be permitted to carry out work on the Site. Application for accreditation must be made in writing at least Seven (7) working days prior to the first intended work commencement date. Such application shall be accompanied by supporting documentation required in terms of the applicable minimum guidelines provided above.

The JBOT and/or its duly appointed Manager

- may interview the Contractor as part of the adjudication of an application for accreditation;
- reserves the sole right to approve/accredit Contractors for any work to be conducted on Zebula *[All such work shall be carried out in strict compliance with **The Management and Conduct Rules and Building Regulations** as approved by the Owners in Annual General Meeting];*
- reserves the right, in the event of default, statutory or otherwise, to issue written notice of cancellation / deferment of Contractor approval / accreditation for the execution of work on Zebula. Upon said notice the Contractor shall immediately cease operations and exit Zebula. Failure to do so will require the JBOT to consider their legal rights which may include laying a case with SAPS for trespassing;
- Application for re-instatement, in the event of cancellations / deferment of approval must be made and approved prior to the commencement of services on Zebula;

All fines are payable within 72 hours of them being issued and are payable to the appointed Banking Account which details are available at the Body Corporates onsite offices. Proof of said payment must then be handed in to the Body Corporates onsite Offices.

12.2 ACCREDITATION OF CONTRACTORS

In order to qualify for accreditation, the Contractor shall comply with the following requirements:

All submissions need to be made in person by appointment at the Body Corporate Office with the appointed General Manager of Zebula Body Corporate.

- 12.2.1 Sign a letter of undertaking to comply with the conditions of this document and the applicable Conduct Rules and all conditions, statutory or otherwise, related thereto.
- 12.2.2 Consent must be given by the contractor to allow any surprise audit of its required documentation to conduct work on Zebula be it annually, quarterly or when elected to do so by the JBOT.
- 12.2.3 The contractor, its directors and/or members will be in good standing with the Body Corporate and not owe any monies to the Bodies Corporate in a personal or business nature.

- 12.2.4 Provide a detailed company organogram, together with the curriculum vitae of key personnel, and in particular the credentials of the company principal and the responsible person/site agent.
- 12.2.5 Provide three client references in support of historical and current performance and quality of workmanship.
- 12.2.6 A further annexure (ANNEXURE 1) document detailing operational requirements e.g. access Control, Tea Breaks, Communal areas, Working Hours, Deliveries, Code of Work Practice will also form part of this agreement.
- 12.2.7 Undertakes to always conduct honest and ethical business practices, ensure no price collusion takes place amongst contractors and provide owners with competitive quoting and pricing as recognized in the industry.

The Terms and conditions of this document may be amended without notice at the sole discretion of the Trustees / Directors

13. ARBITRATION

- 13.1 Save as otherwise specifically provided in this Agreement, should any dispute arise out of or in connection with this Agreement or the termination thereof, either party shall be entitled to require, by written notice to the other, that the dispute be submitted to arbitration in terms of the AFSA (www.arbitration.co.za) commercial ("long") rules in terms of this clause and the rest of the provisions hereafter will apply insofar only they do not clash with said AFSA commercial rules and held under the provisions of the arbitration laws for the time being in force in the Republic of South Africa, provided that:
 - 13.1.1 the arbitrator who shall be agreed upon by both parties shall be a suitably qualified professional, in whatsoever field the dispute relates to, of not less than ten years' standing (*if Parties cannot agree on the arbitrator within 10 (ten) days then the chairman of AFSA shall appoint one*);
 - 13.1.2 14 days written notice of such dispute shall be given, with the option of mediation before proceeding to arbitration.
- 13.2 The arbitration may be carried out informally, if so suggested by the arbitrator, but will be subject to normal arbitration procedures; the arbitration should be resolved as quickly as possible with a view to its being resolved within 30 (thirty) days of being demanded.
- 13.3 The arbitrator will be entitled to investigate, or cause to be investigated, any matter, fact of thing which they consider to be relevant, and to question under oath representatives of either of the

parties. The arbitrator shall decide the dispute, including the award of costs, according to what they consider just, and equitable and such decision will be final and binding, and may be made an order of any Court to which the parties to the dispute are subject.

13.4 Notwithstanding the foregoing, either party shall be entitled to apply for, and, if successful, be granted an interdict from any competent Court having jurisdiction.

14. GOOD FAITH

All parties agree to comply with law and act in good faith in dealing with one another pursuant to this Agreement. All parties hereby covenant to the others that it shall not undermine the rights of any other party hereto with respect to the Agreement and will cooperate with each other in achieving the goals of this Agreement; provided, however, that nothing in the foregoing will be deemed to limit or otherwise affect the rights of a party to terminate this Agreement or seek remedies for defaults hereunder, all as provided for in this Agreement.

SIGNED AT _____

ON _____

AS WITNESSES”

ZEBULA CONTROLLING BODIES / (“JBOT”)

-who warrants his/her authority to sign

1. _____

2. _____

SIGNED AT _____

ON _____

CONTRACTOR / LETTING AGENTS NAME

-who warrants his/her authority to sign

AS WITNESSES”

1. _____

2. _____