

Readers are invited to critique and offer improvements in the substance or wording of the following master-lease form and the system of natural rights and obligations contained within it. Please communicate with the author by email at sm ***at*** look ***dot*** net

A Proposed Master-Lease Form for a Somali Freeport-Clan

- I. WHEREAS SOMALI FREEPORT SERVICES ("SOFREE"), a private company not affiliated with any government or government agency but owning the entrepreneurial community of Newland, is in the business of optimizing human environment in Newland conducive to business and/or leisure activities there, and of leasing to its customers exclusive sites affording them access to and enjoyment of the same as members of Newland, and

WHEREAS JOHN JOHNSON ("DWELLER") desires membership in the community of Newland for the purpose of residing and pursuing business or leisure activities there,

NOW THEREFORE SOFREE, for consideration set forth below, conveys for a renewable period of 99 years to DWELLER, his heirs and assigns, subject to the terms and conditions of this agreement, full membership in the community of Newland including equal access with all other members to its common areas and facilities and, in addition, exclusive occupancy of that space known as [a complete property description follows].¹

II. SOFREE Further Covenants and Promises:²

¹ While this lease specifies a term, there is no reason why leases under this master-lease form need have a fixed date of termination. (Of course, sub-leases cannot have a term longer than the lease next up the line.) Flexibility is served by the fact that leaseholds can be bought and sold. An individual might choose a very long or even a perpetual lease for the psychological sense of permanent membership in the community, contingent only on observance of the lease terms. Although no longer recognized under Anglo-American statutory law, perpetual leaseholds are traditional and customary in many parts of the world.

² Emalie MacCallum points out the aptness here of the word "promise," defined by Webster as "a declaration that gives the person to whom it is made a right to expect or claim the performance or forbearance of a specified act."

A. To guarantee DWELLER quiet possession of his leasehold and the freedom, subject only to the terms and conditions of this agreement, to make full and undisturbed use of that space and of Newland's public areas and facilities.

B. To behave toward DWELLER and all persons in Newland in a manner consistent with the "Outline of Natural Rights and Obligations" appended to and made a part of this agreement and, most specifically, not to impose any tax or permit anyone to impose any tax on the person or property of DWELLER or of anyone else in Newland.³ The word "tax" shall mean any imposition of any levy, fine or assessment other than as provided for by the terms of this or other agreements voluntarily entered into.

C. To exercise due diligence in securing the safety of persons and property in Newland. To this end SOFREE shall, as a minimum:

1. Disseminate information concerning:⁴
 - a. Health and safety.
 - b. Insurance.
 - c. Technology for the abatement of nuisance effects

³ Lessor and lessee (III.B) mutually promising to behave in a manner consistent with the appended "Outline of Natural Rights and Obligations" enables an operating system of law to be introduced into the community from the outset with each and every member committed to it by specific contractual agreement. This is important if the freeport is to interact with Somali customary law from the beginning. In a subdivision there would be no means of introducing such a system of law; it could only develop gradually through the arbitration process. In a subdivision, the appended outline of natural rights and obligations and the procedural rules set out in Paragraph (IV.1.3) could only be recommended for consideration, whereas in Newland it cannot be ignored because it is a part of the lease. Courts will of course be free to interpret and apply it in accordance with accepted practice in the community, and Paragraph (IV.I.3) provides for periodic review.

⁴ A basic community service of SOFREE will be to ensure that up-to-date technical information about the "how" of community living is readily available to everyone in the community. One reason for this is that the membership/lease agreement does not specify the types of prohibited behavior that might endanger others or be a public nuisance, since this would call for policing—inspections and enforcement—by SOFREE. As the community owner, SOFREE is so much a bullfrog in the pond that it is politic to avoid or minimize situations that could lead to confrontation with members. Instead, the member takes the initiative. He covenants (III.C) to exercise all due diligence to avoid endangering others. Should a dispute arise among members, it will go first to mediation and then to arbitration (IV.F), and a private arbitrator will determine whether one or another member has acted contrary to the spirit of the lease agreement. If the arbitrator finds against the member, SOFREE will be free to act on that information which, by then, will be public knowledge. The issue will turn partly on the question of whether the defendant was sufficiently informed to have acted differently.

such as noise, smoke, vibration, noxious gases, odors, glare, heat, fire, explosive hazards, traffic, and waste effluent.

d. Means of dispute management.

2. Foster the growth and development of freely competitive judicial and police services in Newland consistent with the "Outline of Natural Rights and Obligations" appended to and made a part of this lease and with the procedural rules in Paragraph (IV.I).⁵

3. Reimburse uninsured losses resulting from fire, theft, or bodily injury suffered in Newland's public areas, or in the members' private area when said fire, theft or attack originated outside that area and was not caused by negligence of DWELLER or his tenants, guests or invitees, provided DWELLER has apprised SOFREE beforehand of any unusual amounts of property in his possession and has taken reasonable precautions for its safety.⁶

D. To assist the public in making informed land-use decisions by, among other things, collecting and disseminating marketing statistics and related data.⁷

⁵ The late Michael van Notten prepared the outline of natural rights and obligations and the list of procedural rules to be observed in their enforcement that are incorporated into this lease. Their inclusion in the lease enables a body of law to be introduced into the community that will be enforceable on SOFREE and all in Newland through the lease agreement. Day visitors will agree upon entering to be bound by this law during their stay.

⁶ This provision has long precedent at common law, where an innkeeper is held to be insurer of the safety of persons and property of his guests.

⁷ This clause, extending the public-information services provided in Paragraph (II.C.1), seeks to facilitate spontaneous order in community growth. The assumption is that most inappropriate land-use decisions result from inadequate information and that where information is available, the nonconforming uses will be small enough in number and extent that they will be able to be tolerated. Thus SOFREE will promote a process of dispersed, or polycentric, community planning. It will assist existing and prospective leaseholders to make rational land-use decisions by seeing that they have the widest possible access to all relevant information, including not only economic data, but inputs from neighbors who may, for example, be anticipating changes in their own uses, and from architects and planners.

E. To do all of the following things should it decide, in its own interest and that of Newland's members in general, to resume possession of all or any portion of the leased site and allocate it to a different category of use:⁸

1. Give DWELLER not less than two years' notice.
2. Grant DWELLER a right of first refusal to undertake the land use envisioned for the site.
3. Offer DWELLER, at the same rent for the balance of the unexpired rental period, alternative space in Newland equally well situated and otherwise suited for the purpose for which DWELLER was using the space originally allocated.
4. Reimburse the appraised market value of DWELLER'S fixed improvements on the site, constructed prior to the time of receiving notice, or, at the request of DWELLER, to reproduce the same or comparable improvements on the new site.

⁸ While SOFREE could relocate a tenant (IV.D.2) if there were reason to believe the change would have a positive effect on the overall site value of Newland, that right for a variety of reasons would seldom be exercised. In the first place, SOFREE would be reluctant to make such a change if it were opposed, since that in itself would have a detrimental effect on the market value of Newland. Secondly, a common misapprehension is that nonconforming land uses cannot be tolerated, when actually they seldom hurt an over-all plan; the classic hold-outs, such as the brownstone tobacconist at Rockefeller Center, or the oil pumps disguised by landscaping in the parking field of a California shopping mall, do little more than offend our sense of symmetry. Nor do such nonconforming uses very often last beyond a person's lifetime, if that long, life circumstances being as changeable as they are. Moreover, where people have all the facts they need to make a rational decision, they will generally do so. Assuming present trends in technology continue, information will be far more available in the future than today and holdouts will be even more exceptional. In Newland, also, in the absence of tax and regulatory features that elsewhere tend to "freeze" existing land uses (by creating incentives, for example, to hold onto property to avoid a capital gains tax liability) the market as a whole will be more responsive to changing conditions. Nevertheless, it is of fundamental importance to the community that SOFREE reserve the right to move a member from one site to another of equivalent character and value. The conditions it would have to meet, however, assure that such a right, if exercised at all, would never be exercised lightly.

With respect to those requirements, Konrad Godleske raises the question of a person residing near his business that was to be moved. The residence might no longer be convenient to the business in its new location. Although inclined, because of the importance people attach to their home, to add this to the list of responsibilities of the landlord, I choose not to because it would be a complicating detail in a heuristic document that should be kept as simple as possible. Many such minor inconveniences could be the subject of dispute resolution case by case. Despite the clear burden placed on the landlord to fully compensate and support a tenant's relocation under this provision, a leading concern of those critiquing this document has been the possibility, however remote, of the tenant having to relocate at all. Konrad Godleske writes that such readers should realize that political governments now have the power to evict them and that, lacking any contractual protection, 'just compensation' and assisted relocation is iffy at best. He notes that compensation provided for by a contractual arrangement where landowner reputation and property values are at stake, as contrasted with the 'protection' of bureaucrats, political pressures, and dysfunctional courts, would have to be, *at minimum*, a cut above the current system and in all probability would be substantially better because of the nature of the relationships and incentives involved.

5. Assume the full cost of moving DWELLER and his personal and business belongings from the old site to the new site or any place of DWELLER's choosing. If DWELLER chooses a place outside of Newland and the cost exceeds that of transportation to DWELLER's point of origin before coming to Newland, DWELLER shall pay the difference.
6. Compensate DWELLER for any business loss due to closure or disruption during the move, except any that might have been caused by carelessness or neglect on the part of DWELLER.

F. To grant no franchises or licenses for doing business in Newland.

G. To conduct its business in a manner calculated to maximize its overall capitalized ground-lease revenue in Newland.⁹

H. To have at all times sufficient insurance coverage or available reserves to compensate DWELLER for any loss or inconvenience DWELLER might suffer as a result of SOFREE violating any of the terms of this agreement.¹⁰

III. DWELLER Covenants and Promises to SOFREE:

A. To pay to SOFREE or its successors the annual ground rent of the leasehold, exclusive of improvements thereon, half to be paid on the first of January and half on the first of July of each year.

⁹ The ultimate protection for members is that SOFREE will be operated as a business and hence more rationally than it might otherwise. If it were operated for any other reason--ideological, charitable or whatnot--there would not be this protection. The impersonal, rational pricing mechanism of the market process is the ultimate safeguard of justice in a civilized community. The rental income from a proprietary community affords a quantitative measure of its success as a community and a yardstick by which to evaluate proposals. It introduces into community planning a degree of rationality hitherto lacking; for it offers in principle a quantitative measure and feedback for ascertaining whether and by how much any given project adds to or subtracts from the "common good" understood as the attractiveness (marketability) of community membership.

It should be noted that this requirement (see appended "Guidelines for Letting and Subletting") need not and probably would not appear in subleases in Newland, since besides the usual residential uses and non-profit organizations such as churches and benevolent societies, the Freeport would afford a secure environment for groups to lease land on which to establish communes and intentional communities of diverse kinds.

¹⁰ This was suggested by a similar provision in the constitution of Ciskei, South Africa, and is intended as a further protection against tyranny, the main protection being the business nature of the public enterprise (II.G). This provision bonds SOFREE to perform its promises to the members, in effect insuring the constitution of Newland.

B. To behave toward SOFREE and all persons in Newland in a manner consistent with the "Outline of Natural Rights and Obligations" appended to and made a part of this agreement.¹¹

C. To exercise diligence, at home or abroad, not to create a nuisance for or to endanger the health, safety or property of other members of the Newland community, including their tenants, guests and invitees.¹²

D. To be adequately insured against any possible liability for loss or injury that he or his tenants, guests or invitees might cause to others.¹³ This shall specifically include but not be limited to losses or injuries resulting from his violating any part of this agreement, with particular reference to Paragraph (III.C).¹⁴

E. To be adequately insured against loss of his life, property, or earning capacity due to fire, sickness, accidental injury or acts of God, including natural disasters and the effects of war.¹⁵

¹¹ This commits DWELLER in all his conduct, including occasions when he might perform judicial, military or police work in the community. It thus constrains judges and police by contract to follow specific procedural rules and respect the natural rights of community members with whom they deal.

¹² This would include actions not only within Newland, but also while traveling abroad, actions that might compromise the security of the Freeport or be considered provocative by one or more political governments of the world, leading them to take actions contrary to the interests of the Freeport community. In other words, members would have to observe the strict political neutrality of Newland. "Reasonable behavior" would be the criterion or test.

¹³ John Yench, of Long Beach, California suggested this and the following insurance clauses to eliminate the need for SOFREE to conduct health and safety inspections and policing, making these instead the proximate responsibility of the insurers even though the ultimate responsibility rests with SOFREE as landlord. Should insurance be denied or canceled and not picked up by another carrier, the leaseholder would find himself in default of his lease, at which point SOFREE would become involved.

¹⁴ DWELLER here insures his word as SOFREE does its word in II.H. This provision shifts from SOFREE to the insurance provider(s), in whose interest it now is, the burden of inspections and policing with respect to security (see III.C and accompanying footnote 11). The insurance providers in turn are monitored by consumer rating services (III.F). To complete this picture, no one, rating services included, escapes the eye of the equities market.

¹⁵ This clause insures the member against loss of membership from inability to pay rent because of accident, injury or other calamity and against him or his dependents becoming a burden on the community. It also protects creditors and contractual partners.

F. To purchase any insurance required by this agreement only from firms carrying the highest certification from a major consumer rating service, and in all such policies to name SOFREE as co-insured.¹⁶

G. To scrupulously avoid using or threatening physical force against any person at any time or place, for any reason, if adequate peaceful means of dealing with the problem can be found.¹⁷

¹⁶ Because insurability is the foundation stone on which the security of Newland rests, it is essential that firms relied upon be real and reputable. Emalie MacCallum suggested consumer rating as an alternative to SOFREE maintaining a list of approved companies. The market process would then decide, whereas requiring approval by SOFREE would be tantamount to licensing and hence in restraint of trade.

¹⁷ The test is reasonable behavior. This explicit rule (the only clause inserted in this lease solely by reason of a personal philosophical preference of the writer) confers a psychological and cultural benefit in Newland: By removing any and all violent action from the category of "right and justified" behavior and viewing it instead as a failure, the individual is challenged to look for peaceful means of resolving differences. The assumption is that there are always peaceful solutions, the challenge being to find them. While such an assumption cannot be proved, it is like the scientist's working assumption that the universe is rational and understandable. It is defensible because it is a productive assumption—*productive of discovery*. Physical harm inflicted in any situation is tragic. However, the person unable to avoid inflicting it is no more to be condemned than the unsuccessful seeker after scientific truth. He is rather to be viewed with compassion for his shortcoming in a situation that brought tragedy to a fellow human being and that may also have imposed liabilities on himself. It is hoped that this view will become a part of the cultural outlook of Newland.

As for SOFREE itself, it has a contractual obligation to make Newland safe for its members. If Newland or any part of it is threatened and SOFREE can think of no alternative but to use force to protect it, then it is incumbent upon SOFREE to use force. But this will be looked upon not as right and justified behavior but as unavoidable because SOFREE knew of no other way to handle the situation. It will be looked upon as improper means and, as such, will establish no precedent for the future. The individual or firm that meets threatening situations by innovating peaceful means of handling them will be admired and will enjoy an improved market position. SOFREE might even offer a periodic prize conferring public prestige on him who displays the greatest ingenuity of this kind.

Far worse, of course, would be for SOFREE to fail its responsibility of protecting life and property in Newland. Gandhi's pragmatic injunction comes to mind: "He who cannot protect himself or his nearest and dearest or their honour by non-violently facing death, may and ought to do so by violently dealing with the oppressor. He who can do neither of the two is a burden. He has no business to be the head of a family [read "community"]. He must either hide himself, or must rest content to live forever in helplessness and be prepared to crawl like a worm at the bidding of a bully." (Young India, November 10, 1928).

H. To be responsible at all times for the actions of his tenants, guests or invitees as if their actions were his own.¹⁸

IV. SOFREE and DWELLER Further Agree:

A. That this leasehold shall be DWELLER'S property to sell, sublet, encumber or otherwise deal with as he sees fit, subject only to the terms and conditions of this agreement and to SOFREE'S approval, which shall not be unreasonably withheld. If this leasehold is to be transferred to another party or parties, then this original agreement shall be returned to SOFREE with the proposed transfer endorsed thereon. Upon approval, SOFREE will issue a new agreement to the transferee. In the event DWELLER rents or sublets any or all of his space, his agreement(s) with his tenant(s) shall not be inconsistent with this agreement.

B. That the rent for the site herein leased shall be _____ per annum, and that this rent shall be revised every five years to the then current market value of the site, less a ten-percent reduction to DWELLER as a preferred tenant. Market rental value shall be appraised by three disinterested parties selected as follows: SOFREE and DWELLER each choosing one of three persons named by the other and the third to be selected by those two. SOFREE and DWELLER shall then each submit to the panel of three their independent appraisals of the rental value of the site for its highest and best use, together with supporting evidence. The panel shall study the appraisals and choose one or the other, as it stands, without modification.¹⁹ SOFREE shall make its leasing records freely available to assist the appraisal process.²⁰ Should DWELLER fail to select an appraiser within 30 days after SOFREE has submitted three names to him, then SOFREE shall be free to make the choice for him. Should either party fail to submit an appraisal, then that of the other will obtain.

C. That if rent payments fall into arrears for ten days, DWELLER shall incur a late penalty of five percent of the balance due, and that after 30 days of arrears SOFREE shall be entitled, upon 24 hours written notice, to terminate this lease and

¹⁸ Konrad Godleske, of Portland, Oregon notes that this principle is strong in Japan, as is the tradition of having a guarantor co-sign for almost anything considered important. It is similar in function to clan-based collective responsibilities in customary law. DWELLER has insurance protection, of course, but his insurability will suffer if he is careless or neglectful.

¹⁹ This form of arbitration, especially suited to cases where the facts are not in dispute, was suggested by the late Dr. F.A. Harper, of Atherton, California. It has the virtue of bringing the parties closer together in their respective claims rather than farther apart, as happens in an adversarial system where each takes an extreme and opposite position in the hope that eventual compromise will favor him. Here, each party makes his proposed solution as close to the other party's claim as possible in the hope that it will become the decision in the case.

²⁰ Suggested by Dan Sullivan, Pittsburgh, Pennsylvania .

resume possession.²¹ In such event, SOFREE shall return any rental balance pro-rated to the date of the written notice. Compensation for DWELLER'S fixed improvements shall be established in the manner set out in Paragraph (IV.B), above.

D. That this agreement may be modified or terminated at any time by mutual consent, provided, however, that any modification shall be subject to the appended "Guidelines for Letting and Subletting." Either party acting alone may terminate this agreement upon appropriate notification of the other, as follows:

1. DWELLER shall be free to terminate this agreement and quit the leasehold without further liability for rent under any of the following circumstances:
 - a. Upon six months written notice, in which case the removal or sale of any improvements shall be DWELLER'S responsibility.
 - b. Upon 30 days written notice following violation or neglect by SOFREE of any of the terms of this agreement, including especially any act or threat of violence upon DWELLER, his tenants, guests or invitees, by SOFREE or any of its appointed agents, or their entry on the premises without DWELLER'S express permission, or the imposition of any tax upon the person or property of DWELLER, his tenants, guests or invitees. In the event of such termination, SOFREE shall:
 - 1) Return any rents paid ahead by DWELLER, pro-rated to the date of the complaint, and shall compensate DWELLER for the value of his site improvements as ascertained in the manner set out in Paragraph (IV.B), above.
 - 2) At its own cost safely transport DWELLER and anyone else

²¹ Property management experience teaches that rent collections need handling promptly and strictly. Not only is it not a favor to a tenant to allow him to get into arrears, but it tends to create an unmanageable situation. The tenant is not without options: advance arrangements might be made for later payment; the leasehold might be financeable in the mortgage market; other loans might be available; or insurance might play a role. The writer in a special situation once renegotiated the rent retroactively over the preceding year for an especially good tenant, gaining the tenant a month.

residing at the time at DWELLER'S premises, together with their personal belongings, to any place of their choosing.²² If this cost exceeds that of transportation to DWELLER'S point of origin before coming to Newland, DWELLER shall pay the difference.

2. SOFREE shall be free to terminate this agreement and resume possession of the leasehold under any of the following circumstances:
 - a. Upon 24-hours written notice following DWELLER'S failure to pay rent in full for a period of 30 days after it has become due and payable. In that event, the compensation for DWELLER'S fixed improvements shall be established in the manner set out in Paragraph (IV.B), above, and shall be paid to DWELLER by DWELLER'S successor, if such there be within a year, and otherwise by SOFREE.
 - b. Upon fulfillment of all the conditions set out in Paragraph (II.E), above, should SOFREE decide to allocate the site to a different use.
 - c. At the end of any negotiated rental period, following at least one year's prior written notice, in the event of repeated complaints by other residents of disturbances of the peace. Provided, however, that in the absence of any further complaints, the notice shall have no effect.

E. That provisions in this or other leases entered into in Newland by SOFREE or by DWELLER that do not accord with the "Guidelines for Letting and Subletting" attached hereto and made a part of this lease, or that conflict with any provisions of this lease not specifically exempted by said Guidelines, will be null and void. Further that, except for such provisions as may be deleted or modified in accordance with the Guidelines, every lease, sublease, sub-sublease, etc. in Newland will carry every provision of this lease.

F. That disputes with anyone in Newland that cannot be resolved informally by the disputing parties, including disputes over the terms of this lease or its performance, shall be settled by a mediator or, failing that, a neutral arbitrator in conformity with the "Outline of Natural Rights and Obligations" appended to and

²² This clause is responsive to a comment by David Friedman at a time when the initial assumption of the Orbis project had yet to be amended to make Orbis one space settlement in a cluster of settlements, thereby subjecting it to market competition. Friedman's concern was that the possibly high cost to a tenant of leaving a settlement remotely situated might tempt the proprietors to unilaterally raise rents, thereby in effect imposing a tax. This paragraph underwrites DWELLER's return transportation in such case. However, for SOFREE to violate its agreement in the first place, especially with competition factored into the equation, would be tantamount to relinquishing its business, so that in practical terms the likelihood would be remote. SOFREE would also face insurance cancellation or raised premiums, and its mismanagement would be an invitation to others to acquire controlling interest with a view to enhancing or restoring its profitability.

made a part of this agreement and with the procedural rules in Paragraph (IV.1.3) below.²³

G. That in a dispute between either SOFREE or DWELLER with anyone outside of Newland that cannot be resolved between the disputing parties, each will agree to an arbitration proceeding in which the disputants will each choose an arbitrator and these two choose a third, or any other system of dispute resolution agreeable to the disputing parties.

Should either SOFREE or DWELLER become party to a dispute with a Somali person or firm, regardless of the clan affiliation of the Somali, the dispute shall be settled by mediation or, failing that, by an arbitration panel of two or more judges, an equal number chosen by each of the disputing parties. Both the law of Newland and that of the clan in question shall apply. In case of a conflict of laws, a compromise shall be found. Should the judges be unable to agree on a verdict or on co-opting a tie-breaking judge, the judges or one of the parties shall request the Center of the International Convention for the Settlement of Investment Disputes between States and Nationals of Other States (ICSID) adopted in Washington DC, USA, on March 15th, 1965 to appoint a judge, who will then act as their chairman.

H. That any contract either one might make with persons outside Newland shall contain an arbitration clause specifying a mutually agreeable means of dispute management that will be binding on the parties.²⁴

²³ We can reasonably expect that in response to demand in a free-market situation, arbitration companies will come into existence and offer a complete line of dispute handling services competitively priced. A malefactor who refused a call to arbitration would lose the judgment by default. If he ignored the judgment, his insurer would pay restitution to the injured parties and then doubtless revoke his policy, putting him in violation of his lease. Unless he could find another qualified insurer, which might be difficult, he would soon find himself on his way out of Newland. If he were considered dangerous, the consortium of insurance companies presumably would have ways of dealing with him since they would have the most at stake in preserving the safety of life and property in Newland. By the same token, the consortium could be expected to join SOFREE in conducting a defense of Newland in the unlikely event of military threat.

The past two decades have witnessed a growing interest in polycentric, or non-monopolistic, legal systems. A useful introduction and guide to the literature is Tom W. Bell (1991). Valuable work not mentioned by Bell includes Randy E. Barnett (1998), Bruce L. Benson (1990, 1998), A.S. Diamond (1975), Bruno Leoni (1961), Francis D. Tandy (1896,62-78), and William C. Wooldridge (1970).

²⁴ In the interest of foreign trade and cultural relations, Bruce L. Benson suggested that SOFREE and DWELLER should commit in the lease to seeking, in the event of a dispute with anyone outside Newland, a method of resolution agreeable to both parties. He pointed out that in the absence of such a provision outsiders might be reluctant to trade with Newlanders, resulting in Newland becoming isolated. Godleske adds that this provision would also lessen any danger there might possibly be of organized military aggression against the Freeport.

I. SOFREE and DWELLER do further agree with respect to safety and justice that

1. DWELLER may offer and perform police services for anyone in Newland, provided he has the sanction of an impartial third party prior to or immediately following the event, and then only:

- at the request of a person whose rights have been violated,
- against the person who violated them,
- for the sole purpose of remedying such violation,
- with the least violent means available, and
- only until the violator agrees to comply.

And that DWELLER, performing such services, shall be liable for his actions as if he were acting for himself alone.

2. DWELLER may offer and perform judicial, mediation and arbitration services for anyone in Newland. When acting in the capacity of a judge, he shall render judgments on questions of law and rights only on the basis of facts as presented, irrespective of the litigants' opinions, achievements, family, or physical characteristics, and shall only recognise obligations that are consistent with natural rights. DWELLER shall at all such times be responsible for his actions as if he were acting in his private capacity.

3. When acting in such a protective or judicial capacity, DWELLER shall observe the following procedural rules or protocols. These rules are intended to be a starting point in the search for effective means of defending and enforcing the list of natural rights appended to this document. It is recognized that while natural rights are unchanging, our knowledge of them together with procedures for defending and enforcing them are subject to continual improvement. Hence police and judges in Newland shall be free to specify more detailed rights, obligations and procedures, provided they are not inconsistent with those set out in this agreement.

The "Outline of Natural Rights and Obligations" appended at the end of this agreement and the procedural rules listed below shall be capable of amendment at five-year intervals by the unanimous recommendation of SOFREE and a panel of five judges who have practiced continuously in Newland for more than five years and who have earned the highest certification from a major consumer rating service. The minimum procedural rules required of anyone residing in Newland and performing protective or judicial services are these:

1. Anyone accused of having violated a person's natural right shall be

presumed innocent until judged guilty by a court of law. Until then, he is entitled to

- 1.1 Agree with the plaintiff on initiating, interrupting, or terminating any litigation before a judge of their choice.
- 1.2 Refuse to submit to a judge who has denied his request for a jury.
- 1.3 Be informed, in writing and in a language which he understands, of the nature and reason for the charges against him.
- 1.4 Try to refute those charges (pleas of ignorance of the law shall not be accepted).
- 1.5 Be assisted and represented by counsel of his choice and to keep his communications with that counsel confidential.
- 1.6 Resist interrogation, decline to supply evidence against himself or his organization, and refuse confession.
- 1.7 Be given a trial without undue delays, in the location where the violation occurred, and be granted a public session of the court.
- 1.8 Reject procedural and evidentiary rules that infringe upon his presumed innocence.
- 1.9 Inspect the evidence brought against him and cross-examine his accusers and their witnesses.
- 1.10 Have his own witnesses testify under the same conditions as the witnesses against him.
- 1.11 Present his defense in writing, elucidate his defense orally at his trial, and be allowed adequate time for the presentation of his defense.
- 1.12 Receive a transcript of the trial's proceedings and verdict.

2. Anyone arrested shall be

- 2.1 Informed immediately of the reason for his arrest, his right to remain silent, and the possible consequences of making statements, and instructed in writing and in a language that he understands of the nature and reason for the charges against him.
- 2.2 Given proper food, clothing, shelter, and accommodation as well as

immediate access to legal advisors and the opportunity to post bail.

- 2.3 Spared all forms of cruel or inhumane treatment.
- 2.4 brought without undue delay before a grand jury or impartial court of law, failing which he is entitled to immediate release.
- 2.5 released from detention when the court finds the charges lacking in credibility or when sufficient guaranty has been given to insure that he will appear at the trial and obey the judgment, and his release would not unduly hamper the investigation.
- 2.6 Permitted to receive mail and visitors.

3. Anyone convicted of having violated a natural right is entitled to

- 3.1 Be informed, in writing and in a language which he understands, of the reasons and evidentiary grounds for his conviction.
- 3.2 Appeal against his verdict and have its interpretation of the law reviewed by a separate court.
- 3.3 Avoid forcible execution of his verdict by complying voluntarily.
- 3.4 Avoid any punishment in the form of imprisonment.
- 3.5 Avoid any corporeal punishment.

4. No one judged by a court of law shall be put in jeopardy again for the same activity, except upon appeal by the plaintiff to another court.

5. Anyone falsely arrested, unduly detained or mistakenly convicted shall be compensated by the responsible parties.

6. Any person in clear and present danger is entitled to use force to

- 6.1 Defend his rights against immediate attack or stop an attack in progress.
- 6.2 Arrest his attacker in the act.
- 6.3 Seize his attacker's assets whenever they risk disappearing before a

police or judicial agency can secure them as a bond for his liabilities.

6.4 Conserve proof or evidence, provided that a judicial agency certifies, either before or immediately afterwards, that: (1) the proof or evidence is or was at risk of being lost and (2) the least violent means available will be or was used.

7. Anyone who believes his natural rights have been violated is entitled to

7.1 Initiate proceedings against the violator in a court of arbitration.

7.2 Halt such proceedings and suspend or stop the execution of any verdict in his favor.

7.3 Appeal from a verdict of acquittal that does not state the reasons for the acquittal.

7.4 Appeal from the verdict in appeal when it overturns the original verdict.

7.5 Have a court's interpretation of the law reviewed by a separate court of arbitration.

7.6 Have these entitlements exercised by an agent if he is not able to exercise them himself, or by his heirs if he has died.

8. A parent whose child's rights have been violated is entitled to seek justice on the child's behalf. If the violator is one of its parents or legal guardians, the child's insurance company or nearest relatives are entitled to bring suit.

9. Unless the litigants agree otherwise, the costs incurred by the courts for dispensing justice, as well as any litigation costs of the litigants, shall be borne by the defendant if convicted, and by the plaintiff if the defendant is acquitted.

Guidelines for letting and subletting

[These guidelines will provide for modifying certain provisions of this agreement such as IV.B and C (rent terms) and IV.D (termination) to fit the particular circumstances of a sublease, or omitting certain lease provisions inappropriate for

subleases, for example II.E (moving a tenant) and II.G (requirement to operate as a business).]

Outline of Natural Rights and Obligations

Natural law describes the voluntary, universal order of human society. It originates in our life as reasoning human beings among our kind. It acknowledges the right of every person to live a life governed by his own goals, judgments and beliefs, and serves to prevent as well as resolve conflicts among people. It stipulates that every person shall be free to dispose of his property and shall refrain from disposing of the property of others without their permission. It permits all activities that do not infringe upon the person or property of another. This law takes priority over all other principles and rules that shape human society, including rules legislated by parliaments or established by contract. It requires that enforcement only be pursued in ways consistent with itself. Under the disciplines of profit and loss, supply and demand, and peaceful competition in the free market, means of enforcement can be expected to continually improve.

In order to safeguard the freedom of all who visit or dwell in Newland, Somali Freeport Services has undertaken as follows to identify the principles of natural law and their derivative rights and obligations. Every person, as a prerequisite to entering this Freeport, shall agree to this law and be insured at all times against any liabilities arising under it. These natural law principles and all contractual obligations consistent with them and freely undertaken by dwellers and visitors shall be the only law in Newland. Anyone in Newland is free to offer and perform police and judicial services (IV.I.1,2). The procedural rules, or protocols, required of police and judicial workers in defending and enforcing the rights of residents and visitors to Newland are listed in Paragraph (IV.I.3) above.

Principles of natural law

Fundamental rights

Everyone is free to:

- form and hold his own opinions;
- use his body as he sees fit;
- have as his property anything not belonging to another;
- make and perform agreements with others of his choosing; and
- defend these freedoms.

Fundamental obligations

Everyone has a fundamental obligation to honor the rights of others by refraining from:

- claiming or pretending to be or represent another person without his explicit or implicit consent,
- using or threatening use of force against peaceful persons, or
- disposing of other people's property without their permission.

Remedies

Anyone who violates someone's natural rights has an obligation to

- cease such violation,
- return any property thereby alienated to their rightful owner, and
- make restitution for losses suffered.

Such a person loses, to the benefit of his victim and to the extent required for remedy, his right to dispose of his property until payment is made or agreed upon.²⁵

Should the rights violator and his victim fail to agree on whether a violation of natural rights occurred, what property was alienated, who was the rightful owner, or the nature and extent of losses inflicted or suffered, these things can be determined by an impartial arbiter.

Derivative natural rights

From these fundamentals, the following non-exhaustive list of natural rights is derived:

Everyone is free to:

1. Live peacefully according to his beliefs.
2. Express his thoughts and opinions in his own language and manner.
3. Travel and reside in any geographic region and freely move in and out of it with his possessions, provided he poses no physical danger to the persons or

²⁵ One who (willfully) invades the property domain of another places himself willfully under the jurisdiction of his victim for as long as he refuses to withdraw from the victim's domain, to restore the status quo ante or an equivalent condition, and to compensate for the losses the victim incurred while the invasion lasted and the costs he made in the endeavor to end it and get full restitution. –Editor FvD

property of others and abides by any rules that the proprietors, if any, have announced to visitors.

4. Enjoy the privacy of his home, business, effects, and communications.
5. Create a family and raise his children according to his own insights.
6. Assemble with any others and to join or resign from any voluntary association.
7. Offer his services to people of his choice.
8. Break any employment contract as long as he honors its severance conditions.
9. Undertake any economic activity, including the adjudication or enforcement of natural rights, and to keep any rewards earned therefrom.
10. Sell, buy, lease, rent, lend, borrow, inherit, retain or give away property by mutual agreement, and to repossess stolen property.
11. Develop his land, waters and air, and any material in them, and prevent others from spoiling or polluting them.
12. Keep and bear arms.
13. Defend himself forcibly when his rights are in clear and present danger, subject to his personal liability for his actions.

Rights not listed herein shall be upheld only if they are consistent with the principles listed above. Insults and defamatory acts violate natural rights only if they damage the victim's property.

Children

Children are immature persons. Brought into the world by the actions of others (their parents), they have a claim on those others to care for them until they become mature persons—that is, when they are sufficiently developed to care for themselves. If the parents neglect or are unable to care for their child, the child or others acting on its behalf may seek a guardian who will assume parental responsibilities.

A child enjoys the same freedom as an adult person except for restrictions imposed by its parents or guardians for its own safety, health and

development, or to control the child's actions for which they are liable towards others.

A child becomes an adult when it reaches sufficient maturity. At least until then, its parents or guardians are responsible and liable for its actions towards others. However, contracts concluded between a child and an adult are at the risk of the adult party and not at the risk of the child's parents or guardians.

Parents or guardians may extend the time of their responsibility and liability for the young adult's actions. They may do so unconditionally or upon acceptance of a commitment by the young adult to fulfill the conditions they specify. His failure to honour that commitment ends their responsibility and liability. A young adult may release his parents or guardians from their responsibility and liability for his actions by, implicitly or explicitly, indicating his willingness to assume responsibility and liability for his own actions.

Force

Anyone is free to use force to defend his fundamental rights or to remedy their violation, subject to his own liability for excessive force or avoidable property damage. This freedom can be exercised individually or by organizing defensive police forces, including military forces, subject to the limitation just stated, which applies to all uses of force against persons.

Governance

Anyone is free to associate with others by entering into a contract to create an association dedicated to the pursuit of mutually agreed goals by mutually agreed means and methods. No such contract is valid, however, that infringes the natural rights of third parties, nor is any part valid that infringes the natural rights of the members by attempting to regulate where regulation is not explicitly called for in the contract.

No person can be considered a member of an association except by his explicit agreement to abide by its rules and regulations. Nor is anyone obliged to contribute labor or other assets to an association unless the contribution is part of the membership agreement.

Whatever the form and style of governance to which members of an association agree, the government of the association has no authority over the persons or property of non-members. Nor has it any authority over the persons or property of its members beyond that ceded to it individually by them in their membership agreement.

Outside the limits of the authority ceded to them by the members of the association, and in all their dealings with non-members, governing officers and personnel have no powers other than those accruing by right to all human

beings—nor are they exempt from the obligations that accompany the rights of every human being.

Legislated rules that infringe upon the natural, voluntary order of human society are null and void, while those that are compatible with that natural order are binding only on those who knowingly and voluntarily endorse them.

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