
CONSTITUTION of SEAWARD MASTER HOME OWNERS ASSOCIATION

1 DEFINITIONS

- 1.1 In this document, the following words and phrases shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:-
- 1.1.1 "the Act" means the Companies Act, 71 of 2008 ; *Amended 27.03.2013*
- 1.1.2 "the association" means the Seaward Master Home Owners Association (SEMHOA);
Amended 27.03.2013
- 1.1.3 "auditors" means the auditors of the association;
- 1.1.4 "chairman" means the chairman of the Board of Trustees;
- 1.1.5 "the developer" means the Seaward Development (Pty.) Limited or nominee and its successors-in-title;
- 1.1.6 "development period" means the period from the establishment of the township and until all the erven defined herein have been sold and transferred by the township owner;
- 1.1.7 "erf" means an erf in the township, a sectional title unit in the township or a mini subdivision of an erf in the township. In respect of any erf upon which two or more housing units may be built each of such erven shall be regarded as consisting of a number of separate erven equivalent to the number of housing units permitted to be built thereon in terms of the town planning scheme applicable to the estate;
- 1.1.8 "Association fees and charges" shall include but not limited to, *Amended 27.03.2013*
- 1.1.8.1 any levy, special levy, as allowed for in clause 6,
- 1.1.8.2 basic and consumption charges for sewerage and water as prescribed by the municipal tariffs,
- 1.1.8.3 any financial penalty as allowed for in terms of clause 7.2,
- 1.1.8.4 interest on unpaid fees as prescribed in clause 6.10
- 1.1.8.5 legal and collection fees as prescribed;
- 1.1.8.6 any fee for any service rendered at the specific request of an owner or emergency work carried out to prevent damage, loss or injury by the Association for and on behalf.
- 1.1.9 "in writing" means written, printed or lithographed or partly one and partly another and other modes of representing or producing words in a visible form;
- 1.1.10 "managing agent" means any person or body appointed by the association as an independent contractor to undertake any of the functions of the association;
- 1.1.11 "the representative member" shall mean the person elected to represent the units in a sectional title development.

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- 1.1.12 "the site development guidelines" means the development guidelines set out in the document prepared by Hamilton Architects (Pty) Limited entitled "Seaward Estates - Site Development and Architectural Guidelines" lodged with the developer;
- 1.1.13 "the environmental principles" means the environmental framework for the Initial Site Assessment, design, rehabilitation and landscaping requirements and all other relevant information approved by the Department of the Environment, Private Bag X07, Pietermaritzburg, and adopted by the Developer and the Seaward Estates Master Home Owners Association;
- 1.1.14 "the Environmental Management Plan" means the comprehensive plan covering all the phases identified within Seaward Estates approved by the Department of the Environment and adopted by the Developer and the Seaward Estate Master Home Owners' Association;
- 1.1.15 "the gate house" means the security gate and buildings at the entrance to the estate;
- 1.1.16 "estate" means the township shown on General Plan SG No. 2356/99 consisting of erven 1751 to 1823 Ballitoville and, on their proclamation, subsequent phases on the Rem of erf 1478 Ballito Extension 5;
- 1.1.17 "the parks, areas of conservation significance, and water features" means the existing land resource designated and shown on the General Plan of the township (SG No. 2356/99) and any future amendments thereto which may include other areas that may be incorporated, restored and rehabilitated in accordance with the Environmental Management Plan for the benefit of the owners of erven in the township;
- 1.1.18 "conservation significance" means an area to be designated on the General Plan of the township (SG No.) which is in the process of being identified by the specialist "wetland study", further development of parks or eco-trail which may be nominated now or at any time in the future for Registration and afforded conservation protection;
- 1.1.19 "trustees" means the trustees of the association;
- 1.1.20 "vice chairman" means the vice chairman of the Board of Trustees.
- 1.2 Unless the context otherwise requires, any words importing the singular number shall also include the plural number and vice versa and words importing any one gender shall include the other two genders.

2 LEGAL STATUS AND LIMITED LIABILITY

- 2.1 The association is a common law corporate body and as such:-
 - 2.1.1 its assets, liabilities, rights and obligations vest in it independently of its members;
 - 2.1.2 it may not conduct any business for profit or gain and it will use its funds solely for the objects for which it has been established and should it invest its funds on a temporary basis

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the income earned by such funds shall be utilised solely for achieving the objects of the association;

2.1.3 it will have perpetual succession.

2.1.4 it may be sued in its own name.

2.2 The members will not by reason of their membership be liable for the liabilities and obligations of the association.

3 OBJECTS AND PURPOSE

The general purpose and object of the Association is to promote, advance and protect the collective interests of its Members and facilitate harmonious relationships amongst the Members whilst at the same time ensuring that the Members comply with all the obligations imposed upon them in terms of this Constitution and such other obligations as they may be bound to perform and, without derogating from the generality of the above, more specifically:

- 3.1 to take transfer of those portions of the acquired, common or purchased property that are to be owned by the Association for the benefit of its Members; **[Amended 4.04.2018 AGM]**
- 3.2 provide a secure environment for the members of the association by way of gated controlled access to the Estate by way of the gate house, perimeter fencing and the appointed security staff.
[Amended 2012 AGM]
- 3.3 maintain the aesthetic standards of the Estate by controlling buildings and improvements on the erven in accordance with the Site Development and Architectural Guidelines, the approved Environmental Principles, and Environmental Management Plan and any amendments thereto approved by the Seaward Estates Master Home Owners Association from time to time.
- 3.4 maintain:-
 - 3.4.1 the gated security access and perimeter electrified fencing;
 - 3.4.2 the roads and verges in the Estate;
 - 3.4.3 the street lighting in the Estate;
 - 3.4.4 the areas of conservation significance, water features, and "wetland" areas and especially to preserve any eco-sensitive areas, plant species or colonies in accordance with the Environmental Management Plan for the benefit of the members and in accordance with any future rehabilitation and amendments approved by the Department of the Environment and adopted by the Seaward Estates Master Home Owners Association from time to time;
- 3.5 maintain good conduct standards of members and occupiers of erven in the Estate for the general benefit of all members in accordance with the Conduct Rules adopted by the Seaward Estates Master Home Owners Association;
- 3.6 insure and properly maintain all assets under its control;
- 3.7 take under its control on the terms and conditions of this constitution, on their proclamation, subsequent phases on the Rem of erf 1478 Ballito Extension 5 referred to in 1.1.13;
- 3.8 raise levies as provided for herein to fund the carrying out of its objects;

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- 3.9 impose fines and penalties.

4 POWERS

The association has plenary powers (including all those normally enjoyed by a registered company), to enable it to achieve its objects, except only for the powers expressly or impliedly excluded by this constitution or by the association's legal status as a common law corporate body.

5 MEMBERSHIP

- 5.1 Membership of the association shall be limited to the developer in his capacity as such (and represented by not more than 2 nominees) until all the erven are sold and transferred and to any other person who is in terms of the Deeds Registry's Act reflected in the records of the Deeds Office concerned as the registered owner of an erf.
- 5.2 Where any erf is owned by more than one person, all the registered owners of that erf shall together be deemed to be one member of the association and have the rights and obligations of one member of the association provided however, that all co-owners of any erf shall be jointly and severally liable for the due performance of any obligation of a member to the association.
- 5.3 When a member becomes the registered owner of an erf he shall *ipso facto* become a member of the association and when he ceases to be the owner of an erf, he shall *ipso facto* cease to be a member of the association.
- 5.4 No member shall let or otherwise part with occupation of his erf whether temporarily or otherwise, unless he has agreed with a proposed occupier of such erf as a *stipulatio alteri* in favour of the association that such occupier shall be bound by all the terms and conditions hereof.
- 5.5 A registered owner of any erf may not resign as a member of the association.
- 5.6 All the rights and obligations of a member shall not be transferable and every member shall:-
- 5.6.1 further to the best of his ability the objects and interests of the association;
 - 5.6.2 observe all rules made by the association or the trustees;
- provided that nothing contained in this constitution shall prevent a member from ceding his rights in terms of this constitution as security to the mortgage of that member's erf.
- 5.7 The fact that a member of the association is also a member of a body corporate of a sectional title or any mini sub-development within the Estate shall in no way affect such member's liability to the association for levies or any other obligation to the association. The association shall, however, without prejudice to its rights against individual members be entitled, for the purposes of convenience to render an account to a body corporate for the individual obligations of its members to the association.

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6 LEVIES

- 6.1 The trustees may from time to time impose levies upon the members for the purpose of meeting all the expenses which the association has incurred, or to which the trustees reasonably anticipate the association will be put in the attainment of its objects and pursuit of its business.
- 6.2 Any levy shall be borne by each member in direct proportion to the number of erven owned by each member.
- 6.3 Per the definition clause 1.1.7 of an erf, unit freehold of sectional title, the levy raised over the erf will be equal to the development potential of the units that may be erected on the erf as determined by the Town Planning Ordinance enacted by the Local Authority.
- 6.4 Levies will be raised within TWO calendar months of the owner becoming the registered title holder of an erf.
- 6.5 The trustees shall not less than 30 days prior to the end of each financial year, or so soon thereafter as is reasonably possible, prepare and serve upon every member at the address chosen by such member an estimate in reasonable detail of the amount which shall be required by the association to meet the expenses during the following financial year and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The trustees may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature.
- 6.6 Each notice to each member shall specify the contribution payable by that member to such expenses and reserve fund.
- 6.7 Each annual levy shall be due at the commencement of every financial year. Where a member is deemed to be in "good standing" the annual levy may be paid in equal monthly instalments, due in advance on the first day of each and every month of each financial year. *Amended 27.03.2013*
- 6.7.1 A member in "good standing", for the purposes of clause 6.7 only, shall be a member who has discharged all of his financial obligations to the Association as at the end of the preceeding financial year, or a member who has made adequate arrangements to meet any fees due, owing and payable to the Association. *Amended 27.03.2013*
- 6.8 In the event of the trustees for any reason whatsoever failing to prepare and serve the estimate referred to above timeously, every member shall until service of such estimate as aforesaid continue to pay the levy previously imposed and shall, after such service pay such levy as may be specified in notice in respect of the new levy.
- 6.9 The trustees may from time to time impose special levies upon members in respect of all such expenses which were not included in the trustees' original estimates.

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- 6.10 The trustees shall be empowered in addition to such other rights as the association may have in law to charge interest on arrear levies and other fees and charges raised by the Association at a rate not exceeding the prime rate charged by BOE Bank Limited now operating as Nedbank Limited.

Amended 27.03.2013

- 6.10.1 Where arrear levies and or other fees and charges raised by the Association, are outstanding in excess of the number of days specified in the credit control policy as approved by the Trustees from time to time, the debt may be handed over for legal collection, where this occurs the debtor shall be indebted to the Association for; *Amended*

27.03.2013

- 6.10.1.1 The amount due and payable to the Association at the time of handover and;
6.10.1.2 Any legal or collection costs attracted by such debt and;
6.10.1.3 At the discretion of the Trustees, levies and basic service charges based on the tariffs as at the time of legal handover, for the balance of the Association's financial year in which legal handover occurs.

- 6.11 Any fees or charges due by a member shall be a debt due by him to the Association.
Notwithstanding that a member ceases to be such, the association shall have the right to recover arrear levies and interest from him. No levies or interest paid by a member shall under any circumstances be refundable by the association to such person upon such person ceasing to be a member. Further, a member on ceasing to be such shall have no claims whatsoever on any other monies held by the association. A member's successor in title to an erf shall be liable as from the date upon which he becomes a member pursuant to the transfer of such erf, to pay the levy and interest due thereon attributable to that erf. *Amended 27.03.2013*

- 6.12 The developer shall be liable for levies on the same basis as any other member.

- 6.13 The trustees may enter into an agreement or agreements with the developer for the provision of a capital sum and/or equipment to the association in lieu of levies.

- 6.14 No transfer of an erf shall be registered unless a certificate has been issued by the Association that

- 6.14.1 All levies fees and charges due to it in respect of the erf have been paid. *Amended 27.03.2013*

- 6.14.2 The purchaser has paid three monthly levies, basic service charges, the Levy Stabilisation Fund charge and any other amounts required for levy consent. *Amended 27.03.2013*

7 RULES

- 7.1 Subject to any restriction imposed or direction given at a general meeting of the association, the trustees may from time to time make rules in regard to the enforcement of the objects of the

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association set out in paragraph 3 hereof. To the extent that any rule made in terms of this constitution conflicts with any rule of any body corporate of a development within the township, the rule made in terms of this constitution shall prevail.

- 7.2 For the enforcement of any of the rules made by the trustees in terms hereof, the trustees "or their nominated representative" may:-
- 7.2.1 give notice of the member concerned requiring him to remedy any breach of the rules within a reasonable time;
 - 7.2.2 to take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the member may be guilty and debit the costs of doing so to the member concerned which amount shall be deemed to be a debt owing by the member concerned to the association;
 - 7.2.3 Impose a system of fines/or other penalties. Where the non-compliance of any rule defined within the Municipal Fine structure, such fine shall be no greater than the existing Municipal Fines for such non-compliance. Where the non-compliance does not fall within the Municipal Fine Structure, the amounts of such fines shall be determined by the Trustees but shall not exceed R5 000 without the resolution of the full board of Trustees.
 - 7.2.4 impose a system of fines and/or other penalties. The amounts of such fines shall be reviewed and confirmed at each annual general meeting of the association.
 - 7.2.5 and/or with the written permission of the full board of trustees take such other action including proceedings in court as they may deem fit and defend any action taken by any member or any other person.
- 7.3 In the event of the trustees instituting any legal proceedings against any member or resident within the Estate for the enforcement of any of the rights of the association in terms hereof, the association shall be entitled to recover all legal costs so incurred from the member or resident concerned, including costs calculated as between attorney and own client, collection commissions, expenses and charges incurred by the association in obtaining the recovery of arrear levies, or any other arrear amounts due and owing by such member to the association , or in enforcing compliance with these rules, the conduct rules or the act.
- 7.4 In the event of any breach of the rules by the members of any member's household or his guests or lessees, such breach shall be deemed to have been committed by the member himself, but without prejudice to the foregoing, the trustees may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.
- 7.5 In the event of any member disputing the fact that he has committed a breach of any of the rules, a committee of three (3) trustees appointed by the chairman for the purpose shall adjudicate upon the

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issue at such time and in such manner and according to such procedure (provided that natural justice shall be observed) as the chairman may direct.

- 7.6 Any fine imposed upon any member shall be deemed to be a debt due by the member to the association and shall be recoverable by ordinary civil process.
- 7.7 Notwithstanding anything to the contrary herein contained, the trustees may in the name of the association enforce the provisions of any rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 7.8 The association may in general meeting itself make any rules which the trustees may make and may in general meeting vary or modify any rules made by it or by the trustees from time to time.

8 TRUSTEES

- 8.1 There shall be a Board of Trustees of the association which shall consist of not less than five (5) nor more than ten (10) members, the actual number of Trustee each year shall be recommended by the Chairman of the Association, at the Annual General Meeting of the Association. *Amended 27.03.2013*
- 8.2 A trustee shall be an individual but need not himself be a member of the Association. A trustee, however, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of these presents.
- 8.3 The first trustees shall, on the formation of the Association, be appointed by the developer.
- 8.4 During the development period at least two (2) of the trustees shall be nominees of the developer.
- 8.5 Trustees, other than the initial trustees, shall be elected by the members in general meeting. For a period of temporary absence by a trustee, the trustees may appoint an alternate trustee. *Amended 27.03.2013*
- 8.6 Nominations for trustees shall be made by not less than four (4) members in good standing, shall be in writing, bearing the nominee's acceptance and lodged with the trustees not less than thirty (30) days prior to the general meeting at which an election for trustees is to take place. *Amended 27.03.2013*

9 REMOVAL AND ROTATION OF TRUSTEES

- 9.1 Save as set out in clause 9.3, and save for the trustees appointed by the developer in terms of 8.3, each trustee shall continue to hold office from the date of his appointment until the end of the annual general meeting next following his appointment, at which meeting each trustee shall be deemed to have retired from office but will be eligible for re-election to the Board of Trustees at such meeting.
- 9.2 A trustee shall be deemed to have vacated his office upon:-
- 9.2.1 his having become disqualified to act as a director in terms of the provisions of the Act;
- 9.2.2 his being removed from office as provided in Section 220 of the Act;

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9.2.3 in the event of his being a member of the association, his being disentitled to exercise a vote in terms of clause 20.2 below.

9.3 Upon any vacancy occurring in the Board of Trustees prior to the next annual general meeting, the vacancy in question shall be filled by a person nominated by those remaining for the time being of the Board of Trustees, provided, however, that, if the trustee who vacates his office as aforesaid was a nominee of the developer, the developer shall be entitled to nominate a trustee in his stead.

10 CHAIRMAN AND VICE CHAIRMAN

10.1 The trustees shall within 14 days after each annual general meeting appoint from their number a chairman and vice chairman, who shall hold their respective offices until the end of the next annual general meeting, provided that the office of chairman or vice chairman shall *ipso facto* be vacated by a trustee holding such office upon his ceasing to be a trustee for any reason. No one trustee shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time, the Board of Trustees shall immediately appoint one of their number as replacement in such office. During the development period the chairman shall be elected by the nominees of the developer.

10.2 Except as otherwise provided, the chairman shall preside at all meetings of the trustees and at all general meetings of members and, in the event of his not being present within 5 minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the vice chairman shall act in his stead, or failing the vice chairman, a chairman appointed by the meeting.

11 TRUSTEE'S EXPENSES

Trustees shall be entitled to recover all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as trustees. Save as aforesaid, trustees shall not be entitled to any remuneration for the performance of their duties in terms hereof.

12 POWERS OF TRUSTEES

12.1 Subject to the express provisions of these presents, the trustees shall manage and control the business and affairs of the association, shall have full powers in the management and direction of such business and affairs including the right of appointment and dismissal of the managing agent, may exercise all such powers of the association and do all such acts on behalf of the association as may be exercised and done by the association and as are not by the Act or by these presents required to be exercised or done by the association in general meetings, subject however, to such rules as may be made by the trustees from time to time.

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- 12.2 Save as specifically provided in these presents, the trustees shall at all times have the right to engage on behalf of the association the services of accountants, auditors, attorneys, advocates, architects, engineers, a managing agent and any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the trustees and on such terms as the trustees shall decide.
- 12.3 The trustees shall further have power to make rules as provided for herein.
- 12.4 The Board of Trustees shall have the right to co-opt onto the board any person or persons chosen by it. A co-opted trustee need not necessarily be a member of the association. A co-opted trustee shall hold office until the end of the next annual general meeting after his co-option when he shall retire but shall be eligible for election as a trustee, or in the event of his not being elected shall against be eligible for co-operation by the Board of Trustees.
- 12.5 The trustees shall be entitled to appoint committees consisting of such number of their members and such outsiders, including the managing agent, as they may deem fit and to delegate to such committees such of their functions, powers and duties as they may deem fit, with further power to vary or revoke such appointments and delegations as the trustees may from time to time deem necessary.

13 PROCEEDINGS OF TRUSTEES

- 13.1 The trustees may on 7 days written notice given by any one trustee to the other trustees, meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of these presents.
- 13.2 The quorum necessary for the holding of any meetings of the trustees shall be a majority present personally; provided however that, during the development period, the presence of at least one nominee of the developer shall be necessary at all meetings of trustees in order to form a quorum. Any resolution of the Board of Trustees shall be carried on a simple majority of all votes cast. In the case of an equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.
- 13.3 The trustees shall cause minutes to be kept of every trustees' meeting, which minutes shall, without undue delay after the meeting has closed, be reduced to writing and certified correct by the chairman. All minutes of trustees' meetings shall, after certification, be placed in a trustee's minute book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of directors of companies. The trustees' minute book shall be open for inspection at all reasonable times by any trustee, the auditors, the members and the managing agent.

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13.4 Save as provided in these presents, the proceedings of any trustees' meeting shall be conducted in such reasonable manner and form as the chairman of the meeting shall decide.

13.5 A resolution signed by all the trustees shall be valid in all respects as if it had been duly passed at a meeting of the Board of Trustees.

14 GENERAL MEETINGS OF THE ASSOCIATION

14.1 The association shall within six (6) months after the end of each financial year hold a general meeting as its annual general meeting in addition to any other general meetings during that year, and shall specify the meeting as such in the notices in terms of clause 15 herein, calling the meeting.

14.2 Such annual general meeting shall be held at such time and place as the trustees shall decide from time to time.

14.3 All general meetings other than annual general meetings shall be called extraordinary general meetings.

14.4 The trustees may, whenever they think fit, convene an extraordinary general meeting.

15 NOTICES OF MEETINGS

15.1 An annual general meeting and a meeting called for the passing of a special resolution, shall be called by sixty (60) clear days' notice in writing at least, and an extraordinary general meeting, other than one called for the passing of a special resolution, shall be called for by fourteen (14) clear days' notice in writing at the least. In each case the notice shall be exclusive of the day on which it is given, and shall specify the place, the day and hour of the meeting. *Amended 27.03.2013*

15.2 The agenda for an Annual General Meeting and a meeting called for the passing of special business shall be served in writing, twenty one (21) clear days prior to the meeting. *Amended 27.03.2013*

15.3 In the case of special business, in addition to any other requirements contained in these presents, the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the trustees to such persons as are under these presents entitled to receive such notices from the association.

15.4 A general meeting of the association shall notwithstanding that it is called by shorter notice than that specified in these presents be deemed to have been duly called if it is so agreed:-

15.4.1 in the case of a meeting called as the annual general meeting by all the members entitled to attend and vote thereat; and

15.4.2 in the case of an extraordinary general meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less

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than 95% of the total voting rights of all members.

- 15.5 Insofar as special notice may be required of a resolution, whether by any provision of the Act or these presents, then the provisions of Section 186 of the Act shall apply.
- 15.6 The association shall comply with the provisions of Section 185 of the Act as to giving of notices and circulating statements on the requisition of members.
- 15.7 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of these presents, or in terms of the Act, or the non-receipt of any such notice, notification or document by any member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution passed at any meeting.

16 QUORUM

- 16.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. During the development period, the quorum necessary for the holding of any general meeting shall be such of the members entitled to vote as together for the time being represent the votes of the developer, and 15% of votes in number from all other members of the association entitled to vote for the time being. After the development period, the quorum shall be such of the members entitled to vote as together for the time being represent the votes of 15% in number of all members entitled to vote for the time being.
- 16.2 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time or at such other place as the chairman of the meeting shall appoint. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall be a quorum.

17 AGENDA AT MEETINGS

- 17.1 In addition to any other matters required by the Act or these presents to be dealt with at an annual general meeting, the following matters shall be dealt with at every annual general meeting:-
 - 17.1.1 the consideration of the chairman's report;
 - 17.1.2 the election of trustees;
 - 17.1.3 the consideration of any other matters related at the meeting, including any resolutions proposed for adoption by such meeting, and the voting upon any such resolutions;
 - 17.1.4 the consideration of the accounts of the association for the preceding financial year;
 - 17.1.5 the consideration of the report of the auditors, the fixing of remuneration for the auditors and the appointment of the auditors for the ensuing year.
- 17.2 No business shall be dealt with at any general meeting unless written notice has been given to the trustees not less than thirty (30) days before such meeting, in the form provided for in terms of

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clause 15.3 above by the person proposing to raise such business of his intention to do so; provided however, that the chairman may on ordinary resolution of the meeting relax this condition. *Amended 27.03.2013*

18 PROCEDURE AT GENERAL MEETINGS

The chairman may, with the consent of any general meeting at which a quorum is present and shall if so, directed by the meeting, adjourn a meeting from time to time and place to place. No business shall be transacted at any adjourned meeting other than business which could have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for 10 days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, the members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.

19 PROXIES

- 19.1 A member may be represented at a general meeting by a proxy, who need not be a member of the association. The instrument appointing a proxy shall be in writing signed by the member concerned or his agent, duly authorised in writing, but need not be in any particular form provided that, where a member is more than one person, a majority of those persons shall sign the instrument appointing on proxy on such member's behalf. *Amended 27.03.2013*
- 19.2 The instrument appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at the commencement of the meeting at which the person named in the instrument proposes to vote. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date of its execution. *Amended 25.11.2015*
- 19.3 A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation had been received by the trustees at any time before a vote is taken in respect of which the proxy exercises such vote. *Amended 25.11.2015*

20 REPRESENTATION AT GENERAL MEETINGS

- 20.1 At every general meeting:-
- 20.1.1 every member, including the developer, in person or by proxy, is entitled to vote. The value of the vote shall be in proportion to the number of erven owned by the member; *Amendment 25.11.2015 according to SGM meeting minutes held 25 November 2015 Resolution 9 on page 5 was passed unanimously due to Durban high court ruling 22.07.2015 apropos Joint Residential Representative updated 11.03.2020*
- 20.1.2 if an erf is registered in the name of more than one person, then all such co-owners shall share the voting proportion attached to the erf or erven as described in clause 20.1.1.

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- 20.1.3 members who are members by virtue of ownership of a unit in a sectional title development or through ownership of a mini-sub "or private residential block shall exercise their votes, raise issues or table resolutions per clause 20.1.1. *Amendment 25.11.2015 according to SGM meeting minutes held 25 November 2015 Resolution 9 on page 5 was passed unanimously due to Durban high court ruling 22.07.2015 apropos Joint Residential Representative updated 11.03.2020*
- 20.2 Save as expressly provided for in these presents, no person other than a member duly registered and who shall have paid every levy and other sum, if any, which shall be due and payable to the Association in respect of or arising out of his membership and who is not under suspension, shall be entitled to be present or to vote on any question, either personally or by proxy at any general meeting. *Amended 25.11.2015*
- 20.3 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the chairman and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or negated, and an entry to that effect in the book containing the minutes of the proceedings of the Association, 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. The demand for a poll may be withdrawn.
- 20.4 If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers shall be elected to determine the result of the poll. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 20.5 A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 20.6 Every resolution and every amended resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not so seconded, shall be deemed not to have been proposed.
- 20.7 An ordinary resolution (that is a resolution other than a special resolution) or the amendment of any ordinary resolution shall be carried on a simple majority of all votes cast. In the case of equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.
- 20.8 Unless any member present in person or by proxy at a general meeting shall, before the closure of the meeting, have objected to any declaration made by the chairman of the meeting as to the result of any voting at the meeting, whether by show of hands or otherwise, or to the propriety or validity of

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the procedure at such meeting, such declaration by the chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted. An entry in the minutes to the effect that a motion has been carried or lost, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the votes so recorded. *Amended 25.11.2015*

21 ACCOUNTS

- 21.1 The accounts and books of the association shall be open to inspection by members at all reasonable times during business hours.
- 21.2 Once in each financial year the accounts of the association shall be examined, and the correctness thereof ascertained by auditors. The duties of the auditors shall be regulated in accordance with Chapter 10 of the Act.

22 SERVICE OF NOTICES

A notice may be served by the Association by hand delivery, pre-paid registered post or electronic mail upon any member at the address of any unit owned by him unless the member shall have notified the association of another address for service of notice. Any notice served shall be deemed to have been served on the day but one following that on which the notice was sent. *Amended 27.03.2013*

23 INDEMNITY

Every trustee, servant, agent and employee of the association and any managing agent, his employees, nominees or invitees, shall be indemnified by the association against all costs, losses and expenses (including travelling expenses) which such person or persons may incur or become liable for by reason of any contract entered into or any act or deed done by such person or persons in the discharge of their respective duties, including in the case of a trustee, his duties as chairman or vice chairman. Without prejudice to the generality of the foregoing, the association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any *bona fide* act, deed or letter done or written by him jointly or severally in connection with the discharge of his duties.

24 AMENDMENT OF THIS CONSTITUTION, FORMATION SECTION 21 COMPANY

- 24.1 This constitution may be amended by resolution of a members' meeting passed by a majority of not less than 75% of the votes cast.
- 24.2 On the basis of a resolution passed in terms of clause 24.1 the association may convert itself to a Section 21 company, the Articles of Association of which shall, *mutatis mutandis* be the same as the constitution of the association.

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25 MERGER

- 25.1 The association may merge with any other body with similar objects, by resolution of a members' meeting.
- 25.2 In this event, the association's net assets after discharge of its liabilities, together with its rights and obligations under this constitution and under the conditions of title of units in the association area will vest in the merged entity.

26 DISSOLUTION

- 26.1 The association may dissolve itself by resolution passed by a majority of not less than 75% of the votes cast at a members' meeting.
- 26.2 In this event:-
- 26.2.1 the trustees will act as liquidators.
 - 26.2.2 the association's net assets after discharge of its liabilities will be applied to repay the most recent levies paid by members and any balance after all levies have been repaid will be distributed in the liquidator's discretion to one or more public charities.

27 DEVELOPMENTS WITHIN THE TOWNSHIP AREA

Should any owner of an erf wish to develop the erf as a sectional title or mini sub-development such owner shall submit to the association for approval the proposed house rules to be made applicable to the sectional title or mini sub-development and such house rules shall not be adopted for such development until the association's approval has been given in writing.