

## HOME OWNER'S CONSTITUTION

DRAFT PROPOSAL: Rev C  
APRIL 2008

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## 1. DEFINITIONS

1.1. In the interpretation of this constitution the following words will have the meaning assigned to them:

- 1.1.1. "Association" means The Reeds at Balgowan Home Owner's Association, constituted in terms hereof as stipulated in clause 2 below.
- 1.1.2. "Auditors" means the auditors of the Home Owner's Association appointed from time to time.
- 1.1.3. "Board" means the trustees present at a meeting where a quorum is present.
- 1.1.4. "Common property" means the land owned by the Association excluding land owned by the Members of the Association, whether it has yet been registered in the name of the Association or not;
- 1.1.5. "Council" is the local authority currently known as the Municipality of uMgeni and its successors/s;
- 1.1.6. "Design guidelines" means the architectural design manual including landscaping developed by the developer to control aspects of the design and development for the benefit of the body of home owners, as amended from time to time.
- 1.1.7. "Developer" means Tuscan Mood 1083 CC (CK 2002/041495/23 and includes its successors in the title or assigns;
- 1.1.8. "Development" means the development known as The Reeds Eco Living Estate established on the estate.
- 1.1.9. "Development node" means a node or area comprising a group of separate erven grouped together in a particular area or node of the development, node 1 being the mountain erven and node 2 being the dam erven.
- 1.1.10. "Development period" means the period from the incorporation of the Association until all the erven within the development nodes have sold, transferred and improved, alternatively, until the Developer notifies the Association in writing that the Development Period has ceased, whichever is the earlier.
- 1.1.11. "Estate" means the land comprising Portion 69 (of 60) of the Farm Bosch Hoek No 1219, Registration Division FT, Province of KwaZulu Natal measuring 44,3332 (forty four comma three two hectares and such adjoining land as may be acquired by the developer for the purposes of incorporation into the development.
- 1.1.12. Erf" means an erf in the development;

- 1.1.13. "Facilities" mean all and any facilities or amenities of whatsoever nature which may be provided within the development area;
- 1.1.14. "Financial year" means the financial year of the Association which shall run from the first day of March in each year until the last day of February of the next year the first year commencing on the establishment of the Association;
- 1.1.15. "Levy" means the levy or levies referred to in clause 5 below;
- 1.1.16. "Managing agent" means the managing agent/s (if any) appointed by firstly the developer.
- 1.1.17. "Minutes" means the minutes of a general meeting or a trustees' meeting, as the case may be;
- 1.1.18. "Person" includes a natural person, body corporate, company or an association of persons, as the case may be;
- 1.1.19. "Services" mean such utilities, amenities and services as may be provided by or on behalf of the Association for the registered owners and residence within the development and/or the development area;
- 1.1.20. "Trustees" means the trustees of the Association at any given time; "syndicate" means a group of "persons" who owns property in the development;
- 1.1.21. "The alienation of an erf" shall deem to include a change in shareholders of members of companies and close corporations and include the sale of share(s) in an erf, cession, donations, transfer of ownership as a result of any legal change of status or owner.
- 1.1.22. Any words signifying the singular shall include the plural and vice versa and any word signifying the masculine shall include the feminine and vice versa;
- 1.1.23. The head notes to the paragraphs to these clauses are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

## **2. OBJECTIVES AND RESPONSIBILITES OF THE ASSOCIATION**

The Association shall at all times:

- 2.1 Promote environmental awareness and ecological responsibility within the development and its members from time to time.
- 2.2 Maintain and control the development and ensure a general high standard thereof, including but not limited to the sewerage, water, electricity, storm water systems, refuse collection, security and private roads.
- 2.3 Administer and enforce the rules of the estate and ensure compliance with the sub-divisional conditions imposed by the Council when approving the development.
- 2.4 Prior to and during constructions of dwellings ensure compliance with all rules; impose penalties on defaulting owners for the benefit of the Association and its objectives.

- 2.5 Ensure the protection and maintenance of the stream, dams, wildlife and wetland areas on the estate.
- 2.6 Management and maintenance of all facilities and private common areas owned by the Association shall vest in the Association.
- 2.7 Responsibility for the management and control of the development shall be deemed to have been transferred from the developer to the Association on transfer of the first erf in the development.
- 2.8 The Association shall be responsible to the Council in respect of the various facilities and private common areas forming part of the development.

### **3. ESTABLISHMENT OF THE ASSOCIATION**

- 3.1 The Association will be a body corporate in terms of clause 33(4) of the Town Planning Ordinance No 27 of 1949, as amended from time to time in and will be constituted in accordance with the conditions imposed by the local authority when approving this development.
- 3.2 The Association will come into existence simultaneously with the registration in the Deeds Office of the first erf.
- 3.3 The Association will be non-profitable and operate for the benefit of its members;
- 3.4 The Association will have separate legal personality and will be capable of instituting legal action or of being sued.

### **4. MEMBERSHIP OF THE ASSOCIATION**

- 4.1 Membership of the Association shall be compulsory for every registered owner of an erf.
- 4.2 Membership shall commence simultaneously with registration of transfer of an erf into the name of the transferee.
- 4.3 Membership of the Association shall be limited to the registered owners of erven provided that:
  - 4.3.1.1 The developer shall be deemed to be member of the Association during the development period;
  - 4.3.1.2 Where any such registered owner is more than one person, all the registered owners of the erf shall be deemed jointly and severally to be one member of the Association and shall nominate one of them to represent them and to vote at meetings of the Association.
- 4.4 When a member ceases to be the registered owner of an erf, he shall ipso facto cease to be a member of the Association, save the developer who shall remain a member of the Association during the development period.
- 4.5 The registered owner of an erf shall not be entitled to resign as a member of the Association.
- 4.6 No member shall be entitled to sell or transfer an erf unless:

- 4.6.1.1 The transferee becomes a member of the Association;
- 4.6.1.2 Such member obtains the written consent of the Association which consent shall be given provided that:
- 4.6.1.3 Such member has paid to the Association all levies and any other amounts of whatsoever nature or howsoever arising, owing by such member to the Association; and
- 4.6.1.4 The transferee agrees in writing to be bound by the clauses and the management and conduct rules of the Association.
- 4.6.1.5 Such member has duly complied with all of the obligations of such member in terms of these clauses;
- 4.7 The provisions will be inserted in the title deeds as a restriction against alienation without the Association's consent having been obtained.
- 4.8 No member shall let or otherwise part with occupation of his erf, whether temporarily or otherwise unless such proposed occupier has agreed to be bound by all the provisions of this constitution. The member shall be liable for the action or omissions of all persons occupying his erf whether lawfully or unlawfully including without limitation lessees, guests, employees, contractors or agents. This does not derogate from the trustees' powers to take such steps against the person actually committing the breach as they may, in their discretion, deem fit.

## **5. LEVIES**

- 5.1 The trustees may from time to time, impose levies upon the members for the purposes of meeting all the expenses in relation to the common property, facilities and services and for the payment of all expenses necessarily or reasonably incurred in connection with the management of the Association and its affairs. In calculating the amount of the levies, the trustees shall take into account income (if any) earned by the Association.
- 5.2 Municipal rates and taxes will be payable by the owner to the Council in accordance with applicable legislation.
- 5.3 The trustee committee shall estimate the amount which shall be required by the Association to meet the expenses during each financial year, together with such estimated deficiency (if any) as shall result from the preceding financial year, and shall impose a levy upon the members as near as is reasonably practical to such estimated amount, pro rata. The trustee committee may include in such levies an amount to be held in reserve to meet anticipated future expenditure. Every such levy shall be payable by equal monthly installments due in advance on the first day of each and every financial year.
- 5.4 The trustees shall not less than 30 (thirty) days prior to the end of each financial year give every member at the address chosen by such member a written notice of the contribution payable by that member to such expenses and reserve fund.
- 5.5 In the event of the trustees for any reason whatsoever failing to prepare and timely deliver notice of the estimate amount referred to herein, every member shall until served with such estimate, continue to pay the levy previously imposed and shall after such notice pay such levy as may be specified in the notice together with any arrear levies.

- 5.6 The trustees may from time to time impose special levies upon the members in respect of all such expenses as are mentioned herein (which are not included in any estimate made at the commencement of the financial year) and such levies may be imposed in the sum or by such installments and at such times as the trustees shall deem fit.
- 5.7 In calculating the levy payable by each member, the trustees shall as far as reasonably practical:
- 5.7.1.1 Assign Assign those expenses attributable to a particular erf itself, to the registered owner thereof;
  - 5.7.1.2 those expenses attributable to any development node to the registered owners of all erven in such development node equally;
  - 5.7.1.3 Assign those expenses relating to the development generally and/or any other expenses not assigned in accordance with clauses 5.7.1 and 5.7.2 above, to the owners of all erven equally; provided, however, that the trustees may in any case where the trustees consider equitable to do so, assign to any member any greater or lesser share of such expenses as may be reasonable in the circumstances.
- 5.8 Any amount due by any member by way of a levy shall be a debt due by that member to the Association. The obligation of a member to pay a levy shall cease upon that member ceasing to be a member of the Association, without prejudice to the Association's right to recover arrear levies. No levies paid by a member shall under any circumstances be repayable by the Association upon that member ceasing to be a member. 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 that erf into his name, to pay the levy attributable to that erf.
- 5.9 All levies shall be paid monthly in advance by automatic electronic deposit on the first day of each and every month to the bank account of The Reeds Homeowners Association or by any other method as determined by the Association from time to time.
- 5.10 No member shall be entitled to any of the privileges of membership of the Association unless and until he shall have paid every levy, subscription or other sum (if any), which shall be due and payable to the Association in respect of his membership thereof.
- 5.11 The trustees shall be empowered to impose fines in respect of non-compliance with the provisions of these clauses and/or to charge interest on any arrear levies and to determine the rate of interest from time to time chargeable upon such arrear levies, which shall be in addition to such other rights as the Association may have in law against the members, provided that such interest shall not exceed the rate laid down in terms of the Usury Act, No. 73 of 1968 or any statutory modification or re-enactment thereof.
- 5.12 The trustees may enter into an agreement or agreements with the developer for the provision of a capital sum and/or the transfer of land and/or equipment to the Association in lieu of levies.
- 5.13 Should any dispute arise at any time between the members and the trustees in regard to the determination or calculation of the levies, the decision of the auditors for the time being of the Association (acting as experts and not as arbitrators) in regard to such dispute shall be final and binding on the members and the trustees.

- 5.14 In the event of any dispute arising in regard to the determination or calculation of any levy, every member shall until the determination of such dispute, pay the levies determined by the trustees.
- 5.15 An introduction levy will be charged to any incoming member prior to the registration of transfer initially in the amount of R25 000,00 (TWENTY FIVE THOUSAND RAND) to ensure a levy fund in credit and which amount shall be credited to such member's account.

## **6. ENTRENCHED PROVISIONS**

- 6.1 The developer has a continuing and permanent interest to ensure that certain basic provisions are entrenched in perpetuity to ensure the success of the development. Accordingly, none of the following provisions of clauses 6.1.1 to 6.1.3 (both inclusive) may be deleted or varied in any way in terms of clause 7, without the prior written consent of the developer:
- 6.1.1 The Association may register, where necessary, various service servitudes across the development in favour of the local authority, the developer and/or the Association, whether in respect of any separate erven or the common property;
- 6.1.2 No erf shall be sub-divided or rezoned during the development period without the prior written consent of the developer or without the prior written consent of the Association after the termination of the development period;
- 6.1.3 The Association shall at all times be entitled to draw electricity from erven adjacent to sprinkler heads in road reserves for the purposes of powering the irrigation system, if any, for the verges of such road reserve. The cost thereof shall be borne by the Association but recovered as part of the levy upon members;
- 6.1.4 Ownership of an erf does not confer any right, including that of access, in respect of property owned by the developer, including any right of way or access across such property;
- 6.2 The members acknowledge and agree that the developer, its successor/s in title and its employees have rights of access across property owned by the Association;

## **7. MANAGEMENT AND CONDUCT RULES**

- 7.1 Subject to these clauses, to any restriction imposed or direction given at a general meeting of the Association and subject to any condition imposed by the local authority, the trustees, may from time to time make management and conduct rules, and vary or modify these rules, in regard to:
- 7.1.1 The right to prohibit, restrict or control the keeping of animals which they regard as dangerous or a nuisance;
- 7.1.2 The conduct of any persons, vehicles, motor bikes or conveyances within the development for the prevention of nuisance;
- 7.1.3 The use of services and recreational areas, amenities and facilities including the right to charge a reasonable fee for the use thereof;

- 7.1.4 The maintenance of all buildings, outbuildings, structures, improvements of any nature and landscaping within the development;
  - 7.1.5 The control of the number of occupiers or residents permitted on any one erf;
  - 7.1.6 The admission of any person within the development, and the eviction of any person not entitled to be thereon;
  - 7.1.7 The furtherance and promotion of any of the objectives of the Association and/or for the better management of the affairs of the Association and/or for the advancement of the interests of the members and/or the residents within the development.
- 7.2 For the enforcement of any of the rules made by the trustees in terms of clause 7.1, or of any of the provisions of these clauses generally, the trustees may:
- 7.2.1 Give notice to the member concerned requiring him to remedy such breach within such period as the trustees may determine; and/or
  - 7.2.2 Take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule or provision of which the member may be guilty; and debit the cost of so doing to the member concerned, which amount shall be deemed to be a debt owing by the member concerned to the Association; and/or
  - 7.2.3 Take such action including the imposition of a fine, or proceedings in court, as they may deem fit.
- 7.3 Should the trustees institute any legal proceedings against any member or resident within the development for the enforcement of any rights of the Association, breach of any rules or regulations issued or made on behalf of the Association, the Association shall be entitled to recover all legal costs so incurred from the member or resident concerned, calculated as between attorney and own client, including tracing fees and collection commission.
- 7.4 If any member disputes the fact that he has committed a breach of any of the provisions of the rules made by the trustees in terms of clause 7.1 or any provisions of these clauses, a committee of 3 (three) trustees appointed by the chairman shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that the natural justice shall be observed) as the chairman may direct.
- 7.5 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 attorneys and counsel as they may deem fit.
- 7.6 The Association may in a general meeting itself make any rules in regard to any matter and may also vary or modify any rule made by it or by the trustees from time to time.
- 7.7 All rules shall be reasonable and shall apply equally to all owners.

## 8. TRUSTEES

- 8.1 The trustees of the Association shall for the development period be divided into two classes, namely developer trustees and member trustees. Upon expiry of the development period, there shall only be member trustees.
- 8.2 There shall be not more than 4 (four) trustees of the Association of whom, during the development period;
- 8.2.1 2 (two) shall be member trustees appointed by the members; and
- 8.2.2 the remaining trustees shall be developer trustees appointed by the developer.
- After termination or expiration of the development period, all trustees shall be appointed by the members.
- 8.3 The first trustees shall on registration of the Association, and after due consultation with the members in regard to the appointment of the member trustees, be appointed in writing by the majority of the members of the Association.
- 8.4 A trustee shall be a natural person and shall not necessarily be a member of the Association. A trustee, accepting his appointment to office, shall be deemed to have agreed to be bound by all the provisions of these clauses.
- 8.5 The trustees shall appoint one of their number to act as chairman for such term as they think fit, but not for longer than such person's tenure as a trustee. During the development period, the chairman shall be one of the developer trustees, unless the trustees otherwise agree.
- 8.6 The trustee will act in good faith and in a transparent manner in the best interest of the Association.
- 8.7 A trustee will disclose, within 30 days of being elected, in writing any interest he or his family or related persons may have financial or otherwise in respect of any contract or dealings with the Association.
- 8.8 Save as set out in clause 8.10 below, each trustee, except for the developer trustees who shall not be required to rotate on an annual basis, shall continue to hold office as such from the date of his appointment to office until the annual general meeting next following his said 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.
- 8.9 A trustee shall be deemed to have vacated his office if:
- 8.9.1 He is disqualified to act as a director in terms of the provisions of the Companies Act;
- 8.9.2 His estate being sequestrated, whether provisionally or finally;
- 8.9.3 The commission by him of any act of insolvency;
- 8.9.4 His conviction for any offence involving dishonesty or any other serious criminal offence;
- 8.9.5 His becoming of unsound mind or being found lunatic;

8.9.6 His resignation from such office in writing.

Provided that anything done in the capacity of trustee in good faith by a person who ceases to be a trustee, shall be valid until the fact that he is no longer a trustee has been recorded in the minute book of the Association.

- 8.10 Upon any vacancy occurring in the 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 trustees. Whilst developer trustees are in office, the remaining developer trustees shall nominate a person to fill any such vacancy in their number.
- 8.11 The developer will have the exclusive right during the development period to appoint and remove trustees upon written notice to the remaining trustees.
- 8.12 Trustees shall be entitled to be repaid all reasonable and bona fide expenses incurred by them in or about the performance of their duties as trustees.
- 8.13 Trustees shall be entitled to remuneration in respect of the performance of their duties as determined by the Association in a general meeting.
- 8.14 Subject to the express provisions of these clauses and the right of the developer to appoint the managing agent, 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 any 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, subject however to such rules as may have been made by the Association in general meeting or as may be made by the trustees from time to time.
- 8.15 Save as specifically provided in these clauses, the trustees shall at all times have the right to engage on behalf of the Association the services of accountants, auditors, attorneys, architects, engineers, town planners, managing agents or any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the trustees on such terms as the trustees shall decide.
- 8.16 The trustees may meet for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of these clauses.
- 8.17 The quorum necessary for the holding of all meetings of the trustees shall be 3 (three) trustees present personally, provided that during the development period at least 1 (one) developer trustee shall be present at all meetings of trustees to form a quorum. If no quorum is present, within 15(fifteen) minutes after the time for commencement of the meeting, then it shall stand adjourned for 7 (seven) days, or if that is not a business day, then to the next business day thereafter, and those trustees present at the adjourned meeting shall constitute a quorum.
- 8.18 At any meeting of the trustees, each member trustee shall have 1(one) vote and each developer trustee shall have 3 (three) votes.
- 8.19 Any resolution of the trustees shall be carried by a simple majority of all votes cast. In the case of an equality of votes for and against a resolution, the chairman of the trustees shall have a second or casting vote.
- 8.20 The trustees shall cause minutes to be kept of every trustee's 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 trustees' minute book to be kept in accordance with the provisions of the laws relating to the keeping of minutes of meetings of directors of companies.

- 8.21 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 trustees.
- 8.22 The trustees shall further have the power:
- 8.22.1 To require that any construction of any nature within the development shall be supervised to ensure that the provisions of these clauses and the rules are complied with and that all such construction is performed in a proper and workmanlike manner.
- 8.22.2 To issue an architectural and environmental design and maintenance manual or instructions in respect of the development, subject to the developer's approval, and to ensure that such manual is complied with at all times.
- 8.23 The trustees shall have the right to vary, cancel or modify their decisions and resolutions from time to time.
- 8.23 The trustees shall be entitled to appoint committees consisting of such number of their members and such outsiders, including a managing agent, as they deem fit and to delegate to such committees such of their functions, powers and duties as they deem fit, with further power to vary or revoke such appointments and delegations as the trustees may from time to time deem necessary.
- 8.24 The trustees shall, in conjunction with the developer, appoint a Design Review Committee to perform duties as set out in clause 18 below.

## **9. GENERAL MEETINGS OF THE ASSOCIATION**

- 9.1 The Association shall within 6 (six) months after the end of the 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 of the meeting.
- 9.2 General meetings, including the Annual General meeting, shall be held at such a time and place as the trustees shall decide from time to time.
- 9.3 All meetings of the members other than annual general meetings shall be called general meetings.
- 9.4 The trustees may, whenever they think fit, convene a general meeting. A general meeting may also be convened by the trustees on a requisition made by no fewer than 25% of the members, and should the trustees not do so, the requisitioners may do so subject to the Constitution.

## **10. NOTICES OF MEETINGS**

- 10.1 An annual general meeting and a meeting called for the passing of a special resolution shall be called by not less than 21 (twenty-one) clear days' notice in writing and any other general meeting shall be called by not less than 14 (fourteen) clear days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, day, and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner,

if any, as may be prescribed by the Association in general meeting, to such persons as are, under these clauses, entitled to receive such notices from the Association; provided that a meeting of the Association shall notwithstanding the fact that it is called by shorter notice than that specified in this clause, be deemed to have been duly called if it is so agreed by not less than 51% (fifty-one *per centum*) of the members having a right to attend and vote at the meeting.

- 10.2 The annual general meeting shall consider the annual financial statements, trustees or manager's report, election of trustees, appointment of auditor and any other business relating to the Association.

## 11. PROXIES

- 11.1 A member may be represented at a general meeting by a proxy, who must be an Association member.

- 11.2 To be effective at a meeting or adjourned meeting, a proxy together with the original or a certified copy any power of attorney or other authority under which it is signed, must be lodged with the Association at least 24 (twenty four) hours before the commencement of the meeting or adjourned meeting concerned, but the trustees may from time to time determine that such documents:

11.2.1 Are to be lodged at a particular place; or

11.2.2 Are to be lodged a certain number of hours, not exceeding 48 (forty-eight) in all, before the meeting; or

11.2.3 May be lodged at any time before or during the meeting.

Notwithstanding the foregoing, the chairman of the meeting may agree to accept a proxy tendered at any time before or during the meeting.

- 11.3 A proxy shall be valid for an indefinite period unless it is stated on the proxy that it is only to be valid for shorter period.
- 11.4 A proxy instrument will be in a form acceptable to the chairman of the meeting or the adjourned meeting and his decision in this regard will be final.
- 11.5. A proxy shall be valid for any adjournment of the general meeting to which it relates unless otherwise indicated on the proxy.

## 12. QUORUM

- 12.1 No business shall be transacted at a general meeting unless a quorum is present both when the meeting proceeds to business and when any resolution is to be passed. Save as herein otherwise provided, 10 % of the members present in person or by proxy shall constitute a quorum, provided that at least 3(three) members are present in person at such meeting and provided that during the development period, at least 1 (one) representative of the developer is present at such meeting.
- 12.2 If within 15(fifteen) minutes after the time appointed for the commencement of a general meeting or within such extended period as the chairman of the board may allow, a quorum is not present, the meeting shall be dissolved as if it was convened on requisition. In all other cases, the meeting shall stand adjourned to the same place at the

same time on the same day of the next week (or if that day is not a business day, the first business day following that non-business day) or to such other place, time and day as the board may determine. If a quorum is not present at such adjourned meeting, the members present shall constitute a quorum.

### **13. ADJOURNMENT BY CHAIRMAN WITH CONSENT OF MEETING**

13.1 The chairman of a general meeting may adjourn the meeting from time to time from place to place if the meeting approves of each adjournment by majority vote. In the event of such an adjournment:

13.1.1 no notice need be given of the adjourned meeting save for an announcement at the meeting of the date, time and venue of the adjourned meeting (unless the meeting is to be adjourned for 30(thirty) days or more in which event notice is to be given in the same manner as for the original meeting);

13.1.2 only business left uncompleted at the original meeting may be transacted at the adjourned meeting.

### **14. VOTING RIGHTS OF MEMBERS**

14.1 Members shall be entitled to vote only on the matters raised at every general meeting.

14.2 At every general meeting:

14.2.1 each member, present in person or by proxy and entitled to vote, shall have one vote for each erf registered in his name;

14.2.2 if an erf is registered in the name of more than 1(one) person, then all such co-owners shall jointly have only one vote;

14.3 Save as expressly provided for in these clauses, no person other than a member 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 suspended, shall be entitled to be present or to vote on an issue, either personally or by proxy, at any general meeting.

14.4 Voting at general meetings shall take place by way of a show of hands unless on or before the declaration of the result of the show of hands a poll is demanded according to law.

14.5 Resolutions shall be passed by simple majority vote, save with respect to amendments of these clauses, as provided for in clause 122 hereof.

14.6 If a poll is duly demanded, it shall be taken in such manner as the chairman of the the meeting may direct either at once or after an interval or adjournment.

14.7 If any difficulty or dispute arises regarding the admission or rejection of a vote or regarding any other matter, such difficulty or dispute is to be determined by the chairman whether or not scrutinizers have been appointed to count the votes and his decision shall be final and conclusive.

14.8 A vote cast under a proxy, power of attorney, or other authority which has been revoked shall nevertheless be valid unless:

- 14.8.1 written notice of the revocation is received by the Association prior to the meeting concerned;
- 14.8.2 The chairman of the meeting agrees to accept written or oral notice of such revocation at the meeting.
- 14.9 No objection shall be raised to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is cast and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final, binding and conclusive.
- 14.10 A declaration made in good faith by the chairman of a general meeting to the effect that, either on a show of hands or a poll, a resolution has or has not been passed (whether by a simple majority, a specific majority or unanimously) shall be final, binding and conclusive and the resolution shall be deemed to have been so passed, as the case may be.
- 14.11 Any resolution which could be passed at a general meeting (other than a special resolution or a resolution to remove a trustee or auditor) may be passed without a meeting being held if one or more copies of the resolution are signed by or on behalf of all members entitled to vote.

## **15. ACCOUNTING RECORDS**

The trustees shall cause such accounting records to be kept as to reasonably present the affairs of the Association.

The accounting records shall be kept at the registered office of the Association or at such other place or places as the trustees think fit, and shall always be open to inspection by the trustees.

The trustees shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Association or any of them shall be open to inspection by members not being trustees, and no member (not being a trustee) shall have any right of inspecting any accounting records or documents of the Association except as may be authorised by the trustees.

The annual financial statements drawn in accordance with generally accepted accounting practices for the immediately preceding financial year shall lay before the Association at the Annual General Meeting and shall be accompanied by such additional reports as may be necessary at the discretion of the trustees.

A copy of the annual financial statements which are to be laid before the Association in annual general meeting shall, not less than 21 (twenty-one) days before the date of the meeting, be sent to every member of the Association provided that this clause shall not require a copy of those documents to be sent to any person of whose address the Association is not aware.

## **16. SERVICE OF NOTICES**

- 16.1 Notices may be given by the Association to any member either personally, or by sending it by post in a prepaid letter addressed to such member at his registered address or at

the address (if any) within the Republic of South Africa supplied by him to the Association for the giving of notices to him.

16.2 Notice of every general meeting shall be given:

16.2.1 to every member of the Association;

16.2.2 the auditors for the time being of the Association; provided that no other person shall be entitled to receive a notice of general meetings.

16.3 Any notice by post, fax or e-mail shall be deemed to have been served at the time when the letter containing the same was posted, faxed or e-mailed and in proving the giving of the notice by post, fax or e-mail it shall be sufficient to prove that the letter containing the notice was properly addressed and posted, faxed or e-mailed.

16.4 The signature to any notice given by the Association may be written or printed, or partly written and partly printed.

16.5 When a given number of days' notice is given, such period will be counted by excluding the day on which notice is given and excluding the day upon which the event is to occur.

## 17. INDEMNITY

17.1 All trustees and or the auditors (as the case may be) shall be indemnified against any liabilities *bona fide* incurred or error *bona fide* made by them in their respective capacities, when defending any proceedings, civil, criminal or otherwise, in which relief is granted to any person/s by a court.

17.2 Every trustee, servant, agent and employee of the Association, and the auditors, shall be indemnified by the Association against (and it shall be the duty of the trustees out of the funds of the Association to pay) all costs, losses and expenses (including traveling 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 any of his/their respective duties.

## 18. DESIGN REVIEW COMMITTEE

18.1 The Design Review Committee appointed by the Home Owner's Association may consist of the following persons:

18.1.1. a practicing professional architect duly qualified to practice as such for her own account in the Republic of South Africa;

18.1.2. one or more trustees;

18.1.3 such other members as the trustees may determine.

18.2 Members of the Design Review Committee shall not be required to be members of the Association.

18.3 The submission and plan approval process as set out in the Design Guidelines are to be strictly observed and complied with. Failure to do so will constitute an offence in terms of this Constitution.

## 19. GENERAL

- 19.1 Whenever they consider that the appearance of any land or building vested in a member or any signage on the land or building is such as to be unsightly or injurious to the amenities of the surrounding area or the property generally, the trustees may serve notice on such member to take such steps as may be specified in the notice to eliminate such unsightly injurious condition. Should the member fail within a reasonable time, to be specified in such notice, to comply therewith, the trustees may enter upon the land or buildings concerned and take such steps as may be necessary, and recover the costs thereof from the member concerned, which costs shall be deemed to be a debt owing to the Association. The trustees shall be obliged in giving such notice to act reasonably. In the event of any dispute the member shall bear the onus of establishing that the trustees acted unreasonably.
- 19.2 The member shall within 3 (three) years after registration of transfer commence to erect and within 1 (one) year, complete a dwelling house on the erf in accordance with the Design Guidelines
- 19.3 Should the member fail to comply with the provisions of clause 19.2, the developer shall be entitled to give the member 120 (one hundred and twenty) days notice in writing to commence the erection of such dwelling house and if the member fails to comply with such notice the developer shall forthwith be entitled (but not obliged) to repurchase the erf from the member at the same price at which the erf was sold to the member in terms of the deed of sale.
- 19.4 Should the developer elect not to exercise his rights in terms of clause 19.3, the member shall be obliged to pay triple the levies as determined by the Association, until such time as his dwelling house is occupied by him.
- 19.5 No member or other person shall be entitled to sink or use any boreholes within the development during the development period without the prior written consent of the developer and thereafter without the prior written consent of the trustees.
- 19.6 The Association may enter into agreements with any third party for the provision of facilities and services to or for the members and may levy charges in respect of the provision thereof, or may pass on such costs directly to the members.
- 19.7 The provisions of these clauses shall be binding upon all members and, insofar as they may be applicable to all persons occupying any erf by, through or under any member, whatever the nature of such occupation.
- 19.8 No member ceasing to be a member of the Association for any reason shall (nor shall such member's, executors, curators, trustees or liquidators) have any claim upon or interest in or right to the funds or any property or assets of the Association.
- 19.9 The Association may claim from any member or his estate any arrear levies and interest or other sums due from him to the Association at the time of his ceasing to be a member.
- 19.10 Any person using any of the services, land or facilities of the Association does so entirely at his own risk.
- 19.11 No member shall let or otherwise part with occupation of his erf without the consent of the Association which consent shall only be withheld if the Association is not satisfied that the provisions of the conduct rules have been complied with.

19.12 No member shall be allowed to erect or display or allow any "For Sale" signs and/or any sign boards on his/her property.

## 20. DISPUTES

- 20.1 Any dispute arising out of or in connection with the clauses must be determined in terms of this clause, except when an interdict is sought for urgent relief which may be obtained from a court of competent jurisdiction.
- 20.2 On a dispute arising, the party who wishes to have the dispute determined must notify the other party thereof. Unless the dispute is resolved amongst the parties to that dispute within fourteen (14) days of such notice, either of the parties may refer the dispute to determination in terms hereof.
- 20.3 If a party exercises his right in terms of clause 113 to refer the dispute for determination, such dispute shall be referred to the following who shall in each case have a minimum of 10 (ten) years experience in their field:
- 20.3.1 If the dispute is primarily an accounting matter, a practicing chartered accountant;
- 20.3.2 If the dispute is primarily a legal matter, a practicing attorney or advocate;
- 20.3.3 If the dispute is primarily a matter relating to the measurement in any way of any building construction or any aspect thereof, a practicing quantity surveyor;
- 20.3.4 If the dispute is primarily a matter relating to any defect in any building construction, a practicing engineer;
- 20.3.5 If the dispute relates to any other matter, such other independent and suitably qualified person.
- 20.4 If the parties are unable to agree either on the person referred to in clause 20.3 or on the classification of the dispute within a period of 7 (seven) days of either party having given notice to the other, proposing an appointee or alternative appointee, then the person in question shall be nominated by the President of the time being of the Law Society of KwaZulu-Natal or its successor/s.
- 20.5 Any person agreed upon and nominated as aforesaid ("the expert"), shall in all respects act as an expert and not as an arbitrator.
- 20.6 The proceedings shall be on an informal basis, it being the intention that a decision should be reached as expeditiously as possible, subject only to the due observance of the principles of justice.
- 20.7 The parties shall use their best endeavours to procure that the decision of the expert shall be given within twenty one (21) days or so soon thereafter as possible, after it has been demanded.
- 20.8 The decision of the expert shall be final and binding upon all parties and capable of being made an order of court on application by any of them.
- 20.9 The costs of and incidental to any such proceedings, including the fees of the expert, shall be in the discretion of the expert who shall be entitled to direct the allocation of the

costs, and whether they shall be taxed as between party and party or as between attorney and client.

20.10 The provisions of these clauses constitute the irrevocable consent of the parties to any proceedings in terms thereof and none of the parties shall be entitled to withdraw there from or claim in any such proceedings that it are not bound by such provisions.

20.11 These provisions shall be deemed to be severable from the rest of these clauses and shall remain binding and effective as between the parties notwithstanding that these clauses may otherwise be cancelled or declared of no force and effect for any reason.

## **21. AMENDMENT OF CLAUSES**

21.1 The provisions of these clauses may only be amended, subject always to clause 6, by special resolution, which will require the approval of at least 75% (seventy five per cent) of the total number of votes of members of the Association, given at a general meeting called specifically for such purpose.

21.2 The notice of such meeting shall, in addition to complying with clause 10 hereof, set out in specific terms the proposed amendment of these clauses.



## CONDUCT RULES

**DRAFT PROPOSAL : Rev C  
April 2008**

**MADE IN TERMS OF THE CLAUSES  
OF THE HOMEOWNERS' ASSOCIATION**

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## 1. OBJECTS

Conduct Rules are laid down to ensure that owners can enjoy their properties with the common property to the fullest whilst ensuring the others' rights are equally protected in the development. The Rules are binding everyone who enters on the development.

- 1.1 In these Conduct Rules, unless it appears to the contrary, either expressly or by necessary implication, the words and expressions as defined in the Constitution of the Home Owners' Association, shall bear the same meaning in these Conduct rules
- 1.2 Any person who contravenes or fails to comply with any provision of these Conduct rules, or any condition imposed or directions given in terms thereof, shall be deemed to have breached those Conduct rules and will be liable for payment of the penalties laid down in terms thereof. All persons entering upon the estate will be deemed to be acquainted with the Constitution, Design Guidelines and ignorance thereof will not constitute a good reason for non-compliance.
- 1.3 The Association may delegate any of its powers in terms of the aforesaid Conduct rules to a Managing Agent, upon such terms and conditions as it may deem fit.
- 1.4 The Managing Agent may delegate any of its powers so delegated to him, or any power accorded to him in terms of these Conduct rules, to any person nominated by him for the purpose, and any reference to the Managing Agent shall be deemed to include a reference to any such nominee.

## 2. GENERAL

- 2.1 No member may make any alterations, additions or extensions to the exterior or any dwelling house without the prior written consent of the board of Association.
- 2.2 No garments, household linen or washing of any nature may be hung out or placed anywhere to dry, except in a drying area designated for such purpose. Any such items placed in any other place may be impounded by the Managing Agent who may invoke the penalty set out in clause 2.15 hereunder.
- 2.3 All garden and other outdoor furniture may not be of the PVC type and must be of uniform design and in a colour palette of the scheme.
- 2.4 Whenever the Managing Agent is of the view that the behaviour of any person may be detrimental to the amenities of the development generally, he may call upon such person to cease such behaviour. In the event of such person failing to do so, he shall be deemed to be guilty of having contravened this clause of the Conduct rules. No person shall make or cause to make any excessive or undue noise, which constitutes a nuisance to other owners, in particular after 21h00 on any particular day.
- 2.5 No person shall keep anywhere on the development any inflammable substances, provided however, that this rule shall not apply to the keeping of such substances, and in such quantities as may reasonably be required for domestic use.
- 2.6 A member may introduce a guest to his residence, provided that no such guest may be present in such residence unaccompanied by his host for a longer period than 30(thirty) consecutive days in a calendar year, including the days of arrival and departure, and provided further that such guest shall be bound by the Memorandum and Clauses of Association and these Conduct rules, which the member shall be obliged to bring to the attention of his guest.

- 2.7 Any guest in a member's home is entitled to member's guest privileges on the development.
- 2.8 No house may accommodate more than two people per bedroom at any given time (i.e. no more than 6 people per 3-bedroomed house, no more than 8 people per 4-bedroomed house, etc.) A bedroom shall mean a room indicated as a bedroom on the plan of the house approved by the Association
- 2.9 Excluding the developer in completing the development, no home on the development may be used for any purpose other than a residential property, i.e. no home may be used for business purposes without the consent of the Association which consent will not be unreasonably withheld. The trustees' decision in this regard will be final.
- 2.10 No person shall let, alternatively advertise, his dwelling house for occupation or part with occupation of his dwelling house, whether temporarily or otherwise, unless:
- 2.10.1 The Association has consented in writing to the letting of the dwelling house, which consent shall not be unreasonably withheld;
- 2.10.2 A written lease agreement has been entered into between the member and the tenant and a copy thereof supplied to the Association;
- 2.10.3 It is a condition of such lease that the tenant binds himself to observe the rules of the Association.
- 2.11 No member shall operate or conduct a timeshare scheme as contemplated in the Time-Sharing Act No. 75 of 1983 in respect of any dwelling house owned by him, save where such scheme arises from co-ownership or syndication approved by the Managing Agent.
- 2.12 Members/residents and their guests may not engage in any activity that causes a nuisance to any other resident. No noisy machinery may be used before 07h00 or after 19h00 during the week and before 09h00 on Saturdays and Sundays and until 16h00 on Saturdays and 13h00 on Sundays.
- 2.13 No exterior speakers are permitted and the level of any music played shall be limited so as not to cause a nuisance to any other resident.
- 2.14 No outside lights, which shine directly into a neighbouring erf or are otherwise intrusive to any other residents or fauna and flora in the vicinity, shall be permitted.
- 2.15 In the event of any person contravening or failing to comply with, or being deemed to have contravened or failed to comply with the provisions of clause 2 of these Conduct rules, in the sole discretion of the Association he shall be liable to a penalty up to R 10,000 (ten thousand rands) depending on the severity of the offence.

### **3. DOMESTIC REFUSE**

- 3.1 The weekly collection of refuse will be done by outside contract and the fee will be included in the monthly levy.
- 3.2 Refuse removal, recycling and waste management will be co-ordinated by the Association.

- 3.3 It shall be the duty of every owner or occupier of an erf to ensure that such directions given by the Managing Agent are observed and implemented.
- 3.4 No person shall keep any refuse within or outside his erf, except in specified containers, and in such places as may be specifically set aside therefore, or as may be approved by the Managing Agent from time to time.
- 3.5 Where, in the opinion of the Managing Agent, any item of refuse is of such size or nature that it cannot be conveniently removed by the refuse removal services provided or arranged by the Association, the Managing Agent may give the person wishing to dispose of such refuse such directions for its disposal as he may deem fit.
- 3.6 In the event of any person contravening or failing to comply with, or being deemed to have contravened or failed to comply with any provision of clause 3 of these Conduct rules, in the sole discretion of the Association he shall be liable to a penalty not exceeding R 3 000.00 (Three Thousand Rand).

#### **4. PETS**

- 4.1 Local authority by-laws relating to pets shall apply to all members and be enforced as if it has been ruled by the Association.
- 4.2 No more than two dogs may be kept without the prior written consent from the trustees. The granting of such consent will be at the discretion of the trustees, depend upon the dogs and they may impose special conditions to such consent and revoke such consent should the rules of the Association or the conditions of the consent not be complied with.
- 4.3 No dogs shall be allowed to roam in the common area of the estate.
- 4.4 Occupants or owners may walk their dogs in the common area provided such dogs remain on a leash or be under effective personal control.
- 4.5 Excrement left by dogs must be immediately removed by the person controlling the fouling dog.
- 4.6 It is recommended that dogs are kept inside between the hours of 21h00 and 06h00 to prevent barking becoming a nuisance to any other resident.
- 4.7 No caged wild birds or animals other than dogs shall be permitted on the development.
- 4.8 The trustees shall be permitted to prohibit, restrict or remove any pet which they regard as dangerous or a continued nuisance to other occupants of the development.

#### **5. TRAFFIC**

- 5.1 No vehicles shall enter or leave the development at any point except at the entrance gates, except in special circumstances and then only with the consent of, or at the discretion of the Managing Agent.
- 5.2 All vehicles entering the development shall stop at the entrance.
- 5.3 No vehicle shall enter the development unless admitted thereto by the guard on duty at the said gate, except where the Association has issued to its members a device enabling such members to operate the vehicle entrance gate themselves.

- 5.4 No member shall permit the use of such device for operating the said vehicle entrance gate by any person save another member, or the guests or lessees of such member.
- 5.5 The speed limit on the estate is 35 km / hour and must be complied with at all times.
- 5.6 Pedestrians shall have the right of way at all times within the development and vehicles shall be brought to a stop whenever necessary to enable pedestrians to enjoy such right of way.
- 5.7 The Association may, by means of appropriate signage designed specifically for the development, give such direction as to the use of roads or any portion thereof, as it in its discretion may deem fit, and any failure by any person to obey the same and give effect thereto, shall constitute a contravention of these Conduct rules.
- 5.8 No person shall drive or ride any vehicle in the development in such a manner that would constitute an offence under the KwaZulu-Natal Traffic Ordinance aforesaid. Only designated roads should be used and no off road traffic will be allowed without prior permission from the Association.
- 5.9 No person shall store, park or leave unattended such vehicle in any place in the development, except:
  - 5.9.1 In any area designated for the purpose by means of any appropriate sign;
  - 5.9.2 No person shall, within the development, park or store any caravan, boat, truck or lorry except with the consent of the Association in a place designated for the purpose.
  - 5.9.3 No trailers or caravans shall be brought into the development, except with the consent of, and subject to, such conditions as may be laid down by the Association.
  - 5.9.4 Helicopter(s) or any means of aerial conveyance may only be landed on a designated landing area and in accordance with the rules prescribed by the Association from time to time.
- 5.10 For purposes of these Conduct rules, vehicle' shall mean any form of conveyance, whether self propelled, or drawn by mechanical, animal or human agency.
- 5.11 In the event of any person contravening or failing to comply with, or being deemed to have contravened or failed to comply with any provision of the Conduct rules contained in clause 5, in the sole discretion of the Association he shall be liable to a penalty up to R 10 000.00 (Ten Thousand Rand) depending on the severity of the offence.

## **6. COMMON AREAS**

- 6.1 No person shall use or conduct himself upon such open space within the development in such manner as may, in the opinion of the Association, detrimentally affect the open space or any of the amenities thereof.
- 6.2 No persons shall use any open space within the development in any manner which may unreasonably interfere with the use of enjoyment thereof by any other persons in the development.

- 6.3 No persons shall discard any litter or any item of any nature whatsoever at any place in the development other than in such receptacles and in such places as may be set aside for the purpose and designated as such by the Association.
- 6.4 No camping shall be permitted except at a place which may be specially designated for the purpose by the Association.
- 6.5 No fire shall be lit nor fireworks used anywhere in the development, except in such places as may be designated for the purpose by the Association and in a properly constructed fireplace or braai.
- 6.6 No person shall anywhere in the development disturb, harm, destroy or permit to be disturbed, harmed or destroyed, any wild animal, reptile or bird.
- 6.7 No person shall anywhere in the development disturb, harm, destroy, or collect any plant material, whether living or dead, save with the consent of or on the instructions of the Association. No person shall indulge in gardening or landscaping upon property in the development, without the express prior agreement of the Association or Managing Agent in regard to the nature and extent of such gardening or landscaping activity. No person shall, unless authorized thereto by the Managing Agent or the Association, pick or plant any flowers or plants in the development and, in particular, around the various properties.
- 6.8 Subject to any law including, without affecting the generality of the foregoing, any regulation made in terms of the Environment Conservation Act No. 73 of 1989, or any permit granted under or in terms of the said Act and/or any subject similar Act, the Association shall be entitled to prohibit access to any part of the open space if it deems it desirable to do for the preservation of the natural fauna and flora, and no person shall enter into any such area without the consent of the Managing Agent.
- 6.9 No trail or path in the open space shall be used, except by pedestrians, unless specifically designated for some other use by the Association.
- 6.10 For purposes of clause 6, "common areas" shall mean any area in the development not covered by a building.
- 6.11 No person shall anywhere in this development discharge any airgun, pistol or firearm.
- 6.12 No owner shall dam or alter the flow of any watercourse, spring or stream within the common area.
- 6.13 An owner will be responsible for any contamination of the ground water and the Association will have the right to purify the water so contaminated at such owner's cost as well as to impose a fine for such offense.
- 6.14 In the event of any person contravening or failing to comply with, or being deemed to have contravened or having failed to comply with any provision of the Conduct rules contained in clause 6, in the sole discretion of the Association he shall be liable to a penalty up to R 10 000.00 (Ten Thousand Rand) depending on the severity of the offence.

## **7. ELECTRICITY SUPPLY**

- 7.1 The Association or the Managing Agent shall take all reasonable precaution to procure and maintain a suitable plant for the distribution of the electricity to secure to its

- consumers a constant supply electricity, but do not guarantee that the same will always be maintained, and shall not be liable for damages, expenses or costs caused to the consumer from any interruption in the supply, variation of voltage, variation of frequency, any failure to apply a balanced three phase current or failure to supply electricity, unless the said interruption or failure is due to the negligence of the Association and the Managing Agent failing to carry out its obligations aforesaid.
- 7.2 In no case shall the Association and the Managing Agent be liable for any failure, variation or interruption that may be due to injury or destruction of the buildings or plant belonging to it by storm or fire through or during a time of riot, of civil commotion due to strikes of workmen or lockout on the premises of the Managing Agent or on the premises of any agents of the Managing Agent, or at the works of any suppliers of materials necessary to them, or at any transport business required to transport necessary material for the Managing Agent or its agents. The Managing Agent or the Association shall further not be liable for any failure, variation or interruption of supply to the consumer due to any failure, variation or interruption of the supply to it from the supply authority or Eskom.
- 7.3 Under no circumstances shall any rebate be allowed on the account for electricity supplied and metered in respect of electricity wasted due to leakage or any other fault in the electrical installation.
- 7.4 The Association and Managing Agent do not undertake to attend to a failure of supply due to a fault in the electrical installation, except when such failure is due to the operation of the service protective device. When any failure of supply is found to be due to a fault in the electrical installation, or to the faulty operation or apparatus used in the connection therewith, the Association or the Managing Agent shall have the right to charge the consumer fee as prescribed by them for each restoration of the supply, in addition to the cost of repairing any such damage which may have been done to the service main and charge for such fault or faulty reparation as aforesaid.
- 7.5 No person shall, in any manner for any reason whatsoever, tamper or interfere with any meter or service connection, service protective device or mains supply.
- 7.6 No person, other than a person specifically authorised thereto by the Association or Managing Agent in writing, shall directly or indirectly connect, attempt to connect or cause to be connected, any electrical installation or part thereof to the supply mains or service connection.
- 7.7 The Managing Agent may, without notice, disconnect any premises temporarily for the purposes of effecting repairs or carrying out tests, or for any other legitimate purposes.
- 7.8 The Managing Agent shall further not be liable for any fluctuations in voltage caused by variations in the municipal supply over which it has no control.
- 7.9 The meter(s) shall be read on a monthly basis by the Association, and this account rendered to the owner as part of the monthly charges.

## **8 LANDSCAPING**

- 8.1 The homeowner will be directly responsible for the costs of landscaping his erf.
- 8.2 All gardens must be maintained to the standards required on the development. Should it not be adhered to, the Association will employ the a garden service and charge the homeowner therefore.

- 8.3 No invasive alien vegetation is permitted anywhere on the estate. In so far as there are at present aliens which are historical and provide a value to the Estate, the Home Owners Association will have the discretion to replace same with natural vegetation if and when necessary.

## **9 ACCOUNTS**

Property owners' accounts will be submitted for settlement via direct debit or at the end of each and every month.

## **10 SECURITY**

- 10.2 No person shall do anything which is, or might be, prejudicial to the security of other members; residents within the development and members are to report incidents affecting security to the Managing Agent.
- 10.3 In order to facilitate security measures within the development, all persons shall report their arrival and departures to the Association.
- 10.4 Access to the residential properties will be controlled at the entrance gate by security. Security should be kept informed of the arrival and departure of all guests who will visit residents.
- 10.5 Security will have the right not to grant access to visitors if the resident is not aware of the arrival of such visitor.
- 10.6 No burglar alarm may be operated on the estate unless it is linked to an armed response service, which has an ability to disarm it.
- 10.7 Communication from each erf to the gatehouse will be by telephone. Owners will be required to install a device to support this facility at their own cost.
- 10.8 Contractors, workmen, employees who visit the estate in the course of their work will be supplied with a permit which must be displayed on their person at all times. Failure to display said permit may result in such person being banned from the estate.

## **11. NON-COMPLIANCE**

- 11.1 A breach of these rules by any person residing on the property, guests, employees, contractors or agents shall be deemed to be a breach committed by the owner of the erf and the trustees will thus take action against both the owner and the offender as they deem fit in their sole discretion.
- 11.2 To ensure compliance the trustees or manager may:
- 11.2.1 Give notice to the member/resident/offender to remedy any breach within such period as they may determine;
- 11.2.2 Take such action as they deem fit to remedy such breach and debit the cost to the offender or the owner by debiting his levy account on the first day of the following month and

- 11.2.3 Impose a fine determined by the trustees in their sole discretion which amount shall be a debt due to the Association, shall be debited to the levy account and shall be part of a levy payable on the first day of the following month.
- 11.3 Should the trustees institute legal proceedings against any member/resident for the enforcement of any of the rights of the Association, the Association shall be entitled to recover all legal costs so incurred from the member / resident concerned, calculated as between attorney and client, including tracing charges and collection commission.
- 11.4 Complaints as to the behaviour of an offender are to be lodged in writing to the manager or trustees who will first attempt to settle the matter amicably in the case of minor offences.

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