

ANNEXURE "B"

TEAL & TROUT COUNTRY ESTATE OWNERS ASSOCIATION

CONSTITUTION

1. Definition

- 1.1 In these presents the following words shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:
- 1.1.1 **"the Act"** means the Companies Act, 1973;
 - 1.1.2 **"the Association"** means the Teal and Trout Country Estate Owners Association;
 - 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 Teal and Trout Farm (Pty) Ltd
 - 1.1.6 **"development period"** means the period from the establishment of the Association until all of the Sites in the Development area have been sold, transferred and improved, alternatively, until the developer notifies the Association in writing that the development period has ceased, whichever is the earlier;
 - 1.1.7 **"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;
 - 1.1.8 **"Estate"** means the common property as indicated on the sketchplan of the consolidated Portion 24 of the farm Winnaarspoort , No. 350 JT attached hereto marked Annexure A to the Agreement of Sale, as well as the proposed 40 one-hectare subdivided portions of land on which the residences will be constructed;
 - 1.1.9 **"member"** means a member of the Association

1.1.10 "**Common Property**" means the land owned by the Association but excluding land owned by the members of the Association;

1.1.11 "**Trustees**" means the Trustees of the Association;

1.1.12 "**Lodge**" means a residential dwelling with its primary usage being that of holiday accommodation in a rural environment in accordance with Architectural Guidelines, with or without outbuildings;

1.1.13 "**Site**" means one of the 40 one-hectare subdivided portions of land on which the Lodges will be erected;

1.1.14 "**Development Area**" means the collective area comprising the forty one-hectare subdivided portions of land on which Lodges will be constructed;

1.1.15 "**vice-chairman**" means the vice-chairman of the Board of Trustees;

1.2 Unless the context otherwise requires, any words importing the singular shall also include the plural, and vice versa and words importing any one gender shall include the other two genders.

1.3 Subject as aforesaid, any words or expressions defined in the Act or in any statutory modification of such Act in force at the date on which these presents become binding on the Association shall, if not inconsistent with the subject or context, bear the same meaning in these presents.

1.4 In the event of any provisions of any clause contained in these Articles conflicting in any way with the stipulations of the Companies Act, or any amendment thereof, or any other Act, then these articles will be subject to such Act or Acts and will at all times be read in conjunction with such Act or Acts.

2. **Name**

The Association shall be called the **Teal & Trout Country Estate Owners Association** existing as a corporate body independent of its Members.

3. **Legal status and limited liability**

3.1 The Association is a common law corporate body and as such:

- 3.1.1 its assets, liabilities, rights and obligations vest in it independently of its members;
 - 3.1.2 it may not distribute any of its profits and gains to any person and it will use its funds solely for the objects for which it has been established and for investment;
 - 3.1.3 it will have perpetual succession;
 - 3.1.4 it may sue or be sued in its own name.
- 3.2 The members will not by reason of their membership be liable for the liabilities and obligations of the Association.

4. **Objects**

The objects of the Association are to own the common property; to manage and control the Estate including, without limitation the control of the aesthetic appearance of land and buildings, the safety of person and property, the promotion of communal and recreational interests of members, and incidental matters on the Estate, including in particular:

- 4.1 to ensure that Lodges are developed according to uniform aesthetic standards and that those standards are maintained thereafter;
- 4.2 to maintain and control any common areas including any recreational facilities;
- 4.3 to maintain the entrance to the Estate, the perimeter fence around the Estate and any common areas in the Estate including roads, bridges, causeways, drifts and sports and/or recreational facilities, storm water facilities, all equipment relating to water reticulation, sewerage, electricity and refuse removal;
- 4.4 to institute, control and pay for measures to ensure security;
- 4.5 to protect the use and enjoyment by members of their Lodges and the Estate;
- 4.6 to erect and maintain accommodation for Association staff on the Estate;
- 4.7 to provide potable water and electricity for its members;
- 4.8 to maintain the trout fishing facilities and the stocking of trout on the Estate;

- 4.9 to create and maintain a wilderness experience for its members including the stocking and maintenance of game numbers and the protection of the vegetation on the Estate.

5. **Powers**

The Association has plenary powers (including all those normally enjoyed by a registered Association) 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. The powers shall include the following but shall not be limited thereto:

- 5.1 To raise money by entrance fee, subscription, levy and otherwise from Members of the Association and from any other sources, and to receive donations, subscriptions, aid and subsidies.
- 5.2 To deal with immovable properties in any way including, lease, hire and exchange.
- 5.3 To borrow such amount of money that may be approved by the Members and to secure the repayment of such money in such manner as the Association may approve.
- 5.4 To erect, maintain, demolish, reconstruct or alter any buildings, structures and other amenities.
- 5.5 To invest funds of the Association in any manner it deems fit, and open and operate banking and saving accounts in its own name.
- 5.6 To employ, discharge, pay and arrange the conditions of employment of staff for its activities.
- 5.7 To institute, defend, settle, compromise or discontinue any proceedings in the name of or against the Association, its officer or employees, or otherwise concerning the affairs of the Association.
- 5.8 To insure the assets of the Association.
- 5.9 To do all such other things incidental or conducive to the attainment of the aforesaid Purpose and Objects of the Association.
- 5.10 To employ and remunerate professional advisers.

6. **Membership**

- 6.1 Membership of the Association shall be limited to the developer in its capacity as such (and represented by 1 or more nominees) and to any other person who is in terms of the Deeds Registries Act reflected in the records of the Deeds Office concerned as the registered owner of any Site/subdivided portion of land in the Development area.
- 6.2 Where any Site/Lodge is owned by more than one person, all the registered owners of that Site/Lodge 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 Lodge shall be jointly and severally liable for the due performance of any obligation of the Association.
- 6.3 When a member becomes the registered owner of a Site, he shall ipso facto become a member of the Association, and when he ceases to be the owner of a Site or any interest in a Lodge on the Estate, he shall ipso facto cease to be a member of the Association.
- 6.4 No member shall part with occupation of his Lodge, whether temporarily or otherwise, unless he has agreed with the proposed occupier of such Lodge as a stipulatio alteri in favour of the Association that such occupier shall be bound by all the terms and conditions of this Constitution.
- 6.5 No member may rezone a Site or in any way change the use for which a Site may be utilised whether by way of rezoning or a consent use or otherwise save with the prior consent of the Trustees who shall:
 - 6.5.1 have a complete discretion in this regard irrespective of whether such consent is granted by any lawful authority. Further, no member may subdivide or consolidate a Site, nor erect a second dwelling on their Site without the prior written consent of the Trustees which consent shall be in the sole discretion of the Trustees irrespective of whether any lawful authority grants permission for such subdivision or consolidation or second dwelling.
- 6.6 A registered owner of a Site or a member of a Lodge may not resign as a member of the Association.
- 6.7 The rights and obligations of a member shall not be transferable and every member shall:

- 6.7.1 further to the best of his ability the objects and interests of the Association;
 - 6.7.2 observe all rules made by the Association or the Trustees;
 - 6.7.3 sign all documents and do all things necessary to enable whatever servitudes may be required for services to be registered whether over or in favour of any access Site or any other Site in the Development area and including the provision of security facilities;
 - 6.7.4 provided that nothing contained in this constitution shall prevent a member from ceding his rights in terms of this constitution as security to the mortgagee of that member's Site.
- 6.8 The developer shall be entitled at all times to extend the boundaries of the Estate by the addition of additional land.

7. Levies

- 7.1 The Trustees may from time to time impose levies upon the members for the purpose of meeting all the expenses, including but not limited to those associated with the stocking of Trout, the provision of Security, the general maintenance of the common areas, the payment of salaries and wages and any other incidental expenses that the Association has incurred, or to which the Trustees reasonably anticipate the Association will be put in the attainment of its objects or the pursuit of its business.
- 7.2 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 him 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.
- 7.3 Each notice to each member shall specify the contribution payable by that member to such expenses.
- 7.4 Every such annual levy shall be payable in equal monthly instalments, due in advance on the first day of each and every month of each financial year.

- 7.5 In the event of the Trustees for any reason whatsoever failing to prepare and serve the estimate referred to in 7.2 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 the notice referred to in 7.3
- 7.6 The Trustees may from time to time impose special levies and/or supplement the Associations capital account for purposes of making capital improvements and/or alterations, including the purchase of additional game, upon the members, which are not included in any estimate made in terms of 7.2 and may in imposing such levies determine the terms of payment thereof.
- 7.7 The Trustees shall be empowered in addition to such other rights as the Association may have in law as against its members to determine the rate of interest from time to time chargeable upon arrear levies, provided that such rate of interest shall not exceed the rate laid down in terms of the Usury Act No 73 of 1968, as amended.
- 7.8 Any amount due by a member by way of levy and interest 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 repayable by the Association upon his 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 whether obtained by way of a sale of Association assets, levies or otherwise. A member's successor in title to a Lodge shall be liable as from the date upon which he becomes a member pursuant to the transfer of that Lodge, to pay the levy and interest thereon attributable to that Lodge.
- 7.9 In calculating the levy payable by any member, the Trustees shall as far as reasonably practical:
- 7.9.1 assign those costs arising directly out of the Lodge itself to the member owning such Site;
 - 7.9.2 assign a proportion of those costs attributable generally to a particular number of Lodges to the registered owners of such Lodges;

- 7.9.3 assign those costs relating to the Common Property and/or the Development area generally to the owners of all Lodges.
- 7.10 The costs assigned to members in terms of 7.9 shall be done so equally provided, however, that the Trustees may in any case where they consider it equitable to do so, assign to any members any greater or lesser share of the costs as may be reasonable in the circumstances.

8. Rules

- 8.1 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:
- 8.1.1 the standard and guidelines for the architectural design of all buildings and outbuildings, structures of any nature and all additional and alterations to any such buildings, outbuildings or structures erected or to be erected in the Development, and in particular to control the design of the exterior of such buildings, outbuildings or structures and the materials and colours used on such exterior to ensure an attractive, aesthetically pleasing character to all the buildings in the Development area;
 - 8.1.2 the siting of all buildings, outbuildings, structures of any nature and of any additions and alterations thereto;
 - 8.1.3 the standards and guidelines for the design of all site works, buildings, structures, installations, projections and parking areas on the sites in the Development area, including aerials, pergolas, side walls, swimming pools, awnings, jacuzzi's, carports and paved pathways or any amenities or structures;
 - 8.1.4 the preservation of the environment including the right to control and to require the cultivation of trees and other vegetation and the right to control the design, erection, placement, materials and construction of fences and/or walls, whether upon or within the boundaries of any Site, including the right to prohibit fences and/or walls in any garden area or around any lodge;
 - 8.1.5 the placing or fixing of ornamentation or embellishments upon the outside of buildings including the power to remove any such objects;

- 8.1.6 the conduct of any persons within the Development area or the Estate for the prevention of nuisance of any nature to any member;
- 8.1.7 the design, dimensions, location and number of advertising and other signs on any Site or Lodge in the Development area;
- 8.1.8 the right to determine and control all security measures in the Development area;
- 8.1.9 the right to determine access to and egress from the Development area and to and from the Lodges or any other area within the Development area;
- 8.1.10 for the furtherance and promotion of any of the objects of the Association and/or for the better management of the affairs of the Association and/or for the advancement of the interests of members and/or residents in the Development area;
- 8.1.11 for the enforcement of any of the rules made by the Trustees in terms hereof, the Trustees may:
- 8.1.12 give notice to the member concerned requiring him to remedy such breach within such reasonable period as the Trustees may determine;
- 8.1.13 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 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
- 8.1.14 impose a system of fines or other penalties; and/or
- 8.1.15 take such other action including a reference to Arbitration in terms of clause 26 or proceedings in Court, as they may deem fit and defend;
- 8.1.16 defend any action taken by any member or any other person in terms of Arbitration or proceedings in Court;

- 8.2 The Trustees may in addition to the above make rules regulating the general behaviour and conduct of the members while on the Estate.
- 8.3 In the event of the Trustees instituting any proceedings whether by Arbitration or in Court against any member or other person within the Development area 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 other person concerned, calculated as between attorney and own client.
- 8.4 In the event of any breach of the rules or of this Constitution by the members of any members household or by his guests, tenants, employees, contractors or contractors sub-contractors, invitees, 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.
- 8.5 In the event of any members disputing the fact that he has committed a breach of any of the rules such dispute shall be determined by Arbitration in terms of clause 26.6.
- 8.6 Any fine imposed upon any member shall be deemed to be a debt due by the member to the Association and shall be recoverable at the option of the Trustees in terms of clause 26 or by ordinary civil process.
- 8.7 Notwithstanding anything to the contrary herein contained, the Trustees may in their discretion and in the name of the Association enforce the provisions of any rules by way of Arbitration in terms of clause 26 or 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.
- 8.8 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. The first rules applicable in terms hereof shall be as recorded in **Annexure A1** hereto.

9. Trustees

9.1 There shall be a Board of Trustees of the Association which shall consist of not less than 3, but not more than 7 members.

9.2 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 this Constitution.

9.3 During the development period, at least 1 nominee of the developer shall be a Trustee and any Trustee nominated by the developer shall be entitled to have an alternate Trustee at the meeting and to act in the place of such nominee. Any other Trustees to be appointed to office shall be elected by the members in general meeting.

9.4 The developer shall on formation of the Association appoint the first Trustees.

10. Removal and rotation of Trustees

10.1 Save as set out in clause 9.3, and save for the Trustees appointed by the developer in terms of 10.3, each trustee shall continue to hold office from the date of his appointment until 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.

10.2 A Trustee shall be deemed to have vacated his office upon:

10.2.1 His having become disqualified to act as a trustee in terms of the provisions of the Constitution.

10.2.2 in the event of his being a member of the Association, his being disentitled to exercise a vote in terms of clause 21.2 below.

10.3 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.

11. Chairman and vice-chairman

- 11.1 The Trustee shall at the first Trustees' meeting after each annual general meeting appoint from their number a chairman and vice-chairman, who shall hold their respective offices until 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 a replacement in such office. During the development period the chairman shall be elected by the nominee/s of the developer.
- 11.2 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 15 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.

12. Trustees' expenses

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

13. Powers of Trustees

- 13.1 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 any employees and 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 this Constitution required to be exercised or done by the Association in general meeting, 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.
- 13.2 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 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.

13.3 The Trustees shall further have power:

13.3.1 to require the submission for approval of such plans, drawings, specifications and other information as they may deem necessary to ensure compliance by members with this Constitution and the estate rules made in terms hereof and in terms of any statutory requirements;

13.3.2 to require that any works being constructed within the Development area shall be supervised to ensure that the provisions of any statutory regulations, this Constitution and the estate rules are complied with and that all work is performed in a proper and workmanlike manner;

13.3.3 to determine the storage areas to be used by members, their employees and contractors during building operations;

13.3.4 to determine the security facilities to be installed and the operation thereof for the protection of the Lodges and the Members;

13.3.5 to make rules as provided for herein.

13.4 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 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 again be eligible for co-option by the Board of Trustee.

13.5 The Trustees shall be entitled to appoint committees consisting of such number of their members and such outsiders, 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.

13.6 The Trustees may appoint an estate architect upon such terms and conditions, as they may deem appropriate.

- 13.7 The estate architect need not be a member of the Association.
- 13.8 All plans for all buildings, outbuildings, structures, walls, fences, additions, alterations and signage to be submitted in terms of clause 25.7 below may be submitted by the Trustees to the estate architect and the Trustees shall not approve any plan in terms of clause 25.7 unless such plan shall first have been approved by the estate architect. The Trustees may if they deem fit delegate to the estate architect their functions and powers set out in this clause.

14. Proceedings of Trustees

- 14.1 The Trustees may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of this Constitution.
- 14.2 During the development period the quorum necessary for the holding of any meetings of the Trustees shall be two Trustees present personally at least one of whom must be a nominee of the developer and after the development period such quorum shall be a majority of Trustees present personally. Any resolution of the Board of Trustees shall be carried on a simple majority of all votes cast; provided that during the development period if the nominee(s) of the developer vote against a resolution it shall be defeated and if he/they vote in favour of the resolution it shall be carried irrespective of the other votes for and against the resolution. In the case of an equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.
- 14.3 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' meeting shall, after certification, be placed in a Trustees minute book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of Trustees of companies. The Trustees' minute book shall be open for inspection at all reasonable times by any Trustee, the auditors and the members.
- 14.4 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.
- 14.5 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.

15. General meetings of the Association

- 15.1 The Association shall within 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 16.
- 15.2 Such annual general meeting shall be held at such time and place, as the Trustees shall decide from time to time.
- 15.3 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 15.4 The Trustees may, whenever they think fit, convene an extraordinary general meeting, and an extraordinary general meeting shall also be convened on a requisition of not less than 20% of the members.

16. Notices of meetings

- 16.1 No general meeting of the Association shall be held unless a notice has been posted to all members at least 30 days prior to the date of the meeting. The notice shall specify the date, time and venue of the meeting, as well as an agenda, and, if applicable, the text of any proposed special resolution. A general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in this constitution be deemed to have been duly called if it is so agreed:
 - 16.1.1 in the case of a meeting called as the annual general meeting by all the members entitled to attend and vote thereat: and
 - 16.1.2 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 than 75% of the total voting rights of all members.
- 16.2 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.
- 16.3 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.

- 16,4 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.

17. Quorum

- 17.1 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 one or more nominees present to represent the votes of the developer, and 20% 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 20% in number of all members entitled to vote for the time being.
- 17.2 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 at the time appointed for holding the meeting, the members present shall be a quorum.

18 Agenda at meetings

- 18.1 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:
- 18.1.1 the consideration of the chairman's report;
 - 18.1.1 the election of Trustees;
 - 18.1.2 the consideration of any other matters raised at the meeting, including any resolutions proposed for adoption by such meeting, and the voting upon any such resolutions;
 - 18.1.3 the consideration of the accounts of the Association for the preceding financial year;

18.1.4 the consideration of the report of the auditors.

18.2 No business shall be dealt with at any general meeting unless written notice has been give to the chairman not less than 48 hours before such meeting by the person proposing to raise such business of his intention so to do: provided however, that the chairman may at his discretion relax his condition.

19 **Adjournment of 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. The members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.

20 **Proxies**

20.1 A member may be represented at a general meeting by a proxy, who need not be a member of the Association. The instrument appointing the proxy shall be in writing and signed by the member concerned or his agent, duly authorized in writing, but need not be in any particular form provided that, where a member is more than 1 person, a majority of those persons shall sign the instrument appointing a proxy on such member's behalf.

20.2 The instrument appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at a 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.

20.3 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 the Trustees had received no intimation in writing of the death or revocation at any time before a vote is taken in respect of which the proxy exercises such vote.

21 **Voting**

21.1 At every general meeting:

- 21.1.1 the developer shall have a number of votes equal to twice the number of Sites registered or capable of being registered, at the time of the meeting, in a Deeds Office as the subject of a separate title deed provided however that this provision shall apply during the development period only;
- 21.1.2 every member, excluding the developer, in person or by proxy and entitled to vote shall have 1 vote for each Site registered in his name;
- 21.1.3 if a Site is registered in the name of more than one person, then all such co-owners shall jointly have 1 vote. Should such co-owners not be able to cast their one vote due to a difference in opinion between the co-owners then the chairman shall, at his discretion, be allowed to disqualify any vote from such site/member.
- 21.2 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.
- 21.3 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless otherwise directed by the chairman or the majority of the members present at the meeting and entitled to vote. A declaration by the chairman that a resolution has, on a show of hands, been carried unanimously or by a particular majority or not passed, 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 or against such resolution.
- 21.4 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.
- 21.5 An ordinary resolution (that is a resolution other than a special resolution) or the amendment of an 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.

21.6 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 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 any motion has been carried or defeated, 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 recorded.

22 **Accounts**

22.1 The accounts and books of the Association shall be open to inspection by members at all reasonable times during business hours.

22.2 Once in each financial year the accounts of the Association shall be examined and the correctness thereof ascertained by auditors.

23 **Service of notices**

A notice may be served by the Association upon any member at the address furnished by such member in terms of the Sales agreement pertaining to such membership unless the member shall have notified the Association in writing of another address for service of notices. Any notice served by post shall be deemed to have been served on the seventh day but one following that on which the notice was posted.

24 **Indemnity, Liability and Risk**

24.1 Every Trustee, servant, agent and employee of the Association, shall be indemnified by the Association against 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 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.

- 24.2 Any property brought on to the site or land by the Member or anyone acting through or under him, shall be at the sole risk of the Member or anyone acting through or under him, shall have no claim whatsoever against the Association, Trustee, servant, agent or employee of the Association for any loss or damage to such property howsoever arising.
- 24.3 The Association, its Trustees, servants, agents and employees shall not be responsible for, and the Member indemnifies the Association and its servants against any loss, damage or injury which the Member or any person utilizing the interest which the Member or such person may sustain in the site or land by reason of any act whatsoever or neglect on the part of the Association or the Association's servants, nor shall the Association or its servants be responsible for, and the Member indemnifies the Association or its servants against any loss, damage or injury whatsoever which the Member or any such other person may sustain by reason of the site or land at any time falling into a defective state by reason of repairs, renovations and/or maintenance work not being effected timeously or at all.
- 24.4 The Member and/or or anyone acting through or under him shall utilize the land and improvements and facilities at his sole risk and the Association or its servants shall not be liable for any damage or loss caused to him or any other person acting through him.

25 **General**

- 25.1 Whenever they consider that the appearance of any Site or building owned by a member or members to be unsightly or injurious to the amenities of the surrounding area or the Development area generally, the Trustees may serve notice on such member or members to take such steps as may be specified in the notice to eliminate such unsightly or injurious condition. In the event of the member or members failing within a reasonable time, to be specified in such notice, to comply therewith, the Trustees may enter upon the site concerned and take such steps as may be necessary, and recover the cost thereof from the member or members concerned, which costs shall be deemed to be a debt owing to the Association.
- 25.2 The Trustees shall be obliged in giving such notice to act reasonably.
- 25.3 In the event of any member or any servant, agent or independent contractor of any member causing any damage to any property

owned or controlled by the Association or to the perimeter fence or security equipment facilities, the Association shall repair such damage and the member concerned shall be liable for the costs thereof.

25.4 The members shall at all times observe all laws and by-laws, regulations, Conditions of Establishment, the provisions of the statutory requirements and any other provisions in force relating to the Site or the use thereof. In the event of any member failing so do to, such failure shall be deemed to be a breach of this constitution and the Trustees shall be entitled to take such action as they may be empowered and as they may deem fit in terms hereof to remedy such breach or to prevent the continuation thereof. In the event of any statutory requirements laying down any conditions in relation to the matters dealt with herein which are more onerous than the conditions herein laid down, the provisions of the statutory requirements shall prevail.

25.5 Each member shall comply fully with all security measures introduced by the Trustees.

25.6 The Association may require any member to maintain the area adjacent to his Lodge, and in the event of such member failing so to maintain such area to the satisfaction of the Association, the Association shall be entitled to take such action as may be necessary for the maintenance of such area and to charge the member concerned.

25.7 No person shall commence with the construction of any building or structure on his land, or any additions or alterations thereto unless he has submitted to the Trustees for examination and approval or refusal such plans for such building, structure, alteration or addition as are required in terms of the bylaws of the local authority having jurisdiction over the Development area, and any such additional plan or information relating to the proposed building, structure, alterations or additions as the Trustees may require. The Trustees shall have the power”

25.7.1 to charge a fee for the examination and approval or refusal of building plans;

25.7.2 in approving any plan, to lay down such reasonable conditions as they may deem fit;

25.7.3 to refuse approval of the plans in the events of the Trustees in their sole discretion determining that such plans or the

development proposals therein contained are not in accordance with these presents.

- 25.8 No member shall transfer his site until the Board of Trustees or their duly authorized representatives has certified that the member has at date of transfer fulfilled all his financial obligations to the Association. No site or any interest therein shall be alienated without the consent of the Association. Such consent may not be withheld unless:
- 25.8.1 such member is indebted to the Association in any way in respect of levies or other amounts which the Association may in terms of these presents be entitled to claim from him;
 - 25.8.2 the proposed transferee has not agreed to become a member of the Association;
 - 25.8.3 such member remains in breach of any of the provisions of this constitution or of the Estate rules after notice from the Trustees requiring him to remedy such breach.
- 25.9 Where a member is an Association, close corporation or trust then no transfer of the shares, member's interest or beneficiary's interest, as the case may be, may take place without the prior written consent of the Board of Trustees. This consent will not be given unless and until the Association, close corporation or trust, as the case may be, has furnished the Board of Trustees the full details of the proposed new members, members beneficiaries respectively as well as the date on which the shareholding membership, beneficiary will change. Further, the written consent of the Board of Trustees will not be given unless and until all monies owing by the particular member Association, close corporation or trust, up to and including the effective date, have been paid. Until the consent of the Board of Trustees has been given the selling shareholder, member or beneficiary, as the case may be, shall be liable personally as a co-principal debtor to the Association for all the outstanding obligations of the Association, close corporation or trust, as the case may be. Should the provisions of this sub-clause not be complied with the relevant members, members or beneficiaries, as the case may be, shall be liable to the Association as co-principal debtors for all the unfulfilled obligations of the Association, close corporation or trust, as the case may be, in terms of this constitution and the rules until the provisions of this sub-clause are complied with.

- 25.10 The Trustees in issuing the certificate referred to in clause 25.8 above shall be entitled to charge a reasonable fee to be determined by the Trustees from time to time.
- 25.11 The Association may enter into agreements with members for the provision of amenities and services to the members and to levy a reasonable charge in respect of the provision thereof.
- 25.12 In the event of the Association electing to provide a security service and/or other services for members in the Estate, all members shall be obliged:
- 25.12.1 to permit the installation of any equipment on the Lodges or in the buildings comprising the Lodges for the purpose of such services as may be determined by the Association from time to time;
 - 25.12.2 to make payment of the charges raised by the Association in respect of such services;
 - 25.12.3 abide by such terms and conditions as may be laid down by the Association from time to time in respect of such equipment and services.
- 25.13 No member may subdivide or consolidate a Site, nor erect a second dwelling on their Site nor operate any business activity from a Lodge or Site without the prior written consent of the Trustees, which consent shall be in the sole discretion of the Trustees irrespective of whether or not any lawful authority grants permission for such subdivision or consolidation or second dwelling or business activity.
- 25.14 The provisions of these clauses shall be binding upon all members, and, insofar as they may be applicable, to all persons occupying any Lodge by, through or under any member, whatever the nature of such occupation. No member shall let or otherwise part with occupation of his Lodge without the prior written consent of the Association.
- 25.15 The Trustees may delegate such of their powers to an estate architect or other official as they may determine.

26 **Arbitration**

- 26.1 Any breach by a member of any provisions of this Constitution or of the Estate Rules or of any other rules and regulations made in

terms hereof and any dispute arising out of or in connection with this Constitution, including the Estate Rules or any other rules or regulations made in terms hereof or the interpretation thereof may, in the discretion of the Trustees, be referred to Arbitration and award.

- 26.2 Arbitration in terms hereof shall be governed by the Arbitration Act of 1965, as amended, or any replacement act, except to the extent set out herein.
- 26.3 If either the Trustees or a member requires any matter in terms hereof to be referred to arbitration that party shall notify the other party in writing identifying the claim or issue, and if the other party wishes to counterclaim that party shall in turn, within 14 days, notify the first party in writing identifying the counterclaim, failing which the counterclaim may not be made in the same proceedings except with the consent of the other party. The notices shall furnish sufficient details to enable the recipient to comply with the obligations set out herein to produce at the preliminary conference all documents relating to the issue or claim or counterclaim, as the case may be.
- 26.4 The Arbitration proceedings shall be deemed to have commenced as soon as the notice requiring the claim to be referred to Arbitration has been given.
- 26.5 If either party intends to be legally represented in the Arbitration that party shall immediately notify the other party in writing of that intention.
- 26.6 The Arbitration shall be held in a summary manner as follows:
 - 26.6.1 The Arbitrator shall as soon as possible convene, on 14 days notice in writing to the parties, and preside over a preliminary conference with the parties at which:
 - 26.6.1.1 the parties shall endeavour to limit the issue in dispute by defining as narrowly as practicable precisely what is in dispute;
 - 26.6.1.2 a statement of the issues shall be drawn up by the parties, provided that if they are unable to agree on the wording of the statement the Arbitrator's decision shall be final and binding;

- 26.6.1.3 each party shall produce and confirm orally on oath all documents in that party's possession or under that party's control relating to the dispute, other than privileged documents. Details of the documents in respect of which privilege is claimed and the grounds for claiming privilege shall be given and similarly confirmed on oath;
 - 26.6.1.4 the date and venue of, and arrangements for recording, the Arbitration shall be agreed or, failing agreement, shall be determined by the Arbitrator;
 - 26.6.1.5 consideration shall be given to whether any further procedural steps are desirable in the Arbitration proceedings, provided that further steps shall not be resorted to unless reasonably essential, if they will prolong the Arbitration, the Arbitrator's decision being final and binding; a party may at any time on 10 days written notice require the other party to furnish photocopies of any documents, other than privileged document, in the possession or under control of that party relating to the dispute or to state on oath that that party does not possess or control the documents, in which event that party shall state on oath their whereabouts or that that party does not know their whereabouts.
- 26.7 The Arbitrator will be a practicing advocate of not less than 5 years standing, or a retired judge, or an attorney of not less than 10 years standing, to be appointed by agreement between the parties, failing which, by the Chairman for the time being of the Johannesburg Bar Council.
- 26.8 The Arbitrator shall have the following powers and duties:
- 26.8.1 the Arbitrator shall have full and unrestricted powers in relation to the Arbitration proceedings and the making of any award in the proceedings, including, without limitation, the powers set out in Section 21(1) of the Arbitration Act and the power to alter any time period (either before or after expiry of the period), to alter, add to or make any deletion from the procedure to be followed in the Arbitration and to make any award in the absence of a party who fails to take any step required of that party (including the failure to pay any costs payable by that party), provided that:

26.8.1.1 he shall at all times have regard to the intention of the parties that disputes should be resolved in a summary manner with a minimum of delay;

26.8.1.2 he shall not make a final award in the absence of a party without endeavouring to first satisfy himself that that party's omission is not due to excusable inadvertence or other justified cause, but he need not hear evidence before making his award;

26.8.2 The Arbitrator:

26.8.2.1 need not strictly observe the rules of evidence and may admit, and rely on, such evidence as he made decide;

26.8.2.2 may take expert opinion on any matter;

26.8.2.3 may have regard to his personal knowledge of the facts, and any expert knowledge he may have, relating to the issues in dispute;

26.8.2.4 may investigate any matter, or cause it to be investigated, and for that purpose shall be entitled to access to the parties' premises and any other relevant premises to inspect any article or to examine, and take copies of or extracts from, the accounting and other records of the parties; alternatively, he may require that the article or records be delivered to any place reasonably required by him for this purpose;

26.8.3 provided that he shall afford the parties an opportunity of challenging the opinion taken by him or the knowledge he claims to have or the results of the investigation.

26.8.4 the Arbitrator may make such award or awards, whether interim, provisional or final, as he may consider appropriate, including without limitation ex parte awards, declaratory orders, interdicts, and awards for specific performance, restitution, damages, penalties, interest and security for costs restitution.

26.8.5 the Arbitrator shall give his reasons for his award, if so requested by either party.

26.9 The award of the costs of the Arbitration shall be in the discretion of the Arbitrator, provided that:

26.9.1 the Arbitrator may require advance deposit or security to his satisfaction to secure payment of his fees’;

26.9.2 pending the award of costs, the parties shall pay the Arbitrator’s fees and the costs of providing a venue for, and the recording of, the Arbitration, in equal shares;

26.9.3 if a party fails to pay that party’s half share of the costs the other party may make payment and immediately recover the amount paid from the first party or the Arbitrator may make his award in the absence of that party as set out in 26.8.1.2;

26.9.4 the parties intend that the substantially successful party should be award a full indemnity for the costs reasonably incurred by that party and not merely the costs of the Supreme Court or any other scale;

26.9.5 if a party unnecessarily puts the other party to the proof of any fact, or fails to disclose or produce any document required to be disclosed or produced, that portion of the costs which relates to the proof of that fact, or which arises from the failure to disclose or produce, should be awarded to the other party whether or not the other party is substantially successful in the Arbitration.

26.9.6 If the substantially successful party unnecessarily delays or prolongs the Arbitration, that party should be penalized by not being awarded part or all of the costs;

26.9.7 in the event of a dispute regarding the amount of the costs the Arbitrator shall determine the amount and his decision shall be final and binding.

27 Right of use

27.1 The member shall have the right to utilize the site and/or any Lodge constructed thereon as well as a continuous and contiguous right to traverse the Common Property as well as any property over which the Association have traversing rights.

27.2 The Member shall utilize the interest:

- 27.2.1 subject to the rights of the Association in terms of the Constitution of the Association; and
- 27.2.2 subject to the Estate Regulations as amended from time to time.
- 27.3 The Member shall be obliged to exercise his rights in terms hereof in accordance and with the due regard to the nature of the scheme.
- 27.4 Not more than four persons shall be entitled to participate in and enjoy the rights attaching to a site. If any one of the Members of a Site is an Association, Close Corporation, legal person, trust, partnership, or any other similar body of persons whether incorporated or not, then each of the aforementioned shall be entitled to nominate annually a person or persons who shall be entitled to enjoy the rights of a Member but in such a way as to ensure that there are never more than four persons at any time in total entitled to the rights attributed to a particular Site.
- 27.4.1 Notwithstanding the above, this restriction shall not apply to direct members of the same family.
- 27.4.2 The Board of Trustees shall be entitled to consent to the combination of sites and the pursuant increase in the number of members per site as well as the restrictions on the number of beds, subject to such additional levies and or terms that it may impose.
- 27.5 The Member shall not be entitled to operate a property time-sharing scheme as defined in the Property Time-Sharing Control Act, number 75 of 1983, or run any business or commercial establishment in respect of his site or the site improvements. The Member is not permitted to occupy the site other than for the purposes of erecting the site improvements and utilizing the property as a Rural holiday residence and as intended in these presents.
- 27.6 The Member shall not be entitled to the utilization of this interest if he is in arrears with the levy, or in breach of any of his obligations in terms of this Agreement, and the Constitution of Association and the Estate Regulations.
- 27.7 The Member, as long as he is the Member of the Association, may permit or allow any other person to utilize his interest as a guest, provided that such delegated use of the Lodge or Estate shall be in strict conformity with the Estate Rules and any amendments

thereto. Should the Member fail to observe the aforesaid, and without prejudice to any rights that the Association may have the Association shall be entitled to deny admission to the person or require the said person to vacate the site forthwith.

- 27.8 The Member shall ensure that his invitees shall abide by the rules and conditions pertaining to the Estate and accepts responsibility for any damage caused to the Estate.

28 Management

- 28.1 The management, control and administration of the Estate, including the site and the utilization of the Estate, shall be under the control of the Manager who is appointed by the Board of Trustees in terms of an Employment contract.

- 28.2 The Employment contract shall provide inter alia that the Manager shall:

28.2.1 carry out all obligations undertaken by the Association or Trustees from time to time pursuant to this Agreement, the Estate Rules and any other Operational procedures including but not limited to:

28.2.1.1 maintenance of all the roads and fences of the land.

28.2.1.2 maintenance and stocking of all dams and rivers forming part of the common facilities;

28.2.1.3 maintenance of common facilities in a good and clean condition.

28.2.2 be responsible for fulfilling all obligations assigned pursuant to such Manager's appointment in terms of the Employment Agreement, including the enforcement of the Estate Rules;

28.2.3 employ and discharge any staff or any other persons engaged to carry out any duties or effect any service in respect of the Development;

28.2.4 in the name of the Association collect and deal with all moneys owing from time to time by the Member pursuant to the Constitution of the Association;

28.2.5 control the general use of the sites and land by Members for the Members' mutual comfort; and the general conduct of all people making use of the land and facilities;

28.2.6 arrange to give effect to the interest of the Members pursuant to this Agreement in accordance with the Estate Rules;

28.2.7 carry out the directives of the Board of Trustees from time to time.

28.3 The Member from time to time undertakes to observe and comply with the lawful directives of the Manager at all times, and a failure to observe such directives shall constitute a breach of this Agreement.

29 Breach

In the event that the Member breaches any provision of this Agreement, or any other regulations or directives of the Board of Trustees then without prejudice to any other remedies that the Association may have, the Association shall be entitled to:

29.1 Impose a fine on the Member in such amount as the Trustees may deem reasonable, and/or

29.2 Suspend the Member's right to utilize his interest; and

29.2.1 in the event that the Association suspends the Member's right to exercise his interest, the Association may lease the Member's interest upon such terms and conditions as it seems fit and apply such income in payment of any indebtedness of the Member to the Association;

29.2.2 the Association shall not be entitled to exercise its rights in terms hereof unless and until it shall have given the Member 14 (fourteen) days written notice to remedy the breach, in which notice, notice is given of the intended action to be taken by the Association in the event of the Member failing to remedy such breach and provided further that if a Member commits any breach more than three times not notice in terms hereof need be given by the Association.

29.2.3 any member whose rights are affected hereunder shall have the right to appeal to the Association in General Meeting where a simple majority decision shall be binding.

30 Members Obligations

- 30.1 Provided a Member obtains approval in accordance with this Constitution, he shall be entitled to make any alterations or additions or improvements of whatsoever nature to the site or site improvements.
- 30.2 The Member shall be obliged to keep the site in a clean, tidy and hygienic condition.
- 30.3 The Member shall utilize his interest, and all facilities on the land in such manner as will not cause damage or harm, subject always to the Estate Rules in regard thereto.
- 30.4 If the Member damages any part of the land or amenities whether accidentally, negligently or willfully, the Member shall be liable for the cost of repairing or replacing the same.
- 30.5 The Member shall not be entitled for any of the reasons aforesaid, or for any other reason whatsoever, to withhold any moneys due to the Association.

31 Maintenance

- 31.1 The Association shall at its own expense maintain the land, roads, fencing and any infrastructure owned by the Association including the common facilities, but excluding the sites or site improvements, in a good workable and clean condition at all times.
- 31.2 The Member shall maintain the site improvements and the site at his own cost and expense.
- 31.3 The Association will endeavour to procure that all reasonable steps are taken to remedy any defect for which it is responsible within a reasonable time.
- 31.4 The Association or their duly authorized agent including the manager shall be permitted to enter the site or site improvement at all reasonable times in order to inspect the same.

32 Insurance

It is recorded that each Member is responsible for insuring his site improvements. The Association shall be obliged to take out all reasonable

insurance for the common facilities as well as take out Public Liability Insurance in an amount determined by the Trustees from time to time.

33 Amendment of this constitution

This constitution may be amended by resolution of a members' meeting passed by a majority of not less than 75% of the votes cast.

34 Merger

The Association may merge with any other body with similar objects, by resolution of a members' meeting, provided that the constitution of the merged entity contains provisions similar to the Association. 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 its Lodges in the Estate will vest in the merged entity.

35 Dissolution

35.1 The Association may dissolve itself by resolution passed by a majority of not less than 75% of the votes cast at a members' meeting.

35.2 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.

This Constitution adopted and this Association hereby constituted at
on this day of

Trustee

Trustee