

## **BOGMORE SERVICES PARK**

### **THE CONSTITUTION OF THE BOGMORE SERVICES PARK OWNERS ASSOCIATION**

1. **NAME**

The name of the Association is THE BOGMORE SERVICES PARK OWNERS ASSOCIATION with its domicilium citandi et executandi at Ballito Estates (Proprietary) Limited, Shop 20, Ballito Boulevard, Jack Powell Road, BALLITO, 4420.

2. **DEFINITIONS**

In this Constitution, unless the context indicates to the contrary:

- 2.1 "The Developer" shall mean Cold Creek Investments 29 (Pty) Ltd, Registration No. 2005/036487/07;
- 2.2 "The Association" shall mean The Bogmore Services Park Owners Association;
- 2.3 "The Estate" shall mean the township to be developed by the Developer on Erf 3675 Ballitoville, Kwadukuza;
- 2.4 "The Local Authority" shall mean the Kwadukuza Local Authority or any other local authority having jurisdiction over the Estate;
- 2.5 "The Common Property" shall mean proposed Portions 3728 and 3729, being Public Open Spaces and Erven 3724 to 3725, being Private Roads as reflected in green on the annexed plan;
- 2.6 "Erf" shall mean any one of the erven within the Estate, owned by a member;
- 2.7 "Owner", when used in relation to an Erf, shall mean and include the registered owner thereof;
- 2.8 "Founder Members" shall mean the promoters of the Association;
- 2.9 "Member" shall mean a member of the Association, and which expression shall, until they cease to be members of the Association, include the Founder Members, Paul Richard Barns and Bradley Grant Smith;
- 2.10 "Month" shall mean a calendar month;

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only shall include the plural number and vice versa, and words importing any one gender shall include the other two genders, and words importing persons shall include bodies corporate and firms.

- 2.13 "Law" shall mean the Laws applicable from time to time in the Republic of South Africa including but not limited to the National Road Traffic Act (Act No. 93 of 1996) and/or any other Act, the enforcement of which is for the benefit of and in the interest of the Association, its Owners and Occupiers.
- 2.14 "The Environmental Principles" means the environmental framework for the Initial Site Assessment, Design, Rehabilitation and Landscaping Requirements and all other relevant information approved by the Department of the Environment, adopted by the Developer and the Bogmore Residential Estate Home Owners Association.
- 2.15 "Committee" shall mean the Committee of the Association elected in terms of the Constitution.

### 3. STATUS

The Association shall be an association:

- 3.1 with perpetual succession and with legal personality capable of owing and being sued in its own name, and
- 3.2 none of whose members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by the Committee in terms hereof, and
- 3.3 not for profit, but for the benefit of the Owners and occupants of immovable property situate in the Estate.
- 3.4 The liability of the individual members for the debt and engagements of the Association shall be limited to the amount, if any, owing by the Member concerned in respect of levies, contributions or fees due to the Association.

### 4. OBJECTS

The objects of the Association will be:

- 4.1 to promote the maintenance of the Common Property and all Erven within the Estate and to ensure that all such Erven are maintained in such a way as to derive maximum benefit therefrom for the whole community of the Estate;
- 4.2 to prescribe standards, conditions and guidelines for the maintenance of any buildings and outbuildings and external fixtures and fittings thereto, including aerials and satellite dishes of any description to be erected in the Estate and thereby to exercise control over the external appearance of all such buildings, structures, erections, land and garden areas in the Estate;
- 4.3 to promote, advance and protect the interest of the Members generally and to co-operate with the Local Authority, the Kwazulu-Natal Provincial Government and all other appropriate authorities for the benefit of the Association and its Members;

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- 4.4 to represent interest of the Members and to provide a united voice by which such interests may be expressed;
- 4.5 to collect levies and contributions towards funds of the Association for the attainment of the objects of the Association or any of them, for the improvement of the Estate, and the due fulfilment of the powers of the Association or any of them;
- 4.6 to organise and provide social services and activities for the benefit of the Association and its Members.
- 4.7 to impose fines and penalties.

5. **POWERS**

The Association shall have full power and authority to manage its affairs, activities and property in addition to these general powers and without in any way limiting such powers and authorities, the Association shall have the following special powers and authority:

- 5.1 To maintain and control the property of the Association and to render all services and acts necessary to ensure efficient protection and satisfactory maintenance and control of such property.
- 5.2 To enforce compliance by Owners of the Environmental Principles including the Environmental Management Plan as far as these may apply.
- 5.3 To promote the Environmental Principles as far as these may apply to the Association.
- 5.4 To do all things necessary or required to attain any of the objects of the Association set out above and to further and promote the interest of Members and to implement and enforce the powers conferred on the Association in terms hereof, to adopt and prescribe and from time to time amend, repeal or add to any rules and regulations necessary or required for the due enforcement, implementation and fulfilment of such rules and regulations and to impose fines and penalties.
- 5.5 To raise levies, contributions and fees from Members in the manner and for the purposes as hereafter specified.
- 5.6 To open and operate banking accounts and building society accounts of any description.
- 5.7 To make, enter into and carry out contracts or agreements for any of the purposes or objects of the Association.
- 5.8 To employ and remunerate agents, servants, employees and other persons.
- 5.9 To act as principals, agents, contractors or trustees.
- 5.10 To pay gratuities and pensions and establish pension schemes.
- 5.11 To sue and be sued in its own name and to appoint attorneys, agents and counsel for the aforementioned purpose.
- 5.12 To amend or repeal this Constitution or any portion hereof.

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- 5.13 To enforce the Rules and Architectural and Building Code of the Association as annexed hereto.
- 5.14 To make, amend and repeal rules which shall be binding upon the Members as if they formed part of this Constitution and the formation of sub-committees and the delegation of such powers of those sub-committees as the Committee may deem necessary. The powers conferred on the Association in terms of any clauses contained in this Constitution shall, in the absence of a resolution by the Association to the contrary, vest in the Committee.
- 5.15 No rule, regulation or by-law passed pursuant to these provisions shall, unless passed pursuant to sub-clause 5.11 above, conflict with any of the provisions of the Constitution.

6. **MEMBERS**

- 6.1 Membership of the Association shall be limited to the Owners and the Founder Members provided that where any such Owner is more than one person all the owners of that Erf shall be deemed jointly and severally to be one Member of the Association.
- 6.2 The interests and rights and corresponding obligations of all future Owners of Erven insofar as it concerns their membership of the Association and who as at the date on which the Constitution is adopted are not Owners, shall be represented by the Founder Members who shall be subject to all the terms and conditions of this Constitution. Upon not less than 3 (THREE) Owners becoming Members of the Association in terms of this Constitution, the membership of the Founder Members as such shall automatically terminate and be at an end.
- 6.3 When a Member, other than a Founder Member, ceases to be the Owner of an Erf, he shall ipso facto cease to be a Member of the Association, but without prejudice to the right of the Association to recover from such person any amounts owing and due but unpaid as at the date of cessation of such membership.

7. **MEMBERSHIP**

- 7.1 The Owner of an Erf in the Estate shall be deemed to be and shall become a Member of the Association and shall comply with the Constitution of the Association and all its rules and regulations legally enacted by the Association, or its duly appointed representative and shall remain a Member whilst he is an Owner of an Erf, and shall not be entitled to resign or cease to be a Member of the Association until he ceases to be the Owner of an Erf.
- 7.2 An Owner shall be deemed to cease being an Owner of any particular Erf for all purposes under this Constitution:
  - 7.2.1 upon the sale or other disposal by him of such Erf with the consent of the Association and further, if such sale or other disposal is subject to any suspensive condition, upon the fulfilment of any such condition; and
  - 7.2.2 upon the acquirer/transferee concluding an agreement with the Association to become a Member of the Association,

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or in any case other than the acquisition by contract of the Erf;

- 7.2.3 upon the registration of transfer of that Erf into the name of the transferee provided always that if prior to transfer of the Erf the agreement under which the acquirer or proposed transferee has acquired the Erf, fails or is terminated for any reason, the seller or disposer of the Erf shall automatically be re-vested with membership of the Association in respect of the Erf in question, retrospectively to the date upon which he first ceased to be a Member in respect of that Erf.

**8. CONDITION OF SALE**

- 8.1 A Member shall not alienate or transfer an Erf unless it is a condition of the alienation or transfer that:
- 8.1.1 the acquirer/transferee binds himself, as a contract for the benefit of the Association, to become a Member of the Association;
- 8.1.2 the conclusion, with the consent of the Association, of an agreement to acquire an Erf and, if such agreement is subject to any suspensive condition, upon the fulfilment of any such condition, or in any case other than the acquisition by contract of an Erf, the registration of transfer of that Erf into the name of the transferee, shall ipso facto constitute the acquirer/transferee as a Member of the Association.
- 8.2 Whenever the consent of the Association is required by the terms of any condition of title of an Erf or contract for the sale of such Erf, for the alienation or transfer of such Erf, such consent shall not be withheld, provided the intending acquirer/transferee shall have bound himself to the Association to become a Member of the Association.

**9. MEMBERSHIP CERTIFICATE**

The Committee elected in terms of clause 24 may, by regulation, provide for the issue of a membership certificate, which certificate shall be in such form and subject to such conditions as may be prescribed by the Committee.

**10. TRANSFER OF MEMBERS RIGHTS AND OBLIGATIONS**

- 10.1 The rights and obligations of a Member shall not be transferable and every Member shall:
- 10.1.1 to the best of his ability, further the objects and interest of the Association;
- 10.1.2 observe all by-laws and regulations made by the Association or the Committee;
- 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 Erf.

**11. PRIVILEGES OF MEMBERSHIP**

No Member shall be entitled to any of the privileges of membership unless and until he shall have paid every levy and subscriptions and other sum (if any)

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which shall be due and payable to the Association in respect of his membership thereof.

12. **USE OF FACILITIES**

The Committee of the Association shall be entitled upon the written application of an Owner of an Erf and upon such terms and conditions as may be prescribed by the Committee from time to time to permit:

- 12.1 the lessee of an Erf, or
- 12.2 any other person occupying an Erf through or at the instance of the Owner thereof, the use and enjoyment of the facilities and amenities of the Association, provided:
  - 12.2.1 such permission is evidenced by a certificate issued under the hand of the Committee;
  - 12.2.2 such permission will automatically lapse and be deemed to be withdrawn upon the grantee's rights to occupation of the Erf being terminated or expiring for any reason whatever or upon the Owner ceasing to be a Member;
  - 12.2.3 the Owner is and remains fully paid-up in respect of all his obligations to the Association;
  - 12.2.4 such permission shall not release the Owner from his obligations to the Association in respect of his membership relating to such Erf at all times;
  - 12.2.5 the said conditions prescribed by the Committee in respect of the class of persons referred to in clause 12.2 above shall be no more onerous than those applying to the Owner himself.

13. **LEVIES AND CONTRIBUTIONS**

The Association, through its Committee, shall from time to time be entitled to make levies upon the Members for the purpose of meeting all the expenses which the Association itself or through its Committee has incurred or to which the Committee reasonably anticipates the Association will be put by way of the implementation and attainment of any of its objects and the carrying out of any of its functions, and for the maintenance, repair, improvement and keeping in order and condition of its property, the Common Property and/or for payment of any rates and other charges payable by the Association in respect of its property and/or for the services rendered to it, and/or payment of the salaries and/or wages of the employees of the Association, and generally for the payment of all expenses necessary or reasonably incurred in connection with the management of the Association, the property and the Association's affairs. In calculating levies the Committee shall take into account other income, if any, earned by the Association from any other source.

14. **ESTIMATE OF EXPENSES**

The Committee shall estimate the amount which shall be required by the Association to meet the expenses during each year, together with such estimated deficiency, if any, as shall result from the preceding year, and shall make a levy upon the Members equal as nearly as is reasonably practical to such estimated amount. The Committee may include in such levies an amount

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to be held in reserve to meet anticipated future expenditure not of an annual nature. Every such levy shall be made payable by equal monthly instalments due in advance on the first day of each and every succeeding month of such year.

15. **SPECIAL LEVIES**

The Committee may, from time to time, make special levies upon the Members in respect of all such expenses as are mentioned in clause 13 (which are not included in any estimate made in terms of clause 14), and such levies may be made in the sum or by such instalments and at such time or times as the Committee shall think fit.

16. **RECOVERABLE DEBT**

16.1 Notwithstanding the nature or cause of indebtedness, any amount due by a Member by way of a levy, special levy or other charge due to the Association, shall be a debt due by him and recoverable by the Association. The obligation of a Member to pay levies shall cease upon him ceasing to be a Member of the Association, without prejudice however 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 him ceasing to be a Member. A Member's successor to an Erf shall be liable as from the date upon which he becomes a Member, to pay the levy attributable to that Erf. No member shall sell or transfer his Erf until the Association has certified that the Member has at the date of sale or transfer fulfilled all his financial obligations to the Association.

16.2 Any sums of money due to the Association by a Member which have not been paid by the date on which they are due and payable, shall bear interest from the date the amount is due to the date of payment, at the maximum rate permissible under the Usury Act (Act No. 73 of 1968) as amended from time to time.

All legal costs as between attorney and client, charges, disbursements including fees incurred by the Association in successfully enforcing or defending its claim shall be for the account of the Member and be payable on demand.

A certificate signed by the Chairman of the Association, or his duly authorised representative, as to any indebtedness of a Member, or as to any other fact, shall be prima facie evidence of the Member's indebtedness to the Association or of such other fact for the purpose of any application or action, judgement or order or for any other purpose whatsoever.

17. **LEVY CHARGE**

17.1 Levies made in terms of these provisions shall be charged in equal proportions on all Erven in the Estate and shall be paid and borne by Members in the same proportion to the total levies imposed on Members pursuant hereto as the number of Erven owned by the Member bears to the total number of Erven in the Estate.

17.2 Notwithstanding anything to the contrary contained herein, the levies charged on an erf shall only accrue as from the registration of each erf from the developer to the purchaser thereof, the developer shall under no circumstances be responsible for payment of any levy, special levies whilst it is an owner of

any erf.

18. **DEALING WITH THE COMMON PROPERTY**

The Common Property shall not be alienated without the consent of the Minister of Local Government and Housing and then only as he may direct.

19. **MEETINGS OF THE ASSOCIATION**

19.1 Annual general meetings shall be held once in every year at such time and place as may be determined by the Committee, but so that no more than 15 (FIFTEEN) months shall be allowed to elapse between any two successive meetings.

19.2 The Committee may call an extraordinary general meeting whenever it thinks fit. Extraordinary general meetings shall also be called upon the written request of 2 (TWO) Owners.

19.3 An annual general meeting and a meeting called for the passing of a special resolution, shall be called by 21 (TWENTY ONE) days' notice in writing at the least, and an extraordinary general meeting shall be called by 14 (FOURTEEN) days' notice in writing at the least. In each case the notice shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting and, in the case of special business, in addition to any other requirements contained in this constitution, the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the reasons for it or in such other manner, if any, as may be prescribed by the Committee to such persons as are under this Constitution entitled to receive such notices from the Association.

19.4 The accidental omission to give notice of a meeting or of any other resolution, or to give any other notification, or present any document required to be given or sent in terms of this Constitution, 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 proceeding at, or any resolution passed at any meeting.

19.5 General meetings of the Association shall take place at such place/s as shall be determined by the Committee from time to time.

19.6 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of any general meeting shall be 4 (FOUR) Members.

19.7 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting, if convened on the requisition of Members, shall be dissolved but shall be reconvened half an hour thereafter with the Members present being a quorum; in any other case it 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, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present shall be a quorum.

19.8 The following matters shall be dealt with at every annual general meeting:

19.8.1 the consideration of the Chairman's report to the Committee;

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- 19.8.2 the election of the Committee;
- 19.8.3 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;
- 19.8.4 the consideration of the balance sheet of the Association for the last financial year of the Association preceding the date of such meeting;
- 19.8.5 the consideration of the report of the auditors;
- 19.8.6 the consideration of the total levy and any special levy (as referred to in clauses 13 and 15 aforesaid) for the year during which such annual general meeting takes place;
- 19.8.7 the consideration and fixing of the remuneration of the auditors for the financial year of the Association preceding the annual general meeting.

20. **PROCEDURE AT GENERAL MEETING**

The Chairman of the Committee shall preside as such at all general meetings, provided that should he not be present within 5 (FIVE) minutes after the time appointed for the holding thereof, then the Vice-Chairman of the Committee shall act as Chairman at such meeting; provided further that should the Vice-Chairman also not be present within 5 (FIVE) minutes of the time appointed for the holding of such meeting, then the Members present at such meeting entitled to vote, shall vote to appoint a Chairman for the meeting, who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.

21. **ADJOURNMENT OF MEETING**

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

22. **PROXIES**

- 22.1 A Member may be represented at a general meeting by a proxy, who need not be a member of the Association. The instrument appointing a proxy shall be in writing signed by the Member concerned or his duly authorised agent in writing, but need not be in any particular form, provided that where a Member is more than 1 (ONE) person, any of those persons may sign the instrument appointing a proxy on such Member's behalf; where a Member is a company, the same may be signed by the Chairman or by its secretary; and where an association of persons, by the secretary thereof.
- 22.2 The instrument appointing a proxy and the Power of Attorney or other authority (of any) under which it is signed, or a notarially certified copy thereof, shall be deposited at the office of the Association at any time before the time appointed for the commencement of the meeting, or adjourned meeting, at which the

person named in the instrument appointing a proxy shall be valid after expiration of 12 (TWELVE) months from the date of execution.

- 22.3 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no imitation in writing of the death or revocation shall have been received by the Committee at least 1 (ONE) hour before the time fixed for the holding of the meeting.

23. **VOTING**

- 23.1 At every general meeting every Member in person or by proxy and entitled to vote shall have 1 (ONE) vote for each Erf owned by him, provided that if an Erf is registered in more than 1 (ONE) person's name, then they shall jointly have one vote.
- 23.2 Save as expressly provided for in this Constitution, persons other than a Member duly registered as such with the Association 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 a general meeting.
- 23.3 Unless the Chairman of the meeting otherwise directs, all voting shall be in writing by way of a secret poll, which shall be taken during the course of the meeting in such manner as the Chairman of the meeting shall direct.
- 23.4 All resolutions shall be passed by a simple majority of those Members present in person or by proxy at the meeting, other than special resolutions which shall be carried by the votes of not less than 4 (FOUR) Members.
- 23.5 A declaration by the Chairman of the result of any voting and an entry thereof in the Minute Book of the Association shall be conclusive evidence of that fact.

24. **COMMITTEE**

There shall be a Committee of the Association which shall consist of not less than 2 (TWO) Members. The initial Members of the Committee shall be appointed by the Developer, who shall be entitled to appoint the majority of the Committee members for as long as it is a member of the Association.

25. **HOLDING OFFICE**

Subject to clause 24, and save in respect of the Developer's representatives on the Committee, each Committee member shall continue to hold office as such from the date of his appointment to office until the conclusion of the annual general meeting next following his said appointment, at which meeting the Committee member shall be deemed to have retired from office as such but will be eligible for re-election to the Committee at such meeting, such Committee member shall retain office for a period of 3 (THREE) months after such annual general meeting or until a successor has been elected by the Association at an extraordinary general meeting called for the purpose.

26. **VACATION OF OFFICE**

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A Committee member shall be deemed to have vacated his office as such upon:

- 26.1 his estate being sequestrated, whether provisionally or finally, or his surrendering his estate;
- 26.2 his making any arrangement or composition with his creditors;
- 26.3 his conviction for any offence involving dishonesty;
- 26.4 his becoming of unsound mind or being found lunatic;
- 26.5 his resigning from such office in writing delivered to the Secretary;
- 26.6 his death;
- 26.7 his being removed from office by the Association in general meeting;
- 26.8 him absenting himself from 3 (THREE) consecutive meetings of the Committee without special leave of absence from the Chairman of the Committee.

27. **VACANCY**

Upon any vacancy occurring on the Committee prior to the next annual general meeting, the vacancy in question shall be filled, subject to clause 24.1, by a person nominated by those remaining for the time being of the Committee.

28. **OFFICERS**

- 28.1 The first Chairman and Vice Chairman of the Committee shall be appointed by the Developer, who shall be entitled to continue making such appointments for as long as it is a Member of the Association, and such office bearers shall hold their respective offices until the first annual general meeting following the date of their appointment, provided that any such office shall ipso facto be vacated by the Committee member holding such office upon his ceasing to be a Committee Member for any reason.
- 28.2 Subject to clause 28.1, within 7 (SEVEN) days of the holding of each such annual general meeting, the Committee shall meet and shall elect from its own number, the Chairman and the Vice-Chairman, who shall hold their respective offices until the annual general meeting held next after their said appointments, provided that the office of the Chairman or Vice-Chairman shall ipso facto be vacated by the Member holding such office upon his ceasing to be a Committee member for any reason.
- 28.3 Committee members shall be entitled to be repaid all reasonable and bona fide expenses incurred by them respectively in or about the performance of their duties as Committee members and/or Chairman and/or Vice-Chairman, as the case may be, but save as aforesaid, shall not be entitled to any other remuneration, fees or salary in respect of the performance of such duties.

29. **FUNCTIONS AND POWERS OF THE COMMITTEE**

- 29.1 Subject to the express provisions of this Constitution, the Committee 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 and, save as may be expressly provided in this Constitution, may exercise all such powers

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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 this Constitution required to be exercised or done by the Association in general meeting, subject nevertheless to any regulations as may be prescribed by the Association in general meeting from time to time, provided that no regulation made by the Association in general meeting shall invalidate any prior act of the Committee which would have been valid if such regulation had been made.

- 29.2 The Committee shall have the right to vary, cancel or modify any of its decisions and resolutions from time to time.
- 29.3 The Committee shall have the right to co-opt onto the Committee any person or persons chosen by it. A co-opted Committee member need not necessarily be a Member of the Association, and shall enjoy all the rights and be subject to all the obligations of elected Committee members.
- 29.4 The Committee may make regulations and by-laws, not inconsistent with this Constitution, or any regulations or by-laws prescribed in the Association in general meeting, as to disputes and arbitrations generally for the furtherance and promotion of any of the objects of the Association, for the better management of affairs of the Association, for the advancement of the interests of Members, for the conduct of committee meetings and general meetings, and to assist it in administering and governing its activities generally, and shall be entitled to cancel, vary or modify any of the same from time to time.
- 29.5 Save as specifically provided otherwise in this Constitution, the Committee shall at all times have the right to engage on behalf of the Association the service of Accountants, Auditors, Attorneys, Advocates, Architects, Engineers, any other professional person or firm and/or any other employee/s whatsoever, for any reasons thought necessary by the Committee and on such terms as the Committee shall decide, subject to any of the provisions of this Constitution.

30. **PROCEEDINGS OF THE COMMITTEE**

- 30.1 The Committee 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.
- 30.2 The quorum necessary for the holding or any meeting of the Committee shall be 2 (TWO) Committee members present personally, where the Committee comprises 4 (FOUR) or less members, and shall be 3 (THREE) members where the Committee comprises 5 (FIVE) or 6 (SIX) members, and 4 (FOUR) Committee members in any other case.

31. **CHAIRMAN**

The Chairman, duly elected by the Committee at its first meeting held after the AGM, shall preside as such at all meetings of the Committee, provided that should at any meeting of the Committee the Chairman not be present within 5 (FIVE) minutes after the same time appointed for the holding thereof, then the Vice-Chairman shall act as Chairman at such meeting; provided further that should the Vice-Chairman also not be present within 5 (FIVE) minutes of the time appointed for the holding of such meeting, those present of the Committee members shall vote thereupon and exercise all the powers and duties of the Chairman in relation to such meeting.

32. **PROCEEDINGS**

Save as otherwise provided in this Constitution, the proceedings at any meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

33. **RESOLUTION**

A resolution signed by all the Committee members shall be valid in all respects as if it had been fully passed at a meeting of the Committee duly convened.

34. **ALTERNATE COMMITTEE MEMBER**

Each Committee member shall have the power at any time to appoint in writing in his hand any other person to act as alternate Committee member in his place during his absence or inability to act as Committee member and on such appointment being made, the alternate Committee member shall in all respects exercise all the powers, rights, duties and authorities as the Committee member appointing him.

35. **ACCOUNTS**

35.1

The Committee shall cause proper books of account of the administration and finance of the Association to be kept at the office of the Association or such other place or places as the Committee shall think fit, and such books of account shall always be open to the inspection of Members during normal business hours.

35.2

The Committee shall from time to time cause to be prepared and laid before the Association in general meeting, books of account, balance sheets and reports of the Committee containing such information as the Association shall prescribe from time to time.

35.3

The Committee shall arrange for the audit of the books of account at least once during each and every year and shall have the power to appoint auditors to effect this purpose.

36. **CESSATION OF MEMBERSHIP**

No Member ceasing to be a member of the Association for any reason shall (nor shall any such member's executors, curators, trustees or liquidators) have any claim upon or interest in the funds or other property of the Association, but this clause shall be without prejudice to the rights of the Association to claim from such Member or his estate any arrears of subscriptions or other sums due from him to the Association at the time of his so ceasing to be a Member.

37. **THE DEVELOPER**

37.1

Notwithstanding anything to the contrary contained in the Constitution or any regulation made or passed pursuant hereto, no rules or regulations prescribed either by the Association or by any Committee or Sub-Committee of the Association pursuant to the carrying out of objects shall be binding on the Developer.

- 37.2 The Developer shall have the right to veto, without ascribing any reason therefor, any proposed expenditure either of the Association or the Committee, delivering through its representative a written or verbal notice to that effect to the Chairman for the time being of the Association; and
- 37.3 The Developer maintains the right to complete the Development of the estate in its discretion and however it so chooses.

38. **NOTICES**

- 38.1 A notice may be served by the Association upon any Member, either personally or by sending it through the post in prepaid letter, addressed to such Member at the address of the Erf owned by him or such other addresses as he may notify the Association, provided that copies of all notices sent to Members shall be sent to the Mortgagee (if any) of that Member's Erf.
- 38.2 Any notice, if served by post, shall be deemed to have been served on the day following that on which the letter containing the same is put into the post, and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the Post Office as a prepaid letter.

39. **INDEMNITY**

- 39.1 All Committee members shall be indemnified out of the funds of the Association against any liabilities bona fide incurred by them in their respective said capacities, and in the case of a Committee member, in his capacity as Chairman or Vice-Chairman, whether defending any proceedings, civil, criminal or otherwise, in which relief is granted to any person/s by the Court.
- 39.2 Every Committee member, every servant, agent and employee of the Association shall be indemnified by the Association against all costs, losses and expenses (including travelling expenses) which such person or persons may incur or become liable for by reason of any contract entered into, or any act or deed done, by such person or persons in the discharge of any of his/their respective duties, including, in the case of a Committee member, his duties as Chairman or Vice-Chairman. Without prejudice to the generality of the above, 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, provided that any such act, deed or letter has been done or written in good faith.
- 39.3 A Committee member shall not be liable for the acts, receipts, neglects or defaults of the Auditors or of any of the other Committee members, whether in their capacities as Committee members or as Chairman or Vice-Chairman, for any loss or expenses sustained or incurred by the Association through the insufficiency or deficiency of title to any property acquired by the Committee for or on behalf of the Association, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Association shall be invested, or for any loss or damage arising from the insolvency or tortuous act of any person with whom any monies, securities or effects shall be deposited, or for any loss or damage occasioned by any error of judgement or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of any of the duties of this office/s or in relation thereto, unless the same shall have happened through lack of bona fides or breach of duty or breach of trust.

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40. **ARBITRATION**

In the event of a dispute between any of the Members as such or between a Member and the Committee, that dispute shall be resolved initially by the Committee, and in the event of such decision being disputed shall then be resolved by arbitration. The arbitrator shall be an independent person agreed upon between the parties and failing agreement, nominated by the Chairman for the time being of the Law Society of the Northern Province. The arbitrator shall be entitled to resolve the dispute according to what he regards as being just and equitable and in accordance with the spirit and the objects of the Association.

41. **ALTERATIONS TO CONSTITUTION**

41.1 Any alteration or addition to this Constitution may be effected only by a special resolution passed by 4 (FOUR) Members at a general meeting after written notice thereof has been given by the Committee in the notice calling the meeting.

41.2 Save as prescribed in Clause 37 above, and notwithstanding anything else to the contrary herein contained, for as long as the Developer is a member of the Association, this Constitution shall not be altered or added to without the prior written consent of the Developer.

42. **WINDING-UP OF THE ASSOCIATION**

The Association may be wound up by a special resolution provided that:

42.1 90% (NINETY PERCENT) of Members present or represented at a general meeting, duly convened, vote in favour thereof, and

42.2 it is consented thereto by the Developer while Clause 37 is of application.

In the event of such winding-up, it shall be the duty of the Committee or a Receiver to be appointed by them to convert the Association's assets into cash, pay all the liabilities of the Association and thereafter distribute the residue to all the Members in accordance with the number of Erven registered in the name of each Member. If within a period of 4 (FOUR) months from such distribution the Committee or Receiver are unable to find, locate or trace any Member, such Member's share shall then be paid to the Guardians Fund.

32` CERTIFIED AS THE ORIGINAL CONSTITUTION OF THE BOGMORE RESIDENTIAL ESTATE HOME OWNERS ASSOCIATION ADOPTED AT THE INAUGURAL MEETING OF THE MEMBERS OF THE ASSOCIATION ON THE \_\_\_\_\_ DAY OF

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\_\_\_\_\_  
(FOUNDER MEMBER)

\_\_\_\_\_  
(FOUNDER MEMBER)

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**CONDUCT RULES**  
(the “Conduct Rules”)

**OF**

**BALLITO GROVES BODY CORPORATE**  
(the “Body Corporate”)

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1.

## **PREAMBLE**

These rules are framed, not by way of limitation of the reasonable rights of owners, but to ensure no loss of amenities and consequently no loss of value of property to owners. It will be the duty of the Trustees to compel compliance.

2.

## **DEFINITIONS**

Common Property is defined as that property outside the boundary pegs that demarcate the individual sections and Exclusive Use Areas (E.U.A.)

3.

## **RULES OF THE ASSOCIATION**

3.1 Notwithstanding anything contained herein or elsewhere it is recorded that the Conduct Rules, as set out herein, shall be subject to the provisions of the constitution of Bogmore Services Park Owners Association ("the Association") and any rules and regulations made in terms thereof ("the Association Rules"). Should there be any conflict between the provisions of the Conduct Rules and the Association Rules, the provisions of the Association Rules shall apply.

3.2 Each member of the Body Corporate of Ballito Groves ("the Scheme") is obliged to become a member of the Association in accordance with the provisions of the Association's constitution and shall at all times comply with the Associations Rules. The fact that a member of the Association is a member of the Body Corporate shall in no way affect such member's liability to the Association for levies and any other obligations to the Association.

- 3.3 In no way detracting from the generality of the aforesaid, it is recorded that each member of the Body Corporate shall be obliged to pay the Association their pro-rata share of a monthly levy calculated in accordance with the Associations Rules. This levy shall, as provided for in the Associations Rules, be collected by the trustees Body Corporate (“the Trustees”) on the Association's behalf and paid to the Association.

4.

**ANIMALS**

- 4.1 The killing of animals (eg chickens, cattle, goats or sheep) in the Scheme is expressly prohibited.
- 4.2 An owner or occupier of a section, may not, without the written consent of the Trustees, keep any animal, reptile or bird in a section, Exclusive Use Area or on the Common Property.
- 4.3 Before granting approval, the Trustees will require that owners or occupiers:
- (a) provide copies of relevant vaccination certificates;
  - (b) ensure that pets are under proper control on Common Property and that any soiling by pets on the Common Property be removed by the owner; and
  - (c) reasonably control noise made by their pets, so as to be in keeping with Rule 27 herein.
- 4.4 The Trustees may withdraw such approval in the event of any breach of the above conditions, if it is clear, in the sole discretion of the Trustees, that the owner or occupier has not taken all reasonable steps to comply.

5.

**REFUSE DISPOSAL**

An owner or occupier of a section shall: -

- 5.1 maintain in a hygienic and dry condition, an “Otto” bin or similar type of refuse receptacle for refuse within the owner's section, or in a part of the Common Property (the bin area) authorised by the Trustees in writing;
- 5.2 ensure that before refuse is placed in such receptacle it is securely tied, wrapped, or in the case of tins or other containers, completely drained of all its liquids in authorised black plastic bags or such other bags as may be specifically directed by the Trustees in terms of clause 5.8;
- 5.3 for the purpose of having the refuse collected, place such receptacle within the area and at the times designated by the Trustees;
- 5.4 promptly return such receptacle to the section or other area referred to in paragraph 5.1 when the refuse has been collected;
- 5.5 not flush any items down the toilet that would disrupt the operation of the sewerage system, for example plastics, harsh chemicals, disposable nappies, condoms sanitary pads, cigarettes stubs or other foreign matter. Any blockages that are attributable to a violation of this Rule by the occupier of a section shall be repaired at the expense of the owner of the section;
- 5.6 ensure that no household refuse, garbage or garden rubble is placed outside sections overnight and over weekends. Residents must dispose of this in the bin area provided for this purpose;
- 5.7 not shake or dust or beat carpets or mats over the balconies or walls or through the windows of any section;

- 5.8 be obliged to comply with any recycling initiative and separate refuse and place it in specially provided bags or receptacles as and when required;
- 5.9 no refuse receptacle may be visible from the Common Property;
- 5.10 no refuse or rubble may be disposed of by “dumping” in any area of the Common Property, refuse may only be disposed of at a registered refuse disposal site

6.

**DAMAGE, ALTERATIONS OR ADDITIONS TO THE COMMON PROPERTY**

- 6.1 An owner or occupier of a section shall not mark, paint, drive nails or screws or the like into, or otherwise damage, or alter, any part of the Common Property without first obtaining the written consent of the Trustees.
- 6.2 Notwithstanding sub-rule 6.1, an owner or person authorised by the owner may install:
  - (a) any locking device, safety gate, burglar bars or other safety device for the protection of the owner's section; or
  - (b) any screen or other device to prevent the entry of animals or insects;

provided that the Trustees have first approved in writing the nature and design of the device and manner of its installation.

7.

**APPEARANCE FROM OUTSIDE**

- 7.1 The owner or occupier of a section shall not enclose any patio area or balcony attached to or allocated to the section.

- 7.2 The owner or occupier of a section shall not place or do anything on any part of the Common Property which, in the discretion of the Trustees, is aesthetically displeasing or undesirable when viewed from outside of the section. No form of security gate, door or grille is to be attached to the exterior of any section. No aerial, satellite dish, washing line, air conditioner or any other fixture shall be attached to the external elevation of the building.
- 7.3 The owner or occupier of a section shall not place on any veranda/patio or in any window any veranda/patio furniture, any other external accessories, decorations, decorative lights, bunting umbrellas, signs, symbols, drapes, blinds, curtains or any other item which, in the discretion of the Trustees, is aesthetically displeasing or undesirable when viewed from outside of the section. No reflective film of any type or colour is to be used as a sun screening device on any window or door. Curtain linings are required to be of a standard colour throughout the Scheme as prescribed by the Trustees.
- 7.4 The owner or occupier of a section shall not place in any window any burglar bar which has not been approved by the Trustees. Burglar guards or screening fixed internally, but visible externally are to be of a standard style and uniform colour throughout the Scheme.
- 7.5 An owner shall not place or allow to be placed in the section or any part thereof any air-conditioning equipment or television aerials except with the prior written consent of the Trustees who, in giving such consent may impose conditions as to type, colour, position and manner of fitting as they in their discretion may deem fit. Air conditioning units, including all pipe work, may only be installed if they are screened from the street and adjoining buildings.
- 7.6 External lighting is to comply with the approved building plans.

7.7 No alteration to the exterior colour of the building may be made without the prior approval of the Trustees.

7.8 Landscaping is to be maintained to a standard acceptable to the Trustees.

8.

### **SIGNS AND NOTICES**

No owner or occupier of a section shall place any sign, notice, billboard or advertisement of any kind whatsoever on any part of the Common Property or section, so as to be visible from outside the section without the prior written consent of the Trustees.

9.

### **LITTERING**

An owner or occupier of a section shall not deposit, throw, or permit or allow to be deposited or thrown, on the Common Property any rubbish, including dirt, cigarette butts, food scraps or any other litter whatsoever.

10.

### **LAUNDRY**

An owner or occupier of a section shall not, without the consent in writing of the Trustees, erect washing lines, nor hang any washing or laundry or any other items on any part of the section or Common Property so as to be visible from outside the buildings or from any other sections. Any washing hung out to dry in the washing lines provided is at the sole risk of the owner and the occupier.



11.

**STORAGE OF INFLAMMATORY MATERIAL AND OTHER DANGEROUS ACTS**

- 11.1 An owner or occupier shall not store any material, or do or permit or allow to be done, any other dangerous act in their section or on the Common Property which will or may increase the rate of the premium payable by the Body Corporate on any insurance policy.
- 11.2 An owner or occupier shall not repair, alter or interfere with the electrical supply on the Common Property. Electrical faults shall be reported to the Trustees.

12.

**USAGE OF SECTIONS**

- 12.1 All sections used for residential purposes shall be used for no purpose other than those permitted by the local authority.
- 12.2 No disorderly conduct of whatsoever nature shall be permitted in a section or on any part of the Common Property nor shall there be permitted any act, matter or thing in or about the building which shall constitute or cause a nuisance or any inconvenience to any other owner or occupant of the building or members of the Body Corporate or which might endanger the building or the Common Property.
- 12.3 An owner or occupier shall not keep or do anything or permit the keeping or doing of anything on the Common Property after notice to desist from the Trustees.
- 12.4 An owner shall not store or allow to be stored or left any article or thing in any part of the Common Property except with the prior written consent of the Trustees.

12.5 An owner or occupier shall not: -

- (a) employ any person to work in the section for reward or otherwise, save as a domestic worker;
- (b) carry on any profession, practice, occupation, trade or business in or from the section, in particular such that results in customers, clients or persons who have a business relationship with the owner or occupier being admitted to the section.

12.6 In the case of consolidation, the maximum number of persons for each component shall apply. "Persons" includes visitors, children and babies from date of birth. In the case of the birth of twins to any mother residing in a section, the extra child shall be permitted to reside in the section.

### 13.

#### **LETTING AND PARTING WITH OCCUPATION OF SECTIONS**

13.1 An owner may let or part with occupation of a section provided that:

- (a) the letting and/or parting with occupation shall not release the owner from the owner's obligations to the Body Corporate in terms of the Rules or in terms of the Sectional Titles Act 95 of 1986, the Sectional Titles Schemes Management Act 8 of 2011 and the Community Schemes Ombud Act 9 of 2011 (together referred to as "the Acts"); and
- (b) as a condition precedent to any such letting and/or parting with occupation, the owner shall secure from the lessee or the person to whom occupation is given, as the case may be, an undertaking in favour of the Body Corporate that such lessee or person shall duly observe all regulations and conditions contained in the Association Rules, Conduct Rules and in any law. The undertaking shall be in such terms as the Trustees may from time

to time require and shall be lodged in writing with the Trustees prior to the lessee or person taking occupation.

- 13.2 An owner or occupier shall, for reasons of security and to permit the monitoring of the movement of the occupiers, be obliged to give prior notice to the Trustees or the Manager of the Body Corporate (the “Body Corporate Manager”) (if there is one) or their designated agent by fax or letter of the persons or visitors who will from time to time occupy the section overnight and the owners’ authority for such occupation.

14.

**INSURANCE**

- 14.1 The Body Corporate shall have no responsibility for the insurance of the contents of any section which shall be undertaken by the owner and/or occupier.
- 14.2 An owner or a occupier of the owner’s section shall not do or permit to be done anything which may increase the rate of insurance premiums payable by the Body Corporate on any insurance policy or which may tend to vitiate the policy. If there is any increase in the premium then the increase shall be borne by the owner for the increase.

15.

**DAMAGE TO ANOTHER SECTION OR COMMON PROPERTY /PAYMENT OF INSURANCE EXCESS**

- 15.1 The Body Corporate or an owner shall be entitled to recover the reasonable cost of repair of any damage to the Common Property or that owner’s section, as may be relevant, from the owner of a section in which the cause of such damage arose or who is responsible for the occupier and/or person who caused such damage. Should the cost of repair be paid by an insurer, any excess shall be recoverable by the owner whose section sustains damage or by the Body Corporate (whoever is liable for

such excess) from the owner of the other section responsible for the damage.

- 15.2 In terms of Management Rule 29 (4), the Body Corporate shall be responsible for excess payments in respect of specific damage within or to an owner's section, if the cause of such damage arose outside the boundaries of the section. The provisions of this rule shall not apply where the damage is caused by the act or omission of the owner or any occupant of that section or where the damage was caused by the failure of the hot water installation serving such section.

## 16.

### **OWNER'S BREACH**

- 16.1 If an owner (including an owner's lessee, invitee, guest, agent, servant or employee) commits a breach of the Conduct Rules and remains in breach for 72 (seventy two) hours after the giving of a written notice to remedy such breach by the Trustees or the Managing Agent, the Trustees shall be entitled either:
- (a) to enter the section with workmen and agents to carry out any work necessary to remedy such breach. The costs of remedying such breach shall be deemed to be a debt owing by the owner concerned to the Body Corporate; or
  - (b) to impose a system of fines/or other penalties subject to clause 17 of these rules;
  - (c) to take such other action by unanimous resolution, recorded in writing, including instituting legal action as deemed fit and defend any action taken by any owner or any other person.
- 16.2 Any costs incurred in measures taken against an owner to compel compliance with the Conduct Rules or any law, including legal costs

calculated on an attorney own client scale, shall be deemed to be a debt owing by the owner to the Body Corporate and shall be recovered from the owner in a manner determined by the Trustees in their full and sole discretion.

17.

**PENALTIES**

- 17.1 If the conduct of an owner or an occupier of a section (including an owner's lessee, invitee, guest, agent, servant or employee) constitutes a nuisance in the opinion of the Trustees or contravenes a Management Rule, Conduct Rule or House Rules, such act shall constitute a breach of the Conduct Rules. The Trustees may furnish the owner or occupier with a written notice which may, at the discretion of the Trustees, be delivered by hand or registered post. In the notice, the conduct which constitutes the nuisance shall be adequately described or the rule that is alleged to have been contravened shall be clearly indicated. The recipient shall be warned that if he or she persists in such conduct or contravention a fine will be imposed on the owner of the section.
- 17.2 Should the owner or occupier (including an owner's lessee, invitee, guest, agent, servant or employee) nevertheless persist in the particular conduct or in the contravention of the Conduct Rules, the Trustees may convene a meeting of Trustees to discuss the matter.
- 17.3 A written notice by virtue of which the alleged offender (whether owner or occupier) is informed of the purpose of the meeting and invited to attend must be sent to the owner or occupier at least 7 (seven) days before the meeting is held. At the meeting the owner or occupier shall be given the opportunity to present his or her case but, except insofar as he or she is permitted by the chairperson, he or she shall not participate in the affairs of or vote at the meeting.

- 17.4 Should the owner or occupier nevertheless persist in the particular conduct or in the contravention of the Conduct Rules, the Trustees may convene a meeting of Trustees to discuss the matter.
- 17.5 A further written notice by virtue of which the alleged offender (whether owner or occupier) is informed of the purpose of the meeting and invited to attend must be sent to the owner or occupier at least 7 (seven) days before the meeting is held. At the further meeting the owner or occupier shall be given the opportunity to present his or her case but, except insofar as he or she is permitted by the chairperson, he or she shall not participate in the affairs of or vote at the meeting.
- 17.6 After such further meeting the Trustees may by way of a special resolution (75% of the Trustees present at the meeting with a minimum of three Trustees) impose a fine, appropriate to the offence, as determined by the Trustees in their sole discretion, provided that the fine imposed shall not exceed R5 000.00 (Five Thousand Rand) without a unanimous resolution of the Trustees.
- 17.7 Any fine imposed in terms of sub-rule 17.6 shall, if it is not paid within 14 (fourteen) days after the offender has been notified of the imposition of the fine, be added to the contribution which the owner is obliged to pay in terms of the Acts and shall be claimed by the Trustees as part of the monthly levy due by the owner.

18.

**SECURITY AND ACCESS**

- 18.1 Access to the roof area of the buildings in the Scheme including all air conditioning facilities being part of the Common Property shall be strictly restricted to the Trustees and consultants or workmen duly authorised by the Trustees to have access to such areas.

- 18.2 The Trustees may from time to time prescribe a form of identification for employees of owners and occupiers to issue identification to their employees upon terms and conditions determined by the Trustees. The Trustees may require employees to carry identification on their persons, particularly when leaving and entering the building and, they furthermore, may authorise security personnel to require production of identification and, when deemed necessary, to search employees and their property.
- 18.3 Owners shall be responsible for the security of their sections and exclusive use areas.
- 18.4 The Trustees shall be entitled to appoint a security guard to monitor all persons entering and leaving the Scheme. This includes the register of visitors and overnight visitors who will be issued with visitor cards. Where cards are not returned by 24H00 the visitor will be deemed to be an overnight visitor.
- 18.5 Owners and occupiers shall be obliged to accompany visitors or other persons who do not have discs/keys to the entrance of the Scheme in order to facilitate their admission or exit from the Scheme.
- 18.6 The Trustees shall be entitled to issue amended or further written directives regarding access into and from the Scheme which shall be binding upon owners and occupiers as if part of these rules.
- 18.7 For security reasons the Trustees may require an owner and/or occupier to provide personal information including an identity number of:
- (a) Any contractor or service provider who intends to gain entry to a section.
  - (b) Failing compliance with 18.6, the Trustees shall be entitled to refuse entry to the building.

- 18.8 The Body Corporate Manager / Supervisor (if there is one) or a Security Officer appointed by the Trustees shall be entitled to call upon any person to identify himself or herself and to refuse entry to the Common Property and any section to any person who is unable to reasonably identify himself or herself with the owner and/or occupier's authorization to occupy the Common Property and the section, likewise the Trustees shall be entitled to take whatever steps they deem necessary to remove from a section or the Common Property any person whom they are entitled to deny entry to the Scheme.
- 18.9 Owners and occupiers shall comply with the security requirements of Rule 18 regarding overnight visitors.
- 18.10 An owner or occupier who invites or authorises person to enter into the Scheme shall be liable for their family, visitors and tenants and they shall ensure that all Conduct and Management Rules of the Scheme are properly adhered to. In addition, they must also ensure that such visitor(s) fully comply with all the Scheme's safety and security procedures. The term visitor shall include persons visiting, sales persons or deliveries which a resident or owner may be expecting.
- 18.11 It shall be the responsibility of the owner or occupier residing in the section to contact the security control point at the entrance to the Scheme and provide the full particulars of the visitor to the security and request a reference number for this information. This may be done telephonically or in person.
- 18.12 Where no such prior arrangements have been made for visitors to enter into the Scheme, the security personnel shall attempt to contact the owner or occupier of the section. If such owner or occupier cannot be contacted the security personnel have been instructed not to allow such visitor entry until specific authorisation has been given.



- 18.13 Where no such arrangements have been made or the owner or occupier of the section cannot be contacted, it shall be incumbent upon the visitor and not the security guard personnel to contact the owner or occupier of the section they wish to visit. Once the security personnel in the Scheme have received specific authority for the visitor to enter into the Scheme, such visitor shall be required to complete the “Visitors Access Control Log” clearly indicating the reason for the visit and the owner or occupier that the visitor is visiting.
- 18.14 Where a delivery is made after normal hours to the owner or occupier of a section, it shall be incumbent upon the owner or occupier residing in the section to collect such delivery from the access gate of the Scheme. Arrangements must be made for fast food deliveries to be collected at the access gate of the Scheme.
- 18.15 Visitors shall be required to proceed directly to the section they are visiting. Upon completion of their visit, visitors are required to proceed directly to their nearest access gate and leave the Scheme. We would request that visitors respect the rights of others residing in the Scheme and do not allow persons to randomly “sightsee” in the residential areas.

19.

**ERADICATION OF PESTS**

- 19.1 An owner and occupier shall keep the owner's section free of white ants, borer and other wood destroying insects and to this end shall permit the Trustees, the Managing Agent, and their duly authorised agents or employees, to enter upon the section from time to time for the purpose of inspecting the section and taking such action as reasonably may be necessary to eradicate any such pests.
- 19.2 The costs of inspection and eradication, replacement of any woodwork or other damaged material shall be borne by the owner of the section concerned.

20.

**OCCUPANCY**

- 20.1 An owner of a section, whether or not the owner personally occupies that section, shall at all times ensure that the number of persons who permanently reside in that section does not exceed number of persons permitted to reside in or occupy that specific section. A person who sleeps overnight in a section shall be deemed to permanently reside in that section.
- 20.2 The maximum number of persons who may permanently reside in or occupy a section overnight is as follows:
- (a) 2 persons per bachelor section;
  - (b) 3 persons per 1 (one) bedroom section; and
  - (c) 5 persons per 2 (two) bedroom section.

21.

**LEVIES AND PENALTIES FOR THE LATE PAYMENT OF CONTRIBUTIONS**

- 21.1 Levies are due and payable on or before the 1<sup>st</sup> (first) day of each month. The preferred manner of payment shall be by debit order.
- 21.2 Should a levy be paid after the due date, the Trustees or the managing agents may impose an administrative fee, the amount of which will be determined and be adjusted from time to time and which will be used to off-set costs in recovering late payments. The administrative fee shall be in addition to any interest the Trustees may, in terms of Management Rule 31(6), charge on arrear amounts.
- 21.3 Should a levy be in arrears in excess of thirty (30) days, the managing agents or Trustees may hand over the defaulting owner to attorneys for

collection, all costs of which will be solely for the defaulting owners' account.

22.

### **HOUSE RULES**

22.1 The Trustees are authorised, if necessary, to prepare House Rules for the efficient control of the Scheme which House Rules can be added to or amended by the Trustees from time to time ("House Rules").

22.2 Owners will be held legally responsible for their tenant's infringement of House Rules.

23.

### **LIFTS**

23.1 Children under the age of 12 (twelve) years shall not use the lifts unless accompanied by an adult.

23.2 The Trustees in their discretion shall be entitled to impose a charge upon an owner or occupier for excessive use of a lift during building operations or movement of furniture, the intention being to compensate the Body Corporate for additional electricity charges and/or wear and tear. The Trustees shall also be entitled to deny the use of all lifts for the purposes of conveying building materials for any owner who refuses to comply with the conditions imposed by Trustees when approving building alterations.

24.

### **DOMESTIC WORKERS**

The Trustees shall be entitled to require the domestic workers of owners and occupiers to provide their names and identity numbers, to carry a permanent card of identification and to take whatever other steps the Trustees may deem necessary for the security of the Scheme. The cost of any or all of the aforementioned shall be borne by the owner and/or the occupier.

25.

**OBLIGATIONS WHEN SECTION LEFT VACANT**

Owners or occupiers who intend to leave their section vacant for more than 7 (seven) consecutive days are required to turn off the water supply at their stopcock.

26.

**SLAUGHTERING OF ANIMALS**

No slaughtering of animals or birds shall be permitted in any section or on the Common Property.

27.

**NUISANCE**

27.1 An owner or occupier or visitors or guests of any owner or occupier, shall not cause or permit any disorderly conduct of whatsoever nature in a section or upon any part of the Common Property, including an exclusive use area, or do or permit any act, matter or thing in or about the same which shall constitute or cause a nuisance or inconvenience to any other owner or occupier of a section, to the Scheme Manager (if there is one) or staff of the Body Corporate or to any other person lawfully present. Owners and occupiers shall be responsible for the supervision of their children.

27.2 Owners and occupiers shall cause quietness to be maintained between 22h00 and 07h00 on all days and, in addition, between 14h00 and 16h00 on Saturdays, Sundays and Public Holidays in sections and on the Common Property, including exclusive use areas.

27.3 The revving of motor vehicles or engines of any kind is not permitted in the Scheme.

- 27.4 Motor hooters shall not be sounded on the Common Property.
- 27.5 Radios, musical instruments, record players and television receivers shall be used in such a manner as not to disturb owners or occupiers in adjoining sections.
- 27.6 An owner shall be required to keep his air conditioning unit in a good state of repair so as not to cause undue noise to adjacent sections, failing which the Trustees shall be entitled to have it repaired at the owner's cost.
- 27.7 Building operations in a section or exclusive use areas, including drilling, hammering, sawing and any other noise-creating repairs, whether carried out by the owner or a contractor, shall only be carried out between the hours of 08h00 and 16h00 but not over weekends and public holidays. All building operations shall be expeditiously completed.
- 27.8 It is of the utmost importance that an owner or occupier shall not cause or permit noise from a section to be heard in the section below. In particular, owners and occupiers shall ensure that the movement of furniture over tiled surfaces and wooden flooring, the footsteps of persons with hard sole shoes like contact with the surfaces do not result in noise being carried to bedrooms of the section below. In respect of such hard surfaces the Trustees shall be entitled to require owners and occupiers to fit pads on the feet of furniture to eliminate such noise.
- 27.9 The setting off of crackers, rockets, flares and other types of fireworks, in any section, Exclusive Use Areas or on the Common Property is strictly prohibited. This rule shall be strictly imposed due the likelihood of fires.
- 27.10 No smoking is allowed in that part of the buildings comprising Common Property.

27.11 An owner of occupier wishing to hold parties and/or events in their section shall:

- (a) ensure that their neighbours have been advised;
- (b) ensure that the security is supplied with a list of guests to be invited in order to facilitate access to the Scheme;
- (c) ensure that the neighbours are not affected by noise;
- (d) ensure that in terms of the municipal by-laws, parties are required to be toned down by 22h00 however cognisance must be taken of clause 27.2.

28.

### **STAFF**

Owners and occupiers shall not give instructions to staff employed by the Body Corporate.

29.

### **EMERGENCY ACCESS**

The Trustees and/or managing agents and/or the Body Corporate Manager may use reasonable force to gain access to a section for the purpose of an emergency.

30.

### **POWER TOOLS AND EQUIPMENT**

30.1 The owner or occupier of any section shall not use or cause to permit to be used anywhere in the building (including his section) or on the Common Property (including his sole utilisation area) any hand or powered tools, implements, equipment, devices, utensils or any other things whatsoever which interfere with the radio or television reception or

which create or cause any sound or noise or smells or fumes to which any other owners or occupiers may reasonably object.

30.2 No owner or occupier may store or permit to be stored any power tools and equipment and/or similar items, including work benches, work tables, in or on any part of the Common Property or exclusive use area.

30.3 No owner or occupier of any section shall practice or cause to be practiced in any part of the Common Property or Exclusive Use Area, any hobby or activity to which other owners and occupiers may object.

31.

#### **FIRE FIGHTING EQUIPMENT**

31.1 The owner or occupier of any section shall not tamper with, abuse or use or cause or permit to be tampered with, abuse or use, any fire hose, reel or extinguisher in any manner or for any purpose other than as permitted or prescribed by the fire regulations of the relevant local authority or other relevant legislation.

31.2 Fire extinguishers, fire hoses or similar devices located anywhere in any section or anywhere on the Common Property shall not be used for any other purpose except for emergency purposes and shall not be used for the washing of motor vehicles, garden or any other unauthorized purpose.

32.

#### **BARBECUES/BRAAIS**

The owner or occupier of any section shall not make fires or use barbecues or braais in a manner or at a time which causes inconvenience to the owner or occupier of any other section or endanger the buildings in the Scheme or the Common Property or any part thereof or any property of any other person whatsoever.

33.

### **SPEEDING**

The owner or occupier of any section shall use entrances and exits to the buildings in the Scheme and internal roads and passages in such manner as may be indicated by the Trustees from time to time and shall at all times drive his or her vehicle slowly, i.e. 20km (twenty kilometres) per hour, and with the utmost caution on the Common Property, and shall furthermore ensure that visitors do likewise.

34.

### **VEHICLES**

- 34.1 A vehicle shall be deemed to include a motorcycle and a trailer.
- 34.2 An owner, occupier, contractor or visitor shall not park so as to leave unattended any vehicle upon the Common Property without the prior written consent in writing of the Trustees and shall not park a vehicle in an exclusive use parking bay or garage without due authority or entitlement. Notwithstanding the foregoing, the Trustees shall be entitled to designate parking areas for visitors, contractors and additional parking for owners and occupiers including restricted periods and time limits.
- 34.3 The Trustees may cause to be wheel-clamped, removed or towed away, at the risk and expense of the owner or user of the vehicle, any vehicle, standing or abandoned or in any manner parked in breach of these rules without prejudice to the disciplinary proceeding and imposition of fines upon an owner referred to in these rules.
- 34.4 Owners and occupiers of sections shall ensure that their vehicles, and the vehicles of their visitors and contractors, do not drip oil or brake fluid



onto or in any other way deface the Common Property including any exclusive use areas.

34.5 An owner or occupier shall not be permitted to dismantle or effect major repairs to any vehicle on any portion of the Common Property, including exclusive use areas or in a section.

34.6 No buzz bikes, bicycles, tricycles, roller skates, scooters or skate boards shall be used on the Common Property.

34.7 No persons shall sleep in any vehicle parked on the Common Property, including any exclusive use area or in any garage.

34.8 Save with the prior written consent of the Trustees, mobile campers, caravans, trailers, boats or other heavy vehicles shall not be brought onto any portion of the Common Property, including an exclusive use area or garage.

34.9 No truck, caravan, trailer, boat, or other heavy vehicle may park within the Scheme without the prior consent of the Trustees

34.10 Vehicles shall only be washed using a bucket and water from an owner's water supply when water is individually metered. Fire hoses shall not be used.

34.11 The use of vehicles, including motorcycles, which create excessive noise or pollution, is prohibited.

34.12 Parents are to take full responsibility for their children within the greater Scheme area. The Trustees shall not be liable for any accidents which might occur involving children within the Scheme, and in the roads of the Scheme. Children under the age of 12 (twelve) are to be supervised by an adult at all times.

- 34.13 Vehicles parking or entering the Scheme are subject to the express condition that it is parked at the owner's risk and responsibility and no liability shall attach to the Body Corporate or its agents or any of the employees for any loss or damage of whatsoever nature which the owner, or any person claiming through or under him, may suffer in consequence of any vehicle having been parked in the Common Property.
- 34.14 Motor vehicles of visitors may only be parked in such areas as are specifically demarcated for that purpose. Where parking areas are demarcated for visitors, such areas may only be used for visitors parking and under no circumstances may an owner or any member of any family residing in a section in the Scheme, park their vehicles in such areas.
- 34.15 Vehicles may not travel at a speed in excess of 20kms (twenty kilometres) per hour on any portion of the Common Property.
- 34.16 Owners and occupiers shall ensure that their visitors park in parking areas demarcated for visitors and do not cause any obstruction to other owners and/or occupiers in the Scheme.
- 34.17 Bicycles, motor cycles, tricycles, roller skates, skateboards and the like may not be left on any portion of the Common Property.
- 34.18 No owner or occupier shall be entitled to park any vehicle which is damaged or which is not roadworthy or that drips oil or brake fluid on the Common Property other than for short periods as may be approved by the Trustees, and with their prior written consent.
- 34.19 No owner or occupier may park any vehicles within or upon an area of the Common Property which has not been specifically indicated or approved by the Trustees for that purpose and in such a way that the flow of traffic or access to an egress from driveways are not obstructed or

parks any vehicle in such a manner that the road verge landscape is or could be damaged.

34.20 No owner or occupier of a section in the Scheme shall drive or allow any vehicle to be driven on the Common Property by a person who is not licensed in terms of the relevant legislation to drive such vehicle.

34.21 No owner or occupier shall be entitled to drive any vehicles within the Scheme in any manner which creates a nuisance or is considered by the Trustees not to be in the interest of safety.

### 35.

#### **REMOVALS AND DELIVERY OF FURNITURE**

35.1 Owners and occupiers shall advise the Trustees and/or the Body Corporate Manager (if there is one) 7 (seven) days in advance of the intended day of the removal or delivery of furniture or any other heavy goods. Removal vans shall not be allowed to impede the flow of traffic. Removals and/or deliveries of furniture or any other heavy goods shall take place only between the hours of 07h00 and 17h00.

35.2 The Trustees shall be entitled to impose a weight restriction in respect of vehicles permitted to travel on the roads in the Scheme.

### 36.

#### **TRANSFER OF PROPERTY IN THE SCHEME**

36.1 On entering into an agreement to alienate or otherwise transfer his/her property in the Scheme, an owner shall be obliged to notify the managing agents appointed by the Body Corporate and provide such further information or details as is required by the Body Corporate Manager.

36.2 Prior to transfer of the property, the owner must have satisfactorily settled all his/her obligations to the Body Corporate Manager.

37.

**COMMUNITY CENTRE**

- 37.1 The Community buildings are for the recreational use of owners and occupiers and their guests only. Guidelines for the use and enjoyment of the facilities, all as published from time to time, must be strictly adhered to.
- 37.2 These facilities may be booked through the Trustees office for community social functions/events.
- 37.3 Under no circumstances may the community furniture be removed from the facility. It is the duty of whoever uses the facility to clear away all rubbish and stack away the cushions and chairs, and to leave the place in a clean and tidy condition.
- 37.4 The facilities may not be used by outsiders (unless as legitimate guests of an owner/occupier) nor may they be used by anyone for political or religious gatherings. Where the facilities are requested to be used to provide a service to an owner/occupier but also for financial gain, then permission must be sought from the Trustees and a basic charge for the use of the facility will be required.
- 37.5 Children are not permitted to use the Community centre.
- 37.6 Radios and music players, if used around the facilities, should only be at very soft and muted volumes.
- 37.7 The use of the Community centre and pool must be done in such a way so as not to create an unreasonable nuisance or disturbance to those residents living in close proximity.

38.

**SWIMMING POOLS**

- 38.1 The use of the swimming pools is solely at the risk of the user who shall indemnify the Trustees and all other owners/occupiers from any responsibility whatsoever in this regard.
- 38.2 Swimming will be allowed only between the hours of 06h30 and 21h00.
- 38.3 Pool furniture must not be removed from the facility.
- 38.4 No person shall use the pools in a manner so as to interfere unreasonably with the amenity of other users.
- 38.5 Pool cleaning equipment, pumps, piping, etc. may not be used or moved by an owner/occupier, and only the appointed persons (outside agents or Body Corporate Staff) may operate the equipment. Bathers are required not to interfere with the cleaning mechanism, including the pool pump and motor.
- 38.6 Gates to the swimming pools must be kept closed at all times and the fencing is not to be bent, destroyed or moved.
- 38.7 Surfboards, cold drink cans and glass or other hard objects of any sort are totally prohibited in the pools and any litter in and around the pools must be removed by the user.
- 38.8 No ball games within the swimming pool area or games with any other inflatable item which will interfere with other bathers will be permitted.
- 38.9 The swimming pool is to be enjoyed by all owners and occupiers of sections in the Scheme, therefore no unruly behaviour will be allowed.

38.10 Parents are responsible for the safety and conduct of their children in the swimming pool area.

38.11 No glass or dangerous objects to be brought into the swimming pool enclosure

39.

**OPEN SPACES (USE OF AND CONDUCT)**

The use of any open space in a manner or through conduct which may unreasonably interfere with the use and enjoyment thereof by other persons or in such a way as to cause a nuisance, which may detrimentally affect the amenity of such space, is prohibited.