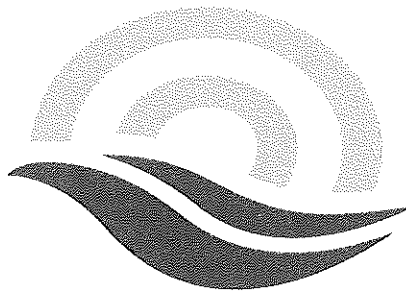


The village of Sunningdale



**sunningdale home
owners association**
www.shoa.co.za

CONSTITUTION

June 2014

THE CONSTITUTION OF THE
VILLAGE OF SUNNINGDALE HOME OWNERS ASSOCIATION

1. NAME

The name of the Association is **THE VILLAGE OF SUNNINGDALE HOME OWNERS ASSOCIATION**.

2. DEFINITIONS

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

- 2.1 "The Association" shall mean The Village of Sunningdale Home Owners Association.
- 2.2 "The Village" shall mean the township of La Lucia Extension 10 and known as the Village of Sunningdale situated in the County of Victoria, Province of Natal.
- 2.3 "The Local Authority" shall mean the Town Council of the Borough of Umhlanga or any other local authority having jurisdiction over the Village.
- 2.4 "A Unit" shall mean and include:
 - 2.4.1 a unit is defined in the Sectional Titles Act No. 66 of 1971, as amended, in the Village, the use of which is intended primarily for residential purposes;
 - 2.4.2 an individual residential flat, duplex, maisonette or cluster-house in the Village, and which is contained in a block of flats, duplexes, maisonettes or cluster-houses;
 - 2.4.3 an individual, free-standing house in the Village, intended for residential purposes only;
 - 2.4.4 a piece of land in the Village described and owned by any person under separate registered title, the use of which is intended primarily for residential purposes;
 - 2.4.5 the Village itself as an entity of land prior to the sale and transfer of any Unit as defined in sub-clauses 2.4, 2.4.1, 2.4.2 and 2.4.3 above.
- 2.5 "Owner" when used in relation to a Unit shall mean and include:
 - 2.5.1 The owner of a unit as defined in the Sectional Titles Act No. 6 of 1971, as amended.
 - 2.5.2 The person in whose name a piece of land as referred to in Clause 2.4.3 above is registered in a Deeds Registry, as defined in the Deeds Registries Act No. 47 of 1937, as amended;
 - 2.5.3 Unit in the ordinary meaning of the word; and "owned" and "ownership" shall have the corresponding meanings.
- 2.6 "Member" shall mean a Member of the Association, and which expression shall, until they cease to be Members of the Association pursuant to Clause 6.2 of this

Constitution and shall include all bodies corporate in terms of the Sectional Titles Act which control any property within the Village.

2.7 "Month" means a calendar month.

2.8 "Year" means a calendar year.

2.9 "in writing" or "written" means and includes words printed, lithographed or partly one and partly another and represented or produced in any mode in a visible form.

2.10 "Property" shall mean the property within the Village owned by a Member and shall include sections and common property as defined in the Sectional Titles Act.

3. INTERPRETATION

In this Constitution:

3.1 The clause headings are for convenience only, and shall be disregarded in the interpretation of the constitution;

3.2 Unless the context clearly indicated a contrary intention:

3.2.1 A singular shall include the plural and vice versa;

3.2.2 A reference to any gender shall include the other genders;

3.2.3 A reference to natural persona shall include juristic persons and vice versa.

3.3 Words and expressions defined in any clause shall have the defined meaning in that and subsequent clauses, unless provided to the contrary.

3.4 When any number of days is prescribed in this constitution, it shall be calculated exclusive of the first and inclusive of the last day, unless the last day falls on a Saturday, Sunday or public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day that is not a Saturday, Sunday or public holiday.

3.5 Where figures are referred to in numerals and words, the words shall prevail in the event of a conflict between the two.

3.6 If any provisions of this constitution is in conflict or inconsistent with any law of the Republic of South Africa, the invalidity of such provision shall not affect the validity of the remainder of the provisions of this constitution.

3.7 If any provision in any definition of this constitution is a substantive provision conferring rights or imposing obligations on any Members, then, in such an event, effect shall be given to it as if it were substantive provision of the body of the constitution.

3.8 The annexures to this constitution are deemed to be incorporated in and form part of this constitution.

4. STATUS

4.1 The Association shall be an association:

- 4.1.1 With perpetual succession and with legal personality capable of suing and being sued in its own name, and
- 4.1.2 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
- 4.1.3 Not for profit, but for the benefit of the owners and occupants of immovable property situate in the Village.

4.2 The liability of the individual Members for the debts and engagements of the Association shall be limited to the amount, if any, owing by the Member concerned in respect of contributions and fees due to the Association.

5. OBJECTS

The objects of the Association will be:

- 5.1 To promote the development and maintenance of all properties within the Village and to ensure that all such properties are developed and maintained in such a way as to derive maximum benefit there from for the whole community of the Village;
- 5.2 To prescribe standards, conditions and guidelines for the erection, layout, maintenance and design of any buildings and outbuildings and external fixtures and fittings thereto, including aeriels of any description, erected or to be erected in the Village and all land and garden areas pertaining thereto and for the design of any additions or alterations to properties and their garden areas in the Village and any improvements thereto and structures thereon and thereby to exercise control over the external appearance of all such buildings, structures, erections, land and garden areas in the Village.
- 5.3 To promote, advance and protect the interests of the Members generally and to cooperate with the Local Authority, the Natal Provincial Administration and all other appropriate authorities for the benefit of the Association and its Members;
- 5.4 To represent interests of the Members and to provide a united voice by which such interests may be expressed;
- 5.5 To collect fees 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 Village, and the due fulfillment of the powers of the Association or any of them;
- 5.6 To maintain the gardens, open spaces and recreational amenities of the Association and to make and enforce regulations governing the use by Members thereof;
- 5.7 To organize and provide social services and activities for the benefit of the Association and its Members.

6. POWERS

The Association shall have full power and authority to manage its affairs, activities and property and 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:

- 6.1 To purchase or acquire in any way land, buildings and rights in property, shares and every other kind or description of movable and immovable property, including Units and the rights of use and occupation thereof, and to make regulations for the protection and maintenance of such property;
- 6.2 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;
- 6.3 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 interests 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 to amend, repeal or add to any rules and regulations necessary or required therefor, and further to do all things and acts required for the due enforcement, implementation and fulfillment of such rules and regulations;
- 6.4 To establish a Building Committee of the Association which shall be responsible for prescribing regulations and rules for the attainment and implementation of Clauses 5.1, 5.2 and 5.7 of this Constitution, and which Committee shall, inter alia, be responsible for the examination and approval or refusal of building plans for all or any of the items mentioned in paragraphs 5.1, 5.2 and 5.7 above, whether in respect of a new construction, renovation, alteration or addition to existing buildings or other structures and improvements;
- 6.5 To raise special contributions and fees from Members in the manner and for the purposes as hereafter specified.
- 6.6 To manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with the undertaking of the Association or all or any part of its property and assets and to conclude leases in respect of any other property and whether movable or immovable;
- 6.7 To apply for licenses and other rights enabling the Association to deal with its property in any lawful manner;
- 6.8 To borrow money;
- 6.9 To secure the payment of monies borrowed in any manner including the mortgaging and pledging of property;
 - 6.9.1 To lend money to any person or company;
 - 6.9.2 To invest money in any manner;

- 6.10 To open and operate banking accounts and building society accounts of any description.
- 6.11 To make, draw, issue, accept, endorse and discount promissory notes, bills of exchange and any other kind of negotiable or transferable instruments.
- 6.12 To enter into indemnities, guarantees and suretyships and to secure payment thereunder in any way.
- 6.13 To make, enter into and carry out contracts or agreements for any of the purposes or objects of the Association.
- 6.14 To employ and remunerate agents, servants, employees and any other person.
- 6.15 To make donations.
- 6.16 To act as principals, agents, contractors or trustees.
- 6.17 To pay gratuities and pensions and establish pension schemes.
- 6.18 To sue and be sued in its own name and to appoint attorneys, agents and counsel for the aforementioned purpose.
- 6.19 To amend or repeal this Constitution or any portion hereof.
- 6.20 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.
- 6.21 To distribute in specie or in any kind any of its assets amongst its Members.

No rule, regulation or by-law passed pursuant to these provisions shall, unless passed pursuant to sub-clause 6.21 above, conflict with any of the provisions of the Constitution.

7. MEMBERS

- 7.1 Membership of the Association shall be limited to the Owners of Units in the Village provided that where any such Owner is more than one person, all the owners of that Unit shall be deemed jointly and severally to be one Member of the Association.
- 7.2 When a Member ceases to be the Owner of a Unit 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.
- 7.3 The Owner of a Unit in the Village 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 representatives, and shall remain a Member whilst he is an Owner of a Unit, and shall not be entitled to resign or cease to be a Member of the association until he ceases to be the Owner of a Unit.

7.4 An Owner shall be deemed to cease being an Owner of any particular Unit for all purposes under this Constitution:

- 7.4.1 Upon the sale or other disposal by him of such Unit with the consent of the Association, and further if such sale or other disposal is subject to any suspensive condition, upon the fulfillment of any such condition, and
- 7.4.2 Upon the acquirer/transferee concluding an agreement with the Association to become a Member of the Association.
- 7.4.3 Or in any case other than the acquisition by contract of the Unit, upon the registration of transfer of that Unit into the name of the transferee, provided always that if prior to transfer of the Unit, the agreement under which the acquirer or proposed transferee has acquired the Unit, fails or is terminated for any reason, the seller or disposer of the Unit shall automatically be re-vested with Membership of the Association in respect of the Unit in question, retrospectively to the date upon which he first ceased to be a Member in respect of that Unit.

8. MEMBERSHIP – CLEARANCE CERTIFICATE

A Member shall not sell, alienate or give transfer of a Unit as defined at part 2.4 of Clause 2 to this Constitution unless:

- 8.1 The proposed acquirer/transferee has irrevocably bound himself, as a contract for the benefit of the Association, to become a Member of the Association and to observe the provisions of the Constitution, House Rules and the Building and Garden Regulations for the duration of his ownership of the Unit.
- 8.2 The acquirer/transferee has concluded an agreement, with the consent of the Association, for the acquisition of a unit and should such agreement be subject to any suspensive condition, registration of transfer of that unit into the name of the acquirer/transferee shall ipso facto bestow Membership of the Association on the acquirer/transferee, upon the fulfillment of such suspensive condition.
- 8.3 The Association acting through its Building Committee and after proper inspection of the relevant unit has issued a prior written clearance Certificate that all outstanding fees and all amounts of whatever nature owing to the Association by such Member have been paid and that such Member is not in breach of any provisions of the Constitution or House Rules.
- 8.4 The Clearance Certificate aforementioned shall state the following:
 - 8.4.1 Confirmation that all outstanding membership fees and any other financial obligations of whatsoever nature owed by the Member to the Association have been paid to the Association to date, and
 - 8.4.2 The building plans regarding the property in question have been confirmed as fully approved by the Municipal Council as well as being

fully compliant with the Building and Garden Regulations of the Association as approved by the Building Committee.

8.5 Whenever the consent of the Association is required by the terms of any condition of title of a unit or contract of sale of such a unit, for the alienation or transfer of such a unit, such consent shall not be withheld, provided:

8.5.1 The Building Committee has issued the Member with a Certificate contemplated at 8.2 above; and

8.5.2 The intending acquirer/transferee shall have bound himself to the Association to become a Member thereof.

8.6 The conditions set out above are incorporated in the relevant contract of sale in terms whereof the acquirer/transferee acquires the unit in question.

8.7 The committee 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.

9. RIGHTS AND OBLIGATIONS

The rights and obligations of a Member shall not be transferable and every Member shall:

9.1 further to the best of his ability the objects and interests of the Association;

9.2 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 Unit.

10. PRIVILEGES

No Member shall be entitled to any of the privileges of Membership unless and until he shall have paid every fee and subscription and other sum (if any) which shall be due and payable to the Association in respect of his Membership thereof.

11. PERMISSIONS

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

11.1 the registered holder of a share or block of shares in the capital of a duly incorporated company under the Companies Act of 1973, as amended, with accompanying rights of occupation in perpetuity through such shareholding to a Unit as defined in Clause 2.5.2 above, or

11.2 the Lessee of a Unit, or

11.3 any other person occupying a Unit through or at the instance of the Owner thereof,

the use and enjoyment of the facilities and amenities of the Association, provided:

11.4 such permission is evidenced by a certificate issued under the hand of the Committee;

11.5 such permission will automatically lapse and be deemed to be withdrawn upon the grantee's rights to occupation of the Unit being terminated or expiring for any reason whatever or upon the Owner ceasing to be a Member;

11.6 the Owner is and remains fully paid-up in respect of all his obligations to the Association;

11.7 such permission shall not release the Owner from his obligations to the Association in respect of his Membership relating to such Unit at all times;

11.8 the said conditions prescribed by the Committee in respect of the class of persons referred to in Clause 11.1 above shall be no more onerous than those applying to the Owner himself.

12. MEMBERSHIP FEES AND CONTRIBUTIONS

12.1 The Association, through its Committee, shall from time to time be entitled to raise special fee contributions 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 and/or for the 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 for 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 special fee contributions, the Committee shall take into account other income, if any, earned by the Association from any other source.

12.2 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 raise a membership fee upon the Members equal as nearly as is reasonably practical to such estimated amount. The Committee may include in such fees an amount to be held in reserve to meet anticipated future expenditure not of an annual nature. The

Committee shall fix this amount and due date of payment of the fee in respect of each year.

- 12.3 The Committee may from time to time raise special fee contributions upon the Members in respect of all such expenses as are mentioned in Clause 12.1 (which are not included in any estimate made in terms of clause 12.2) and such fees may be made in the sum or by such instalments and at such time or times as the Committee shall think fit.
- 12.4 If any Member fails to make payment on due date of membership fees and/or other amounts payable by such Member, including interest, the Committee may give notice to such Member requiring him to remedy such failure within such a period as the Committee may determine and should he fail timeously to make such payment/s, the Committee may institute legal proceedings against such Member without further notice and such Member will be liable for and shall pay any legal costs on a scale as between attorney-and-own-client together with collection commission and any other expenses and charges incurred by the Committee in recovering such amounts from the Member.
- 12.5 Should any dispute arise at any time between any of the Members or between a Member and the Committee in regard to the determination or calculation of the fees due or any other dispute, that dispute shall originally be determined by the Committee. Should such a determination be disputed, the dispute shall be referred to arbitration. The arbitrator shall be an independent person, expressly agreed upon by the parties. Should the parties be unable to agree, an arbitrator shall be nominated by the KwaZulu-Natal Law Society. The parties further agree that the findings of such arbitrator shall be final and binding on both parties and not subject to appeal.
- 12.6 In the event of any dispute arising in regard to the determination or calculation of any fees, every Member shall until the determination of such dispute continue to pay fees determined by the trustees or the Committee shall have no option but to invoke the contents of clause 12.4 hereto.
- 12.7 Membership fees made in terms of these provisions shall be charged on all Units in the Village and shall be paid and borne by Members in the same proportion to the total membership fees imposed on Members pursuant hereto as the number of Units owned by the Member bears to the total number of Units in the Village.
- 12.8 For the purposes of the preceding sub-clause 12.7 and of clause 12.9 below, a "Unit" shall in addition to the meaning ascribed thereto in clause 2.5, be deemed to include each proposed Unit as referred to in sub-clauses 2.5.1 and 2.5.2 above and which has not yet been developed or erected, but which in terms of the Town Planning Scheme of the Local Authority is permitted in respect of any piece of land in the Village zoned for the development of such Units.
- 12.9 Notwithstanding the foregoing, the aggregate membership fees imposed in any year in respect of any Unit shall be the amount proposed and tabled at the Annual

General Meeting of the Association, provided that the aforesaid amount shall not apply if it shall have the effect of the Association being unable to fulfill its objects in respect of expenditure for:

12.9.1 rates and taxes, and/or

12.9.2 maintenance of the Association property, and/or

12.9.3 any other obligation assumed by it in terms of an agreement with the Local Authority, and/or

12.9.4 administrative expenses of the Association,

provided further that, save as set out in items 12.9.1 to 12.9.4 above inclusive, no other capital expenditure which has the effect, or which is likely to have the effect, of increasing the aggregate annual levy as aforesaid, shall be incurred without the sanction of a special resolution of the Association.

13. FIXED PROPERTY OF THE ASSOCIATION

Neither the whole nor any portion of the fixed property of the Association shall be:

13.1 sold, let, alienated, otherwise disposed of, subdivided or transferred, or

13.2 mortgaged, or

13.3 subjected to any rights, whether registered in a Deeds Registry or not, of use, occupation or servitude (save those enjoyed by the Members of the Association in terms hereof), without the sanction of a Special Resolution of the Association.

14. MEETINGS OF THE ASSOCIATION

14.1 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 fifteen (15) months shall be allowed to elapse between any two successive meetings.

14.2 The Committee may call an Extraordinary General Meeting whenever it thinks fit. Extraordinary General Meetings shall also be called upon the written request of the Owners of not less than five per centum (5%) of the total number of Units in the Village.

14.3 An Annual General Meeting and a meeting called for the passing of a special resolution shall be called by twenty-one (21) days' notice in writing at the least, and an Extraordinary General Meeting, other than one called for the passing of a special resolution, shall be called by fourteen (14) days' notice in writing at the least. In each case, the notice shall be exclusive on 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 these presents, the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the "reason" for it shall be given in the manner

hereinafter mentioned or in such other manner, if any, as may be prescribed by the Committee to such persons as are under these presents entitled to receive such notices from the Association.

- 14.4 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 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.
- 14.5 General meetings of the Association shall take place at such place/s as shall be determined by the Committee from time to time.
- 14.6 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 such of the Members entitled to vote, as together for the time being represent twenty-five per centum (25%) of the total votes of all Members of the Association entitled to vote, for the time being, or fifty (50) Members, whichever is the lesser.
- 14.7 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; 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.
- 14.8 The following matters shall be dealt with at every Annual General Meeting:
 - 14.8.1 The consideration of the report of the Executive Committee.
 - 14.8.2 The election of the Committee.
 - 14.8.3 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.
 - 14.8.4 The consideration of the balance sheet of the Association for the last financial year of the Association preceding the date of such meeting.
 - 14.8.5 The consideration of the report of the auditors.
 - 14.8.6 The consideration of the total fees (as referred to in clause 12 aforesaid) for the calendar year during which such annual general meeting takes place.
 - 14.8.7 The consideration and fixing of the remuneration of the auditors for the financial year of the association preceding the Annual General Meeting.

15. PROCEDURES AND PROXIES FOR GENERAL MEETINGS

- 15.1 The Chairman of the Committee shall preside as such at all general meetings, provided that should he not be present within five minutes after the time appointed for the holding there, 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 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.
- 15.2 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 the adjournment took place. Whenever a meeting is adjourned for 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.
- 15.3 A Member may be represented at a general meeting by a proxy, who shall be the spouse of a Member or another 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 one person, any one 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 of the Board of Directors of the Company or by its secretary, and where an association of persons, by the secretary thereof.
- 15.4 The instrument appointing a proxy and the Power of Attorney or other authority (if 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 proposed to vote. No instrument appointing a proxy shall be valid after the expiration of twelve (12) months from the date of its execution.
- 15.5 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 intimation in writing of the death or revocation shall have been received by the Committee at least one hour before the time fixed for the holding of the meeting.
- 15.6 Sectional Title Developments may appoint the Chairperson by proxy to represent the owners of units at any meeting of the Association.

16. VOTING

- 16.1 At every general meeting, every Member in person or by proxy and entitled to vote, shall have one vote for each Unit owned by him, provided that if a Unit is registered in more than one person's name, then they shall jointly have one vote.
- 16.2 Save as expressly provided for in these presents, no person other than a Member duly registered as a Member 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 any general meeting.
- 16.3 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.
- 16.4 Notwithstanding anything to the contrary herein contained, the votes controlled by a company which is a Member and whose share capital is structured for share block holdings in respect of its individual units with accompanying rights of occupation thereof in perpetuity as referred to in sub-clause 11.1 above, shall each be cast in such manner as is required by the registered holder of such share block, but failing such requirements by the said registered holder prior to such voting taking place, shall then be cast together with the majority of votes available to such company Member.
- 16.5 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 seventy-five per centum (75%) of those Members present in person or by proxy, and in respect of which notice of special resolution in terms of sub-clause 14.3 shall have been given.
- 16.6 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.

17. COMMITTEE

There shall be a Committee of the Association which shall consist of not less than three (3) nor more than seven (7) Members.

17.1 COMMITTEE MEMBERS

- 17.1.1 A Committee Member shall be an individual, but need not himself be a Member of the Association. A Committee Member, however, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of these presents.

- 17.1.2 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 each 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, provided that in the event of such Committee Member's position on the Committee not being filled at such meeting, such Committee Member shall retain office for a period of three months after such Annual General Meeting or until a successor has been elected by the Association at an Extraordinary General Meeting called for that purpose.
- 17.1.3 A Committee Member shall be deemed to have vacated his office as such upon:
- 17.1.3.1 His estate being sequestrated, whether provisionally or finally, or his surrendering his estate;
 - 17.1.3.2 His making any arrangement or composition with his creditors;
 - 17.1.3.3 His conviction for any offence involving dishonesty;
 - 17.1.3.4 His becoming of unsound mind or being found lunatic;
 - 17.1.3.5 His resigning from such office in writing delivered to the Secretary;
 - 17.1.3.6 His death;
 - 17.1.3.7 His being removed from office by the Association in general meeting;
 - 17.1.3.8 His absenting himself from three consecutive meetings of the Committee without special leave of absence from the Chairman of the Committee.
- 17.1.4 Upon any vacancy occurring on the Committee 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 Committee.

17.2 COMMITTEE OFFICERS

- 17.2.1 Within seven (7) days of the holding of each such Annual General Meeting, the Committee shall meet and shall elect from its own number, the Chairman and 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 Committee Member holding office upon his ceasing to be a Committee Member for any reason.
- 17.2.2 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.

17.3 FUNCTIONS AND POWERS OF THE COMMITTEE

- 17.3.1 Subject to the express provisions of these presents, 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 these presents, may exercise all such powers of the Association, and do all such acts on behalf of the Association as may 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 not been made.
- 17.3.2 The Committee shall have the right to vary, cancel or modify any of its decisions and resolutions from time to time.
- 17.3.3 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.
- 17.3.4 The Committee may make rules, 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 the 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.
- 17.3.5 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 services of Accountants, Auditors, Attorneys, Advocates, Architects, Engineers and 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 these presents.

17.4 PROCEEDINGS OF THE COMMITTEE

- 17.4.1 The Committee may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of these presents.
- 17.4.2 The quorum necessary for the holding of any meeting of the Committee shall be two (2) Committee Members present personally, where the Committee

comprises four or less Members and shall be three (3) Members where the Committee comprises five or six Members, and four (4) Committee Members in any other case.

- 17.4.3 The Chairman 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 five (5) minutes after the 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 five (5) minutes of the time appointed for the holding of such meeting, those present of the Committee Members 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.
- 17.4.4 Save as otherwise provided in these presents, the proceedings at any meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.
- 17.4.5 A resolution signed by all the Committee Members shall be valid in all respects as if it had been duly passed at a meeting of the Committee duly convened.
- 17.4.6 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 of the Committee Member appointing him.

17.5 ACCOUNTS OF THE COMMITTEE

- 17.5.1 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.
- 17.5.2 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.
- 17.5.3 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.

18. 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 that time of his so ceasing to be a Member.

19. NOTICES

19.1 The Association may give notices to any Member either personally, or by sending by registered post addressed to such a Member at his *domicilium citandi et executandi* or at an address (if any) within the Republic of South Africa supplied by him to the Association for service of notices. Service of such notices may also be effected via electronic mail or via facsimile.

19.2 Notice of every general meeting shall be given:

19.2.1 to every Member of the Association;

19.2.2 to the auditors of the time being of the Association, provided that no other person shall be entitled to receive notice of general meetings.

19.3 Any notice sent via post shall be deemed to have been served at the time the notice was posted and in proving the service of the notice via post, it shall be sufficient to prove that the notice was properly addressed to the relevant Member and duly posted.

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

20. INDEMNITY

20.1 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.

20.2 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.

20.3 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 or for any loss or expense 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 moneys 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 moneys, 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 his office/s or in relation thereto, unless the same shall happen through lack of bona fides or breach of duty or breach of trust.

21. ALTERATIONS TO THE CONSTITUTION

Any alteration or addition to this Constitution may be effected only by a special resolution passed by the requisite seventy-five per centum (75%) majority at a general meeting after written notice thereof has been given by the Committee in the notice calling the meeting.

22. WINDING UP OF THE ASSOCIATION

The Association may be wound up by a special resolution, provided that ninety per centum (90%) of Members present or represented at a general meeting, duly convened, vote in favour thereof. 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 Units registered in the name of each Member. If within a period of four (4) 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.