BOGMORE HOME OWNERS ASSOCIATION

CALEDON ESTATE

THE CONSTITUTION OF THE BOGMORE HOME OWNER'S ASSOCIATION

1. NAME

The name of the Association is THE BOGMORE HOME OWNER'S ASSOCIATION.

2. DEFINITIONS

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

2.1 "The Association" shall mean The Bogmore Home Owner's Association;

2.2 "The Estate" means all of the land, being that area which is indicated by the red border on the plan marked "A", it being recorded that the Estate is comprised of numerous sub-divisions that have been created from the original parent properties and that numerous additional sub-divisions will be created pursuant to the ongoing development of the Estate. (It is accordingly impractical to record the precise descriptions of all of the properties which constitute the Estate);

2.3 "The Local Authority" shall mean the KwaDukuza Local Authority and Ilembe District Municipality or any other local or district authority having jurisdiction over the Estate;

2.4 "The Common Property" shall mean Portions 3727 and 3728, being Public Open Spaces and Erven 3726, 4346, 4347, 4348 and 4349 being Private Roads as reflected in green on the annexed plan, and Erf 3676 on which the gatehouse is constructed;

2.5 "Unit" means in relation to the Estate a sectional title unit under the provisions of the Sectional Titles Act, that portion of immovable property in respect of which a holder of a share block is granted the exclusive use as contemplated under the Share Blocks Control Act, or a subdivision capable of individual ownership as the case may be. (It is recorded that when a subdivision is developed in terms of a sectional title scheme, the single unit constituted by the subdivision will convert into a number of separate units represented by each sectional title unit created on the said subdivision.);

2.6 “Owner”, when used in relation to an Unit, shall mean the registered owner thereof;

2.7 “Founder Members” shall mean the promoters of the Association;

2.8 “Member” shall mean an Owner;

2.9 “Month” shall mean a calendar month;

2.10 “Year” shall mean a calendar year;

2.11 Any words importing the singular number 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.

2.12 “Law” shall mean the Laws applicable from time to time in the Republic of South Africa.

2.13 “The Environmental Principles” means the environmental framework for the Initial Site Assessment, Design, Rehabilitation and Landscaping Requirements and all other relevant information approved by the Department of the Environment, adopted by the Bogmore Home Owners Association.

2.14 “Committee” shall mean the Committee of the Association elected in terms of this Constitution.

3. STATUS

The Association shall be an Association:

3.1 with perpetual succession and with legal personality capable of suing 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 the Estate.

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

4.1 To promote the use and maintenance of all properties within the Estate and to ensure that all such properties are utilised and maintained in such a way as to derive maximum benefit therefrom for the whole community of the Estate;

4.2 To make conduct and other rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Estate, for the purposes of giving proper effect to the provisions of the Constitution and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those Members who fail to comply with the provisions of these Articles or the rules.

4.3 To ensure that there is adequate security provided for Members;

4.4 To impose and collect levies and contributions towards funds of the Association for the attainment of the objects of the Association, for the improvement of the Estate, and the due fulfillment of the powers of the Association;

4.5 To control the registration of transfer and subdivision of Erven in the Estate and ensure compliance with conditions imposed by the Local Authority when approving the rezoning and/or subdivision of the property comprising the Estate;

4.6 To take transfer of those portions of the common property that are owned by the Association for the benefit of its Members;

4.7 To provide and to manage the maintenance of open spaces and recreational amenities in the Estate and to make and enforce regulations governing the use by Members thereof;

4.8 To promote, advance and protect the communal interests of owners in the Estate, and to provide, regulate and maintain essential and community services, amenities and activities within the Estate;

4.9 To promote, advance and protect the Estate in the interests of the Association;

4.10 To regulate and control the harmonious development of the Estate;

4.11 To oversee, maintain and control the Estate.

4.12 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;

4.13 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;

4.14 To represent the interest of the Members and to provide a united voice by which such interests may be expressed;

4.15 To organize and provide social services and activities for the benefit of the Association and its Members.

5. POWERS

5.1 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:

5.1.1 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.

5.1.2 To enforce compliance by Owners of the Environmental Principles including the Environmental Management Plan as far as these may apply.

5.1.3 To promote the Environmental Principles as far as these may apply to the Association;

5.1.4 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.

5.1.5 To raise levies, contributions and fees from Members in the manner and for the purposes as hereafter specified.

5.1.6 To open and operate banking accounts of any description.

5.1.7 To make, enter into and carry out contracts or agreements for any of the purposes or objects of the Association.

5.1.8 To employ and remunerate agents, servants, employees and other persons.

5.1.9 To act as principals, agents, contractors or trustees.

5.1.10 To pay gratuities and pensions and establish pension schemes.

5.1.11 To sue and be sued in its own name and to appoint attorneys and counsel for the aforementioned purpose.

5.1.12 Subject to Clause 34, to amend or repeal this Constitution or any portion hereof.

5.1.13 To make, amend and repeal rules which shall be binding upon the Members as if they

formed part of this Constitution;

5.1.14 To create sub-committees and to delegate such powers to those sub-committees as the Committee may deem necessary.

5.2 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.

5.3 No rule, regulation or by-law passed pursuant to these provisions shall conflict with any of the provisions of the Constitution.

6. MEMBERS

6.1 Membership of the Association shall be limited to the Owners 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.

6.2 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.

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

6.3.1 to the best of his ability, further the objects and interest of the Association;

6.3.2 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.

7. MEMBERSHIP

7.1 The Owner of a Unit 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 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.

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

7.2.1 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 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, 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 or causa 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 revested 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. CONDITION OF SALE

8.1 A Member shall not alienate or transfer a Unit unless it is a condition of the alienation or transfer that:

8.1.1 the acquirer/transferee binds himself in 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 a Unit 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 a Unit, the registration of transfer of that Unit 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 a Unit or contract for the sale of such Unit, for the alienation or transfer of such Unit, 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 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. 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) which shall be due and payable to the Association in respect of his membership thereof.

11. USE OF FACILITIES

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

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

11.2. 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;

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

11.4 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;

11.5 the said conditions prescribed by the Committee in respect of the class of persons referred to in clause 11 above shall be no more onerous than those applying to the Owner himself.

12. LEVIES AND CONTRIBUTIONS

12.1 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 Estate and the Association's affairs.

12.2 In calculating levies the Committee shall take into account other income, if any, earned by the Association from any other source.

12.3 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.

13. ESTIMATE OF EXPENSES

13.1 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.

13.2 The Committee may include in such levies an amount to be held in reserve to meet anticipated future expenditure not of an annual nature.

13.3 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.

13.4 Notwithstanding 13.3 above, in the event of a Member failing to pay any monthly levy instalment, the Association shall be entitled to recover by legal action the full amount of the outstanding levies for the balance of that financial year.

14. 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 12 (which are not included in any estimate made in terms of clause 13), 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.

14A. BUDGET

14A1. Notwithstanding the provisions of clauses 13 and 14 the Committee shall, at each annual general meeting of the Association, table a written budget in respect of the forecast income and expenditure for the coming financial year (the **"Proposed Budget"**).

14A2. The Committee shall procure that the Proposed budget, together with such supporting documents as may be appropriate or relevant, be delivered together with the notice of meeting contemplated in article 17 and discussed and debated at the meeting together with matters referred to in articles 17.10.4 to 17.10.6.

14A3. Following discussion and debate, the Proposed Budget, incorporating such amendments as agreed at the meeting, shall be required to be voted on and approved (by ordinary resolution) at the meeting (the **"Approved Budget"**).

14A4. Notwithstanding anything to the contrary contained in this Constitution, the Committee may not incur any expenditure on behalf of the Association unless such expenditure is contained in the Approved Budget; provided that the Approved Budget may contain a specific provision of R200,000.00 per annum for emergency expenditure. Emergency expenditure is defined by being of a nature that cannot wait 14 days for an extraordinary general meeting to approve such expenditure.

14A.5 Any expenditure incurred by the Committee – or any office/member thereof – contrary to the provisions of this article 14A shall be deemed to be a breach of his/her fiduciary duties, including, without limitation, as contemplated in regulation 14(1)(d) of the Regulations on Community Schemes Ombud Service promulgated in terms of the Community Schemes Ombud Service Act, 2011.

15. RECOVERABLE DEBT

15.1 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.

15.2 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.

15.3 No levies paid by a Member shall under any circumstances be repayable by the Association upon him ceasing to be a Member.

15.4 A Member's successor to a Unit shall be liable as from the date upon which he becomes a Member, to pay the levy attributable to that Unit.

15.5 No member shall sell or transfer his Unit until the Association has certified that the Member has at the date of sale or transfer fulfilled all his financial obligations to the Association.

15.6 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 Law.

15.7 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.

15.8 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 facia evidence of the Member's indebtedness to the Association or of such other fact for the purpose of any application or action, judgment or order or for any other purpose whatsoever.

16. 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.

17. MEETINGS OF THE ASSOCIATION

17.1 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.

17.2 The Committee may call an extraordinary general meeting whenever it thinks fit.

17.3 Extraordinary general meetings shall also be called upon the written request of 25% (twenty five percent) of Owners.

17.4 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.

17.5 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.

17.6 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.

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

17.8 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.

17.9 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same place and time, or at such other place as the Chairman of the meeting shall appoint, 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.

17.10 The following matters shall be dealt with at every Annual General Meeting:

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

17.10.2 the election of the Committee;

17.10.3 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;

17.10.4 the consideration of the balance sheet of the Association for the last financial year of the Association preceding the date of such meeting;

17.10.5 the consideration of the report of the auditors;

17.10.6 the consideration of the total levy and any special levy (as referred to in clauses 12 and 14 aforesaid) for the year during which such Annual General Meeting takes place;

17.10.7 the consideration and fixing of the remuneration of the auditors for the financial year of the Association preceding the Annual General Meeting.

18. 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.

19. ADJOURNMENT OF MEETING

19.1 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.

19.2 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.

19.3 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.

20. PROXIES

20.1 A Member may be represented at a general meeting by a proxy, who need not be a member of the Association.

20.2 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.

20.3 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, and shall be valid for a period of 12 (TWELVE) months from the date of execution.

20.4 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 notice 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.

21. VOTING

21.1 At every general meeting every Member in person or by proxy and entitled to vote shall have 1 (ONE) vote for each Unit owned by him, provided that if an Unit is registered in more than 1 (ONE) person's name, then they shall jointly have one vote.

21.2 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, shall be entitled to be present or to vote on any question, either personally or by proxy, at a general meeting.

21.3 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.

21.4 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 75% of members.

21.5 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.

22. COMMITTEE

There shall be a Committee of the Association which shall consist of not less than 5 (five) and not more than 7 (seven) Members.

23. HOLDING OFFICE

Each Committee member shall continue to hold office as such from the date of his appointment 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.

24. VACATION OF OFFICE

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

24.1 his estate being sequestrated, whether provisionally or finally, or his surrendering his estate;

24.2 his making any arrangement or composition with his creditors;

24.3 his conviction for any offence involving dishonesty;

24.4 his becoming of unsound mind or being found lunatic;

24.5 his resigning from such office in writing delivered to the Chairman;

24.6 his death;

24.7 his being removed from office by the Association in general meeting;

24.8 him absenting himself from 3 (THREE) consecutive meetings of the Committee without special leave of absence from the Chairman of the Committee.

25. VACANCY

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.

26. OFFICERS

26.1 Within 7 (SEVEN) days of the holding of each 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.

26.2 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.

27. FUNCTIONS AND POWERS OF THE COMMITTEE

27.1 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 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 not been made.

27.2 The Committee shall have the right to vary, cancel or modify any of its decisions and resolutions from time to time.

27.3 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.

27.4 The Committee may make regulations and by-laws, not inconsistent with this Constitution, or any regulations or by-laws prescribed by 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.

27.5 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, or 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.

28. PROCEEDINGS OF THE COMMITTEE

28.1 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.

28.2 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.

28.3 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.

28.4 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.

28.5 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.

29. ACCOUNTS

29.1 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.

29.2 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.

29.3 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.

30. 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.

31. NOTICES

31.1 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 Unit owned by him or such other addresses as he may notify the Association in writing, provided that copies of all notices sent to Members shall be sent to the Mortgagee (if any) of that Member's Unit.

31.2 Any notice, if served by post, shall be deemed to have been served 4 (FOUR) days 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.

31.3 A notice may alternatively be served by sending it by email to the member at an email address which he/she has confirmed to be his/her email address and a notice, if served by email, shall be deemed to have been served on the day following that on which the email was sent.

31.5 In proving such service, it will be sufficient to prove that the email, containing the notice, was sent to the correct email address from the Trustee's or management's computer.

32. INDEMNITY

32.1 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.

32.2 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.

32.3 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.

32.4 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 delictual 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 judgment 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.

33. ARBITRATION

33.1 Should any dispute, question or difference arise between any of the following, namely a Member, a Resident, a Trustee, the Association or the Developer out of or in regard to :

33.1.1 the interpretation of;

33.1.2 the effect of;

33.1.3 their respective rights or obligations under;

33.1.4 a breach of (save for non-payment of levies or any other amount due by a Member in terms of this Constitution).

33.2 In respect of any claim arising from non-payment of levies or any other amount due by a Member to the Association in terms of this Constitution, the Association and Committee/Trustees shall continue to enjoy common law rights and shall not be required to proceed to arbitration. The Trustees will be entitled to elect, within their sole and absolute discretion, whether to refer the dispute to arbitration or whether to institute legal proceedings in any court of competent jurisdiction.

33.3 The arbitration shall :

33.3.1 be conducted in an informal summary manner on the basis that it shall not be necessary to observe or carry out either the usual formalities or procedures relating to pleadings or discovery or the strict rules of evidence; and

33.3.2 commence as soon as reasonably possible after it is demanded and with a view to its being completed within 30 (thirty) days after it is demanded; and

33.3.3 be held under the provisions of the Arbitration Act of the Republic of South Africa (as amended or replaced from time to time) except insofar as the provisions of this arbitration clause shall apply.

33.4 The arbitrator shall be an independent person agreed between the parties to the arbitration within 7 (seven) days of being called upon to make such appointment and failing such agreement within the 7 (seven) day period, nominated by the Chairperson of the KwaZulu-Natal Provincial Office of the Legal Practice Council, within the jurisdiction of KwaZulu-Natal.

33.5 The arbitrator shall, in giving his award, have regard to the principles contained in this

Constitution and he shall decide the matter as submitted to him according to what he considers just and equitable in the circumstances and therefore, the strict rules of Law need not be observed or taken into account by him in arriving at his decision. The arbitrator's decision shall be presented within 10 (ten) days after the completion of the arbitration in a written document and he shall state the reasons for his decision therein. The arbitrator may determine that the cost of the arbitration be paid either by one or other of the disputing parties or by the Association as he in his sole discretion may deem fit.

33.6 Each of the parties to the arbitration irrevocably agrees that the decision of the arbitrator made at such arbitration proceedings :

33.6.1 shall be final and binding on each of them; and

33.6.2 shall be carried into effect immediately; and

may be made an order of any Court to whose jurisdiction the parties are subject.

Notwithstanding anything to the contrary contained in this clause 33, the Committee/Trustees shall be entitled to institute legal proceedings on behalf of the Association by way of application, action or otherwise in any Court having jurisdiction for the purposes of restraining or interdicting breaches of any of the provisions of this Constitution.

34. ALTERATIONS TO CONSTITUTION

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

35. WINDING-UP OF THE ASSOCIATION

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

35.1 90% (NINETY PERCENT) of Members present or represented at a general meeting, duly convened, vote in favour thereof, and

35.2 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.

35.3 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.