

Bushbuck Hills Game Farm Homeowners Association CONSTITUTION

1. NAME

The name of the Association is “Bushbuck Hills Homeowners Association”.

2. DEFINITIONS

- 2.1 **Alienate** means alienate any erf or part thereof and includes alienation by way of sale, exchange, donation, deed, intestate succession, will, cession, assignment, court order, insolvency or liquidation, irrespective of whether such alienation is subject to a suspensive or resolutive condition (but excludes applying for or registering a mortgage bond over the erf) and Alienation and Transfer shall have a corresponding meaning.
- 2.2 **AGM** means the annual general meeting of the Association
- 2.3 **Architect** means the professional person appointed by the Reserve Owner from time to time to perform architectural services at any stage of the Development, such person named in the Architectural Guidelines.
- 2.4 **Architectural Guidelines** mean the Bushbuck Hills architectural guidelines forming part of the Associated Documents
- 2.5 **Associated Document/s** means a document/s forming part of the suite of documents referred to in this Constitution including those amended or added from time to time, such Associated Documents being subject to change in accordance with the provisions of this Constitution or (as applicable) the provisions of the Associated Document.
- 2.6 **Association** means the Bushbuck Hills Homeowners Association, a non-profit company incorporated for purposes of the Home Owners’ Association in terms of the provisions of Section 14 of the Companies Act, 2008 (Act 71 of 2008), which is bound by the provisions of this Constitution.
- 2.7 **Auditors** means the auditors appointed from time to time by the Association in writing.
- 2.8 **Authority** means any competent court, arbitrator appointed in terms of this Constitution, or local municipal authority or regulatory authority carrying out works solely in pursuance of its municipal or regulatory obligations, including any persons employed, engaged or authorised by the aforementioned in connection with that work.
- 2.9 **Building Code of Conduct** means the Bushbuck Hills rules and codes of conduct forming part of the Associated Documents, such building code of conduct outlining the rules and codes of conduct required to be adhered to by any Contractor performing services on the Property.
- 2.10 **Chairman** means the Chairman of the Association appointed by the Association from time to time.
- 2.11 **Conditions of Establishment**, hereinafter referred to as the **CoE**, means the relevant Authority’s conditions for the establishment of the township in terms of the provisions of chapter iii of the town planning and townships ordinance, 1986 (ordinance 15 of 1986) including any other provisions referenced therein.
- 2.12 **Conduct Rules** means the Bushbuck Hills Conduct Rules detailed in Annexure F hereto.
- 2.13 **Constitution** means the Bushbuck Hills homeowners association constitution, being this document.
- 2.14 **Contractor** means any person who is a contractor that is approved by either the Reserve Owner or the Association to perform services on the Property whether appointed by a Residential Owner, the Association, the owner of the Private Resort or the Reserve Owner to perform services on the Property.
- 2.15 **Development** means any development works on the Property in accordance with the CoE and General Plan including any amendments thereto from time to time where approved by any relevant Authority.
- 2.16 **Development Owner** means the party who is responsible to facilitate delivery of the Development project
- 2.17 **Development Period** means the period from the date of the approval of the Development by the relevant local authority until the Reserve Owner notifies the Association that the Development Period is at an end.
- 2.18 **General Plan** means the General Plan contemplated under the CoE including any amendment thereto from time to time as approved by the relevant Authority.
- 2.19 **EMP** means the relevant environmental management plan approved by the Department of Economic Development, Environment, Conservation and Tourism as contemplated under the CoE including any

amendments thereto where approved by the relevant Authority, such plan forming part of the Associated Documents.

- 2.20 **Erf** means each erf reflected on the General Plan including any erf/erven subsequently approved for Development on the Property by a relevant Authority and added to the General Plan, each of which is subject to the CoE.
- 2.21 **Game Farming Enterprise** means the private business of game farming on the Private Game Reserve the purpose of which includes (but is not limited to); the breeding of rare and specialised game species for sale, breeding, hunting, exchange and the like; the breeding of select species of game for commercial hunting purposes and such other commercial initiatives as the Reserve Owner may undertake from time to time so as to ensure the economic success and sustainability of the Private Nature Reserve
- 2.22 **Law** means all constitutions; statutes; regulations; by-laws; codes; ordinances; decrees; rules; judicial, arbitral, administrative, ministerial, departmental or regulatory judgments, orders, decisions, rulings, or awards; policies; voluntary restraints; guidelines; directives; compliance notices; abatement notices; agreements with, requirements of, or instructions by any governmental body of the Republic of South Africa that is applicable in the context.
- 2.23 **Levy/Levies** means any levy (whether ordinary or special) payable in terms of this Constitution and the relevant Associated Document.
- 2.24 **Member/s** means a registered Owner of an Erf and each Member shall also be a member of the Association.
- 2.25 **Property** means certain immovable property being; the remaining extent of portion 2, the remaining extent of portion 9 (a portion of portion 1), portion 10, portion 11 (a portion of portion 5), portion 12, portion 13 (a portion of portion 9), portion 21 (a portion of portion 3) and the remaining extent of the farm Waterval no. 386 (collectively the "Property")
- 2.26 **Private Resort** means Erf 112 which is privately owned and is operated in accordance with the provisions of the CoE or such other provisions as approved by any relevant Authority from time to time.
- 2.27 **Private Nature Reserve** means Erf 113 which is privately owned and is operated in accordance with the provisions of the CoE or such other provisions as approved by any relevant Authority from time to time.
- 2.28 **Reserve Owner** means the legal owner of the Private Nature Reserve including his nominee or successors in title.
- 2.29 **Residential Zone/s** shall be those zones designated as such on the Site Plan wherein the Residential Erven shall be sited, such zones afforded various protections in terms of this Constitution.
- 2.30 **Resort Owner** means the legal owner of the Private Resort including his nominee or successors in title.
- 2.31 **Resort Owner Trustee** means a trustee of the Association appointed from time to time by the Resort Owner in accordance with the provisions of this Constitution.
- 2.32 **Reserve Owner Trustee/s** means a trustee of the Association appointed from time to time by the Reserve Owner in accordance with the provisions of this Constitution.
- 2.33 **Residential Erven** means all erven designated "Residential 6" in terms of the CoE including any and all subsequent residential erf/erven approved for Development on the Property from time to time by a relevant Authority whether designated "Residential 6" or not; for the purposes of this definition Residential Erven shall also include any offices, workshops, stores and the like including any outbuildings of any type whatsoever on the Property other than those offices, workshops, stores and the like including any outbuildings of any type whatsoever which the Reserve Owner has exclusive use of.
- 2.34 **Residential Owner** means a registered owner of a Residential Erven and Residential Owners means collectively all owners of Residential Erven on the Property.
- 2.35 **Servitude** means a notarial deed of servitude registered in the Deeds Office against the Nature Reserve for access and services purposes in favour of the Home Owners Association and a Notarial Deed of Servitude registered in the Deeds Office against the Residential Erven for grazing rights in favour of the Reserve Owner as indicated on the General Plan, a draft of which Servitude is attached hereto marked Annexure G.
- 2.36 **Site Plan** means the graphic representation of all arrangements on the Property including but not limited to; Residential Erven, residential zones, special commercial farming zones, roads, walking trails, parking areas, picnic areas, game viewing areas, lookout areas, drinks and eating areas etc.

- 2.37 **Standard/s** means the relevant published South African National Standard document, industry code of good practice and/or or good building practice that specifies the performance and quality requirements or technical specification applicable to the Services or any part thereof
- 2.38 **Trustees** means the Reserve Owner Trustee/s and trustee/s appointed by the Association from time to time in accordance with the provisions of this Constitution.

3. INTERPRETATION

In this Constitution;

- 3.1 All headings are included for convenience only and shall not affect the interpretation of this Constitution and all words and expressions used, other than those defined herein, shall have their ordinary meaning.
- 3.2 Unless the context or definition indicates otherwise, an expression which denotes any gender includes the other; reference to a natural person includes a juristic person; the singular includes the plural, and the plural includes the singular except in respect to the words “person” and “persons” which shall mean either singular or plural as the context dictates.
- 3.3 When any number of days is prescribed, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which event the last day shall be on the next succeeding day which is not a Saturday, Sunday or public holiday.
- 3.4 If any provision of this Constitution is in conflict or inconsistent with any Law, the invalidity of such provision shall not affect the validity of the remainder of the provisions of this Constitution and the Association shall forthwith amend any such offending provision in accordance with the provisions of this Constitution.

4. CONDITIONS OF ESTABLISHMENT OF TOWNSHIP- RIGHTS AND OBLIGATIONS

- 4.1. Without prejudice to any parties’ rights, if any Authority finds that any provisions of the Constitution or any Associated Document/s conflicts with the rights and obligations of a party in terms of the CoE, or those rights conferred, or obligations imposed by a relevant Authority, then the rights and obligations conferred by the CoE or relevant Authority shall prevail.
- 4.2. Upon the conclusion of any matter contemplated under clause 2.1, the Members must forthwith take all necessary steps to amend the offending provision/s of the Constitution.
- 4.3. Each Erf is entitled to a servitude for access and services purposes over Erf 113 as indicated on the General Plan.
- 4.4. Residential Owners and Resort Owner, together with their respective authorised guests, shall be entitled to a traversing right over the Private Nature Reserve subject to such arrangements mutually agreed upon between the aforementioned owners (“Special Arrangements”), such Special Arrangements provided for herein.
- 4.5. Upon transfer of an Erf to a person/s, such person/s shall automatically become a Member of the Association
- 4.6. No person/s may become an owner of an Erf unless he irrevocably and unconditionally binds himself to become a Member of the Association and remain a Member until he is no longer an owner of an Erf
- 4.7. An owner of an Erf may not transfer ownership of an Erf without the prior written consent of the Association as provided for in this Constitution.
- 4.8. An Owner of an Erf may not subdivide his Erf without the prior written consent of the Association as provided for in this Constitution.
- 4.9. Each owner of an Erf must comply with the rules and regulations of the Association, including any amendments to those rules and regulations made by the Association from time to time
- 4.10. The owner of the Development must register those services provided for in terms of the CoE in the timeframes prescribed therein and may, if it so chooses, register further servitudes across the Property in favour of either local Authority, Reserve Owner or the Association.
- 4.11. The party responsible for the Development shall create access and services servitudes (“**Servitudes**”) in terms of the CoE and General Plan in accordance with the applicable Standards.

5. SPECIAL ARRANGEMENTS IN RESPECT OF TRAVERSING RIGHTS OVER ERF 113 AND OTHER RIGHTS AND OBLIGATIONS

Acknowledgements;

- 5.1. Reserve Owner acknowledges that the Association and Resort Owner, together with their respective authorised guests, are entitled to a traversing right over the Private Nature Reserve (“Traversing Right”) subject to the agreement of the parties as recorded in this Constitution.
- 5.2. The Association and Resort Owner acknowledge that Traversing Right does not obligate Reserve Owner in any way other than as required under the CoE and this Constitution.
- 5.3. The Association and Resort Owner further acknowledge that Reserve Owner is not obliged to create or maintain any road/s, pathway/s, walking trail/s and the like to facilitate Traversing Right.
- 5.4. In terms of the CoE, the Association, Resort Owner and Reserve Owner agree the following in respect to Traversing Right;
 - 5.4.1. Residential Owners, Resort Owner and their respective authorised guests shall use only the roadways, walking trails, pathways and the like, including any amendments or additions thereto (“Traversing Paths”) marked as Traversing Paths on the Site Plan.
 - 5.4.2. The Association shall pay all costs reasonably incurred by Reserve Owner in respect of the construction, maintenance, upkeep or enhancement of any Traversing Paths.
- 5.5. The parties may, but shall not be obliged, enter into written agreement/s from time to time regarding further access and use of the Private Nature Reserve in favour of Residential Owners, Resort Owner and their respective authorised guests in addition to Traversing Right (“**Temporary Right**”).
 - 5.5.1. It is recorded that the Reserve Owner is not obliged to agree to any Temporary Right but where he does so agree, his purpose in so doing is to demonstrate his good will with the parties, for the enhancement of Traversing Right and generally to improve the overall enjoyment and experience of the Private Nature Reserve.
 - 5.5.2. Any facility provided for and maintained under a Temporary Right shall be marked up on the Site Plan.
 - 5.5.3. Temporary Rights may (for example) including for the provision and maintenance of picnic areas; lookout areas; game viewing areas and any other facilities incidental thereto or in addition thereto agreed by the parties from time to time.
 - 5.5.4. If any further Traversing Paths, picnic areas lookout areas game viewing areas or the like are added to the Property at any time, such additional features must be in keeping with the relevant Associated Documents and signed off by the relevant parties.
 - 5.5.5. The precise details pertaining to each Temporary Right shall be recorded in a written agreement between the parties.
- 5.6. Residential Owners, Resort Owner and their respective guests shall not have any right of access over any portion of the Private Nature Reserve other than Traversing Right and those Temporary Right/s agreed by the parties from time to time.
- 5.7. Members consent to the temporary suspension of Traversing Right (whether in whole or in part), Temporary Right/s and Servitude access during planned, unplanned but necessary or emergency maintenance periods subject to the following;
 - 5.7.1. The party responsible therefore shall give not less than 30 (thirty) days’ notice to relevant parties in respect to planned maintenance activities detailing on the Site Plan such areas affected
 - 5.7.2. The party responsible therefore shall inform relevant parties within a reasonable period of time in respect of unplanned but necessary or emergency maintenance activities detailing on the Site Plan such areas affected
 - 5.7.3. The party responsible therefore shall take reasonable steps to carry out and complete any maintenance activities timeously and with as little inconvenience to Members and their authorised guests as possible.

6. OBJECTS AND PURPOSE OF ASSOCIATION

- 6.1. The general purpose and object of the Association is to promote, advance and protect the interests of its Members and 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, any Associated Document and any other obligation they may be bound to perform.
- 6.2. Without derogation from the generality of clause 2.1, the Association shall more specifically;
 - 6.2.1. oversee, maintain and control the Residential Erven on the Property including those components on the Property for which it is responsible;

- 6.2.2. ensure the general high standard of the Residential Erven and other components for which it is responsible on the Property;
- 6.2.3. promote, advance and protect the interests of the Association;
- 6.2.4. regulate and control the harmonious development of the Residential Erven and other components for which it is responsible on the Property;
- 6.2.5. promote and maintain a requirement for the high standard of the Residential Erven and other components for which it is responsible on the Property;
- 6.2.6. ensure that there is adequate security in respect to the Residential Erven and other components for which it is responsible on the Property;
- 6.2.7. provide or enter into agreements with third parties for the provision of services including but not limited to, water, electricity, sewerage, security, road maintenance, and generally the maintenance, upkeep and where necessary upgrading of any necessary aspects for which it is responsible to oversee and maintain;
- 6.2.8. pay or ensure payment of all rates and taxes, other service charges, other taxes and/or levies charged and payable to any local Authority in respect of the Residential Erven or any other component on the Property for which it is responsible;
- 6.2.9. pay all charges, fees, Levies and the like payable to the Reserve Owner in respect of Traversing Right or Temporary Right/s;
- 6.2.10. pay all salaries and/or wages of employees of the Association and ensure the payment of all expenses reasonably or necessarily incurred in connection with the management of the Association or the pursuits of its business;
- 6.2.11. impose Levies upon the Members of the Association for the purpose of meeting all the expenses which the Association has incurred or to which the Trustees reasonably anticipate the Association will incur in the attainment of the objects of the Association or the pursuit of its business;
- 6.2.12. control the registration of transfer of Residential Erven on the Property;
- 6.2.13. ensure all Members comply with the CoE in respect to their Erf;
- 6.2.14. ensure compliance with any conditions imposed in terms of Traversing Right or any Temporary Right;
- 6.2.15. administer, enforce and ensure compliance with any applicable Associated Document;

7. COMMENCEMENT DATE AND STATUS OF THE ASSOCIATION

- 7.1. The Association will come into existence upon the final approval for the Development being obtained from the local Authority and the approval of the General Plans by the Surveyor General.
- 7.2. The Association shall:
 - 7.2.1. Be a legal entity and exist independently of its Residential Owners;
 - 7.2.2. Enjoy perpetual succession subject to any Law and the authority and decisions of the Association;
 - 7.2.3. Be capable of being sued or to sue with reference to any agreement entered into by the Association;
 - 7.2.4. Be liable for any damage caused to any person/s or any property as a result of acts or omissions of the Association;
 - 7.2.5. Not operate for profit but for the benefit of the members.
- 7.3. No Residential Owner shall have any right, title or interest to or in the funds or assets of the Association which shall vest in and be controlled by the Trustees.

8. ASSOCIATION RULES AND MEMBERS' OBLIGATIONS AND RESTRICTIONS

- 8.1. Membership of the Association is compulsory for every registered owner of an Erf on the Property.
- 8.2. Membership shall commence on transfer of an Erf into the name of the transferee.
- 8.3. The Residential Owner shall not be entitled to resign as a member of the Association
- 8.4. Membership of the Association shall be limited to Residential Owners, the Reserve Owner and Resort Owner.
- 8.5. Every Member is obliged to comply with;
 - 8.5.1. the provisions of this Constitution and the provisions of all Associated Documents and
 - 8.5.2. any lawfully executed agreement concluded by the Association pursuant to its duties and obligations insofar as such agreement may directly or indirectly impose obligations on a member in its capacity as a Member;

- 8.5.3. any instruction given by a Trustee acting in his capacity as a Trustee of the Association insofar as such instruction pertains to a Members obligation to comply with the Constitution and its Associated Documents
- 8.5.4. any Law imposed by any Authority in respect to the Property or conduct thereon.
- 8.6. Members shall collectively be liable for any and all expenditure lawfully and properly incurred by the Association in the pursuance of its duties on behalf of the Members.
- 8.7. If a Residential Owner comprises more than one person, then such persons shall be jointly and severally liable to the Association for any acts or omissions of any person/s resulting in damage or loss to the Association.
- 8.8. If a Residential Owner comprises more than one person, those persons shall nominate from among them one person as their representative to vote at meetings of the Association (a “**Representative**”).
- 8.8.1. Any vote of a Representative at a meeting of the Association shall be deemed to reflect the wishes of all persons comprising that Residential Owner and the other persons comprising that Residential Owner waive any right to challenge the validity of such Representative’s vote or the authority of such Representative to make such vote.
- 8.9. Membership shall be personal to the natural person or persons in question and may not be assigned or transferred by them to any other natural person or juristic other than as provided for in this Constitution.
- 8.10. The Association shall maintain a register of Members, which shall be made available to Members to view or take a copy of on reasonable request.
- 8.11. No Member shall apply to the local authority or any other relevant authority for the subdivision or rezoning of an Erf owned by the Member, or make application for any consent, usage or waiver or departure or any other dispensation whatsoever in respect thereof without the prior written consent of the Association
- 8.12. Trustees may prescribe such other regulatory (or other) documents as the Association deem appropriate whereupon, such other documentation shall form part of the Associated Documents of the Constitution.
- 8.13. Acts or omissions of a Residential Owner/s in so far as they cause damage or loss to the Private Resort, the Private Game Reserve or their respective owners whether caused in connection with the access or use under a Temporary Right or otherwise, shall be deemed to be an act or omission of the Association, and the Association shall remain liable therefore.
- 8.14. The Association shall not fence or cordon off the area comprising the Residential Erven from the Private Nature Reserve nor erect any form of obstruction between such areas without the written consent of the Reserve Owner. This condition is imposed to ensure the free movement of game, indigenous animals and the like across the Property.
- 8.15. The Association shall be responsible to pay any rates, taxes and other charges (if any) levied by any Authority in respect to the Property. Members shall be liable in for all rates, taxes and other charges not paid as contemplated by this clause.
- 8.16. Residential Owners shall be responsible to pay all rates, taxes and any other charges due to any Authority in respect to their respective Erf.
- 8.17. If the consent of the Association is required in respect to any provisions of this Constitution and such consent is validly given, then such consent shall be deemed to be the consent of the Members and no Member may contest the validity thereof at any time thereafter.
- 8.18. If any consent of the Association is required as a precondition in respect of any matter contemplated under this Constitution, then such consent, if given, shall only be deemed to be validly given where given in writing and in accordance with the proper authority of the Association or Trustees acting thereunder as provided for in the Constitution.

9. RULES PERTAINING TO THE TRANSFER OF OWNERSHIP

Rules pertaining to the transfer, whether by acquisition or disposal, of a Residential Erven;

- 9.1. No Member may transfer its Erf without the prior written consent of the Association (“**Outgoing Clearance Certificate**”) such certificate to be withheld or issued at the discretion of the Association;
- 9.2. No person/s may become a Member of the Association, having followed the application process (“**Membership Application**”), without the prior written consent of the Association (“**Incoming Clearance Certificate**”) such certificate to be withheld or issued at the discretion of the Association.
- 9.3. If a Member is a juristic person, then such juristic person/s may not transfer (collectively) more than 50% (fifty percent) of its shareholding without an Outgoing Clearance Certificate.

- 9.4. The Association may at its discretion, and without incurring any liability to any Member or third party, always acting reasonably and in good faith, either withhold or issue the relevant Outgoing Clearance Certificate or Incoming Clearance Certificate until it is satisfied that all debt and obligations of any outgoing Member have been discharged.
- 9.5. Notwithstanding any other relevant provision of this Constitution, a Member shall not sell, alienate or give transfer of an Erf unless;
 - 9.5.1. the proposed transferee has irrevocably bound himself to become a Member of the Association and to comply with all the provisions of the Constitution and its Associated Documents for the duration of his ownership of the Erf and
 - 9.5.2. the proposed transferee acknowledges that upon registration of transfer of the Erf into his name, he shall *ipso facto* become a member of the Association and
 - 9.5.3. the proposed transferee acknowledges receipt of the Constitution and all Associated Documents and his agreement to comply therewith upon registration of transfer of the Erf into his name and
 - 9.5.4. the Association have issued both Outgoing Clearance Certificate and Incoming Clearance Certificate.

Rules pertaining to the transfer of ownership, whether by acquisition or disposal of an interest in the Private Nature Reserve or the Private Resort;

- 9.6. The Resort Owner may not transfer any of its ownership in the Private Resort without an Outgoing Clearance Certificate.
- 9.7. No incoming prospective owner of the Private Nature Reserve may become a Member of the Association without an Incoming Clearance Certificate.
- 9.8. No incoming prospective owner of the Private Resort may become a Member of the Association without an Incoming Clearance Certificate.
- 9.9. A proposed transfer of ownership, whether in whole or in part, of either the Private nature Reserve or Private Resort shall be deemed to be a “**Material Transaction**”.
- 9.10. If the Association becomes aware of a proposed Material Transaction, it must forthwith notify the relevant parties that it requires the proposed incoming owner to provide a written disclosure of its intentions regarding the proposed acquisition (“**Disclosure of Intent**”) except that;
 - 9.10.1. Where a Material Transaction relates to the proposed disposal of less than 50% (fifty percent) of ownership (collectively), then the Association shall not require a Disclosure of Intent and must issue both Outgoing Clearance Certificate and Incoming Clearance Certificate forthwith on requests by the relevant parties.
- 9.11. Where a Disclosure of Intent is required, then the following rules and guidelines shall apply;
 - 9.11.1. The Association must make its assessment in the best interests of the Members, acting fairly and in good faith at all times.
 - 9.11.2. A Disclosure of Intent shall be in the form of guarantees and warranties in favour of the Association and shall be such that the Association shall be entitled to rely thereon and (if necessary) seek relief from the courts in enforcing any guarantees or warranties contained therein.
 - 9.11.3. The Association must request from the relevant parties, a Disclosure of Intent upon becoming aware of a proposed Material Transaction.
 - 9.11.4. Upon request by the Association, the relevant parties must submit the relevant Disclosure of Intent within a reasonable period of time; if a submission is not made within a reasonable period of time, the proposed transaction will be deemed to have been abandoned.
 - 9.11.5. Upon receipt of a Disclosure of Intent from the relevant parties, the Association must, acting reasonably and in good faith, assess the Disclosure of Intent and form an opinion within 30 (thirty) days of receipt thereof.
 - 9.11.6. If the disclosures, guarantees and warranties contained therein confirms that the incoming owner does not intend to deviate materially from the permitted usage of either the Private Nature Reserve or Private Resort (whichever is applicable) as provided for under the CoE or this Constitution, then the Association must issue the relevant Outgoing Clearance Certificate and Incoming Clearance Certificate within a reasonable period of time.
 - 9.11.7. If the disclosures, guarantees and warranties contained therein confirms that the incoming owner intends to deviate materially from the permitted usage of either the Private Nature Reserve or Private Resort (whichever is applicable) as provided for under the CoE, then the Association may not issue the relevant Outgoing Clearance Certificate and Incoming Clearance Certificate, notifying the relevant parties of its decision and reasons therefore (“**Decision Notice**”) in which event;

- 9.11.7.1. the relevant parties may abandon such proposed disposal and acquisition which will bring an end to the matter or
- 9.11.7.2. the relevant parties may revise and resubmit the Disclosure of Intent in which event the Association shall assess and act on the revised Disclosure of Intent in accordance with the rules and guidelines contained herein.
- 9.11.7.3. If, following Decision Notice, no action is taken by the relevant parties within a reasonable period of time, then the matter will be deemed to have been abandoned.
- 9.11.8. If the disclosures, guarantees and warranties contained therein confirms that the incoming owner intends to deviate materially from the permitted usage of either the Private Nature Reserve or Private Resort (whichever is applicable) as provided for under the Constitution, then the Association may not issue the relevant Outgoing Clearance Certificate and Incoming Clearance Certificate providing its Decision Notice to the relevant parties in which event;
 - 9.11.8.1. the relevant parties may abandon such proposed disposal and acquisition which will bring an end to the matter or
 - 9.11.8.2. the relevant parties may revise and resubmit the Disclosure of Intent in which event the Association shall assess and act on the revised Disclosure of Intent in accordance with the rules and guidelines contained herein or
 - 9.11.8.3. the relevant parties may request the Association to refer the matter to its Members for a decision on whether to change the Constitution or not or
 - 9.11.8.4. If, following Decision Notice, no action is taken by the relevant parties within a reasonable period of time, then the proposal will be deemed to have been abandoned.
- 9.11.9. If a decision regarding a Material Transaction is referred to the Members as contemplated under clause 6.11.7.3 then such matter will be discussed and voted on at either an AGM or a Special General Meeting whereafter, the Association shall inform the relevant parties by way of a notice of the decision of its Members within 30 (thirty) days to either;
 - 9.11.9.1. accept the prospective incoming owners' proposal whereupon the Constitution will be changed, and the Association shall issue the relevant Outgoing Clearance Certificate and Incoming Clearance Certificate or
 - 9.11.9.2. Reject the prospective incoming owners' proposal whereupon the matter will end.
- 9.11.10. Any decision of the Members at either an AGM or Special General Meeting regarding a Material Transaction shall be final and neither the Reserve Owner or the Resort Owner (whichever is applicable) shall be entitled to contest the validity thereof.

10. CESSATION OF MEMBERSHIP

- 10.1. If a Member ceases to be an owner of an Erf, he shall *ipso facto* cease to be a member of the Association (“**Former Member**”).
- 10.2. If a Former Member owes any outstanding debt to the Association, then such debt shall be immediately due and payable as applicable by the Former Member whether pursuant to;
 - 10.2.1. any provision of the Constitution of the Association; or
 - 10.2.2. any ancillary guarantee, commitment or obligation which such Former Member may have undertaken.
- 10.3. No Former Member of the Association, including such Former Member's executors, curators, trustees, liquidators and the like, shall have any claim upon or interest in the funds or property of the Association.

11. LEVIES AND EXPENDITURE OF THE ASSOCIATION

- 11.1. The Association shall establish and maintain a Levy fund for the purposes of meeting all expenses of the Association in respect of:
 - 11.1.1. the control, management and administration of the Residential Erven of the Property;
 - 11.1.2. in general, the attainment of its main objects as described in this Constitution;
 - 11.1.3. the supply of any services rendered to the Association;
 - 11.1.4. payment of all expenses necessary or reasonably incurred in connection with the management of the Association;
 - 11.1.5. in general, the cost of fulfilling any of the obligations of the Association;
 - 11.1.6. costs payable to the Reserve Owner in terms of Traversing Right and Temporary Right/s;

- 11.2. The Trustees shall estimate the amount which will be required by the Association to meet the expenses referred to in this clause 9 during each year, together with such estimated deficiency, if any, as shall result from the preceding year and may include in such estimate an amount to be held in reserve to meet anticipated future expenditure not of an annual nature.
- 11.3. The Association shall be entitled to require Members, in accordance with the procedures set out in this clause 9, to make contributions (Levies) to such Levy fund for the purposes of satisfying the expenses referred to in clause 9.
- 11.4. The procedure for raising and collecting levies shall be as follows:
 - 11.4.1. The Trustees shall submit the estimated expenditure referred to in 9.2 to the AGM of the Association for consideration whereupon the meeting shall be obliged to approve the following items of expenditure;
 - 11.4.1.1. All charges, fees, expenses and the like which the Association owes to the Reserve Owner in respect of Traversing Right or Temporary Right/s;
 - 11.4.1.2. all rates, taxes charges and the like payable by the Association to the local Authority;
 - 11.4.1.3. any costs incurred by the Association in respect to the administration and oversight of the Residential Erven including those other components on the Property for which it is responsible;
 - 11.4.1.4. the fee payable to any Estate Manager with whom the Association has entered into an agreement;
 - 11.4.1.5. amounts payable in terms of any Maintenance and Services Agreement;
- 11.5. The Association must agree the Standards of any services to be performed and the costs therefore prior to concluding any agreement for the provision of services.
- 11.6. The Association shall have its annual general meeting within 60 days of the financial year end of the Association at which time it shall decide on any increase or decrease in Levies (if any) and the amounts to be charged to Members in respect thereof.
- 11.7. The Association may, from time to time by resolution adopted by the Trustees, make special Levies upon members, effective from the date of passing of the applicable resolution, in respect of any expenses not included in the Levies approved at the AGM, such special Levies to be imposed and payable in one sum or by such instalments and at such time or times as the Trustees may determine in its resolution. The decision of the Trustees in calculating such special Levies shall be final and binding on all Members.
- 11.8. Any Levy due by a Member shall be a debt due by him to the Association payable on such time or times as determined by the Trustees. The Trustees may determine that a Levy is payable annually in advance in respect of the year for which it is calculated or in such monthly instalments as it may determine.
- 11.9. Until a new Levy pertaining to the forthcoming year has been determined pursuant to the provisions of this clause 9, every Member of the Association shall continue to pay the existing Levy currently in force.
- 11.10. The obligation of a Member to pay a Levy shall cease upon his ceasing to be a Member, save that he shall remain liable for all Levies calculated up to the date upon which he ceases to be a Member.
- 11.11. No Levies paid by a Member shall be repayable by the Association upon cessation of the Member's membership in the Association.
- 11.12. A Member's successor in title to an Erf shall be liable, as from the date upon which he becomes a Member pursuant to registration of transfer of such Erf in his name, to pay the Levies attributable to that Erf.
- 11.13. A Member shall be obliged to pay interest on any Levy not paid on the due date at the Associations' bank overdraft interest rate plus 3% (three percent) per annum compounded monthly calculated from the due date until the date that the arrear Levies have been paid in full to the Association.
- 11.14. The Association shall be entitled to require a Member to sign a debit order authority to allow the Association or its authorised agent to collect Levies directly from an operating bank account.
- 11.15. If any Member fails to make payment on due date of Levies and/or other amounts payable by such Member including interest, the Association may give notice to such Member requiring him to remedy such failure within such period as the Association may determine and should he fail timeously to make such payments, the Association may institute legal proceedings against such Member without further notice and such Member will be liable for and shall pay all legal costs on the scale as between attorney and own client together with collection commission and any other expenses and charges incurred by the Association in recovering such amounts.
- 11.16. No Member shall (unless otherwise determined by the Trustees) be entitled to any of the privileges of membership including his right to vote until he shall have paid every Levy and interest thereon and any other amount which may be due and payable by him to the Association.
- 11.17. The Association shall not be entitled to undertake on behalf of its Members any permanent works of major capital nature without the sanction of a resolution of the Members adopted during any AGM or Special

General Meeting. The Members shall agree at each AGM the maximum value of any permanent works which the Association shall be entitled to undertake on behalf of its Members without further sanction of a resolution of the Members.

- 11.18. In calculation of the Levy payable by any Member, the Trustees shall as far as reasonably practical apportion costs fairly and in each case as they consider it equitable to do so, apportion to any Member any greater or lesser share of the costs as may be reasonable in the circumstances.
- 11.19. Should any dispute arise at any time between the Members and the Trustees in regard to the determination or calculation of the Levies, the decision of the Auditors of the Association (acting as experts and not arbitrators) in regard to such dispute shall be final and binding on the Members and the Trustees.
- 11.20. In the event of any dispute arising in regard to the determination or calculation of any Levy, every Member shall until the determination of such dispute continue to pay the Levies determined by the Trustees.
- 11.21. The right of the Association to draw from and use bulk services is subject to it having paid all Levies, rates and other relevant costs to the local Authority and any other relevant service provider, such right being subject to the periodic interruption for maintenance purposes or such other force majeure events outside of the reasonable control of a party.

12. MAINTENANCE AND SERVICES ON THE PROPERTY

- 12.1. The Association shall from time to time, enter into any such agreement for the provision of services in respect to those aspects of the Property for which it is responsibly under this Constitution, such agreements forming part of the Associated Documents.
- 12.2. The Association shall be responsible to facilitate and administer the performance of all obligations arising in respect to the Associated Documents.

Potable Water Supply

- 12.3. The owner of the Development shall be responsible to ensure that potable water is supplied to the relevant Standards in bulk at the boundary of the Property, such point of supply being indicated on the Site Plan ("**Potable Water Point of Supply**").
- 12.4. The owner of the Development shall install the infrastructure for the potable water supply from the Potable Water Point of Supply to the boundary of each Erf in the Development at its own cost ("**Water Initial Supply**") following which it will have discharged any liability therefore.
- 12.5. Further to the Water Initial Supply, the Association shall administer and manage all costs (including collections owed by Members), maintenance, further development (if any) and servicing of the internal potable water supply system in respect of the Residential Erven and Private Resort including but not limited to; pipeline; pumps; meters; equipment; materials and the like.
- 12.6. Potable water may be made available from either internal borehole supplies or the relevant utility provider (or both) and will be supplied to and metered in bulk at the Potable Water Point of Supply.
- 12.7. Members of the Association shall be liable for and shall pay to the Association on demand all charges arising from water supplied to or consumed in or on (or originating from) the Potable Water Point of Supply.
- 12.8. The Association shall be responsible to ensure that each Member's water consumption will be metered separately and shall conduct regular inspections of such meters and prepare Members accounts according to a Members water consumption.
- 12.9. The Association, Resort Owner and Reserve Owner shall enter into an agreement for the responsibility, maintenance and upkeep of the potable water supply system up to the Potable Water Point of Supply in so far as the parties are responsible therefore.

Electricity

- 12.10. The Owner of the Development shall be responsible to ensure that electricity is supplied to the relevant Standards in bulk at the boundary of the Property, such point of supply being indicated on the Site Plan ("**Electrical Point of Supply**").
- 12.11. The Reserve Owner shall install the infrastructure (if required by the Local Authority) for the electricity supply from the Electrical Point of Supply to the boundary of each erf in the Development ("**Electricity Initial Supply**") following which it will have discharged any liability therefore.
- 12.12. Further to the Electricity Initial Supply, the Association will be responsible for the maintenance, operation and further development (if any) of the internal reticulation of electricity in respect of the

Residential Erven and Private Resort and shall further be responsible to appoint a responsible person as defined in terms of the Occupational Health and Safety Act to exercise this function on its behalf.

- 12.13. The Association shall be responsible to ensure that each Member's electricity consumption will be metered separately and shall conduct regular inspections of such meters and prepare Members accounts according to a Members electricity consumption.
- 12.14. The Association, Resort Owner and Reserve Owner shall enter into an agreement for the responsibility, maintenance and upkeep of the electrical reticulation system up to the Potable Water Point of Supply in so far as the parties are responsible therefore.

Security, Communications Provisions

- 12.15. The Reserve Owner is responsible for the development, maintenance and management of;
- 12.15.1. perimeter fencing around the whole of the Property built in accordance with the relevant Standards;
 - 12.15.2. controlled access onto the Property by way of a security gate and 24hr manned guardhouse ("Main Gate");
- 12.16. The Reserve Owner shall be responsible for the continued and on-going management (including general health and safety requirements) of an effective law enforcement and compliance protocol in respect to perimeter fencing and Main Gate.
- 12.17. The Association shall be responsible for the development, maintenance and management to the required Standards of;
- 12.17.1. any internal security systems it so chooses
 - 12.17.2. any internal communication systems it so chooses (including but not limited to access control systems, alarm systems, intercoms, close circuit video systems, TV and the like)
 - 12.17.3. the provision of TV signals to the Residential Erven and Private Resort
 - 12.17.4. any further internal security provisions it so chooses
- 12.18. The Association shall be responsible to ensure that each Member shall pay its costs in respect to all security and communications provisions whether provided for in this Constitution or otherwise agreed from time to time by the Association and incorporated into the Associated Documents.
- 12.19. The Association, Resort Owner and Reserve Owner shall enter into an agreement for costs payable to the Reserve Owner in respect to its responsibility for the maintenance and management of any security and communications systems in so far as the Reserve Owner is responsible therefore.
- 12.20. The Reserve Owner and its designated security personal, acting reasonably, shall be entitled to approve or deny access to the Property to any person/s at any time if such person/s are unable to provide evidence of valid authority to enter into the Property and the Reserve Owner shall not incur any liability to any Member on account of any refusal to grant access on account thereof, except that;
- 12.20.1. Reserve owner and its designated security personnel shall not be entitled to deny access to Members at any time (other than as provided for herein) unless such Member is unable to demonstrate its membership in the Association and
 - 12.20.2. Reserve owner and its designated security personnel shall not be entitled to unreasonably refuse access to any authorised guests of Members and the Private Resort unless such authorised guest is unable to demonstrate valid authority to enter into the Property and
 - 12.20.3. Reserve owner and its designated security personnel may not refuse access to any relevant Authority acting on official business, subject so such person/s demonstrating to the reasonable satisfaction of the security personnel their identity and authority to perform official business on the Property and
 - 12.20.4. The Reserve owner and its designated security personnel shall not refuse reasonable access to any emergency vehicle where such access is required on account of a emergency
- 12.21. All Members shall co-operate with the Association for the installation and maintenance of security systems that will integrate the security systems of the Association with those of the Members.
- 12.22. Where the Association deems necessary, Members shall allow the Association (including its employees, agents, contractors and the like) access to their properties to install, maintain and operate such security systems.
- 12.23. Members of the Association are obliged to accept the established security infrastructure provided by the Reserve Owner and/or the Association and shall not be entitled to install any security systems of any type whatsoever which are incompatible and incapable of being integrated with the systems established by Reserve Owner and/or the Association.

12.24. It is recorded that the security systems on the Property are of crucial importance for purposes of a cohesive and effective security system on the Property, and in the best interests of all Members of the Association; accordingly, all members are obliged to co-operate and participate as required in terms of this Constitution.

Sewerage

12.25. The Association will be responsible for approving the sewerage system/s for use by Members, and for including requirements for the approved system/s in the relevant Associated Documents.

12.26. The Association will be responsible for the maintenance of the internal sewer reticulation serving the Residential Erven and Private Resort (if any) as well as the maintenance of the sewerage treatment plant (if any).

12.27. The Association, Resort Owner and Reserve Owner shall enter into an agreement for the responsibility, maintenance and upkeep of the sewerage reticulation system on the Property in so far as the parties are responsible therefore.

Storm Water System

12.28. The Association will be responsible for the development, maintenance and any further development and maintenance required for the internal storm water system serving the Residential Erven and Private Resort and shall be responsible to including any necessary requirements in the relevant Associated Documents.

12.29. The Association, Resort Owner and Reserve Owner shall enter into an agreement for the responsibility, maintenance and upkeep of the sewerage reticulation system on the Property in so far as the parties are responsible therefore.

Services in General

12.30. The Reserve Owner and Association (whichever is applicable) and/or its authorised representatives shall have the right to convey water, electricity, sewerage, telephone, information technology, telecommunication, security communication and any other services over any Erf or building and shall have the right of access to such premises for the purposes of installing, replacing and/or repairing such services subject to the following:

12.30.1. In the case of an emergency repair, reasonable notice is not required for access onto an Erf, but the consent of the owner must be attained prior to access into the relevant owners' premises and

12.30.2. In non-emergency situations, Reserve Owner or Association (whichever is applicable) must give reasonable notice to the relevant owner (but not less than 24hrs except with the consent of the owner of the Erf) of its intentions access an Erf or such premises on the Erf for the purposes of for the purposes of installing, replacing and/or repairing such services and

12.30.3. Any such installing, replacing and/or repairing of services must be carried out during normal working hours Monday to Friday 8am-5pm except that an owner of the Erf may consent to any installing, replacing and/or repairing of services between 8am and 2pm on Saturdays in addition to those days prescribed.

12.31. Members will allow reasonable access to employees or representatives of the Reserve Owner and/or Association into buildings or over an Erf for purposes of maintaining any pipes or equipment or in general any of the systems necessary for the conveyance or provision of the services referred to in this Constitution.

12.32. Members are obliged to provide their co-operation and allow reasonable access to employees or representatives of the Reserve Owner and/or Association to enable them to install, implement and maintain any pipes or other modes of conveying of the services referred to in this Constitution or provided for in any Associated Document.

12.33. The owner of the Development, Association or Reserve Owner (whichever is applicable) shall have the right to register servitudes of right of way and/or servitudes for the conveyance of electricity, water, sewerage, telephone lines, information technology, security systems and any other type of services and/or servitudes of encroachment or servitudes in respect of any common walls or structural support or any other servitudes in respect of any other type of use over any Erf in favour of the Association that in the opinion of the owner of the Development or Association or Reserve Owner is reasonably necessary for the proper functioning of the Development whether in whole or in part.

12.34. The Association accepts and shall be bound by and consents to registration of such reciprocal servitudes between members of the Association and the Association as provided for herein.

13. TRUSTEES

- 13.1. The Association shall be represented by 7 (seven) Trustees of which;
- 13.1.1. The Reserve Owner shall appoint, and shall always be entitled to appoint, 2 (two) Reserve Owner Trustees at his sole discretion save the Association shall be entitled to require the Reserve Owner to remove and replace any such Reserve Owner Trustee acting in breach of the code of conduct expected of a Trustee
 - 13.1.2. The Resort Owner shall appoint, and shall always be entitled to appoint, 1 (one) Resort Owner Trustee at his sole discretion save the Association shall be entitled to require the Resort Owner to remove and replace any such Resort Owner Trustee acting in breach of the code of conduct expected of a Trustee
 - 13.1.3. Members shall appoint, and shall always be entitled to appoint, 4 (four) Trustees except that the Reserve Owner and/or Resort Owner shall be entitled to require the Members to remove and replace any such Trustee of its own appointment, acting in breach of the code of conduct expected of a Trustee.
- 13.2. The relevant parties shall take reasonable steps to appoint Trustees within 30 (thirty) days of the formation of the Association such Trustees to serve as Trustees of the Association until the first AGM whereupon the Members shall nominate and elect new Trustees in accordance with the rules pertaining to the appointment of Trustees as contained in this Constitution.

14. REMOVAL AND ROTATION OF TRUSTEES

- 14.1. Except as provided for in this clause 12, a Trustee shall continue to hold office until the next AGM following his appointment at which meeting each Trustee shall be deemed to have retired from office upon the election or re-election of the new Trustees, but each Trustee will be eligible for re-election to the Trustees at such meeting.
- 14.2. A Trustee shall be deemed to have vacated his office as such upon;
- 14.2.1. his estate being sequestrated, whether provisionally or finally, or his surrendering his estate;
 - 14.2.2. his making any arrangement or compromising with his creditors;
 - 14.2.3. his conviction for any offence involving dishonesty;
 - 14.2.4. his becoming of unsound mind or being found lunatic;
 - 14.2.5. his resigning from such office in writing delivered to the secretary;
 - 14.2.6. his death;
 - 14.2.7. him being removed from office as provided for in the Companies Act, provided that anything done in the capacity of a Trustee in good faith, by a person who ceases to be a Trustee, shall be valid until the fact that he is no longer a Trustee and has been recorded in the minute book of the Trustees.
- 14.3. Upon any vacancy occurring on the Trustees prior to the next AGM, the vacancy in question shall be filled by a person nominated by the remaining Trustees.

15. OFFICE OF TRUSTEES

- 15.1. Within 7 (seven) days of the holding of the first AGM, the Trustees shall meet and shall elect from its own number the Chairman and vice-Chairman, who shall hold their respective offices until the AGM held next after their said appointment, provided that the office of the Chairman or vice-Chairman shall ipso facto be vacated by the Trustee holding such office upon his ceasing to be a Trustee for any reason.
- 15.2. No one Trustee shall be appointed to more than one of the aforesaid offices concurrently.
- 15.3. In the event of any vacancy occurring in any of the aforesaid offices at any time, the Trustees shall immediately meet to appoint one of their number as a replacement to such office.
- 15.4. Except as provided for herein, the Chairman shall preside at all meetings of the Trustees, and all general meetings (including a Special General Meeting) of Members and shall perform all duties incidental to the office of Chairman and such other duties as may be prescribed by the Trustees or by the Members, and to allow or refuse to permit invitees to speak at any such meetings.
- 15.4.1. The vice-Chairman shall assume the powers and duties of the Chairman in the absence of the Chairman, or his inability or refusal to act as Chairman, and shall perform such other duties as may from time to time be assigned to him by the Chairman or by the Trustees.
 - 15.4.2. Trustees 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 Trustees and/or Chairman, 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.

16. FUNCTIONS & POWERS OF THE TRUSTEES

- 16.1. Subject to the express provisions of this Constitution, the Trustees shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs 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 either by virtue of the provisions of the Companies Act, or by this Constitution required to be exercised or done by the Association in any general meeting, subject nevertheless to any regulations as may be prescribed by the Association from time to time, provided that no regulation made by the Association in general meeting shall invalidate any prior act of the Trustees which would have been valid if such regulation had not been made.
- 16.2. The Trustees shall have the right to vary, cancel or modify any of their decisions and resolutions from time to time.
- 16.3. The Trustees shall not have the right to co-opt as a Trustees any person or persons.
- 16.4. The Trustees may, should they so decide, investigate any suspected or alleged breach by any Member or Trustee, in such reasonable manner as they shall decide from time to time.
- 16.5. The Trustees may make rules, regulations and/or by-laws, not inconsistent with this constitution, or any direction given at any General Meeting;
 - 16.5.1. as to the settlement of disputes, generally;
 - 16.5.2. for the furtherance and promotion of any of the objects of the Association;
 - 16.5.3. for the better management of the affairs of the Association;
 - 16.5.4. for the advancement of the interests of Members;
 - 16.5.5. for the regulation and control of the conduct of Members on the Property;
 - 16.5.6. governing the manner and methods of the use of any part of the Property or property of the Association;
 - 16.5.7. for the conduct of Trustees meetings and general meetings; and
 - 16.5.8. to assist it in administering and governing its activities generally.
- 16.6. The Trustees may cancel, vary or modify any rules, regulations and/or by-laws created pursuant to clause 16.5 from time to time.
 - 16.6.1. For the purpose of transacting their business as provided herein, the Trustees shall be entitled to open and operate a banking account in the name of the Association at a registered banking institution.

17. OTHER PROFESSIONAL OFFICERS

- 17.1. Save as specifically provided otherwise in this Constitution, the Trustees shall at all times have the rights to engage on behalf of the Association, the services of accountants, auditors, attorneys, advocates, architects, engineers, any other professional person/s or firm and/or any other employee/s whatsoever, for any reasons deemed necessary by the Trustees and on such terms as **the Trustees shall decide**.

18. PROCEEDINGS OF THE TRUSTEES

- 18.1. The Trustees may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of this Constitution.
- 18.2. Meetings of the Trustees shall be held at least once every quarter, provided that if all the Trustees shall in writing have waived the above requirement in respect of a particular quarter then no meeting of the Trustees needs be held for that quarter.
- 18.3. The quorum necessary for the holding of any meeting of the Trustees shall be 3 (three) Trustees providing that at least 1 (one) of the 3 (three) in respect to of such quorum shall be Reserve Owner Trustees.
- 18.4. The Chairman shall preside as such at all meetings of the Trustees, provided that should at any meeting of the Trustees the Chairman not be present within 5 (five) 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 5 (five) minutes of the time appointed for the holding of such meeting, those present of the Trustees 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.
- 18.5. Any resolution of the Trustees shall be carried by a simple majority of all votes cast. In the case of an equality of votes for and against a resolution the Chairman of the Trustees shall have a second or casting vote.
- 18.6. If any vote cast in any meeting of the Trustees shall affect the rights and obligations of the Reserve Owner in terms of Traversing Right, Temporary Right/s and/or any Associated Document or shall affect the rights

and obligations of the owners of the Game Farming Enterprise in any manner whatsoever, such decision shall not be valid and binding, unless 2 (two) Reserve Owner Trustees are present at the meeting and provided further that the Reserve Owner shall have the right to veto any such decision.

- 18.7. A Trustee shall take minutes of every Trustees meeting, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting will have closed and shall then be certified correct by the Chairman of the meeting. All minutes of Trustees meetings shall after certification as aforesaid be placed in a Trustees minute book to be kept in accordance mutatis mutandis, with the provisions of the law relating to the keeping of minutes of meetings of directors of companies. The Trustees minute book shall be open for inspection at all reasonable times by a Trustee, the Auditors, the Association, Members and local Authority.
- 18.8. All competent resolutions recorded in the minutes of any Trustees meeting shall be valid and of full force and effect as therein recorded, with effect from the passing of such resolutions, and until varied or rescinded, but no resolution or purported resolution of the Trustees shall be of any force or effect, or shall be binding upon the Members or any of the Trustees unless such resolution is competent within the powers of the Trustees.
- 18.9. Save as otherwise provided in this Constitution, the proceedings at any Trustee meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.
- 18.10. A resolution signed by all the Trustees shall be valid in all respects as if it had been duly passed at a meeting of the Trustees duly convened.

19. GENERAL MEETINGS OF THE ASSOCIATION

- 19.1. The Association shall, within twelve months of the date of the first registration of transfer of an Erf from the owner of the Property to an owner of a Residential Erven, hold a meeting as its first AGM. Such meeting shall be called by the Reserve Owner Trustees. Should they fail to call the meeting the meeting shall be convened by any Member by giving notice as prescribed herein. Thereafter within three months of the financial year end of the Association it shall hold second and subsequent AGM.
- 19.2. Such AGM shall be held at such time and place subject to the foregoing provisions, as the Trustees shall decide from time to time.
- 19.3. All general meetings other than AGM's shall be called special general meetings ("**Special General Meeting**").
- 19.4. The Trustees may, whenever they think fit or at the request of not less than 25% (twenty five percent) of the Members, convene a Special General Meeting and if the Trustees fail to do so, such meeting may be convened by the requisitioners themselves provided that notice thereof has been given in terms of this Constitution.

20. NOTICE OF MEETING

- 20.1. The AGM and Special General Meeting called for the passing of a special resolution, shall be called with not less than 21 (twenty-one) days' notice in writing and a Special General Meeting, other than one called for the passing of a special resolution, shall be called with not less than 14 (fourteen) days' notice in writing. In each case, the notice shall be exclusive of the day on which it is given, and shall specify:
 - 20.1.1. the place, the day and the hour of the meeting and
 - 20.1.2. in the case of special business, in addition to any other requirements contained herein, the general nature of that business
 - 20.1.3. and in the case of a special resolution, the terms and effect of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such other manner, if any as may be prescribed by the Trustees to such persons as are under these presents entitled to receive such notices from the Association
- 20.2. If any meeting of the Association shall be called by shorter notice than that specified herein, it shall be deemed to have been duly called if it is so agreed by not less than 75% (seven five percent) of Members having the right to attend and vote at the meeting.
- 20.3. The accidental omission to give notice of any resolution or to present any document required to be given or sent in terms of this Constitution shall not invalidate the proceedings at or any resolution passed at any meeting.

21. SERVICE OF NOTICES

- 21.1. A notice shall be in writing and shall be given or served by the Association upon any Member, either personally or by post in a prepaid registered letter, properly addressed to the Member at his chosen postal address or by way of hand delivery to the premises on the Erf owned by the Member in which latter case the notice shall be deemed to be validly given if it is handed to any person over the age of 16 who appears to be in occupation of the dwelling on the Erf.
- 21.2. No Member shall be entitled to have a notice served on him at any address not within the Republic of South Africa other than by the written approval of the Association, but any Member may require the Association, by notice, to record an address within the Republic of South Africa which shall be deemed to be his address for the purpose of the service of notices.
- 21.3. Any notice by post shall be deemed to have been served at the time when the letter containing the same was posted, and proof of the giving of the notice by post, shall be sufficient to prove that the letter containing the notice was properly addressed and posted.
- 21.4. The accidental omission to give notice of a meeting to, or the non- receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings of that meeting.

22. VENUE OF MEETINGS

- 22.1. An AGM or Special General Meeting (as the case may be) shall take place at such place/s as shall be determined by the Trustees from time to time.

23. QUORUM

- 23.1. No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business and when any resolution is to be passed. The quorum necessary for the holding of any general meeting shall be such, that of the Members entitled to vote, 50% (fifty percent) of the total votes of all Members entitled to vote shall be represented at the meeting, save that not less than 5 (five) Members must be present in person or by proxy and at least 1 (one) Reserve Owner Trustee must be present at such meeting.
- 23.2. 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 decide, 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 constitute a quorum.

24. AGENDA AT MEETINGS

- 24.1. In addition, to any other matters as would be required by the Act to apply to a company or to these presents to be dealt with at an AGM, the following matters shall be dealt with at every AGM;
 - 24.1.1. the consideration of the Chairman's report to the Trustees;
 - 24.1.2. the election of the Trustees;
 - 24.1.3. 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;
 - 24.1.4. the consideration of the income and expenditure statement and balance sheet of the Association for the last financial year of the Association preceding the date of such meeting and
 - 24.1.5. the consideration of the report of the Auditors.

25. PROCEDURE AT GENERAL MEETINGS

- 25.1. The Chairman 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 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 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.
- 25.2. 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 the 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.

- 25.3. Except as otherwise set forth herein, all general meetings shall be conducted in accordance with generally accepted practice.

26. PROXIES

- 26.1. 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 constitutes more than one person, the Representative may sign the instrument appointing a proxy on such Member's behalf, where a Member is a juristic person, the same may be signed by the Chairman of the board of directors of the company or by its secretary; where an association of persons, by the secretary thereof; where a close corporation, by any member and where a trust, by any trustee.
- 26.2. The instrument appointing a proxy and the Power of Attorney or other authority (if any) under which it is signed, or a certified copy thereof shall be deposited at the Association's office no less than 24 hours before the time appointed for the commencement of the meeting, or adjourned meeting, at which the person named in the instrument is authorised to vote. No instrument appointing a proxy, shall be valid after the expiration of 12 (twelve) months from the date of its execution.

27. VOTING

- 27.1. At every general meeting, every Member in person or by proxy and entitled to vote shall have one vote for each Erf registered in his name provided that if an Erf is registered in the name of more than one person then all such co-owners shall jointly have only one vote.
- 27.2. Notwithstanding the provisions of 25.1, it is recorded that the Reserve Owner shall at all times be entitled to 5 (five) votes in respect of the Erf 113.
- 27.3. Notwithstanding the provisions of 25.1, it is recorded that the Resort Owner shall at all times be entitled to 2 (five) votes in respect of the Erf 112.
- 27.4. Save as expressly provided for in this Constitution, no person/s other than a Member duly registered, who has paid every levy and other sum (if any) due and payable to the Association 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.
- 27.5. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless either prior to or on the declaration by the Chairman of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.
- 27.6. Notwithstanding the provisions aforesaid, voting on the election of a Chairman of a general meeting (if necessary) or on any question of adjournment, shall be decided on a show of hands by a majority of the Members present in person or by proxy, and entitled to vote.
- 27.7. Every resolution and every amendment of a resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall not be voted upon.
- 27.8. Subject to the provisions herein, a resolution or the amendment of a resolution, shall be carried out by a simple majority of all the votes cast thereon, and an abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the general meeting shall be entitled to a casting vote in addition to his vote as Member.
- 27.9. Notwithstanding anything contained in this constitution, any resolution or the amendment of a resolution which would have the effect of amending or repealing any part of this constitution shall require a 75% (three quarters) majority of all Members entitled to vote before the resolution may be passed and shall be known as a special resolution.
- 27.10. Unless any Member present in person or by proxy at a general meeting shall before closure of the meeting have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, whether by show of hands or by poll, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted, and an entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the

number of votes recorded in favour of or against such motion, shall be conclusive evidence of the vote so recorded if such entry conforms with the declaration made by the Chairman of the meeting as to the result of any voting at the meeting.

28. FINANCIAL YEAR END

The financial year end of the Association is the end of February each year.

29. ACCOUNTS

- 29.1. The Association in a general meeting or the Trustees, may from time to time make reasonable conditions and regulations as to the time and manner of the inspection by the Members, of the accounts and books of the Association, or any of them, and subject to such conditions and regulations, the accounts and books of the Association shall be open to the inspection of Members at all reasonable times during normal business hours.
- 29.2. At each AGM, the Trustees shall lay before the Association a proper income and expenditure account for the immediately preceding financial year of the Association, or in the case of the first account, for the period since the transfer of the first Erf into the name of the first owner, together with a proper balance sheet made up as at the last financial year end of the Association.
- 29.3. Every such balance sheet shall be accompanied by proper and extensive reports of the Trustees and the Auditors, and there shall be attached to the notice sent to Members convening each AGM, copies of such accounts, balance sheet and reports (all of which shall be framed in accordance with the provisions of the Companies Act) and any other documents required by Law to accompany same.

30. AUDIT

- 30.1. At least once in each year, the accounts of the Association shall be examined, and the correctness of the income and expenditure statement and balance sheets ascertained by the Auditors.
- 30.2. The Auditors shall perform such duties as are performed by auditors of any registered company.

31. INDEMNITY

- 31.1. The Trustees and the Auditors 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 Trustee Member, in his capacity as Chairman, vice- Chairman, whether defending any proceedings, civil, criminal or otherwise, in which relief is granted to any such person/s by a competent court provided that the aforementioned have in all instances in respect to their duties to the Association, acted in good faith.
- 31.2. Every Trustee, every servant, agent and employee of the Association, and the Auditors shall be indemnified by the Association against (and it shall be the duty of the Trustees out of the funds of the Association to pay) all costs, losses and expenses (including 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 the case of a Trustee 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.
- 31.3. A Trustee shall not be liable for the acts, receipts, neglects or defaults of the Auditors or of any of the other Trustees, whether in their capacities as Trustee 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 Trustees 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 or criminal 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 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.

32. PRIVILEGE IN RESPECT OF DEFAMATION

32.1. Every Member of the Association and every Trustee shall be deemed by virtue of his membership or, as the case may be, his holding office as a Trustee, to have waived as against every other Member, the Trustees, the Chairman or vice-Chairman, the Auditors and everybody else engaged to perform any function or duty on behalf or for the benefit of the Association, or the Trustees, or any sub-committee, all claims and rights of action which such Member or Trustee might otherwise have had in law arising as a result of any statement, report, complaint or notice of or concerning such Member or Trustee, or any reference to such Member or Trustee, made at any Trustees meeting or general meeting, or otherwise in the performance or exercise of any right, function, duty, power or trust, within the ambit of this Constitution, being a statement, report, complaint, notice or reference defamatory to such Member or Trustee, or otherwise injurious to the dignity, reputation, business or financial interest of such Member or Trustee, whether such statement be true or false.

33. BREACH

33.1. Any Member who fails to make payment to the Association on due date of any Levies or other amount payable by such Member, or who otherwise breaches or fails in observance of any of the provisions of this Constitution may, if so determined by a resolution passed by not less than 50% (fifty percent) of the Trustees present at the meeting of the Trustees;

33.1.1. be ordered to pay such outstanding amounts and or

33.1.2. be ordered to pay the Association or any Member or other person aggrieved by the breach or failure in question, such sum as the Trustees determine to be fair and reasonable compensation.

33.2. The Member concerned shall be invited to attend such Trustees meeting by notice in writing delivered to such Member not less than 7 (seven) days prior to the holding thereof, and such Member shall be given the right to speak thereat, and to be represented legally, but not to be present at the voting or to take part in the proceedings other than as allowed by the Chairman of the meeting.

34. ARBITRATION

34.1. If any dispute (save for non-payment of levies or any other amounts due by a Member in terms of this Constitution) arises arise between Members or between a Member and Trustees out of or regarding either the interpretation of or the effect of their respective rights or obligations under this Constitution, the Parties must refer the dispute for resolution first by way of private negotiation and in the event of that failing, by way of mediation and in the event of that failing, by way of arbitration.

34.2. In respect of any claim arising from non-payment of levies of any other amount due by a Member to the Association in terms of this Constitution, the Association and Trustees shall continue to enjoy common law rights and shall not be required to proceed to arbitration and shall not be precluded from instituting legal proceedings in any court of competent jurisdiction.

34.3. The requirement for private negotiation and mediation is a precondition to the parties having the right to refer the dispute to arbitration.

34.4. A dispute within the meaning of this clause 34 shall exist if one party notifies the other in writing of the nature of the dispute and requires the resolution of the dispute in terms of this clause 34

34.5. Within 15 (fifteen) business days following notification of a dispute, the parties shall seek to resolve the dispute by way of private negotiation between a single representative from either party, such representatives being authorised to attempt to resolve the dispute and conclude their written agreement thereto.

34.6. If the dispute is not resolved by way of private negotiation within 15 (fifteen) business days, the parties must refer the dispute for resolution by way of mediation in accordance with the rules of the Arbitration Foundation of Southern Africa (“AFSA”).

34.7. If the dispute is not resolved by way of mediation within 15 (fifteen) business days, the parties must refer the dispute for resolution by way of arbitration.

34.8. Each Party agrees that the arbitration (or appeal arbitration) will be held as an expedited arbitration in Gauteng in accordance with the relevant rules of the AFSA by 1 (one) arbitrator appointed by agreement between the parties.

34.9. The arbitrator shall be a practicing advocate or attorney appointed by agreement between the parties to the arbitration within 7 (seven) days of being called upon to make such appointment. If the parties cannot agree on the arbitrator or the appeal arbitrator as the case may be within a period of 10 (ten) business days after referral, the arbitrator or appeal arbitrator shall be appointed by the Secretariat of AFSA.

- 34.10. 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. The arbitrator's decision shall be presented within 10 (ten) business 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.
- 34.11. Each of the parties to the arbitration irrevocably agree that the decision of the arbitrator made at such arbitration proceedings;
- 34.11.1. shall be final and binding on each of them; and
- 34.11.2. shall be carried into effect immediately; and
- 34.11.3. may be made an order of any Court that has jurisdiction over the parties or the Property.
- 34.12. Notwithstanding 34.11, the arbitrator's decision may be set aside if;
- 34.12.1. He is guilty of misconduct or bias in respect to the relevant matter or
- 34.12.2. If his decision is wrong on a point of law which on the face of it, may be corrected by the courts.
- 34.13. The periods for private negotiation or mediation may be shortened or lengthened by written agreement between the parties.
- 34.14. The provisions of this clause 34 shall not preclude any Member from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or mandamus pending finalisation of the dispute resolution process, for which purpose the parties irrevocably submit to the jurisdiction of a division of the High Court of the Republic of South Africa.
- 34.15. The references to AFSA shall include its successor or body nominated in writing by it in its stead.

35. WARRANTIES, PURPOSE AND ACKNOWLEDGEMENTS IN RESPECT OF THE PRIVATE RESORT

- 35.1. The Resort Owner warrants that he shall comply with the provisions of the CoE in all respects and the requirements and directions of any Authority in respect to the management of, construction of, use of and refurbishment of the Private Resort and any other directions of such Authority made from time to time for which the Resort Owner is obliged to comply with, whether in terms of Law or this Constitution.
- 35.2. The Resort Owner undertakes to comply with all relevant provisions of this Constitution and any Associated Document thereunder including any amendments to such Associated Documents made from time to time.
- 35.3. The Resort Owner undertakes to comply with any of the requirements of the owner of Erf 113 established in terms of this constitution in so far as such owner has a right to impose such requirement.

Permitted Use of the Private Resort

- 35.4. In terms of the CoE, the following shall apply;
- 35.4.1. Erf 112 may only be used as a Private Resort
- 35.4.2. No period of occupation (whether by guest or otherwise) shall exceed 3 (three) months in a calendar year except that staff members and employees of the Private Resort are permitted to live in without such CoE restriction.
- 35.5. In terms of this Constitution, the following uses are permitted ("Permitted Use of Private Resort") but shall not be obliged to be offered by the Private Resort (whether paid services or not);
- 35.5.1. Temporary accommodation for any guests, subject to the provisions of 35.4.2;
- 35.5.2. Temporary accommodation and conferencing facilities, subject to the provisions of 35.4.2;
- 35.5.3. Team building activities;
- 35.5.4. Indoor or outdoor serving and consuming of any food/s for guests at any time;
- 35.5.5. Indoor or outdoor serving and consumption of any beverages/drinks, whether alcoholic or not, to guests at any time;
- 35.5.6. The provision of various sport/s facilities for use by guests at times specified by the Private Resort;
- 35.5.7. The provision of gym facilities for use by guests at times specified by the Private Resort;
- 35.5.8. The provision of game driving and/ or game viewing facilities for guests at times specified by the Private Resort;
- 35.5.9. Children caring/entertainment facilities;
- 35.5.10. General recreation facilities such that might be offered by a resort similar to the Private Resort;
- 35.5.11. Spa facilities including but not limited to; nail care (both manicure and pedicure), massage services, hair services, waxing services, sauna, jacuzzi, body exfoliation and the like.

- 35.5.12. Transportation services for guests, whether arriving or leaving, at any time whatsoever;
- 35.5.13. The provision of shopping facilities for use by staff, guests, Members and other person/s at times specified by the Private Resort;
- 35.6. If any such services or/or facilities in terms of the Permitted Use of Private Resort are offered at any time by the Private Resort, such services and/or facilities are offered at the sole discretion and on the terms and conditions of the Private Resort and may be stopped and recommenced at any time without warning and without requiring any consent from the Association or Reserve Owner in respect thereto.
- 35.7. Notwithstanding the right of the Resort Owner to carry out and conduct services and facilities in terms of the Permitted Use of Private Resort, the Resort Owner must, and shall ensure that the Private Resort shall, comply with any reasonable requirements of the Association except that no requirement of the Association (whether reasonable or not) may materially detract from the right of the Resort Owner to provide facilities and services in terms of the Permitted Use of Private Resort at any reasonable time.
- 35.8. No Member shall have any claim of whatsoever nature against the Resort Owner, or his successors in title, or the Private Resort arising from the provision of services and facilities in terms of the Permitted Use of Private Resort from whatsoever cause arising.
- 35.9. The rights of the Resort Owner in terms of this clause 35 are irrevocable, permanently entrenched in this Constitution and incapable of amendment at any time by the Members other than with the written consent of the Resort Owner.
- 35.10. Notwithstanding the provisions of 33.9 or any provision of this Constitution dealing with the rights of the Trustees or Association to make amendments to this Constitution, if any Authority finds that the rights of Resort Owner in terms of Permitted Use of Private Resort is contrary to the permitted use in terms of the CoE or in terms of Law, then the Resort Owner shall forthwith suspend any such non-permitted activity and the Trustees must, without requiring written consent from the Resort Owner, amend the Constitution forthwith, removing the non-permitted activity from the list of Permitted Use of Private Resort as contained in clause 35.5

36. WARRANTIES, PURPOSE AND ACKNOWLEDGEMENTS IN RESPECT OF THE PRIVATE NATURE RESERVE

- 36.1. The Reserve Owner warrants that he shall comply with the provisions of the CoE in all respects and the requirements and directions of any Authority in respect to the management of, development on and use of the Private Nature Reserve and any other directions of such Authority made from time to time for which the Reserve Owner is obliged to comply with, whether in terms of Law or this Constitution.
- 36.2. The Reserve Owner undertakes to comply with all relevant provisions of this Constitution and any Associated Document thereunder including any amendments to such Associated Documents made from time to time.

Permitted Use of the Private Resort

- 36.3. In terms of the CoE, the following shall apply;
 - 36.3.1. The Reserve Owner shall comply with the requirements of the CoE in respect of any servitude.
- 36.4. In terms of this Constitution, the following uses are permitted on Erf 13 (“Permitted Use of Private Nature Reserve”) whether for commercial purposes or not;
 - 36.4.1. use as a private nature reserve;
 - 36.4.2. operation of a game farming enterprise (whether for food, depleted stock replenishment or hunting purposes);
 - 36.4.3. operation of a game breeding programme;
 - 36.4.4. exotic and/or rare game breeding programmes;
 - 36.4.5. fishing activities;
 - 36.4.6. hunting activities in any zone/s designated as “**Hunting Zone**” on the Site Plan;
 - 36.4.7. commercial farming;
 - 36.4.8. any activities that promote environmental management and sustainability (including game ranging training);
 - 36.4.9. any birding watching activities;
 - 36.4.10. any horse-riding activities;
 - 36.4.11. any hiking activities;
 - 36.4.12. mountain biking activities;

- 36.4.13. night and/ or day game viewing drives;
 - 36.4.14. walking safaris;
 - 36.4.15. temporary tented luxury accommodation for any guest's subject to the provisions of 35.4.2;
 - 36.4.16. facilities for the preparation, serving and consuming of any food/s and beverages, whether alcoholic or not, for guests at any time;
 - 36.4.17. temporary facilities for the provision of outdoor private spa facilities;
- 36.5. Notwithstanding the limitations to those Permitted Use of Private Nature Reserve, the Association, Members (whether individually or collectively), Resort Owner and Private Resort agree that the commercial success and ongoing sustainability of the Private Nature Reserve and Reserve Owners business is critical to the enjoyment and continued enjoyment of the rights of the Members and accordingly, the Reserve Owner is entitled to make amendments to any Permitted Use of Private Nature Reserve as is reasonably required to preserve the ongoing commercial success and short, medium and long term sustainability of the Private Nature Reserve and the business of the Reserve Owner except that;
- 36.5.1. The Reserve Owner shall not be entitled to substantially deviate from the Permitted Use of Private Nature Reserve without the written consent of the Association.
- 36.6. If any such Permitted Use of Private Nature Reserve is offered at any time by the Reserve Owner and Private Nature Reserve, such services and/or facilities are offered at the sole discretion and on the terms and conditions of the Reserve Owner and Private Nature Reserve and may be stopped and recommenced at any time without warning and without requiring any consent from the Association or Resort Owner in respect thereto.
- 36.7. Notwithstanding the right of the Reserve Owner to carry out and conduct services and facilities in terms of the Permitted Use of Private Nature Reserve, the Reserve Owner must, and shall ensure that the Private Nature Reserve shall, comply with any reasonable requirements of the Association except that no requirement of the Association (whether reasonable or not) may materially detract from the right of the Reserve Owner to provide facilities and services in terms of the Permitted Use of Private Nature Reserve at any reasonable time.
- 36.8. No Member shall have any claim of whatsoever nature against the Reserve Owner, or his successors in title, or the Private Nature Reserve arising from the provision of services and facilities in terms of the Permitted Use of Private Nature Reserve from whatsoever cause arising.
- 36.9. The rights of the Reserve Owner in terms of this clause 36 are irrevocable, permanently entrenched in this Constitution and incapable of amendment at any time by the Members other than with the written consent of the Reserve Owner.
- 36.10. Notwithstanding the provisions of 36.9 or any provision of this Constitution dealing with the rights of the Trustees or Association to make amendments to this Constitution, if any Authority finds that the rights of Reserve Owner in terms of Permitted Use of Private Nature Reserve is contrary to the permitted use in terms of the CoE or in terms of Law, then the Reserve Owner shall forthwith suspend any such non-permitted activity and the Trustees must, without requiring written consent from the Reserve Owner, amend the Constitution forthwith, removing the non-permitted activity from the list of Permitted Use of Private Nature Reserve as contained in clause 36.4
- 36.11. Animals, birds, reptiles and insects of any type whatsoever shall always remain the property of the Reserve Owner except in respect to an animal/s being the subject of a hunting licence in favour of any third party.

Indemnities and Limitation of Liability of Reserve Owner and Private Nature Reserve

- 36.12. The Association, Private Resort, Resort Owner, and Members (both individually and collectively) waive any right they may have to make any claim whatsoever against the Reserve Owner or his successors in title arising from any such Member/s use of the Private Nature Reserve or presence anywhere on the Property including, for the avoidance of doubt, Erf 113.
- 36.13. The Association, Private Resort, Resort Owner, and Members (both individually and collectively) irrevocably and unconditionally indemnify and hold both Reserve Owner and Private Nature Reserve harmless in respect of;
- 36.13.1. any claim, demand, proceedings, action, cost, charge, expense, injury, loss or damages, including for injury to or death of any person/s, of whatsoever nature and howsoever arising occasioned to the any of the aforementioned person/s, their employees, or any third party (including guests) for whom they may be responsible, including any of the aforementioned person's property, arising out of, or in

connection with or consequent upon any of such person's presence on Erf 113 and the Private Nature Reserve.

- 36.14. The Association, Private Resort, Resort Owner, and Members (both individually and collectively) agree that to the fullest extent permitted by Law, the total liability of the Reserve Owner and/or Private Nature Reserve, including their respective directors, shareholders, trustees and the like, for any and all claims, losses, costs, damages of any nature whatsoever or from any cause or causes whatsoever which it might owe to the any of the aforementioned persons arising under, out of or in connection with this Constitution (including any rights conferred thereunder) or such aforementioned person/s presence on Erf 113 or the Private Nature Reserve, shall in no circumstances exceed R1M (One Million Rand).
- 36.15. The Association, Private Resort, Resort Owner, and Members each in their individual capacity, accept all risks, losses, damages and the like of whatsoever nature and howsoever arising, whether to themselves or their respective guests and whether arising from either of the Reserve Owner or Private Nature Reserves non-compliance with any applicable Law or this Constitution, and shall indemnify and hold harmless the Reserve Owner and Private Nature Reserve in respect thereof.

37. PHASES AND RETAINED RIGHTS OF THE DEVELOPMENT OWNER AND OWNER OF ERF 113

- 37.1. In terms of this Constitution, it is recorded that the Development Owner shall be entitled to undertake the Development on the Property in phases as the Development Owner deems fit and he shall during all such phases be entitled to market the properties therein during all reasonable times.
- 37.2. The owner of Erf 113 has a right to subdivide any portion of Erf 113 at any time without requiring the consent of the Association subject to the following restrictions;
- 37.2.1. any rules pertaining to the transfer of ownership, whether by acquisition or disposal, of any subdivided portion of Erf 113 shall be subject to all the relevant provisions of this Constitution and
- 37.2.2. any rules and restrictions imposed by this Constitution regarding a Material Change of Use of the Private Nature Reserve, in so far as any subdivision is concerned, shall be subject to all of the relevant provisions of this Constitution and
- 37.2.3. the owner of Erf 113 may not change or re-designate or change the shape or size of any zone on the Site Plan which has been previously designated as a Residential Zone/s without the approval of the Association however this restriction shall not apply to the first designation of any such zones.
- 37.3. The owner of Erf 113 has a right at any time to apply to the relevant Authority to allow for any addition to the Residential Erven subject to the following restrictions;
- 37.3.1. The maximum density of Residential Erven shall not exceed 150 (one hundred and fifty) residential units ("**Maximum Residential Density**"), save that for the purposes of calculating the Maximum Residential Density, the relevant parties agree that such number will not include any existing or proposed offices, workshops, stores, outbuildings and like indicated on either the General Plan or Site Plan
- 37.4. The owner of Erf 113 has a right at any time to apply to the relevant Authority to amend the layout and/or zoning and/or size and/or boundaries of any part of the Property and/or the extent and position of streets comprising the Development or otherwise on the Property subject to the following;
- 37.4.1. no amendment to any Residential Zone is allowed without the written consent of the Association and
- 37.4.2. the owner of Erf 113's right to make any changes or amendments as provided for under clause 36 is subject to any remaining provision/s of this Constitution.
- 37.5. Despite any other provision of this Constitution giving allowing for periodic amendments, retractions and the like in respect to a decision or vote on any matter contemplated under this Constitution, it is expressly recorded that any consent validly given to the owner of Erf113 by the Association in terms of a matter contemplated under clause 36 and clause 37 shall be irrevocable and the owner of Erf 113 may, but shall not be obliged, to act on such approval at any time.
- 37.6. Insofar as the consent of the Association or any Member is required and validly given in respect of any amendment or change contemplated under clause 36 and clause 37, then the owner of Erf113 is irrevocably granted a power of attorney to grant any/all such consents on behalf of the Association or such Member as may be required to give full effect to such amendment or change.

38. AMENDMENT OF DRAFT GENERAL PLANS AND EFFECT THEREOF

- 38.1. If the owner of Erf 113 shall have any valid right to make any amendment/s provided for under clause 36, then, if he so chooses, he shall be entitled to make any necessary application to any relevant Authority to give full effect to such proposed amendment/s, including but not limited to, the amendment of the General Plan.
- 38.2. If the owner of Erf 113 follows any of his rights under clause 36 and clause 37, then the Association shall, and shall ensure that each Member shall;
- 38.2.1. immediately give consent for the amendment of the Site Plan accordingly and
- 38.2.2. immediately comply with any amendment to the CoE (if any) imposed by the local Authority and
- 38.2.3. immediately comply with the relevant owner's rights in respect to any subdivision/s, re-zoning and/or revised boundary/s and
- 38.2.4. immediately perform all such acts and to take all such steps as may be necessary for, or incidental to, the putting into effect or maintenance of such amendments and changes as would be necessary to give full effect to such amendment/s in so far as the Association and members are responsible therefore
- 38.3. The obligations of the Association under this clause 38 are limited to those changes and amendments that are valid and lawful in terms of this Constitution and the approval thereof by any relevant Authority.

39. ALIENATION OF ERVEN

- 39.1. If any Member wishes to alienate his Erf at any time, whether during the Development Period or otherwise, such Member must use the approved sale agreement (template) in respect of such transaction (the "Sale Agreement"), an example of which is included in the Associated Documents.
- 39.2. A Member may only appoint a sales agent for the alienation of his Erf that is approved by the Association save that;
- 39.2.1. If such proposed transaction is during the Development Period, then the relevant Member must use the estate agent nominated by the owner of Erf113.