



**Mountainlands**  
N A T U R E   R E S E R V E

# **Constitution of the Mountainlands Estate Owners Association**

**Incorporating**

Appendix 1: Regulations – General

Appendix 2: Regulations – Building Procedures and  
Architectural Guidelines

# Constitution of the Mountainlands Estate Owners Association

## 1 Definitions

- 1.1 In these presents the following words shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:
- 1.1.1 "**Act**" means the Companies Act, 1973;
  - 1.1.2 "**Association**" means the Mountainlands Estate Owners Association;
  - 1.1.3 "**Auditors**" means the Auditors of the Association;
  - 1.1.4 "**Chairman**" means the Chairman of the Board of Trustees;
  - 1.1.5 "**Common Land**" means Portion 25 (Portion of Portion 6) of the farm Dycedale 368JU, the land owned by the Association, being the Estate but excluding land owned by the Members of the Association, being the Sites;
  - 1.1.6 "**Developer**" means Simply See (Pty) Ltd;
  - 1.1.7 "**Development Area**" means the collective area comprising the one-hectare subdivisions on which Lodges will be constructed.
  - 1.1.8 "**Development Period**" means the period from the establishment of the Association until all of the Sites in the Development Area have been sold, transferred and improved, alternatively, until the Developer notifies the Association in writing that the Development Period has ceased, whichever is the earlier;
  - 1.1.9 "**Estate**" means the remaining extent of the farm Dycedale 368 JU, being Portion 25 (Portion of Portion 6), as well as all the one-hectare subdivisions thereof being Portions 7 to 24 (Portions of Portion 6) on which the Lodges will be constructed.
  - 1.1.10 "**in writing**" means written, printed or lithographed or partly one and partly another, and other modes of representing or producing words in a visible form;
  - 1.1.11 "**Lodge**" means a residential dwelling with its primary usage being that of holiday accommodation in a bushveld environment in accordance with Architectural Guidelines, with or without outbuildings;
  - 1.1.12 "**Member**" means a Member of the Association;
  - 1.1.13 "**Mountainlands Nature Reserve**" means the Mountainlands Nature Reserve as defined and agreed to by the landowners making up the reserve and fenced as a single ecological entity.
  - 1.1.14 "**Site**" means the one-hectare subdivisions, being Portions 7 to 24 (Portions of Portion 6) of the farm Dycedale 368 JU, on which the Lodges will be erected;
  - 1.1.15 "**Trustees**" means the Trustees of the Association;
  - 1.1.16 "**Vice-Chairman**" means the Vice-Chairman of the Board of Trustees;
- 1.2 Unless the context otherwise requires, any words importing the singular shall also include the plural, and vice versa and words importing any one gender shall include the other two genders.

- 1.3 Subject as aforesaid, any words or expressions defined in the Act or in any statutory modification of such Act in force at the date on which these presents become binding on the Association shall, if not inconsistent with the subject or context, bear the same meaning in these presents.
- 1.4 In the event of any provisions of any clause contained in these Articles conflicting in any way with the stipulations of the Companies Act, or any amendment thereof, or any other Act, then these articles will be subject to such Act or Acts and will at all times be read in conjunction with such Act or Acts.

## **2 Name**

The Association shall be called the Mountainlands Estate Owners Association existing as a corporate body independent of its Members.

## **3 Legal status and limited liability**

- 3.1 The Association is a common law corporate body and as such:
  - 3.1.1 its assets, liabilities, rights and obligations vest in it independently of its Members;
  - 3.1.2 it may not distribute any of its profits and gains to any person and it will use its funds solely for the objects for which it has been established and for investment;
  - 3.1.3 it will have perpetual succession;
  - 3.1.4 it may sue or be sued in its own name.
- 3.2 The Members will not by reason of their Membership be liable for the liabilities and obligations of the Association.

## **4 Objects**

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

- 4.1 to ensure that Lodges are developed according to uniform aesthetic standards and that those standards are maintained thereafter;
- 4.2 to maintain and control any common areas including any recreational facilities;
- 4.3 to maintain the entrance to the Estate, the perimeter fence around the Estate and any common areas or amenities on the Estate including roads, bridges, causeways, drifts, any sports and/or recreational facilities, storm water facilities, water reticulation, electricity and refuse removal;
- 4.4 to institute, control and pay for measures to ensure security;
- 4.5 to protect the use and enjoyment by Members of their Lodges and the Estate;
- 4.6 to participate in and maintain its Membership of the Mountainlands Nature Reserve and to implement joint conservation, management and security policies and plans and reciprocal traversing rights;
- 4.7 to erect and maintain staff accommodation and management infrastructure on the Estate;
- 4.8 to provide potable water and electricity for its Members;

4.9 to maintain the natural vegetation and biological diversity and to ensure the conservation of the Estate, its rich biodiversity, natural and historical treasures and the maintenance (or where required the restoration) of ecological functions and processes on the Estate;

4.10 to create and maintain a wilderness experience for its Members.

## **5 Powers**

The Association has plenary powers (including all those normally enjoyed by a registered Association) to enable it to achieve its objects, except only for the powers expressly or impliedly excluded by this constitution or by the Association's legal status as a common law corporate body. The powers shall include the following but shall not be limited thereto:

5.1 To raise money by entrance fee, subscription, levy and otherwise from Members of the Association and from any other sources, and to receive donations, grants, subscriptions, aid and subsidies.

5.2 To deal with immovable properties in any way including but not limited to, lease, hire and exchange.

5.3 To borrow such amount of money that may be approved by the Members and to secure the repayment of such money in such manner as the Association may approve.

5.4 To erect, maintain, demolish, reconstruct or alter any buildings, structures and other amenities.

5.5 To invest funds of the Association in any manner it deems fit, and open and operate banking and saving accounts in its own name.

5.6 To employ, discharge, pay and arrange the conditions of employment of staff for its activities.

5.7 To institute, defend, settle, compromise or discontinue any proceedings in the name of or against the Association, its officers or employees, or otherwise concerning the affairs of the Association.

5.8 To insure the assets of the Association.

5.9 To do all such other things incidental or conducive to the attainment of the aforesaid Purpose and Objects of the Association.

5.10 To employ and remunerate professional advisers and contractors.

## **6 Membership**

6.1 Membership of the Association shall be limited to the Developer in its capacity as such (and represented by 1 or more nominees) and to any Legal Persona who is in terms of the Deeds Registries Act reflected in the records of the Deeds Office concerned as the registered owner of any Site in the Development Area.

6.2 Where any Site is owned by more than one person, all the registered owners of that Site shall together be deemed to be one Member of the Association and have the rights and obligations of one Member of the Association; provided however that all co-owners of any Site shall be jointly and severally liable for the due performance of any obligation to the Association.

6.3 When a Member becomes the registered owner of a Site, he shall *ipso facto* become a Member of the Association, and when he ceases to be the owner of a Site or any interest in a Lodge on the Estate, he shall *ipso facto* cease to be a Member of the Association.

- 6.4 No Member shall part with occupation of his Site, whether temporarily or otherwise, unless he has agreed with the proposed occupier of such Site as a *stipulatio alteri* in favour of the Association that such occupier shall be bound by all the terms and conditions of this Constitution.
- 6.5 No Member may rezone a Site or in any way change the use for which a Site may be utilised whether by way of rezoning, change of land use rights or a consent use or otherwise, irrespective of whether such consent is granted by any lawful authority.
- 6.6 No Member may subdivide or consolidate a Site, nor erect a second dwelling on their Site, irrespective of whether any lawful authority grants permission for such subdivision or consolidation or second dwelling.
- 6.7 A member who attempts to change or brings an application to any lawful authority for any change prohibited as stipulated in 6.5 or 6.6 shall be guilty of a contravention of this constitution.
- 6.8 A registered owner or co owner of a Site may not resign as a Member of the Association.
- 6.9 The rights and obligations of a Member shall not be transferable and every Member shall:
- 6.9.1 further to the best of his ability the objects and interests of the Association;
  - 6.9.2 observe all rules made by the Association or the Trustees;
  - 6.9.3 sign all documents and do all things necessary to enable whatever servitudes may be required for services to be registered whether over or in favour of any access Site or any other Site in the Development Area and including the provision of security and management facilities;
  - 6.9.4 provided that nothing contained in this constitution shall prevent a Member from ceding his rights in terms of this constitution as security to the mortgagee of that Member's Site.
- 6.10 The Developer shall be entitled at all times to extend the boundaries of the Estate by the addition of additional land and Sites.

## **7 Levies**

- 7.1 The Trustees may from time to time impose levies upon the Members for the purpose of meeting all the expenses that the Association has incurred, or to which the Trustees reasonably anticipate the Association will be put in the attainment of its objects or the pursuit of its business.
- 7.2 The Trustees shall not less than 30 days prior to the end of each financial year, or so soon thereafter as is reasonably possible, prepare and serve upon every Member at the address chosen by him an estimate in reasonable detail of the amount which shall be required by the Association to meet the expenses during the following financial year, and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The Trustees may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature.
- 7.3 Each notice to each Member shall specify the contribution payable by that Member to such expenses.
- 7.4 Every such annual levy shall be payable in equal monthly instalments, due in advance on the first day of each and every month of each financial year.
- 7.5 In the event of the Trustees for any reason whatsoever failing to prepare and serve the estimate referred to in 7.2 timeously, every Member shall until service of such estimate as aforesaid

continue to pay the levy previously imposed and shall after such service pay such levy as may be specified in the notice referred to in 7.3.

- 7.6 The Trustees may from time to time impose special levies and/or supplement the Associations capital account for purposes of making capital improvements and/or alterations, including the purchase of additional game, upon the Members, which are not included in any estimate made in terms of 7.2 and may in imposing such levies determine the terms of payment thereof.
- 7.7 The Trustees shall be empowered in addition to such other rights as the Association may have in law as against its Members to determine the rate of interest from time to time chargeable upon arrear levies, provided that such rate of interest shall not exceed the rate laid down in terms of the Usury Act No 73 of 1968, as amended.
- 7.8 Any amount due by a Member by way of levy and interest shall be a debt due by him to the Association. Notwithstanding that a Member ceases to be such, the Association shall have the right to recover arrear levies and interest from him. No levies or interest paid by a Member shall under any circumstances be repayable by the Association upon his ceasing to be a Member. Further, a Member on ceasing to be such shall have no claims whatsoever on any other monies held by the Association whether obtained by way of a sale of Association assets, levies or otherwise. A Member's successor in title to a Lodge shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that Site, to pay the levy and interest thereon attributable to such Site.
- 7.9 In calculating the levy payable by any Member, the Trustees shall as far as reasonably practical:
- 7.9.1 assign those costs arising directly out of the Site itself to the Member owning such Site;
  - 7.9.2 assign a proportion of those costs attributable generally to a particular number of Sites to the registered owners of such Sites;
  - 7.9.3 assign those costs relating to the Common Land and/or the Development Area generally to the owners of all Sites.
- 7.10 The costs assigned to Members in terms of 7.9 shall be done so equally provided, however, that the Trustees may in any case where they consider it equitable to do so, assign to any Members any greater or lesser share of the costs as may be reasonable in the circumstances.
- 7.11 The Developer shall, in respect of all registerable Sites upon which a Lodge has been constructed, be liable to pay levies on the same basis as other Members provided that the Trustees shall be entitled to agree with the Developer to accept a capital sum, and/or the transfer of land and/or the donation of movable goods in lieu of the payment of levies. The Developer shall not be liable for levy payments in respect of unimproved Sites.
- 7.12 Notwithstanding the above the Developer shall be obliged to maintain the Estate in a reasonable condition until such time as there are sufficient Members to cover the monthly running costs by way of levies. The developer shall collect interim levies and apply such to the maintenance of the Estate.

## **8 Rules**

- 8.1 Subject to any restriction imposed or direction given at a general meeting of the Association, the Trustees may from time to time make rules in regard to:
- 8.1.1 the standard and guidelines for the architectural design of all buildings and outbuildings, structures of any nature and all additional and alterations to any such buildings, outbuildings or structures erected or to be erected in the Development Area, and in particular to control the design of the exterior of such buildings, outbuildings or

structures and the materials and colours used on such exterior to ensure an attractive, aesthetically pleasing character to all the buildings in the Development Area;

- 8.1.2 the placement of all buildings, outbuildings, structures of any nature and of any additions and alterations thereto within a particular Site;
- 8.1.3 the standards and guidelines for the design of all Site works, buildings, structures, installations, projections and parking areas on the Sites in the Development Area, including aerials, pergolas, side walls, swimming pools, awnings, jacuzzis, carports and paved pathways or any amenities or structures;
- 8.1.4 the preservation of the environment including the right to control and to require the cultivation of trees and other vegetation and the right to control the design, erection, placement, materials and construction of fences and/or walls, whether upon or within the boundaries of any Site, including the right to prohibit fences and/or walls in any garden area or around any Lodge;
- 8.1.5 the placing or fixing of ornamentation or embellishments upon the outside of buildings including the power to remove any such objects;
- 8.1.6 the conduct of any persons within the Development Area or the Estate for the prevention of nuisance of any nature to any Member;
- 8.1.7 the design, dimensions, location and number of directional and other signs on any Site or Lodge in the Development Area;
- 8.1.8 the right to determine and control all security measures in the Development Area;
- 8.1.9 the right to determine access to and egress from the Development Area and to and from the Lodges or any other area within the Estate;

for the furtherance and promotion of any of the objects of the Association and/or for the better management of the affairs of the Association and/or for the advancement of the interests of Members and/or residents in the Development Area.

- 8.2 For the enforcement of any of the rules made by the Trustees in terms hereof, the Trustees may:
  - 8.2.1 give notice to the Member concerned requiring him to remedy such breach within such reasonable period as the Trustees may determine;
  - 8.2.2 take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the Member may be guilty, and debit the cost of so doing to the Member concerned, which amount shall be deemed to be a debt owing by the Member concerned to the Association; and/or
  - 8.2.3 impose a system of fines or other penalties; and/or
  - 8.2.4 take such other action including a reference to Arbitration in terms of clause 26 or proceedings in Court, as they may deem fit and defend
  - 8.2.5 defend any action taken by any Member or any other person in terms of Arbitration or proceedings in Court.
- 8.3 The Trustees may in addition to the above make rules regulating the general behaviour and conduct of the Members or visitors while on the Estate and rules to ensure the conservation of the Estate.

- 8.4 In the event of the Trustees instituting any proceedings whether by Arbitration or in Court against any Member or other person within the Development Area for the enforcement of any of the rights or obligations of the Association in terms hereof, the Association shall be entitled to recover all legal costs so incurred from the Member or other person concerned, calculated as between attorney and own client.
- 8.5 In the event of any breach of the rules or of this Constitution by the members of any Member's household or by his guests, tenants, employees, contractors or contractor's sub-contractors, invitees, such breach shall be deemed to have been committed by the Member himself, but without prejudice to the foregoing, the Trustees may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.
- 8.6 In the event of any Member disputing the fact that he has committed a breach of any of the rules such dispute shall be determined by Arbitration in terms of clause 26.6.
- 8.7 Any fine imposed upon any Member shall be deemed to be a debt due by the Member to the Association and shall be recoverable at the option of the Trustees in terms of clause 29 or by ordinary civil process.
- 8.8 Notwithstanding anything to the contrary herein contained, the Trustees may in their discretion and in the name of the Association enforce the provisions of any rules by way of Arbitration in terms of clause 26 or by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 8.9 The Association may in general meeting itself make any rules which the Trustees may make and may in general meeting vary or modify any rules made by it or by the Trustees from time to time. The first Regulations applicable in terms hereof shall be as recorded in **Appendix 1**: "Regulations – General" and **Appendix 2**: "Regulations - Building Procedures and Architectural Guidelines".

## 9 Trustees

- 9.1 There shall be a Board of Trustees of the Association which shall consist of not less than 2 or more than 5 Members.
- 9.2 A Trustee shall be a natural person who, if not a Member of the Association shall be a shareholder, director, member, beneficiary or trustee of a Member of the Association and a plenipotentiary representative of a Member of the Association. A Trustee, however, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of this Constitution.
- 9.3 During the Development Period, at least 1 nominee of the Developer shall be a Trustee and any Trustee nominated by the Developer shall be entitled to have an alternate Trustee at the meeting and to act in the place of such nominee. Any other Trustees to be appointed to office shall be elected by the Members in general meeting.
- 9.4 The Developer shall on formation of the Association appoint the first Trustees.

## 10 Removal and rotation of Trustees

- 10.1 Save as set out in clause 9.3, and save for the Trustees appointed by the Developer in terms of 10.3, each Trustee shall continue to hold office from the date of his appointment until the Annual General Meeting next following his appointment, at which meeting each Trustee shall be deemed to have retired from office but will be eligible for re-election to the Board of Trustees at such meeting.
- 10.2 A Trustee shall be deemed to have vacated his office upon:
- 10.2.1 his having become disqualified to act as a director in terms of the provisions of the Act;



10.2.2 his being removed from office as provided in section 220 of the Act;

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

10.3 Upon any vacancy occurring in the Board of Trustees prior to the next annual general meeting, the vacancy in question shall be filled by a person nominated by those remaining for the time being of the Board of Trustees, provided, however, that, if the Trustee who vacates his office as aforesaid was a nominee of the Developer, the Developer shall be entitled to nominate a Trustee in his stead.

## **11 Chairman and Vice-Chairman**

11.1 The Trustees shall at the first Trustees' meeting after each annual general meeting appoint from their number a Chairman and Vice-Chairman, who shall hold their respective offices until the next annual general meeting, provided that the office of Chairman or Vice-Chairman shall *ipso facto* be vacated by a Trustee holding such office upon his ceasing to be a Trustee for any reason. No one Trustee shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time, the Board of Trustees shall immediately appoint one of their number as a replacement in such office. During the Development Period the Chairman shall be elected by the nominee/s of the Developer.

11.2 Except as otherwise provided, the Chairman shall preside at all meetings of the Trustees and at all general meetings of Members and, in the event of his not being present within 15 minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the Vice-Chairman shall act in his stead, or failing the Vice-Chairman, a Chairman appointed by the meeting.

## **12 Trustees' expenses**

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

## **13 Powers of Trustees**

13.1 Subject to the express provisions of these presents, the Trustees shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs including the right of appointment and dismissal of any employees and may exercise all such powers of the Association and do all such acts on behalf of the Association as may be exercised and done by the Association and as are not by the Act or by this Constitution required to be exercised or done by the Association in general meeting, subject however, to such rules as may have been made by the Association in general meeting or as may be made by the Trustees from time to time.

13.2 Save as specifically provided in these presents, the Trustees shall at all times have the right to engage on behalf of the Association the services of accountants, auditors, attorneys, advocates, architects, engineers and any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the Trustees and on such terms as the Trustees shall decide.

13.3 The Trustees shall further have power:

13.3.1 to require the submission for approval of such plans, drawings, specifications and other information as they may deem necessary to ensure compliance by Members with this Constitution and the Estate rules made in terms hereof and in terms of any Town planning Scheme or land use rights;

- 13.3.2 to require that any works being constructed within the Development Area shall be supervised to ensure that the provisions of this Constitution and the Estate rules are complied with and that all work is performed in a proper and workmanlike manner;
  - 13.3.3 to determine the storage areas to be used by Members, their employees and contractors during building operations;
  - 13.3.4 to determine the security facilities to be installed and the operation thereof for the protection of the Lodges, the Members and the Estate;
  - 13.3.5 to make rules as provided for herein.
- 13.4 The Board of Trustees shall have the right to co-opt onto the board any person or persons chosen by it. A co-opted Trustee need not necessarily be a Member of the Association or a shareholder, director, member, beneficiary, trustee or plenipotentiary representative of a Member of the Association. A co-opted Trustee shall hold office until the next annual general meeting after his co-option when he shall retire but shall be eligible for election as a Trustee, or in the event of his not being elected shall again be eligible for co-option by the Board of Trustees.
- 13.5 The Trustees shall be entitled to appoint committees consisting of such number of their Members and such non-members, as they may deem fit and to delegate to such committees such of their functions, powers and duties as they may deem fit, with further power to vary or revoke such appointments and delegations as the Trustees may from time to time deem necessary.
- 13.6 The Trustees may appoint an Estate architect upon such terms and conditions, as they may deem appropriate. The Estate architect need not be a Member of the Association.
- 13.7 All plans for all buildings, outbuildings, structures, walls, fences, additions, alterations and signage to be submitted in terms of clause 25.7 below may be submitted by the Trustees to the Estate architect and the Trustees may decide not to approve any plan in terms of clause 25.7 unless such plan shall first have been approved by the Estate architect. The Trustees may if they deem fit delegate to the Estate architect their functions and powers set out in this clause.

#### **14 Proceedings of Trustees**

- 14.1 The Trustees may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they deem fit, subject to any provisions of this Constitution.
- 14.2 During the Development Period the quorum necessary for the holding of any meetings of the Trustees shall be two Trustees present personally at least one of whom must be a nominee of the Developer and after the Development Period such quorum shall be a majority of Trustees present personally. Any resolution of the Board of Trustees shall be carried on a simple majority of all votes cast; provided that during the Development Period if the nominee(s) of the Developer vote against a resolution it shall be defeated and if he/they vote in favour of the resolution it shall be carried irrespective of the other votes for and against the resolution. In the case of an equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.
- 14.3 The Trustees shall cause minutes to be kept of every Trustees' meeting, which minutes shall, without undue delay after the meeting has closed, be reduced to writing and certified correct by the Chairman. All minutes of Trustees' meeting shall, after certification, be placed in a Trustees minute book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of Directors of companies. The Trustees' minute book shall be open for inspection at all reasonable times by any Trustee, the Auditors and the Members.
- 14.4 Save as provided in these presents, the proceedings of any Trustees' meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

- 14.5 A resolution signed by all the Trustees shall be valid in all respects as if it had been duly passed at a meeting of the Board of Trustees.

## **15 General meetings of the Association**

- 15.1 The Association shall within 6 months after the end of each financial year hold a general meeting as its annual general meeting in addition to any other general meetings during that year, and shall specify the meeting as such in the notices in terms of clause 16.
- 15.2 Such annual general meeting shall be held at such time and place, as the Trustees shall decide from time to time.
- 15.3 All general meetings other than annual general meetings shall be called extraordinary general meetings.
- 15.4 The Trustees may, whenever they deem fit, convene an extraordinary general meeting, and an extraordinary general meeting shall also be convened on a requisition of not less than 20% of the Members.

## **16 Notices of meetings**

- 16.1 No general meeting of the Association shall be held unless a notice has been posted to all Members at least 30 days prior to the date of the meeting. The notice shall specify the date, time and venue of the meeting, as well as an agenda, and, if applicable, the text of any proposed special resolution. A general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in this constitution be deemed to have been duly called if it is so agreed:
- 16.1.1 in the case of a meeting called as the annual general meeting by all the Members entitled to attend and vote thereat; and
- 16.1.2 in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 75% of the total voting rights of all Members.
- 16.2 Insofar as special notice may be required of a resolution, whether by any provision of the Act or these presents, then the provisions of section 186 of the Act shall apply.
- 16.3 The Association shall comply with the provisions of section 185 of the Act as to giving of notices and circulating statements on the requisition of Members.
- 16.4 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of these presents, or in terms of the Act, or the non-receipt of any such notice, notification or document by any Member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution passed at, any meeting.

## **17 Quorum**

- 17.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. During the Development Period, the quorum necessary for the holding of any general meeting shall be one or more nominees present to represent the votes of the Developer, and 20% of votes in number from all other Members of the Association entitled to vote for the time being. After the Development Period, the quorum shall be such of the Members entitled to vote as together for the time being represent the votes of 20% in number of all Members entitled to vote for the time being.

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

## **18 Agenda at meetings**

- 18.1 In addition to any other matters required by the Act or these presents to be dealt with at an annual general meeting, the following matters shall be dealt with at every annual general meeting:
- 18.1.1 the consideration of the Chairman's report;
  - 18.1.2 the election of Trustees;
  - 18.1.3 the consideration of the accounts of the Association for the preceding financial year;
  - 18.1.4 the consideration of the report of the Auditors;
  - 18.1.5 the consideration of any other matters raised at the meeting, including any resolutions proposed for adoption by such meeting, and the voting upon any such resolutions.
- 18.2 No business shall be dealt with at any general meeting unless written notice has been given to the Chairman not less than 48 hours before such meeting by the person proposing to raise such business of his intention so to do; provided however, that the Chairman may at his discretion relax this condition.

## **19 Adjournment of general meetings**

The Chairman may, with the consent of any general meeting at which a quorum is present and shall if so directed by the meeting, adjourn a meeting from time to time and place to place. No business shall be transacted at any adjourned meeting other than business, which could have been transacted at the meeting from which the adjournment took place. The Members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.

## **20 Proxies**

- 20.1 A Member may be represented at a general meeting by a proxy, who need not be a Member of the Association. The instrument appointing a proxy shall be in writing signed by the Member concerned or his agent, duly authorised in writing, but need not be in any particular form provided that, where a Member is more than 1 person, a majority of those persons shall sign the instrument appointing a proxy on such Member's behalf.
- 20.2 The instrument appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at the meeting at which the person named in the instrument proposes to vote. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date of its execution.
- 20.3 A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that the Trustees had received no intimation in writing of the death or revocation at any time before a vote is taken in respect of which the proxy exercises such vote.

## 21 Voting

- 21.1 At every general meeting:
- 21.1.1 every Member, excluding the Developer, in person or by proxy and entitled to vote shall have 1 vote for each Site registered in his name;
  - 21.1.2 if a Site is registered in the name of more than one person, then all such co-owners shall jointly have 1 vote. Should such co-owners not be able to cast their one vote due to a difference in opinion between the co-owners then the Chairman shall, at his discretion, be allowed to disqualify any vote from such Member.
  - 21.1.3 the Developer shall have a number of votes equal to twice the number of Lodges registered or capable of being registered, at the time of the meeting, in a Deeds Office as the subject of a separate title deed provided however that this provision shall apply during the Development Period only;
- 21.2 Save as expressly provided for in these presents, no person other than a Member duly registered and who shall have paid every levy and other sum, if any, which shall be due and payable to the Association in respect of or arising out of his Membership and who is not under suspension, shall be entitled to be present or to vote on any question, either personally or by proxy, at any general meeting.
- 21.3 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairman or the majority of the Members present at the meeting and entitled to vote, and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or not passed, and an entry to that effect in the book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
- 21.4 If a poll is duly demanded it shall be taken in such manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers shall be elected to determine the result of the poll. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 21.5 A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 21.6 Every resolution and every amended resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not so seconded, shall be deemed not to have been proposed.
- 21.7 An ordinary resolution (that is a resolution other than a special resolution) or the amendment of an ordinary resolution shall be carried on a simple majority of all votes cast. In the case of equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.
- 21.8 Unless any Member present in person or by proxy at a general meeting shall, before the closure of the meeting, have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, whether by show of hands or otherwise, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted. An entry in the minutes to the effect

that any motion has been carried or defeated, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the votes so recorded.

## **22 Accounts**

- 22.1 The accounts and books of the Association shall be open to inspection by Members at all reasonable times during business hours.
- 22.2 Once in each financial year the accounts of the Association shall be examined and the correctness thereof ascertained by Auditors.

## **23 Service of notices**

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

## **24 Indemnity, Liability and Risk**

- 24.1 Every Trustee, servant, agent and employee of the Association, shall be indemnified by the Association against all costs, losses and expenses (including 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 their respective duties, including in the case of a Trustee, his duties as Chairman or Vice-Chairman. Without prejudice to the generality of the foregoing, the Association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any bona fide act, deed or letter done or written by him jointly or severally in connection with the discharge of his duties.
- 24.2 Any property brought on to the Estate by the Member or anyone acting through or under him, shall be at the sole risk of the Member or anyone acting through or under him, shall have no claim whatsoever against the Association, Trustee, servant, agent or employee of the Association for any loss or damage to such property howsoever arising.
- 24.3 The Association, its Trustees, servants, agents and employees shall not be responsible for, and the Member hereby indemnities the Association and its servants against any loss, damage or injury which the Member or any person utilizing the interest of the Member which the Member or such person may sustain on the Estate by reason of any act whatsoever or neglect on the part of the Association or the Association's servants, nor shall the Association or its servants be responsible for, and the Member indemnities the Association or its servants against any loss, damage or injury whatsoever which the Member or any such other person may sustain by reason of the Estate at any time falling into a defective state or by reason of repairs, renovations and/or maintenance work not being effected timeously or at all.
- 24.4 The Member and/or anyone acting through or under him shall utilize the Estate and improvements and facilities at his sole risk and the Association or its servants shall not be liable for any damage or loss caused to him or any other person acting through him.

## **25 General**

- 25.1 Whenever they consider that the appearance of any Site or building owned by a Member or Members to be unsightly or injurious to the amenities of the surrounding area or the Estate generally, the Trustees may serve notice on such Member or Members to take such steps as may be specified in the notice to eliminate such unsightly or injurious condition. In the event of the Member or Members failing within a reasonable time, to be specified in such notice, to comply therewith, the Trustees may enter upon the Site concerned and take such steps as may be

necessary, and recover the cost thereof from the Member or Members concerned, which costs shall be deemed to be a debt owing to the Association.

- 25.2 The Trustees shall be obliged in giving such notice to act reasonably.
- 25.3 In the event of any Member or any servant, agent or independent contractor of any Member causing any damage to any property owned or controlled by the Association or to the perimeter fence or security equipment or facilities, the Association shall repair such damage and the Member concerned shall be liable for the costs thereof.
- 25.4 The Members shall at all times observe all laws and by-laws, regulations, the provisions of the town planning scheme and any other provisions in force relating to the Site or the use thereof. In the event of any Member failing so to do, such failure shall be deemed to be a breach of this constitution and the Trustees shall be entitled to take such action as they may be empowered and as they may deem fit in terms hereof to remedy such breach or to prevent the continuation thereof. In the event of any town planning scheme laying down any conditions in relation to the matters dealt with herein which are more onerous than the conditions herein laid down, the provisions of such town planning scheme shall prevail.
- 25.5 Each Member shall comply fully with all security measures introduced by the Trustees.
- 25.6 The Association may require any Member to maintain the area adjacent to his Lodge, and in the event of such Member failing so to maintain such area to the satisfaction of the Association, the Association shall be entitled to take such action as may be necessary for the maintenance of such area and to charge the Member concerned.
- 25.7 No person shall commence with the construction of any building or structure on his land, or any additions or alterations thereto unless he has submitted to the Trustees for examination and approval or refusal such plans for such building, structure, alteration or addition as are required in terms of the bylaws of the local authority having jurisdiction over the Development Area, and any such additional plan or information relating to the proposed building, structure, alterations or additions as the Trustees may require. The Trustees shall have the power:
- 25.7.1 to charge a fee for the examination and approval or refusal of building plans;
  - 25.7.2 in approving any plan, to lay down such reasonable conditions as they may deem fit;
  - 25.7.3 to refuse approval of the plans in the event of the Trustees in their sole discretion determining that such plans or the development proposals therein contained are not in accordance with these presents.
- 25.8 No Member shall transfer his Site until the Board of Trustees or their duly authorised representatives has certified that the Member has at date of transfer fulfilled all his financial obligations to the Association. No Site or any interest therein shall be alienated without the consent of the Association. Such consent may not be withheld unless:
- 25.8.1 such Member is indebted to the Association in any way in respect of levies or other amounts which the Association may in terms of these presents be entitled to claim from him;
  - 25.8.2 the proposed transferee has not agreed to become a Member of the Association;
  - 25.8.3 such Member remains in breach of any of the provisions of this constitution or of the Estate rules after notice from the Trustees requiring him to remedy such breach.
- 25.9 Where a Member is an Association, Company, Close Corporation or Trust then no transfer of the shares, member's interest or beneficiary's interest, as the case may be, may take place without the prior written consent of the Board of Trustees. This consent will not be given unless and until

the Association, Company, Close Corporation or Trust, as the case may be, has furnished to the Board of Trustees the full details of the proposed new members, shareholders, beneficiaries respectively as well as the date on which the shareholding, membership, beneficiary will change. Further, the written consent of the Board of Trustees will not be given unless and until all monies owing by the particular Member Association, Company, Close Corporation or Trust, up to and including the effective date, have been paid. Until the consent of the Board of Trustees has been given the selling shareholder, member or beneficiary, as the case may be, shall be liable personally as a co-principal debtor to the Association for all the outstanding obligations of the Association, Company, Close Corporation or Trust, as the case may be. Should the provisions of this sub-clause not be complied with the relevant members, shareholders or beneficiaries, as the case may be, shall be liable to the Association as co-principal debtors for all the unfulfilled obligations of the Association, Company, Close Corporation or Trust, as the case may be, in terms of this constitution and the rules until the provisions of this sub-clause are complied with.

- 25.10 The Trustees in issuing the certificate referred to in clause 25.8 above shall be entitled to charge a reasonable fee there for, to be determined by the Trustees from time to time.
- 25.11 The Association may enter into agreements with Members for the provision of amenities and services to the Members and to levy a reasonable charge in respect of the provision thereof.
- 25.12 In the event of the Association electing to provide a security service and/or other services for Members in the Estate, all Members shall be obliged:
- 25.12.1 to permit the installation of any equipment on the Lodges or in the buildings comprising the Lodges for the purpose of such services as may be determined by the Association from time to time;
- 25.12.2 to make payment of the charges raised by the Association in respect of such services;
- 25.12.3 abide by such terms and conditions as may be laid down by the Association from time to time in respect of such equipment and services.
- 25.13 No Member may operate any business or income generating activity from a Lodge or Site without the prior written consent of the Trustees, which consent shall be in the sole discretion of the Trustees irrespective of whether or not any lawful authority grants permission for such business activity provided that the trustees may not consent to any business activity listed in clause 27.5.
- 25.14 The provisions of these clauses shall be binding upon all Members, and, insofar as they may be applicable, to all persons occupying any Lodge by, through or under any Member, whatever the nature of such occupation. No Member shall let or otherwise part with occupation of his Lodge without the prior written consent of the Association.
- 25.15 The Trustees may delegate such of their powers to an Estate architect or other official as they may determine.

## **26 Arbitration**

- 26.1 Any breach by a Member of any provision of this Constitution or of the Estate Rules or of any other rules and regulations made in terms hereof and any dispute arising out of or in connection with this Constitution, including the Estate Rules or any other rules or regulations made in terms hereof or the interpretation thereof may, in the discretion of the Trustees, be referred to Arbitration and award.
- 26.2 Arbitration in terms hereof shall be governed by the Arbitration Act of 1965, as amended, or any replacement Act, except to the extent set out herein.
- 26.3 If either the Trustees or a Member requires any matter in terms hereof to be referred to Arbitration that party shall notify the other party in writing identifying the claim or issue, and if the



other party wishes to counterclaim that party shall in turn, within 14 days, notify the first party in writing identifying the counterclaim, failing which the counterclaim may not be made in the same proceedings except with the consent of the other party. The notices shall furnish sufficient details to enable the recipient to comply with the obligations set out herein to produce at the preliminary conference all documents relating to the issue or claim or counterclaim, as the case may be.

26.4 The Arbitration proceedings shall be deemed to have commenced as soon as the notice requiring the claim to be referred to Arbitration has been given.

26.5 If either party intends to be legally represented in the Arbitration that party shall immediately notify the other party in writing of that intention.

26.6 The Arbitration shall be held in a summary manner as follows:

26.6.1 The Arbitrator shall as soon as possible convene, on 14 days notice in writing to the parties, and preside over a preliminary conference with the parties at which:

26.6.1.1 the parties shall endeavour to limit the issues in dispute by defining as narrowly as practicable precisely what is in dispute;

26.6.1.2 a statement of the issues shall be drawn up by the parties, provided that if they are unable to agree on the wording of the statement the Arbitrator's decision shall be final and binding;

26.6.1.3 each party shall produce and confirm orally on oath all documents in that party's possession or under that party's control relating to the dispute, other than privileged documents. Details of the documents in respect of which privilege is claimed and the grounds for claiming privilege shall be given and similarly confirmed on oath;

26.6.1.4 the date and venue of, and arrangements for recording, the Arbitration shall be agreed or, failing agreement, shall be determined by the Arbitrator.

26.6.1.5 consideration shall be given to whether any further procedural steps are desirable in the Arbitration proceedings, provided that further steps shall not be resorted to unless reasonably essential, if they will prolong the Arbitration, the Arbitrator's decision being final and binding; a party may at any time on 10 days written notice require the other party to furnish photocopies of any documents, other than privileged document, in the possession or under control of that party relating to the dispute or to state on oath that that party does not possess or control the documents, in which event that party shall state on oath their whereabouts or that that party does not know their whereabouts.

26.7 The Arbitrator will be a practising advocate of not less than 5 years standing, or a retired judge, or an attorney of not less than 10 years standing, to be appointed by agreement between the parties, failing which, by the Chairman for the time being of the Johannesburg Bar Council.

26.8 The Arbitrator shall have the following powers and duties:

26.8.1 the Arbitrator shall have full and unrestricted powers in relation to the Arbitration proceedings and the making of any award in the proceedings, including, without limitation, the powers set out in Section 21(1) of the Arbitration Act and the power to alter any time period (either before or after expiry of the period), to alter, add to or make any deletion from the procedure to be followed in the Arbitration and to make any award in the absence of a party who fails to take any step required of that party (including the failure to pay any costs payable by that party), provided that :

- 26.8.1.1 he shall at all times have regard to the intention of the parties that disputes should be resolved in a summary manner with a minimum of delay;
- 26.8.1.2 he shall not make a final award in the absence of a party without endeavouring to first satisfy himself that that party's omission is not due to excusable inadvertence or other justified cause, but he need not hear evidence before making his award;
- 26.8.2 The Arbitrator:
  - 26.8.2.1 need not strictly observe the rules of evidence and may admit, and rely on, such evidence as he may decide;
  - 26.8.2.2 may take expert opinion on any matter;
  - 26.8.2.3 may have regard to his personal knowledge of the facts, and any expert knowledge he may have, relating to the issues in dispute;
  - 26.8.2.4 may investigate any matter, or cause it to be investigated, and for that purpose shall be entitled to access to the parties' premises and any other relevant premises to inspect any article or to examine, and take copies of or extracts from, the accounting and other records of the parties; alternatively, he may require that the article or records be delivered to any place reasonably required by him for this purpose;
- 26.8.3 provided that he shall afford the parties an opportunity of challenging the opinion taken by him or the knowledge he claims to have or the results of the investigation.
- 26.8.4 the Arbitrator may make such award or awards, whether interim, provisional or final, as he may consider appropriate, including without limitation ex parte awards, declaratory orders, interdicts, and awards for specific performance, restitution, damages, penalties, interest and security for costs or restitution;
- 26.8.5 the Arbitrator shall give his reasons for his award, if so requested by either party.
- 26.9 The award of the costs of the Arbitration shall be in the discretion of the Arbitrator, provided that:
  - 26.9.1 the Arbitrator may require advance deposit or security to his satisfaction to secure payment of his fees'
  - 26.9.2 pending the award of costs, the parties shall pay the Arbitrator's fees and the costs of providing a venue for, and the recording of, the Arbitration, in equal shares;
  - 26.9.3 if a party fails to pay that party's half share of the costs the other party may make payment and immediately recover the amount paid from the first party or the Arbitrator may make his award in the absence of that party as set out in 26.8.1.2;
  - 26.9.4 the parties intend that the substantially successful party should be award a full indemnity for all the costs reasonably incurred by that party and not merely the costs on the Supreme Court or any other scale;
  - 26.9.5 if a party unnecessarily puts the other party to the proof of any fact, or fails to disclose or produce any document required to be disclosed or produced, that portion of the costs which relates to the proof of that fact, or which arises from the failure to disclose or produce, should be awarded to the other party whether or not the other party is substantially successful in the Arbitration;

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

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

## **27 Right of use.**

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

27.2 The Member shall utilize the interest:

27.2.1 subject to the rights of the Association in terms of the Constitution of the Association; and

27.2.2 subject to the Estate regulations as amended from time to time; and

27.2.3 subject to any agreement conferring such rights.

27.3 The Member shall be obliged to exercise his rights in terms hereof in accordance and with due regard to the nature of the scheme.

27.4 Not more than ten persons shall be entitled to participate in and enjoy the rights attaching to a Site. If any one of the Members of a Site is an Association, Company, Close Corporation, legal person, Trust, Partnership, or any other similar body of persons whether incorporated or not, then each of the aforementioned shall be entitled to nominate annually a person or persons who shall be entitled to enjoy the rights of a Member but in such a way as to ensure that there are never more than ten persons at any time in total entitled to the rights attributed to a particular Site.

27.4.1 Notwithstanding the above, this restriction shall not apply to direct Members of the same family.

27.4.2 The Board of Trustees shall be entitled to consent to the combination of Sites and the pro rata increase in the number of members per Site as well as the restrictions on the number of beds, according to the number of sites thus consolidated, subject to such additional levies and or terms that it may impose and subject.

27.5 The Member shall not be entitled to operate a property time-sharing scheme as defined in the Property Time-Sharing Control Act, number 75 of 1983, or run any business or commercial establishment in respect of his Site or the Site improvements. The Member is not permitted to occupy the Site other than for the purposes of erecting the Site improvements and utilizing the property as a private Bushveld holiday residence and as intended in these presents. The Site may not be occupied by way of any temporary structure including a tent, a caravan, and the like on a temporary ad hoc basis.

27.6 The Member shall not be entitled to the utilization of his interest if he is in arrears with the levy, or in breach of any of his obligations in terms of this Agreement, and the Constitution of the Association and the Estate Regulations.

27.7 The Member, as long as he is the Member of the Association, may permit or allow any other person to utilize his interest as a guest, provided that such delegated use of the Lodge or Estate shall be in strict conformity with the Constitution and Rules and any amendments thereto. Should the Member fail to observe the aforesaid, and without prejudice to any rights that the Association may have, the Association shall be entitled to deny admission to the person or require the said person to vacate the Site and/or Estate forthwith.

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

## **28 Management.**

- 28.1 The management, control and administration of the Estate, including the Sites and the utilization of the Estate, shall be under the control of the Manager who is appointed by the Board of Trustees in terms of an Employment contract.
- 28.2 The Employment contract shall provide inter alia that the Manager shall:
- 28.2.1 carry out all obligations undertaken by the Association or Trustees from time to time pursuant to this Agreement, the Estate Rules and any other Operational procedures including but not limited to:
    - 28.2.1.1 Maintenance of all the roads and fences of the Estate.
    - 28.2.1.2 Maintenance of common facilities in a good and clean condition.
    - 28.2.1.3 Conservation of the Estate and its biodiversity, natural and historical treasures.
    - 28.2.1.4 Maintenance of ecological functions and processes on the Estate.
  - 28.2.2 be responsible for fulfilling all-obligations assigned pursuant to such Manager's appointment in terms of the Employment Agreement, including the enforcement of the Estate Rules;
  - 28.2.3 employ and discharge any staff or any other persons engaged to carry out any duties or effect any service in respect of the Estate;
  - 28.2.4 in the name of the Association collect and deal with all moneys owing from time to time by the Member pursuant to the Constitution of the Association;
  - 28.2.5 Control the general use of the Sites and Estate by Members for the Members' mutual comfort; and the general conduct of all people making use of the Estate and facilities.
  - 28.2.6 Arrange to give effect to the interest of the Members pursuant to this Agreement in accordance with the Estate Rules.
  - 28.2.7 Carry out the directives of the Board of Trustees from time to time.
- 28.3 The Member undertakes to observe and comply with the lawful directives of the Manager at all times, and a failure to observe such directives, shall constitute a breach of this Agreement.

## **29 Breach**

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

- 29.1 Impose a fine on the Member in such amount as the Trustees may deem reasonable, and/or
- 29.2 Suspend the Member's right to utilize his interest; and
- 29.2.1 in the event that the Association suspends the Member's right to exercise his interest, the Association may lease the Member's interest upon such terms and conditions as it

deems fit and apply such income in lieu of any indebtedness of the Member to the Association;

29.2.2 The Association shall not be entitled to exercise its rights in terms hereof unless and until it shall have given the Member 14 (fourteen) days written notice to remedy the breach, in which notice, notice is given of the intended action to be taken by the Association in the event of the Member failing to remedy such breach and provided further that if a Member commits any breach more than three times no notice in terms hereof need be given by the Association.

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

### **30 Members Obligations**

30.1 Provided a Member obtains approval in accordance with this Constitution, he shall be entitled to make any alterations or additions or improvements to the Site or Site improvements.

30.2 The Member shall be obliged to keep the Site in a clean, tidy and hygienic condition and a state of good repair including aesthetically in line with approvals granted and Estate rules.

30.3 The Member shall utilize his interest, and all facilities on the Estate in such manner as will not cause damage or harm, subject always to the Constitution and Estate Rules in regard thereto.

30.4 If the Member damages any part of the Estate or amenities whether accidentally, negligently or wilfully, the Member shall be liable for the cost of repairing or replacing the same.

30.5 If the Manager is dissatisfied with the condition of the Site, he may call upon that Member forthwith to remedy such defective condition. Should the Member fail the remedy the defect, the Association shall be entitled forthwith and without prejudice to any other right, which it may have, to put the same in good order at the expense of the Member. Any expenditure thus incurred will form part of the Member's indebtedness to the Association.

30.6 The Member shall not be entitled for any of the reasons aforesaid, or for any other reason whatsoever, to withhold any moneys due to the Association.

30.7 Any condition, limitation or obligation imposed on any Member by way of the Agreement of Sale entered into between the Developer and the Member shall be regarded as specifically embodied herein and forming part of these presents provided that such condition, limitation or obligation is not in conflict with any stipulation of these presents.

30.8 The Member shall utilize any access, traversing, amenities, rights or privileges in the Mountainlands Nature Reserve subject always to both the Estate Constitution and Estate Rules (Estate Rules) in regard thereto and subject to the Mountainlands Nature Reserve Constitution or Regulations governing use of the Mountainlands Nature Reserve or any agreement pertaining to such use (Reserve Rules). Estate Rules and Reserve Rules will at all times be read in conjunction with each other.

30.8.1 In the event of any provisions of any clause contained in either the Estate Rules or Reserve Rules conflicting with each other, then pertaining only to that particular conflict point:

30.8.1.1 On the Estate, the Estate Rule will supersede the Reserve Rule; and

30.8.1.2 On the Reserve areas excluding the Estate area the Reserve Rule will supersede the Estate Rule.

30.8.2 For the purposes of enforcement of Reserve Rules, the Reserve Rules shall be read to form part of the Estate Rules and any punitive or corrective measures, fines or liabilities pursuant to the Reserve Rules shall be considered similar as if it is a debt to the Association. All mechanisms for recovery available to the Association shall *mutatis mutandis* be available for enforcement of Reserve Rules and may be executed by the Association on behalf of the Reserve, provided that such shall not be interpreted that the Association is guilty of such offence or responsible for such debt or measure and provided that such measure shall be instituted at the sole discretion of the Trustees only on receipt of a written request from the Reserve.

### **31 Maintenance.**

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

### **32 Insurance**

- 32.1 It is recorded that each Member is responsible for insuring his Site and improvements.
- 32.2 The Association shall be obliged to take out all reasonable insurance for the common facilities as well as take out Public Liability Insurance in an amount determined by the Trustees from time to time.
- 32.3 It is recorded that the Association shall not be liable to the Member for any damages which may be caused to any Site or Site improvements, caused by fire spreading through or originating from the Estate or Common Land and the Member indemnifies the Association from any claims thus arising.

### **33 Amendment of this constitution**

This constitution may be amended by resolution of a Members' meeting passed by a majority of not less than 75% of the votes cast, provided that:

- 33.1 Proposals for amendments shall require Special Notice as determined by the Act.
- 33.2 The quorum for a meeting where a proposal to amend the constitution serves shall be such of the Members entitled to vote as together for the time being represent the votes of 50% in number of all Members entitled to vote, present either personally or represented by proxy.
- 33.3 No amendment, save as stipulated in paragraph 33.3.2, may be passed before the Association has a minimum of ten Members.
  - 33.3.1 For determining the number of Members for purposes of this paragraph the following shall apply:
    - 33.3.1.1 The Developer shall be deemed one member;

33.3.1.2 In the case of a Member owning more than one Site, such Member shall be deemed to be more than one Member according to the number of Sites thus owned.

33.3.2 Until the Association can comply with the requirements of paragraph 33.3 above, amendments shall only be passed by a unanimous vote of all Members entitled to vote, in which event Special Notice shall not be required.

#### **34 Merger**

The Association may merge with a body with similar objects, by resolution of a Members' meeting, provided that the constitution of the merged entity contains provisions similar to the Association. In this event, the Association's net assets after discharge of its liabilities, together with its rights and obligations under this constitution and under the conditions of title of its Sites in the Estate will vest in the merged entity.

#### **35 Dissolution**

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

35.2 In this event:

35.2.1 the Trustees will act as liquidators with powers to delegate;

35.2.2 the Association's net assets after discharge of its liabilities will be applied to repay the most recent levies paid by Members and any balance after all levies have been repaid will be distributed in the liquidator's discretion to one or more public charities.

END.

THIS CONSTITUTION ADOPTED AND ASSOCIATION HEREBY CONSTITUTED AT NELSPRUIT, MPUMALANGA PROVINCE, REPUBLIC OF SOUTH AFRICA ON THE DATE OF LAST SIGNATURE HERETO.

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# Mountainlands Estate

## Regulations

### General

#### 1 PREAMBLE

Management Regulations promulgated in terms of the Constitution of the Mountainlands Estate.

#### 2 AGREEMENT

The Members and the Association agree that they shall use the Estate in common with each other for the main purpose, subject to the following:

##### 2.1 MAIN PURPOSE

The Common Property shall be used by Members of the Association in common with each other and with due regard to the rights of all Members, for recreational purposes including traversing in order to view the wild game, hiking and the general enjoyment of nature and outdoor activities.

##### 2.2 CONTROL

Control over the Common Property and the use to which it is put as is provided for in the main purpose, shall vest in the Trustees of the Association and the Manager by virtue of his duties.

##### 2.3 GENERAL

Bearing in mind that it is intended that the Common Property shall be used for recreational purposes it is agreed that the Members and the Association shall have the following rights and obligations in regard to the Common Property, namely:

2.3.1 The Association shall take all necessary steps to maintain the existing indigenous and endemic fauna and flora on the Estate and where good cause exists to take corrective measures in association with the Mountainlands Nature Reserve.

2.3.2 The Association shall take all necessary steps to adequately maintain the existing roads on the Estate.

2.3.3 The Association shall take all steps necessary to adequately maintain the perimeter game fence on the Estate, to ensure that as far as possible the wild game cannot leave the area comprising the Mountainlands Nature Reserve.

2.3.4 The Association shall be entitled, pursuant to its obligations in 2.3.1, to introduce wild game to maintain the existing levels of game, provided that the Association shall only be entitled to consent to the introduction of Lion on the Estate if so authorised by special resolution of the Association.

2.3.5 Only the Association and Mountainlands Nature Reserve shall be entitled on the Estate to cull the wild game and to retain the carcasses and skins and other parts as its own property, provided that game capture and the sale of captured game is to be given preference above culling or hunting. Any income derived by the Association in this regard shall be paid into the levy fund. In exercising its rights of culling, the Association shall exercise such rights with due regard to the requirements of the Mpumalanga Parks Board and partners in the Mountainlands Nature Reserve or their successors in title.

- 2.3.6 The Association shall take all necessary steps to prevent uncontrolled veld fire and soil erosion on the Estate.
- 2.3.7 The Member using the Estate shall do so at his own risk.
- 2.3.8 The Members of the Association shall not or permit to be done:
  - 2.3.8.1 Hunting, shooting or discharge of any firearm on the Estate;
  - 2.3.8.2 Make any excavations on or remove any soil from the Common Property or within sight from any road near a Lodge;
  - 2.3.8.3 Cause any refuse or any accumulation thereof on the Estate;
  - 2.3.8.4 Damage, remove or plant any flora on the Common Property;
  - 2.3.8.5 Keep any animals in captivity on the Estate, other than in accordance with any regulations adopted by the Trustees;
  - 2.3.8.6 Create or cause any disturbing noises on the Estate;
  - 2.3.8.7 Make new roads on the Estate or on any Lodge Site;
  - 2.3.8.8 Establish or create any drinking points for game or disturb or interrupt the natural flow of any stream or river on the Common Property or any Site;
  - 2.3.8.9 Provide housing for any servant on the Common Property or on the Site without the written permission of the Association;
  - 2.3.8.10 Make fires on the Common Property unless in areas demarcated for that purpose;
  - 2.3.8.11 Drive or traverse river beds on the Estate, unless specifically designated as a road;
  - 2.3.8.12 House or park caravans or tents on the Common Property without the written consent of the Trustees;
  - 2.3.8.13 Drive or traverse by motor vehicle on any parts of the Estate other than on clearly defined roads;
  - 2.3.8.14 Set up camp on a temporary basis on the Common Property, unless in a demarcated area and with the prior permission of the Manager;
  - 2.3.8.15 Collect or remove any object from the Estate without the permission of the Manager including but not limited to wood, stones, flora, fauna, soil, etc;
  - 2.3.8.16 Damage, collect, disturb or remove archaeological artefacts or any artefacts of historical or heritage nature on the Estate;
  - 2.3.8.17 Exceed a speed of 30 km per hour when travelling on the Estate;
  - 2.3.8.18 Introduce or cultivate any fauna or flora on the Estate without the written consent of the Trustees;
  - 2.3.8.19 Introduce any motorised generators or power plants or any noise making object or apparatus on the Estate without the written consent of the Trustees;
  - 2.3.8.20 Not use or cause to be used any motor cycles on the Estate unless in demarcated areas identified for that purpose by the Manager and unless in accordance with Regulations made to regulate such usage;
  - 2.3.8.21 Erection of any fence, wall or structure of any kind to indicate the boundary of a Site or otherwise demarcate a portion of any Site.
- 2.3.9 The Association and Members shall comply with the requirements of the Mpumalanga Parks Board or its successors in terms of any law and the obligations pursuant to membership of the Mountainlands Nature Reserve.
- 2.3.10 The Association shall ensure that a suitable refuse collection area is established and maintained and that the Members shall be obliged to remove and dump their own refuse at the refuse collection area in such manner as may be prescribed by the Manager from time to time.
- 2.3.11 Only handguns shall be permitted on the property unless prior approval is obtained from the Manager, and then only for storage and safety purposes.

## 2.4 RECREATION

Notwithstanding the contents of 2.3 above the Association shall provide at least the following recreational facilities:

- 2.4.1 Picnic facilities at certain demarcated areas where basic infrastructure may be provided.
- 2.4.2 Cycling will be permitted on the property subject to specific regulations thereon.
- 2.4.3 Hiking trails will be established and maintained for the benefit of the Members.
- 2.4.4 Fishing shall be permitted in allocated areas subject to any laws, Provincial Regulations and Ordinances and the viability of such fishing at the available area.

## 2.5 PETS – SPECIAL CONSIDERATION

In acknowledgement of the Primary Attraction of the Estate as that of a tranquil Nature Reserve with unspoilt natural environment and free roaming indigenous fauna, the keeping of Pets on the Estate is prohibited, save for a special consideration which shall apply where a Member or staff member resides on the Estate on a continuous basis as a permanent resident and further provided that:

- 2.5.1 Such Member shall:
  - 2.5.1.1 Ensure that the pets are kept in a confined area on the Property, which area or method of confinement shall comply with the Architectural Guidelines and be approved by the Board of Trustees.
  - 2.5.1.2 Ensure that such pets do not at any time roam freely on the Estate or are left unattended.
  - 2.5.1.3 Ensure that such pets are regularly vaccinated against diseases which may constitute a threat to the wildlife on the Estate.
  - 2.5.1.4 Ensure that pets are not a nuisance, disturbance or in general detract from the ambience of the Estate or Reserve or have any disruptive or other effect on the wildlife of the Reserve or detract from the utilisation of other Members or constitute a threat to any person authorised to be on the Estate.
  - 2.5.1.5 Ensure that at occupation a letter stating the full details (species, breed, name, age, sex, description, etc.) and a full body photograph of all pets shall be lodged with the Manager together with:
    - 2.5.1.5.1 a certificate issued by a qualified veterinary surgeon indicating that where relevant such pets have been sterilised and rendered incapable of reproduction and are current on all required vaccinations;
    - 2.5.1.5.2 a signed Indemnity form indemnifying the Association against any claim arising from a Member's pets or the keeping of his pets.
  - 2.5.1.6 Not be involved in the breeding, rearing or keeping of pets on the Estate for financial or other gain.
- 2.5.2 The Board of Trustees shall at their sole discretion and in consideration of the Primary Attraction of the Estate:
  - 2.5.2.1 Have the right to stipulate that only pets owned at the time of occupation or time of such stipulation may be kept until the time of their death and that after death of any pet, such pet may not be replaced.
  - 2.5.2.2 Have the right to amend or revoke this special consideration based on breach of any provisions herein contained or as amended from time to time.

### **3 ADMISSION**

Admission to the property shall be subjected to the following:

- 3.1 Signature of an indemnity form indemnifying the Association against any loss or injury whatsoever.
- 3.2 Signature of any control sheets and adherence to the rules and regulations.
- 3.3 Search of any vehicle or person either entering, exiting or moving on the Estate.

### **4 BREACH**

- 4.1 In the event that a Member or guest of a Member breaches any provision of this Agreement, then without prejudice to any other remedies which the Association may have, such breach shall be resolved in accordance with the relevant provisions of the Constitution.
- 4.2 Notwithstanding the above in the event of a Member or guest of a Member contravening any of the following provisions then the Association shall be obliged to suspend the Members right to utilise his interest with immediate effect notwithstanding anything to the contrary contained in any documentation hereto.
  - 4.2.1 Contravention of paragraphs 2.3.8.1, 2.3.8.7, 2.3.8.13 or 2.3.8.16 hereof.
- 4.3 Further notwithstanding the above in the event of a Member or guest of a Member contravening any of the provisions contained in paragraphs 2.3.8 the Manager in Consultation with the Chairman or the Vice-Chairman may in their discretion require such member or guest of a Member to vacate the property and Estate immediately without further notice.

Management Regulations promulgated in terms of the Constitution of the Mountainlands Estate Owners Association and agreed to at inception of the Association.

# Mountainlands Estate

## Regulations

### Building Procedures and Architectural Guidelines

#### Building Procedures

#### 1 INTRODUCTION

- 1.1 A holistic approach was adopted in the placement, selection and composition of each Site relative to all the other sites and common usage areas in order to meet the requirements of land usage, environment and privacy. Effective planning on each Site thus necessitates architectural and planning guidelines for all Members to abide by in order to protect and enhance the joint investment by all the Members.
- 1.2 Each Member is obliged to submit Site Development Plans and Building Plans to the Board of Trustees for their approval according to the procedures outlined herein prior to the commencement of any building operations on a site.
- 1.3 Notwithstanding the appointment of Architects, Building Contractors or other Agents, each Member accepts full responsibility for the actions of his agents and contractors during construction.
- 1.4 These Regulations are to ensure that all construction activity on the Estate proceeds in an orderly manner, with the least possible disruption to other property Members and must be adhered to unless specific change there from is agreed to in writing by the Board of Trustees in each specific requested case.

#### 2 ARCHITECTS

- 2.1 The Estate has appointed an approved architect to Design, Document and fulfil a Supervisory role in respect of all improvements on the Estate subject to compliance with the Regulations outlined below. Should the member elect not to use the approved architect or purchase the Site without improvements or wish to later improve the Site, procedures for the approval of building plans are to be adhered to which are detailed herein.
- 2.2 In the case of Members not using the Estate Architect, the following minimum requirements shall apply:
  - 2.2.1 Only an Architect Registered with the South African Institute of Architects or equivalent international bodies shall be allowed to design and document any Lodge.
  - 2.2.2 Such architects shall be appointed to perform full services which shall include supervision of the building project for which they shall be professionally liable. Under no circumstances will building operations proceed without professional supervision.

- 2.2.3 The architect is to register with the Mountainlands Estate Owners Association (the "Association") and allow in his appointment to attend Ad Hoc Estate meetings called by the Estate architects.

### **3 WORK REQUIRING PERMISSION**

Any Member intending to carry out any of the following activities must obtain prior written approval from the Association:

- 3.1 The construction of new buildings and all structural, aesthetic and external alterations to existing structures.
- 3.2 Underground construction (i.e) drains, water pipes, electricity, telephone conduits or any other underground work.
- 3.3 Painting and repair of any existing external facades.
- 3.4 The construction of awnings, projecting roofs and trellises.
- 3.5 The construction of Garages and carports
- 3.6 The construction of swimming pools and any external paving, decks and walkways.
- 3.7 Walls, fencing, gates or any landscape construction.
- 3.8 Cutting down of any trees or removal of any natural rock outcrop or other natural feature.

### **4 APPROVAL OF PLANS**

- 4.1 All work requiring permission shall conform to these Regulations to the satisfaction of the Association. The decision on whether or not any plans are acceptable, shall be at the sole discretion of the Association, which decision shall be taken within the framework of the Regulations contained herein and in consultation with the Estate Architect.
- 4.2 The Association shall be entitled to reject the plans for any Lodge or building, which in their sole discretion would detract from the appearance of, or reduce the value of other Lodges in the Estate or in general do not conform to the ambience of the estate or the rules to protect the ambience. The Association shall not be required to give reasons for rejecting such a plan, nor shall the Association incur any liability to any person in doing so.
- 4.3 The Association has appointed an Estate Architect to assist them in evaluating and approving building plans for new Lodges or alterations to existing Lodges within the Estate.
- 4.4 Members will be required to submit plans to the Estate Architect for scrutiny prior to any work commencing on the Estate. The plans shall be in accordance with the requirements of the local authority as well as the requirements of this document and shall be accompanied by the applicable plan scrutiny fee of R 2 000.00 (Two Thousand Rand) (V.A.T included) payable directly to the Estate Architect.
- 4.5 In order to avoid unnecessary costs, it is recommended that Members arrange a consultation with the Estate Architect before proceeding with the design of any buildings. The cost of the consultation is included in the plan scrutiny fee.
- 4.6 Three copies of all documents shall be submitted for approval. One copy to be retained by the Association for its records and the other returned with stamped approval together with any comments to the Member. The third copy will be kept on record at Estate Architect.

- 4.7 All plans consisting of scaled and dimensioned site plans, plan layouts, elevations, sections and details shall be prepared and submitted together with the Application in the following format and details shown:
- 4.7.1 Each drawing on at least size A2 paper and drawn to the following scales:
- 4.7.1.1 Site Plans - 1:100
  - 4.7.1.2 Layout Plans and Elevations – 1:100 or 1:50
  - 4.7.1.3 Details and Sections – 1:50
- 4.7.2 The site plan must show:
- 4.7.2.1 The site/portion number.
  - 4.7.2.2 A scaled position of a fixed reference point that is physically located and marked on the site.
  - 4.7.2.3 The scale of the drawing and a North point arrow.
  - 4.7.2.4 The plotted and to scale position of all external drainage, septic tanks and french drains. A water percolation test for the particular siting of the Septic tank and French drain and method of Septic Tank construction is to be approved by the Estate Architects. The percolation rate test methodology is available from the offices of the Estate Architects.
  - 4.7.2.5 The plotted and to scale position of the main water supply gate valve and electrical supply point.
  - 4.7.2.6 The plotted and to scale position of all proposed construction work and natural features.
  - 4.7.2.7 access route to the proposed Lodge from the road and the treatment of the surface of the access route
  - 4.7.2.8 contours with intervals of not more than 1 meter are required to be shown on site plans
  - 4.7.2.9 the location of the buildings/improvements within the designated footprint.
  - 4.7.2.10 The surveyed beacons and boundaries as contained on the title deed of each site is to be clearly indicated as well as all buildings relative to these.
  - 4.7.2.11 This site plan must indicate surveyed positions of all trees with trunks larger than 80mm diameter and natural protected areas such as rocky outcrops and the like that fall within the development area.
  - 4.7.2.12 Site plans are also to indicate the trees with diameters in excess of 80mm that are proposed to be removed in the building process.
- 4.7.3 The layout plan drawings must show:
- 4.7.3.1 Plans, Sections and Elevations of all buildings on the Site, including outbuildings.
  - 4.7.3.2 The intended use of each room or area is to be indicated on each layout plan drawing (e.g. bedroom, bathroom).
  - 4.7.3.3 The layout and detail of the proposed building work.

- 4.7.3.4 Positions of all sections are to be clearly shown on the plan layout view.
- 4.7.3.5 The scale of each plan layout elevation, section and detail is to be shown on each drawing.
- 4.7.3.6 An electrical layout is to be included showing the proposed positions of all light fittings intended for the building and its surrounds.
- 4.8 The siting of the buildings and services thereto shall be so positioned to protect the amenities of any other site.
- 4.9 All building design and construction work shall be designed and constructed in accordance with the National Building Regulations SABS 0400.
- 4.10 Septic tanks and french drains shall be constructed according to the requirements of SABS 0400 and the position thereof must be plotted and clearly shown on the site plan and also physically marked on the site, for approval by the Board of Trustees.
- 4.11 All main water lines are to be of class 10 pipes and fittings.
- 4.12 All plans to be submitted to Mountainlands Estate Owners Association c/o FDP Architects, Suite 1 Fig Tree Court - 42 Mostert Street, Nelspruit. Tel (013) 752 2583 Fax (013) 752 8600.

## **5 APPROVAL OF LOCAL AUTHORITY**

After approval of plans by the Association and Estate Architect, the building plans are to be submitted to the Local Authority (Umjindi Local Municipality) in accordance with statutory requirements. On receipt of the Local Authority's approval, the construction in accordance with the building by laws, standard building regulations and the approved building plans, and these regulations may proceed.

## **6 COMMENCEMENT AND COMPLETION**

- 6.1 Construction must be completed within 1 (One) year from the date of signature to the Builders Code Of Conduct and Site Handover Certificate.
- 6.2 The erection of the main/primary buildings and out/secondary buildings are to take place simultaneously.
- 6.3 The Association has the right to instruct the Member or appointed contractor to complete any building project shelved for a period longer than 6 months in an incomplete state. In extreme cases where such buildings are left incomplete, the Association shall have the right to take such steps as may be necessary to protect the Association and its Members including re-habilitating the stand to its original condition.

## **7 APPOINTMENT OF A BUILDING CONTRACTOR**

In cases where the Member purchases a site only, such Member shall be solely responsible for the choice of building contractor for the construction of the proposed Lodge.

The Member and contractor shall be required to sign an agreement with the Association to regulate the building activities on the Site. This contract will include, but will not be limited to the following:

- 7.1 The requirement that the building contractor pay a refundable deposit to the Association of R10 000 per Site as security against default of any of the conditions of such contract.



- 7.2 The obligation to ensure that any material suppliers and delivery trucks, or vehicles for that contractor, do not damage the Estate roads or any parts thereof. Any damage so caused will be the responsibility of the contractor.
- 7.3 The obligation to erect a screen to minimise the visual impact during the building period.
- 7.4 Conditions relative to the delivery and storage of materials.
- 7.5 Noise.
- 7.6 Working hours.
- 7.7 Transportation routes to the Estate and to the Site.
- 7.8 Security procedures within the Estate and jurisdiction of Manager over all contractors and employees.
- 7.9 Removal of rubble from the stand and the Estate and environmental regulations.
- 7.10 The erection of boards and signs.
- 7.11 Maximum loads of delivery and construction vehicles.
- 7.12 Builders Code of Conduct.
- 7.13 Penalties and fines.

## **8 SITE HANDOVER TO CONTRACTOR**

- 8.1 The first step for commencement of construction is to arrange a formal site handover meeting at which the Estate Architects shall be present, together with the client/Member and building contractor. A Site Handover Certificate must be signed by all three the above parties prior to construction commencing. A copy of a Site Handover Certificate listing the information to be issued at site handover as well as showing the pro-forma of the certificate to be signed by the parties at the site handover meeting is available from the Estate Architect.
- 8.2 The following must be in place prior to the handing over of the site to a contractor for commencement of construction:
  - 8.2.1 The plans duly approved by the Association.
  - 8.2.2 The plans approved by the Local Authority
  - 8.2.3 Transfer of ownership of the stand in the name of the Member with a letter of confirmation from the Member in this regard.
  - 8.2.4 Percolation test results.
  - 8.2.5 The proposed house set out on site with danger tape showing the full extent of all structures to be erected.
  - 8.2.6 A temporary toilet for all workers on Site but out of sight from surrounding areas.
  - 8.2.7 All statutory requirements.
- 8.3 On completion of any building contract or improvements to the site the contractor and registered architect must arrange another meeting at which a completion inspection will be held and a Project

Completion Certificate signed by the, contractor, architect and Member. Copy of Project Completion Certificate available from the Estate Architect.

## **9 NON-COMPLIANCE**

- 9.1 Should any construction work not comply with the terms and conditions of the approved project, or application for approval not be done as set out herein, the Association will formally notify the Member to cease all activities and modify the work and/or drawings in order to comply with the terms and conditions therein.
- 9.2 If the Member fails to comply with this notice then the Association will apply to the judicial authorities in order to obtain a formal order. The legal costs will be for the account of the Member and the Member will also be responsible to restore the site to its former state.
- 9.3 The Association shall have no liability for any losses sustained by the Member or his contractor or agents as a result of this action and each Member hereby indemnifies the Association against any claims thus arising.

# Architectural Guidelines

## 1 DEVELOPMENT REQUIREMENTS

### 1.1 AESTHETIC CONCEPT

- 1.1.1 The built environment on the estate is to project a game lodge visual effect with strict control in terms of the architectural impact on the environment. Any external element not described below will be assessed and approved by the developer/association against the intention of the concept. Further adjustments to the specification below can be made by the developer on site to ensure basic compliance with the concept. Design examples are available from the Estate architects.
- 1.1.2 Due to the mountainous terrain and visibility of the Lodge from possible obscure angles (including top/roof and bottom) the entire Lodge including roof tops and other areas visible as the case may be should blend with the natural environment.
- 1.1.3 External lights including security lights must be located under the eaves of the roof or placed in such a manner as not to impact on any other site or usage area.
- 1.1.4 Members shall at all times ensure that any object which could, in the opinion of the Association, be considered unsightly or to the detriment of the appearance of the Estate, should not be visible from common areas or other properties. Objects which should be screened from view include among others washing lines, exposed plumbing and swimming pool pumps.

### 1.2 HEIGHT

- 1.2.1 Generally the, mezzanine or split-level is encouraged to occur within the roof space of the Lodge. All Sites have height restrictions and double storey buildings are not permitted. Attic rooms with sidewalls not exceeding 600mm in height within the thatched roof volume are permitted.
- 1.2.2 It is important that the building fits comfortably into the natural contours. Natural ground levels are considered as those existing contours at time of sale of the site or before any human intervention.

### 1.3 BUILDING AREA / FOOTPRINT

- 1.3.1 All buildings and structures comprising a single Lodge must be situated within footprint on the Site which shall not exceed 2 500m<sup>2</sup> and which shall be pre-approved by the Association. This includes uncovered timber decks and swimming pools which should all fit into the footprint.
- 1.3.2 The intention is to situate each Lodge on the site to minimize impact on other Sites or the Estate in general. A footprint consisting of a single or composite set of geometric forms is required. All detached buildings and structures to be considered only if part of the composite design.

### 1.4 MAINTENANCE

The Member shall at all times maintain the exterior of the house, the swimming pool, garden, screen walling and decks, to the satisfaction of the Association.

## 1.5 RESTRICTIONS

- 1.5.1 The restrictions set out herein are in addition to any restriction imposed in terms of conditions of title, town planning schemes or national or any other building regulations.
- 1.5.2 Notwithstanding that, any plans or improvements may comply with any such restrictions imposed by third parties, the approval of any plans or improvements within the Estate shall be at the sole discretion of the Association.
- 1.5.3 Similarly, compliance with restrictions imposed by the Association shall under no circumstances absolve Members from the need to comply with restrictions imposed by third parties, nor shall the Association approval be construed as permitting any contravention of restrictions imposed by any authority having legal jurisdiction.

## 1.6 DENSITY

The number of dwellings that may be erected on a site shall not exceed the maximum density of one Lodge consisting of separate or outlying sleeping units and central common facilities suitable for occupation by no more than 12 persons.

## 1.7 LODGE SIZE

Although the maximum Lodge size is not prescribed by the Association, the Association shall be entitled not to approve the plans for any Lodge which in their sole opinion would detract from the appearance of, or reduce the value of other Lodges on the Estate.

## 1.8 SITE BOUNDARIES

It is the express responsibility of the Member to verify the position and accuracy of all boundaries and beacons of the approximately 1 hectare site and to ensure that the building area / footprint is entirely within such boundaries prior to commencement of building works. The survey diagram of the Site as registered with the Surveyor General is available from the Association or the Estate Architect.

## 1.9 SECURITY

No visible security spikes, razor wire, electric shock wires or any similar devices shall be permitted. All burglar guards, "Trellidoors" or other security elements should be internal.

## 1.10 TREATMENT OF SITE BOUNDARIES

- 1.10.1 In order to enhance the wilderness experience of the Estate no fence, wall, or structure of any kind shall be allowed to indicate the boundary of a Site or otherwise to demarcate a Site or a portion thereof.
- 1.10.2 Screening of any kind is considered to be of great importance and must be detailed on the Lodge plans submitted for approval. The following rules will apply:
  - 1.10.2.1 No structures shall be erected outside the demarcated building area / footprint. No building line relaxation would be considered.
  - 1.10.2.2 If, for reasons of privacy, a screen (for example to screen a swimming pool or to screen a laundry area), is desired, then this design should be integrated into the design of the Lodge and of a design and material complimentary to the overall design and approved by Association's Estate Architect. Guideline drawings are available at the offices of the Estate Architect.
  - 1.10.2.3 Walls, screens and elements shall not exceed 1.8m (One Point Eight Meters) in height.

## 1.11 TREATMENT OF STORM WATER

Members must take considerable care to landscape their properties in such a way that storm water flow be directed in such a manner as not to disrupt the natural flow of water on the site and to limit erosion both on or off the Site. It will be expected from all Members of lower lying properties to accommodate the excess storm water from higher lying areas.

## 1.12 LANDSCAPING

- 1.12.1 Only indigenous flora endemic to the area is permitted on a site. No trees with a trunk diameter of more than 80 mm may be removed from the building site unless agreed to specifically by the Board of Trustees. Such trees requested for removal are to be shown and located clearly on the site plan submitted for approval.
- 1.12.2 Gardening on a Site near to a Lodge is restricted to endemic plants and the restoration of the natural bush and highlighted with indigenous plants where required provided that no sensitive or red data plant species are removed or disturbed.
- 1.12.3 Limited landscaping should be implemented only in order to prevent erosion and help deal with storm water.
- 1.12.4 Indigenous lawns are only permitted within a courtyard and separated from veld with a plinth wall or timber deck and always contained within the building area. In lieu of lawn, river sand beds may be used, eg. in the sun deck area. Lawns are only permitted as part of and integrated into and complimentary to the overall design of the Lodge and approved by Association's Estate Architect as part of the building plans to be submitted.
- 1.12.5 Established vegetation within the road reserve should be taken into account when positioning access point to sites. No trees shall be cut down unless with the written and express agreement of the Association. Under no circumstances are any indigenous plants to be removed without proper written consent from the Association.

## 1.13 EXTERNAL FITTINGS

- 1.13.1 Positioning of TV antennas and satellite dishes and other unsightly objects such as washing lines etc, are subject to approval by the Association, prior to installation.
- 1.13.2 Satellite dishes are to be positioned below the ridgeline of the house where they do not cause a nuisance to other Members, nor are visually obtrusive. These are to be painted the same colour as the background against which they stand.

## 2 GENERAL SPECIFICATIONS

### 2.1 WALLS

#### 2.1.1 MAIN BUILDING AND BEDROOM BUILDING WALLS

A hardwearing, waterproof, ultraviolet resistant patented cement based coating which weathers to give a natural mottled appearance to one approved colour sample will be used. The product will be Cemwash by Cemcrete or similar approved coating for general wall surfaces. Natural stone is permitted as a wall finish up to plinth level and for other minor elements to a maximum of 30% of external wall finishes. Only natural rock collected from an approved quarry in the surrounding area if available or approved imported from another area will be allowed. Precast stone cladding imitations will not be permitted.

NOTE: A sample panel is to be painted on a completed wall for approval by the Estate Architect.

### 2.1.2 YARD AND SCREEN WALLS

The external screen walling shall not exceed 2.1m in height, shall be finished on both sides, and may include the use of timber and lathes on a plinth or brick walling to finish. Boma walls shall be constructed of timber or lathes on rock or brick plinth walls to finish. Washing lines may not be visible and shall preferably be located within a yard.

### 2.1.3 OUTBUILDINGS

The game drive arrival structure, external patios, housing for electrical meters, lockable refuse enclosures and other outbuildings and small structures shall be constructed and finished to match the main buildings. The erection of the main / primary buildings and out / secondary buildings are to take place simultaneously. The garage / carport may be detached from the main building.

## 2.2 PAVING AND DWARF WALLS

Exterior paving shall blend in with the surroundings and be of natural local rock or natural coloured cement/concrete finished surface. Dwarf walls shall be of the same finish as exterior walls.

## 2.3 ROOFS

2.3.1 All pitched roof coverings to dwellings to be thatch with roof mesh optional as baboon proofing. No gutters will be installed.

2.3.2 Roofs shall be constructed as mono pitched thatched roofs with hips and valleys supported on treated timber battens, rafters and where necessary poles. Thatch will be done by specialists and where required shall have an internal layer of Cape Reed.

2.3.3 The roofs shall be finished with reinforced masonry apex caps and all the thatch covered with optional light gauge wire mesh and the eaves of the thatchwork trimmed.

2.3.4 The maximum height of a roof shall not exceed 7.5 meters measured from the average ground level and to keep profiles low are encouraged to be broken into multiple mono pitched roofs interconnected with flat concrete slabs as per examples available from Estate Architect.

2.3.5 Any flat concrete sections of roof over the links will only be allowed if the roofs are covered with dark coloured brown river pebbles or colour to match the grey weathered look of thatch. Under no circumstances will silver waterproofing products be allowed to be visible.

2.3.6 Fire risk reducing blankets placed between the thatch layers may be incorporated.

2.3.7 Thatch roof pitches shall be 45°.

2.3.8 All chimneys shall be finished as per the main structure. Chimneys positioned on the ridgeline should not project more than 1.2m above the ridgeline. Chimneys positioned elsewhere should not project more than 2.0m above the point where they intersect the roof plane.

2.3.9 Positioning of downpipes to be carefully considered and preferably screened by or integrated into other elements of the building to be unobtrusive and generally hidden from view.

## 2.4 COVERED PATIOS & VEHICLE ARRIVAL STRUCTURE:

2.4.1 The built form of any carports should reflect the structure of the house. The building will have a gumpole structure with thatch covering and timber deck at step off level of the game drive vehicle.

- 2.4.2 Wattle lathe gumpole structures will only be allowed if the base and columns of the pergola is built to match plinth finish of buildings.
- 2.4.3 No sheet metal or shade netting will be allowed.
- 2.4.4 Carports will not be used for any storage other than its intended use. A suitable storage facility for garden equipment etc. should be provided for in the design.

## 2.5 TIMBER

### 2.5.1 EXTERNAL TIMBER

All external structural timber to be CCA treated and optional dark brown stained to be in contrast with the wall finishes. Pole structures shall have a lean to feature to visually support overhangs on all buildings.

### 2.5.2 LATHE SCREEN WALLS

Wattle or gum lathes as per external timber, equally spaced to provide a neat yet natural sunscreen or vertical screens never exceeding 2.1 meters.

### 2.5.3 TIMBER DECKS

125mm x 38mm Thick CCA treated SA Pine or Saligna or similar approved, stained optional fixed to approved detail with adequate support rafters external timber. Regular ongoing maintenance of all exterior timber structures and timber decks are an ongoing special requirement of these regulations and such obligation to maintain structures.

## 2.6 PLUMBING

### 2.6.1 PIPES

No visible supply pipes or sewer pipes will be allowed and vent valves in lieu of vent pipes to be utilized.

### 2.6.2 SEPTIC TANKS

Septic tanks to be strictly in accordance with the appropriate legislation and the position on site to be approved prior to construction.

## 2.7 PLUNGE POOL

Plunge pools not exceeding 16m<sup>2</sup> in surface area are permitted on the following conditions:

- 2.7.1 Plunge pools are only permitted as part of and integrated into and complimentary to the overall design of the Lodge and approved by Association's Estate Architect as part of the building plans to be submitted.
- 2.7.2 Plunge pools shall be leak free and unobtrusively protected to prevent the entrance of any fauna at all times.
- 2.7.3 Water used shall only be obtained from the treated water supply and not extracted directly from streams or rivers without prior approval of the Trustees.
- 2.7.4 Plunge pools shall be left in a safe and secure state to prevent the entrance of fauna and or insects or the gathering of rainwater when the owner is not in residence.
- 2.7.5 Pools shall have a charcoal internal finish with pumps out of sight. Splash pools may have river sand / lawn transition surfaces as per the specification between the edge of the pool and the garden /veld.

## 2.8 LIGHTING

- 2.8.1 Only low level lighting 300mm above floor level will be installed in arrival building, driveways, service areas and external walkways.
- 2.8.2 Both interior and exterior lighting should not be visible from neighbouring properties. Floodlights, uplighters and starlights in trees and gardens, as well as coloured lighting, will not be allowed.

## 2.9 EXTERNAL FITTINGS

- 2.9.1 TV Aerial to be positioned as to have minimum aesthetic impact on the surrounding areas.
- 2.9.2 Satellite dishes to be positioned as to have minimum aesthetic impact on the surrounding areas and painted to match the background in front of which it will be mounted.
- 2.9.3 All external fittings to be mounted to have minimum aesthetic impact on surrounding areas, coloured to blend and covered where possible.
- 2.9.4 Wall mounted Air Conditioning Units condensate drain pipes and conduiting to be built into walls. And where visible externally, air conditioning units are to be screened off with wattle lathe screens.
- 2.9.5 Air-conditioning split unit condensers to be placed on flat roof links, painted to compliment the wall finish and piping and conduiting to be built in. particular care to be taken with visibility from surrounding areas.

## 2.10 WINDOWS AND DOORS

- 2.10.1 Windows to be approved naturally finished hardwood or dark anodized aluminium.
- 2.10.2 Doors to be approved naturally finished hardwood or dark anodized aluminium to match windows. Glass may be used for external doors where view is of importance.

## 2.11 SPECIAL ROOMS AND EQUIPMENT

- 2.11.1 All rooms housing any special equipment including airconditioning equipment (or equipment which is not usual household equipment) shall be constructed in a manner to restrict noise emission at 10 meters to not more than 5dB above ambient noise levels at any time.
- 2.11.2 The use of any special equipment including airconditioning shall only be powered by electricity.

## 2.12 REFUSE AREA

Temporary storage areas for refuse bins accessible for refuse removal will have to be supplied. No refuse bins will stand in exposed yards. Refuse bins to be animal proof where required. Refuse areas to be screened off as approved.

## 2.13 DRIVEWAY PAVING

All driveways including the positioning thereof are to be approved by Association as well as their access points from the nearest roads. The colour and type of exposed aggregate and paving infill is to match the estate roads where applicable.



#### 2.14 LOCAL MATERIALS

No local materials shall be collected from the Reserve without the express prior written approval of the Trustees. All building and decorative materials shall be imported onto the Reserve. As part of the request for approval and submission of building plans indication must be made of the source of all natural materials required for building and decoration.

Management Regulations promulgated in terms of the Constitution of the Mountainlands Estate Owners Association and agreed to at inception of the Association.