

CONSTITUTION

OF THE

MUKAMUNYA HOMEOWNERS ASSOCIATION

JUNE 2007

Specimen

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Specimen

1. Interpretation

In this Constitution, unless inconsistent with the context, the following terms shall have the following meanings:

1.1 Amenity Area

Those parts of the Estate the use of which shall be non exclusive to the Developer or Member depicted on the general plan in respect of Properties 1 to 64 sub-divided from Farms 297a, 300a, and 301a more particularly detailed in the Lease including the nature trails and bridle paths, stables, walking trails, recreational and barbeque areas, swimming areas, ablution facilities, paddocks, dressage arena, tool sheds and stores, club house, squash and tennis courts and all ancillary developments and all improvements for beautification, erosion control and storm drainage purposes situated thereon and there under and all other areas or parts of the Estate which from time to time are provided by the Developer for common use and enjoyment by the Members and occupiers of the Properties and all persons expressly or by implication authorised by them.

1.2 Architectural Review Sub-Committee or ARSC

The committee established by the Executive Committee to oversee and implement the design guidelines and development of the Estate.

1.3 Architectural Guidelines

The architectural guidelines as from time to time promulgated by the Architectural Review Sub-Committee and the Executive Committee.

1.4 Chairman and Secretary

The persons holding office as Chairman and Secretary of the Executive Committee.

1.5 Common Parts

Those parts of the Estate the use of which shall not be exclusive to the Developer or Member or any other owner of Property or any part thereof and shall include (without affecting the generality of the foregoing) any car parks and pedestrian walkways and walkways the landscaped areas, roads, footpaths, Conduits and all other areas or parts of the Estate which fall part of the Estate Title and from time to time are provided by the Association for common use and enjoyment by the Members and occupiers of the Properties and all persons expressly or by implication authorised by them.

1.6 Conduits

All the all wires pipes sewers drains cables ducts shafts gullies flues gutters watercourses soakaways and other like conducting media of whatsoever nature (including all meters and other apparatus used in connection with them) which now are or may hereafter during be laid;

1.7 Contract of Sale

The agreement in terms of which each owner, of each Property has purchased his Property.

1.8 Constitution

This Constitution as amended from time to time.

1.9 Developer

Leopards Hill Developments Limited, a company with limited liability duly incorporated according to the company laws of the Republic of Zambia with company registration number 64934, and having its registered office at Fig Tree House, 1 Warthog Road, Kabulonga, Lusaka, Zambia.

1.10 Estate Title

The Certificate of Title in the name of the Association issued by the Ministry of Lands in respect of the Common Parts.

1.11 Executive Committee

The committee from time to time established and forming the MukaMunya Home Owners Association Executive Committee established in terms of Clause 9 hereof.

1.12 Lease

The lease agreement entered into or to be entered into on or about the date of this Constitution between Pelham Properties Limited (and there successors and assigns in title) and Leslie Szeftel in respect of the use of the Amenity Area.

1.13 Member

A person with exclusive or joint right of occupation of one or more Properties, duly admitted to Membership in terms of Clause 6 of this Constitution.

1.14 Property

The property in respect of which a Member is the registered owner and in respect of which the Member has an exclusive or joint right of occupation as acquired in terms of the Contract of Sale.

1.15 Scheme and Estate

The scheme and estate depicted in the general plan in respect of Properties 1 to 64 subdivided from Farms 297a, 300a, and 301a as developed by the Developer including the area comprising the Lease and the Estate Title.

1.16 Special Resolution

A resolution passed at a general meeting of Members of the Association in respect of which not less than 50% of the votes cast are in favour of the resolution.

1.17 Special Consent

The consent required by any Property holder to carry out a development or utilize his Property for a purpose or in a manner specifically prohibited by this Constitution or inconsistent with the provisions hereof issued in writing by the Executive Committee, the issuing of which shall be subject to the following requirements.

- 1.17.1 The written consent of the immediate neighbours of the Property holder applying for Special Consent, and;
- 1.17.2 The written consent of the Architectural Review Sub-Committee, and;
- 1.17.3 A Special Resolution passed by the Association in a General Meeting.

2. Name

The name of the Association is the MUKAMUNYA HOMEOWNERS ASSOCIATION (the "**Association**"). It is recorded that additional properties may be added to the Estate and it is anticipated that the owners of such properties shall become members of the Association.

3. Vision

3.1 It is recorded that the Vision of the Developer of the Estate is to:

- 3.1.1 Establish large residential properties in a spacious, low density estate where the natural beauty and flora of the area are maintained insofar as is reasonably possible.
 - 3.1.2 Create a natural environment in which Property owners will undertake the development of their Properties' in a suitable and regulated manner that befits the Estate.
 - 3.1.3 Create a living environment in which Property owners will live in safety and in harmony with their neighbours and where owners will conduct themselves in a suitable manner that befits the Estate and that lends itself to good neighbourliness.
- 3.2 To this end, each property owner through his purchase of a Property and his consequent acceptance of this Constitution will have:
- 3.2.1 Committed himself to the Vision of the Developer; and
 - 3.2.2 Acknowledged that his right to the development and use of his Property will be restricted by the Vision, the terms of this Constitution and the Architectural Guidelines beyond the normal limits imposed on a property owner.

4. Object

The object of the Association shall be to regulate the rights and obligations of the Members and generally to do all such things as may be necessary to preserve, maintain, develop and administer the Estate in terms of the Vision and this Constitution for the benefit of its' Members.

5. Corporate Status

The Association shall be a non-profit organisation with corporate status and as such:-

- 5.1 Its' rights and obligations shall vest in the Association independently of its' Members;
 - 5.2 It shall have perpetual succession notwithstanding any changes in its' Membership.
 - 5.3 It may sue or be sued in its' own name.
 - 5.4 It may hold property in its' own name as distinct from property held by its' Members.
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6. Membership

- 6.1 Membership shall be restricted to persons who are the registered owner or owners of a Property:
- 6.2 Every owner or co-owner of a Property shall be obliged to become a member of the Association and obliged to take up such membership (in terms of the Contract of Sale) immediately upon becoming registered as the owner or co-owner of a Property and such person shall remain a Member as long as he is owner or co-owner of a Property:
- 6.3 Immediately a person ceases to be an owner or co-owner of a Property, such person shall ipso facto cease to be a Member.
- 6.4 In the event of a Property being owned by more than one person, only the person nominated by the co-owner by way of written notification to the Executive Committee shall be entitled to vote and exercise the rights pertaining to Membership vis-a-viz the Association and failing such nomination and notification, such right of Membership shall not be recognized at any meeting of the Association.
- 6.5 A body corporate shall be entitled to become a Member of the Association in terms of this clause but shall be obliged to nominate a natural person by written notification to the Executive Committee to act on its' behalf and such person shall be deemed to be the representative Member for all purposes in terms of this Constitution. Such body corporate shall be entitled to change its' representative from time to time by delivering written notice of such change to the Executive Committee.

7. Use and Occupation of Property and the Amenity Area

- 7.1 Each Member shall have an exclusive or joint right of occupation and the right to peaceful enjoyment of the Property registered in that Member's name.
 - 7.2 No Property may be further sub-divided.
 - 7.3 Each Property shall be used for residential purposes only and no more than 200 square metres of the Property may be used for cultivation of vegetables or crops which shall be grown for domestic use only. Such vegetables and / or crops shall be grown in an orderly and tidy manner and not located within 20 metres of the boundary of the Property or in such manner as to cause visual or other offence to any abounding Property.
 - 7.4 There will only be one primary residence on each Property.
 - 7.5 A Member shall:
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- 7.5.1 Permit any person authorized in writing by any member of the Executive Committee, at all reasonable hours, to enter upon his Property for the purpose of inspecting the Property and maintaining, repairing or renewing any pipes, cables ducts or facility constituting part of the communal facilities of the Estate or for any other purpose permitted by the this Constitution.
 - 7.5.2 Maintain his Property in state of good repair and in a neat, clean and tidy condition commensurate with the Estate and in such a manner so as to not to cause nuisance to any other Member.
 - 7.5.3 Not use his Property or permit it to be used in such a manner as shall cause a nuisance, offence, annoyance or loss to any Member, or occupier of any other Property.
 - 7.5.4 Not construct more than a single residence upon his Property together with appropriate domestic quarters and outbuildings and a single guest cottage meeting all the requirements of the applicable laws of the local planning authority and as approved by the Architectural Review Sub-Committee, which buildings shall be architecturally similar to each other and sited so as not to unreasonably obstruct or impair the enjoyment of neighbouring Property by the owners of such Property.
 - 7.5.5 Not construct any buildings or a prefabricated nature upon his Property without special consent.
 - 7.5.6 Not lease out any guest cottage, servant's quarters or other out-building upon his Property to any person without notifying the Executive Committee in writing.
 - 7.5.7 Not construct a principal residence consisting of less than a minimum area of 150 square metres of fully enclosed floor area devoted to living purposes, exclusive of roofed or unroofed verandahs, balconies, terraces, garages, carports and other out buildings.
 - 7.5.8 Not erect any domestic workers quarters consisting of more than a maximum area of 150 square metres of floor area devoted to living purposes, inclusive of roofed or unroofed verandahs, balconies, terraces and other associated structures.
 - 7.5.9 Not erect any domestic workers quarters within 10 metres from any boundary of a Property, such distance to be measured horizontally.
 - 7.5.10 Install in domestic workers quarters electrical cooking, electrical (or solar) water heating and electrical lighting facilities.
 - 7.5.11 Subject to any laws or regulations issued by any relevant authority further restricting the number of domestic workers permitted to reside on a Property, not permit in excess of six persons comprising domestic workers and their families to occupy any Property.
 - 7.5.12 Not construct any Property boundary walls or other similar structure without special consent.
 - 7.5.13 Erect a Property boundary fence using diamond mesh, bonnox, electric or palisade fencing. (Electric fencing is to have 1 meter high diamond mesh protective fence on its' exterior face that is mounted a minimum of 150mm away from any electrified wires.)
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- 7.5.14 Not erect any boundary fencing that is greater than 2.5 metres in height, nor erect any razor or barbed wire fencing on top of any fence.
 - 7.5.15 Not erect any signposts or signboards other than a sign reflecting the owner's name, the Property number and the name of the property except with the approval of the Architectural Review Sub-Committee;
 - 7.5.16 Not store items of an unsightly nature including, but without derogating from the generality of the foregoing, building materials, disused vehicles, machinery or equipment on the Property unless building materials and relevant machinery is being actively used in the development of the Property in which case in a manner as to reasonably minimize the visibility and unsightly appearance of such building materials and equipment.
 - 7.5.17 Not cause any building or other materials or machinery to be delivered, off-loaded, stored or parked at road-sides or anywhere outside the Property boundaries.
 - 7.5.18 Keep all rubbish in covered containers that are adequately screened or enclosed and enter into proper commercial waste disposal contract which results in the frequent removal and disposal of rubbish from the Property.
 - 7.5.19 Not construct any building or structure of whatever nature on the Property that has not been approved by the Architectural Review Sub-Committee in terms of clause 16 hereof.
 - 7.5.20 In developing his Property ensure that he and his contractors, suppliers and agents adhere to the rules determined by the Architectural Review Sub-Committee that shall govern all development, construction, landscaping and all other such activities.
 - 7.5.21 Ensure that outside clothes lines or outside clothes drying or airing areas are suitably screened and not visible from outside the enclosure.
 - 7.5.22 Not cut down any trees on his property that measure more than 150mm in diameter, measured 1 metre from ground level, unless reasonably and necessarily required for the development of the Property, without the consent of the Architectural Review Sub-Committee.
 - 7.5.23 Ensure that any pets or other domestic animals kept on the Property are restricted and controlled in such a manner as to ensure that such pets or domestic animals do not constitute a nuisance to any other Member.
 - 7.5.24 Not keep or store on his Property a mobile home, travel trailer, heavy vehicle, camper, house trailer, boat, boat trailer or similar item of equipment except within the confines of a garage or otherwise suitably and neatly screened from the view of adjoining Property or roads.
 - 7.5.25 Not erect or maintain any exterior antenna, satellite dish or other reception device for television or radio services or otherwise, the position of which causes an obstruction of view or in any other way is unsightly in appearance from a neighbouring Property and, in any event, no satellite dish in excess of 3.1 metres in diameter or antennae in excess of 12 meters in height shall be erected on any Property.
 - 7.5.26 Not conduct any prospecting or mining operation on any Property.
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- 7.5.27 Not plant any trees, shrubs or other plants on his Property of a noxious or spreading nature or any other tree, shrub or plant listed on a prohibited list of species issued by the Executive Committee from time to time and remove any such tree, shrub or plant forthwith on the written instruction of the Executive Committee;
- 7.5.28 Keep his Property and its immediate environs clear of all dry weeds, long grass and other fire hazards.
- 7.5.29 Adhere to security procedures for Property holders and their employees, visitors, contractors and suppliers that will be stipulated from time to time by the Executive Committee and pay all charges that may be levied for the production and administration of security devices and measures.
- 7.5.30 Generally maintain the natural appearance of his Property in conformity with that of his neighbours and in such a manner as to keep the appearance of the Estate a quality residential area in conformity with the Vision set out in Clause 3 hereof.

7.6 The Member is hereby granted the use of the Amenity Area and Common Parts for all proper purposes in connection with the use of his Property in accordance with and subject to the provisions of this Constitution such rights being exercisable in common with the Developer and those authorised by the Developer including other Members of the Estate.

7.7 The Member is hereby granted the free passage of water soil gas electricity telephone and other services for the Property through the Conduits which are in other parts of the Estate and which serve the Property for all proper purposes in connection with the use of his Property in accordance with and subject to the provisions of this Constitution such rights being exercisable in common with the Developer and those authorised by the Developer including other Members of the Estate.

8. Dispute between Members and responsibility for Compliance

8.1 In the event of a dispute between Members arising on the question of compliance by a Member with the provisions of this Constitution, such dispute shall be referred to the Executive Committee for arbitration and the decision of the Executive Committee shall be final and binding on both parties.

8.2 A Member shall ensure that any invitee or any person occupying his Property, including his employees, shall comply strictly with all of the obligations arising from the Contract of Sale, this Constitution, the Architectural Guidelines and any other regulations published by the Executive Committee and the Member shall be responsible for and liable to rectify the acts, omissions and behaviour of his invitees, employees, or any other persons occupying or visiting his Property or any portion thereof.

9. Officers of Executive Committee

9.1 The Association shall be managed by an Executive Committee of seven Members which shall consist of a Chairman, Vice-Chairman, Secretary, Treasurer, Chairman of the ARSC and two ordinary Members.

9.2 The inaugural Executive Committee shall comprise of the following persons:

9.2.1 Chairman : Tom Younger

- 9.2.2 Vice-Chairman : Siphon Phiri
- 9.2.3 Secretary : To be selected by the Developer
- 9.2.4 Treasurer : To be selected by the Developer
- 9.2.5 Chairman of ARSC : Graeme Bird
- 9.2.6 Committee Member : Grant Henderson
- 9.2.7 Committee Member : To be selected by the Developer
- 9.3 A new Executive Committee shall be elected at each Annual General Meeting of the Association and subject to termination of office by resignation or otherwise, the Executive Committee shall remain in office until the conclusion of the Annual General Meeting at which their successors are appointed.
- 9.4 In the event or more candidates being nominated that there are vacancies, the required number of Executive Committee members shall re-elected by the Members of the Association by secret ballot or show hands as shall be determined at the meeting, with each Member being entitled to exercise one vote. It is recorded, for avoidance of doubt, that co-owners shall be regarded as one Member and shall exercise one vote through their duly authorised representative in terms of clause 6 hereof.
- 9.5 The Executive Committee shall have power to fill casual vacancies, to nominate alternatives in the place of Executive Committee members who are temporarily absent, and to co-opt additional Members onto the Executive Committee. All such appointees shall be Members of the Association and shall hold office for the period stipulated or, if no period is stipulated, until the end of the first Annual General Meeting following their appointment.
- 9.6 The retiring officers of the Executive Committee shall be eligible for re-election.
- 9.7 In the event of any Member of the Executive Committee becoming of unsound mind, being convicted of a criminal offence of which dishonesty is an element, having his estate sequestrated or for any other reason that may destroy or damage the integrity, good order and efficient functioning of the Executive Committee which decision shall be based on the unanimous decision of the remaining Executive Committee members, such Members shall be removed from office by written notice addressed to him by the Chairman of the Executive Committee or in the event of such person being the Chairman, the Vice-Chairman or the Secretary of the Executive Committee and shall cease to be a member of the Executive Committee upon presentation of such written notice to him.
- 9.8 Any one or more Members of the Executive Committee may be removed from office by special resolution passed by the Association in general meeting in which event replacement Members on the Executive Committee shall be elected at such general meeting.

10. Powers and Duties of the Executive Committee

- 10.1 The Executive Committee shall exercise all such powers and be empowered to do all such acts and things as may be exercised or done by the Association, save and except such acts and things as are specially reserved by this Constitution to be done by the ARSC or the Association in general meeting.
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- 10.2 Minutes shall be kept of the proceedings of and resolutions passed at all Executive Committee and general meetings and any such minutes, or an extract thereof, signed by the Chairman and Secretary, shall be received as prima facie evidence of the matters stated in such minutes or extract.
- 10.3 Without derogation from the general powers conferred by the preceding paragraphs, the Executive Committee shall have the following specific powers and duties:
 - 10.3.1 To appoint a security company to set up a security unit and rapid reaction force to maintain security within the Estate;
 - 10.3.2 To appoint a game warden / park keeper with ancillary staff to control and maintain the Estate;
 - 10.3.3 To manage the Amenity Area and Common Parts;
 - 10.3.4 To appoint an administrator to administer the affairs of the Estate and the Association.
 - 10.3.5 To enter into contracts on behalf of the Association.
 - 10.3.6 To appoint, retire or dismiss persons as workers, agents or independent contractors as it may from time to time consider desirable.
 - 10.3.7 To purchase such goods and equipment as may be required from the purpose of running the Estate and Association.
 - 10.3.8 To take disciplinary action against any Member in terms of this Constitution and the Architectural Guidelines and to institute legal proceedings for the recovery of any debt due to the Association and to defend any legal proceedings instituted against the Association.
 - 10.3.9 To interpret this Constitution and the Architectural Guidelines in the case of doubt as to the meaning of the provisions hereof and to make, amend or cancel such regulations as may be reasonably necessary to ensure the fulfilment of the Vision of the Developer and the mutual quiet and peaceful enjoyment by the Members of the Association.
 - 10.3.10 When appropriate, to delegate its' powers to sub-committees and/or individuals.
 - 10.3.11 To act on reports received from the ARSC and in its' sole discretion to cause to be effected the remedial action required by the ARSC in which event the Association shall be entitled to recover the cost thereof from the Member concerned.
 - 10.3.12 To determine any matter not specifically dealt with in the Constitution.

11. Meetings of the Committee

- 11.1 The Executive Committee shall hold regular meetings for the purpose of transacting the business of the Association and shall in any event meet not less than once in every three months.
 - 11.2 Executive Committee meetings shall be called on not less than seven days notice in writing addressed to members of the Executive Committee at their postal or physical or email address providing that each member shall be entitled to waive his right to receive such notice.
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- 11.3 The Chairman, and in his absence, the Vice-Chairman, shall be the convener of the Executive Committee meetings and shall call meetings when he deems it to be necessary or when required to do so by four Members of the Executive Committee or 15% of the total Members of the Association.
- 11.4 The Chairman or, in his absence, the Vice-Chairman shall be chairman of the Executive Committee.
- 11.5 The quorum of the Executive Committee shall consist of not less than four Members present in person at the commencement of the Executive Committee meetings. In the event of no quorum being present at a meeting, the meeting shall be reconvened for the same day of the following week at the same time and venue and in the event of a quorum not being present at such adjourned meeting, the persons present at such meeting shall constitute a quorum.
- 11.6 The Chairman shall have a casting as well as a deliberative vote in the event of there being equity of votes for and against a resolution.
- 11.7 Any member of the Executive Committee, who shall, without leave of the committee, fail to attend three consecutive meetings of the Executive Committee, shall thereby cease to be a member thereof.

12. Running Expenses and other amounts due to the Association

- 12.1 The Executive Committee shall from time to time determine monthly or quarterly levies to be paid by the Members of the Association for the purposes of meeting the expenses which the Association has incurred or to which the Executive Committee reasonably anticipates the Association will incur by way of maintenance, repair, insurance and the keeping in good order and condition of those portions of the Estate not reserved exclusively for any Member (including the Amenity Area) and for payment of all rates and other charges payable by the Association in respect of its property, and for services rendered to it, and for payment of the salaries and wages of the employees of the Association, and generally for payment of all expenses reasonably necessarily incurred in connection with the management of the Association, its property and affairs.
 - 12.2 The Executive Committee shall estimate the amount which shall be required by the Association to meet the aforesaid expenses during each operational year, taking account of any deficiency or surplus from the preceding year, and shall make a levy upon the Members equal as nearly as is reasonably practicable to such estimated amount.
 - 12.3 The Executive Committee shall determine in advance or monthly or quarterly amounts to be paid by the Members of the Association for the purposes of meeting the expense of providing water and electricity to Members Properties and generally for payment of all expenses reasonably necessarily incurred in connection with the provision of water and electricity to the Estate.
 - 12.4 The Executive Committee may include in such levies an amount to be held in reserve to meet anticipated future expenditure authorized by the Members in general meeting. Each such levy shall be payable by each Member on the first day of each and every month of each operational year. For the purposes of this paragraph, the operational year of the Association shall run from the first day in January of each year or such other date as the Executive Committee may fix. For the avoidance of doubt it is recorded that levies shall be paid in respect of each Property.
 - 12.5 The Executive Committee may from time to time vary such monthly levies or make special levies upon the Members in respect of all such expenses as are mentioned above
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or any other expenditure which the Executive Committee reasonably resolves should be incurred and such levies may be payable in one sum or by such instalments and at such time or times as the Executive Committee may direct.

- 12.6 Notice shall be given to all Members in writing in respect of levies that are payable.
- 12.7 Any amount due by any Member by way of a levy or part of a levy, shall be a debt due by him to the Association which shall be recoverable by the Association acting through the Executive Committee or officers of the same. In the event of joint ownership each joint owner shall be jointly and severally liable for the payment of all levies and any other amount due to the Association in terms of this Constitution, one paying the others to be absolved. The obligation of a Member to pay a levy shall cease only upon the termination of the Membership of such Member in terms of this Constitution in but such termination shall not affect his liability to pay any arrear levies which accrued prior to the date of such termination.
- 12.8 Overdue levies due by a Member to the Association shall incur interest at 2% above the unsecured overdraft rate charged by the majority of banks in Zambia compounded monthly payable on demand and calculated from the date such levies become due until the date of payment.
- 12.9 In the event that the Association incurs any legal costs in the recovery of outstanding levies or other amounts due to the Association in terms of this Constitution, the Member concerned shall be liable to pay Association's legal costs of a legal practitioner and client scale, and to pay any collection commission raised by the Association' legal practitioners.

13. Jurisdiction

- 13.1 By signature of this Constitution the signatory hereto consents on his own behalf and on behalf of all owners of the Property in the case of joint ownership, to the jurisdiction of the Zambian courts in respect of any legal action commenced against such Member/s provided that it shall be within the sole discretion of the Association as to whether to bring proceedings in such court or any other court of competent jurisdiction.
- 13.2 The Member chooses his *domicilium citandi et executande* for all purposes hereunder to be such Members Property.

14. Auditors

The Association's auditors shall be appointed at each annual general meeting of the Association and the Executive Committee shall procure that the Association accounts are audited each year.

15. General Meetings

- 15.1 A general meeting of Members (to be called the Annual General Meeting) shall be held in each calendar year as soon as possible after the Association's annual accounts have been prepared within two months of the end of each financial year. All other meetings of the Members shall be called General Meetings.
 - 15.2 The Executive Committee may, within its' sole discretion, convene a General Meeting as and when it deems it necessary and shall convene such meeting upon receipt of a written request signed by not less than 5% of the Members of the Association.
 - 15.3 Notices of all meetings shall be accompanied by an agenda for the meeting. Not less than five clear written days notice shall be given to each Member for all Annual General
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Meetings and General Meetings but the non receipt of such notice by any Member shall not invalidate the proceedings of any such meeting. A copy of the annual accounts for the current year and budget of the forthcoming year shall be attached to the notice of all Annual General Meetings.

- 15.4 The business of the Annual General Meetings shall include the election of the Executive Committee, the receiving of the report of the Executive Committee, the passing of the accounts for the past year and the presentation of the budget for the forthcoming year.
 - 15.5 Twelve Members present in person or by proxy at an Annual General Meeting or General Meeting shall constitute a quorum. If, within half an hours of the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place and, if it at the adjourned meeting a quorum is not present within ten minutes of the time set for the commencement of the meeting, the Member or Members present shall constitute a quorum.
 - 15.6 The chair shall be taken at all meetings of the Association by the Chairman or in his absence, the Vice-Chairman of the Executive Committee. In the absence of both, the Members at the meeting shall choose one of their Members to be chairman. The Chairman shall have a deliberative and a casting vote in the event of an equality of votes whether the vote is by show of hands or poll.
 - 15.7 At all meetings of the Association or its' committees, unless otherwise therein stated, the ordinary rules of debate shall apply and Members shall be entitled to appoint a proxy to represent them. The aforesaid proxy shall be in writing and shall be lodged with the secretary not less than twenty four hours before the commencement of the meeting at which it is to be used.
 - 15.8 Minutes of all meeting of the Association or its' committee shall be kept by the chairman and the secretary of the Association and shall be open to inspection by all Members at all reasonable times. Such minutes shall, if found to be corrected, be confirmed at a subsequent meeting.
 - 15.9 Copies of the minutes of each Annual General Meeting shall be sent to each Member.
 - 15.10 Any resolution put to the vote shall be decided by a show of hands unless on the declaration of the result of the show of hands a poll is demanded by any Member present.
 - 15.11 The demand for a poll may be withdrawn. The poll shall be taken in such a manner as the chairman direct. On a poll each Member present in person or by proxy qualifying for Membership in terms of this Constitution shall be entitled to one vote.
 - 15.12 All resolutions other than special resolutions shall be properly passed if a simple majority of the votes cast are in favour thereof.
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16. Architectural Review Sub-Committee

- 16.1 Notwithstanding any of the other provision hereof, there shall be a permanently constituted sub-committee of the Association which shall be called the Architectural Review Sub-Committee.
- 16.2 The ARSC does not replace any statutory body and all Members will be required to submit and obtain all necessary statutory approvals after ARSC approval has been received.
- 16.3 The ARSC shall consist of four persons elected at the Annual General Meeting including two professional consultants, allied to the construction industry, who need not be Members of the Association.
- 16.4 The inaugural Members of the architectural committee shall be the following persons:
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|--------|------------------|---|----------------------------------|
| 16.4.1 | Chairman | : | Graeme Bird |
| 16.4.2 | Committee Member | : | To be selected by the Developers |
| 16.4.3 | Prof. Consultant | : | Mike Fleming |
| 16.4.4 | Prof. Consultant | : | To be selected by the Developers |
- 16.5 The professional members of the ARSC shall be entitled to be paid such reasonable fees and expenses and on such basis as may be agreed with the Association from time to time and the Association shall be authorized to pay such fees and expenses.
- 16.6 The ARSC shall meet from time to time as may be necessary to perform its duties hereunder and any action taken by the ARSC shall require written approval of the majority of its' Members.
- 16.7 No buildings, fences, walls, outbuildings, tennis courts, swimming pools, spa's, ponds, fountains, awnings, patios covers or antennae or any other structures or fixtures of whatsoever nature shall be constructed, erected or created by any Member on his Property without the approval in writing of the ARSC in terms of the Architectural Guidelines.
- 16.8 In the event that the ARSC fails to approve or disapprove such structure or fixture or citing thereof in writing within forty-five days after receipt by it of application by any Member, or within forty five days of any plans or specifications for which ARSC may call following such application, whichever is the later, then approval will not be required in terms of this provision. The onus of proving delivery of any application shall fall upon the Member alleging such delivery.
- 16.9 In the event of the ARSC failing to approve any development in terms of clause 16 hereof, the Member may proceed by way of special consent to seek approval for such development and the ARSC shall be obliged to review its decision in the light of the attitude of the applicant's neighbours to the applicant's proposals.
- 16.10 Any approval granted by the ARSC shall be construed as approval of the development in question in principle but shall not be construed in any way as an approval of the building techniques to be used, the structural integrity of any structure or fixture nor an approval in any other respect whatsoever other than for the purposes of ensuring harmonious development of the Scheme in terms of this Constitution.
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- 16.11 The ARSC shall have the right to inspect any improvement, structure or fixture for which its' approval is necessary, or for which its' approval has been given. If, as a result of such inspection the ARSC finds that such improvement, structure or fixture was constructed, erected or maintained without the ARSC's approval, or it has not been performed in substantial compliance with the terms of such approval, the ARSC shall notify the Member in writing, specifying the particulars or non-compliance and shall have the authority to require the Member to take such actions as the ARSC shall consider necessary, or appropriate to remedy the non-compliance.
- 16.12 If within sixty days of the date of the ARSC requiring a Member to take remedial action, he has failed to do so, the ARSC shall notify the Executive Committee in writing of such failure. The Executive Committee may thereafter proceed in terms of this Constitution.
- 16.13 The ARSC shall be entitled but not obliged to review any its' decisions on the written application of any Member of the Association.
- 16.14 The removal of any Member of the ARSC from office shall require a special resolution of the Association.

17. Powers of Executive Committee to enforce provisions of the Constitution

In the event of any Member failing to abide by the provision of this Constitution or any directive given to such Member in terms of this Constitution by the Executive Committee or the ARSC and the Architectural Guidelines and failing to rectify such omission within thirty (30) days after delivery or written notice from the Executive Committee requesting such rectification, each Member by his acceptance of this Constitution duly and irrevocably nominates and recognises the Members of the Executive Committee for the time being as his lawful attorneys and agents for the purposes of entering onto his Property together with such employees of the Association or independent contractors as shall be deemed necessary by the Executive Committee in their sole discretion in order to rectify such breach and procure that the necessary remedial work or action be carried out to the satisfaction of the Executive Committee irrevocably undertaking to recognise and confirm all such acts taken by the Executive Committee in terms of this clause and further undertaking to meet the reasonable cost of carrying out such rectification whether by the Executive Committee's own employees or an independent contractor.

18. Miscellaneous

- 18.1 Upon admission a Member shall be supplied with a copy of this Constitution and the Architectural Guidelines and shall sign a document expressing his acceptance of the contents hereof. Members shall, however, be bound by this Constitution (and by any regulations made hereunder) and the Architectural Guidelines notwithstanding the fact that they may not have signed such documents and the onus shall be on Members to make themselves conversant with this Constitution, the Architectural Guidelines and with any regulations made thereunder.
 - 18.2 In the event of any Member disposing of his Property by any means whatsoever to any third party, such disposal shall be subject to such third party being bound by the terms and conditions of this Constitution, the Architectural Guidelines and the onus shall be on the Member disposing of his Property to ensure that such third party is acquainted with and duly signs a document expressing such third party's acceptance of this Constitution and the Architectural Guidelines. By acceptance of this Constitution any Member disposing of a Property undertakes to indemnify and hold the Developer, the Executive Committee, the Association and all or any other persons who may become the subject of a damages claim arising from a Member's omission in this regard against all and any damages, costs (including legal costs) and expense of whatever nature which such party may suffer as result of a Member's omission in this regard.
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- 18.3 Proper books of account shall be kept according to generally accepted accounting principles and Members shall be entitled to inspect such books of account on reasonable notice given to the Executive Committee.
 - 18.4 The funds of the Association shall be kept in such banks, building societies or other secure investments at registered financial institutions as the Executive Committee shall from time to time decide. All cheques drawn on such accounts shall be signed by two Members of the Executive Committee.
 - 18.5 The Association shall be entitled to amend this Constitution and the Architectural Guidelines to such extent as it deems fit providing that no amendment to this Constitution and the Architectural Guidelines shall be made save by special resolution passed at an Annual General Meeting or General Meeting of the Association for which no less than thirty days notice has been given to all Members in writing and provided further that no amendment may be made which would have the effect of depriving any Member of his right to occupy a Property or the right of access to areas not exclusively reserved for Members unless that Member votes in favour of such resolution.
 - 18.6 The Association may be dissolved by a special resolution at a General Meeting specially called for the purpose on no less than thirty days written notice. The Executive Committee shall appoint a liquidator for the purpose of finalising the affairs of the Association.
 - 18.7 All notices shall be validly served if delivered or posted to a Member at his Property unless such Property is unoccupied in which event notice shall be validly served by addressing such notice to the last address supplied by the Member to the secretary of the Executive Committee.
 - 18.8 The receipts or accruals of the Association, whether current or accumulated, may not be divided amongst or credited to or accrue to the benefit of the Members or any one or more of them other than by way of remuneration for services rendered in the ordinary course of such Members business. It is further recorded, for the sake of clarity, that the Association has not been formed for the purposes of carrying on business which has, as its' objective, the acquisition of gain by the Association or any of it's Members.
 - 18.9 If at any time the whole or any part rights in the Scheme are expropriated, each Member shall be deemed to have appointed the Executive Committee as his duly authorized agent and representative.
 - 18.10 The Association intends to acquire the rights of Pelham Properties Limited to the Amenity Area, currently set out in the Lease within thirty-six months of the date of this Constitution or such later date as the Executive Committee deems appropriate.
 - 18.11 To negotiate and settle the compensation payable to him, and to that end to employ legal practitioners, advocates and experts.
 - 18.12 On his behalf to receive and give valid acquittal for any monies paid.
 - 18.13 No Member shall have any right of legal recourse or action against the Association, the Executive Committee, the ARSC or any other committee of the Association or any Member thereof, in respect of any loss, damages, or injury he may suffer arising out of or in any way connected with the performance by any such committees or any Member thereof of their duties, unless such loss, damage, injury arises not out of negligence but out of a deliberate mala fides act or omission on the part of any committee or any Member of such committee.
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18.14 The Executive Committee shall have no liability in respect of any loss, damages, or injury the Member may suffer arising out of or in any way connected with the any right of use of the Amenity Area or Common Parts and the member hereby waives unconditionally any recourse (legal or otherwise) or action against the Association, the Executive Committee, the ARSC or any other committee of the Association, in respect of any loss, damages, or injury he may suffer arising out of or in any way connected with the use of the Amenity Area or Common Parts thereof.

AS WITNESS WHEREOF the Parties hereto have hereunto set their hands the day and year first before written.

SIGNED by the duly authorized representative)
of the Developer the said **LEOPARDS HILL**)
DEVELOPMENTS LIMITED in the presence of:)

Witness

Name:
Address:
Occupation:

SIGNED by the said)
In the presence of:)

Witness

Name:
Address:
Occupation:
