



BOSKLOOF
— ECO ESTATE —

"The Perfectly Natural Selection"

HOMEOWNERS' ASSOCIATION

CONSTITUTION

CONSTITUTION OF THE BOSKLOOF ECO-ESTATE HOMEOWNERS' ASSOCIATION

1. NAME

The name of the association is:

THE BOSKLOOF HOME OWNERS ASSOCIATION

2. DEFINITIONS

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

- a. "The Association" shall mean the Boskloof Home Owners Association; established for the Development at the instance of the Helderberg Municipality in terms of Section 29(1) of the Land Use Planning Ordinance 15/1985 when approving of the subdivision of the Remainder Erf 7141 Somerset West, in terms of Section 25(1) read with Section 42(1) of the said Ordinance as evidenced by this Constitution.
- b. "Municipality" shall mean the Helderberg Municipality its successors in title or assigns.
- c. "Design Guidelines" means the Design Guidelines prepared by the project architects Desseyne Green as updated from time to time.
- d. "Design Review Committee" means the committee constituted in terms of Clause 5(a)iii hereof.
- e. "Development Plan" means the Development Plan prepared by The Planning Partnership.
- f. "The Management Plan" shall mean the report titled "Boskloof Eco-Estate Management System" being the environmental management report of the Development.
- g. "The Development" shall mean the subdivision established or to be established on the Remainder of Erf 7141 Somerset West, by virtue of a General Plan in one or more phases.
- h. "The Developer" shall mean Boskloof Eco-Estate (Proprietary Limited) or its successors in title to the Remainder Erf 7141 Somerset West.
- i. "Member" shall mean any registered owner of a land unit in the Development depicted on the General Plan or Plans of the Development and where more than one person are the registered owners of a land unit they shall jointly be deemed to be one member but shall be jointly and severally liable for the due fulfillment of all obligations arising from such membership.
- j. "Excom" means the Executive Committee constituted in terms of Clause 7 hereof.
- k. "Private open space" means that portion of the Development Plan depicted as private open space, and to be registered in the name of the Home Owners Association.
- l. "Private roads" means the private roads as depicted on the annexed Development Plan.
- m. Words importing the singular number shall include the plural and the converse shall also apply; the masculine gender shall include the feminine and neuter genders and the neuter gender shall include the masculine and feminine genders.

3. HEADNOTES

The head notes to the clauses in this Constitution are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate.

4. THE STATUS OF THE ASSOCIATION

The Association shall be an association:

- a. with separate legal personality, capable of suing and being sued in its own name; and
- b. none of whose members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by Excom in terms of, and subject to the provisions of this Constitution; and
- c. not for profit, but for the benefit of the owners and occupants of immovable property situate in the Development.

5. OBJECTIVES AND POWERS OF THE ASSOCIATION

The objectives and powers of the Association are:

- a. to strictly adhere to the development concept of an ECO-ESTATE and inter alia ensure the following:
- b. The appointment of a Design Review Committee (D.R.C.) to evaluate building plans and landscape proposals and to certify that they comply with the Design Guidelines; the D.R.C is to be composed of three persons namely:
- c. a member of Excom who shall not be the chairperson of Excom, appointed by the remaining members of Excom;
- d. *a professional registered at South African Council for the Architectural Profession (SACAP)* and appointed by Excom;
- e. a professional landscape architect appointed by Excom.
- f. to take transfer of and to control, preserve and maintain the private open space and private roads by inter alia attending to the following:
 - i. compliance with the Environmental Management System;
 - ii. the eradication of alien vegetation and the rehabilitation of indigenous vegetation;
 - iii. ongoing storm water management and erosion control measures;
 - iv. fire management and the prevention of uncontrolled veld fires;
 - v. generally maintaining the property as a Private Nature Reserve;
 - vi. provision and maintenance of any essential services that may be required and which the local authority cannot provide;
 - vii. maintenance of the access and security systems;
- g. to control and maintain all amenities in the Development including servitude areas, rivers, dams and other open spaces established within the Development and the supervision of visits by bona fide botanist/educational groups by prior arrangement;
- h. to ensure compliance by members of the conditions of establishment of the Development, with particular reference to conditions dealing with aesthetic and building restrictions and requirements, and where necessary to ensure that the relevant authority enforces such conditions of establishment;

- i. to object to any subsequent proposed subdivision of any of the land units in the Development;
- j. to appoint any professional or committee of professionals to furnish advice with regard to the carrying out of the Association's objects;
- k. to employ any agent to carry out the Association's objectives;
- l. to act as a liaison between the members and the Municipality regarding the landscaping and aesthetic usage of the property and the buildings erected or to be erected on the land units;
- m. to implement and control a maintenance plan in respect of the dam on the property including its feeder pumps, pipelines and canals;
- n. to ensure that all members maintain their land units in a clean and tidy condition and adhere to the specifications imposed by any Consultant appointed from time to time;
- o. to administer general security arrangements on the Development with particular reference to access control of the Public and the nature and type of security to be provided from time to time, excluding the security arrangements of any particular building on a land unit;
- p. to enact any rule or regulation necessary to ensure the orderly compliance by land unit owners of any of the objects of the Association, and to amend and to repeal any rules or regulations so made, which rules and regulations so made, shall be binding upon all members by virtue of their membership;
- q. to impose on and enforce payment by any recalcitrant member of any penalty for failing to comply with this Constitution or any rule or regulation;
- r. to promote and enforce environmental standards for community living in the Development in order to enhance and preserve the nature of the development in such a way that members may derive the maximum collective benefit therefrom;
- s. to promote all facets of nature conservation to control the growth of alien vegetation and to encourage the re-introduction of indigenous flora and fauna in the Development;
- t. the Association shall have the powers to do such acts as are necessary to accomplish these objectives;
- u. to regulate the keeping of pets on the development such that only those pets that can be kept under the owners' control at all times will be permitted to ensure that the flora and fauna are never threatened;
- v. to allow the Homeowners' Association only to sink boreholes on the development;
- w. to ensure that the members do not at any time impinge upon the privacy of the properties outside of the perimeter fence;
- x. to promote and enforce standards preventing any nuisances or disturbances to the other members.

6. MEMBERS

- a. Membership of the Association shall be compulsory and automatic upon the registration of any of the erven in the Development in the name of the member and members shall be obliged to comply with the provisions of this Constitution and any rules or regulations made in terms hereof.
- b. No person shall be entitled to cease to be a member of the Association while remaining the registered owner of an erf in the Development or be entitled to resign therefrom.
- c. When a member ceases to be a registered owner of an erf in the Development he shall ipso facto cease to be a member of the Association.

- d. Membership shall be transferred by the passing of transfer of any erf in the Development from the previous member to the new member.
- e. A member shall not be entitled to sell or transfer an erf or undivided portion thereof in the Development unless it is a condition of the Deed of Sale that the new purchaser becomes a member of the Association.
- f. Members shall be obliged to pay the levies as determined until such time as the properties are sold and transferred to purchasers.
- g. Members shall not be entitled to lease his property unless it is a specific condition of the lease that the lessee be handed a copy of the constitution and that such lessee undertake to abide by the conditions thereof as far as they may affect such lessee.

7. EXECUTIVE COMMITTEE

- a. Excom shall consist of no less than 4 (four) and no more than 7 (seven) persons who shall be members or the spouses of members. Any Excom member shall be eligible for re-election.

8. VACATION OF OFFICE

An Excom member shall cease to hold office as such if:

- a. by notice in writing to Excom he resigns his office;
- b. he is or becomes of unsound mind;
- c. he surrenders his estate as insolvent or his estate is sequestrated;
- d. he is convicted of an offence which involves dishonesty;
- e. he absents himself from three consecutive meetings of Excom without special leave of absence from Excom;
- f. by resolution of a general meeting of the Association he is removed from his office;
- g. he ceases to be registered owner of a township erf or his subscription becomes delinquent in terms of Clause 22 c.

9. EXCOM MEETINGS AND PROCEDURES

- a. Excom shall meet at such time and place as shall be decided by Excom from time to time.
- b. Three Excom members may at any time convene a meeting of Excom by giving to the other Excom members no less than 10 days written notice of the proposed meeting, which notice shall specify the reason for calling such a meeting; provided that in cases of emergency such shorter notice as is reasonable in the circumstances may be given.
- c. 50% of members shall form a quorum at any meeting of Excom.
- d. Within seven (7) days of the First Annual meeting Excom shall meet and elect from its members a Chairperson. The Chairperson elected shall hold office as such until a new Chairperson is elected.
- e. All matters at any meeting of Excom shall be determined by a majority of those present and voting. In the event of an equality of votes, the Chairperson of any meeting shall have a casting as well as a deliberate vote.
- f. Excom may from time to time appoint a Secretary and a Treasurer, or a Secretary/Treasurer.

- g. Excom shall keep minutes of all its meetings, which shall be available for inspection by any member on request.

10. POWERS

The Management and Administration of the Association shall vest in Excom which may exercise all such powers of the Association and do, on behalf of the Association, all such acts as may be exercised and done by the Association itself. Without in any way limiting the generality of the foregoing, such powers shall include but not be limited to the following:

- a. the performance of such acts as are necessary to accomplish the objects expressed or implied herein;
- b. the investment and re-investment of monies of the Association not immediately required, in such manner as may from time to time be determined;
- c. the operation of a banking account with all powers required by such operations;
- d. the making of, entering into and carrying out of contracts or agreements for any of the purposes of the Association;
- e. the employment and payment of agents, servants and any other parties;
- f. the making, amendment and repeal of rules which shall be binding upon members;
- g. the right to sue and to defend actions in the name of the Association and to appoint legal representatives for this purpose;
- h. the levying of a subscription payable by members as provided in Clause 22 hereof.
- i. the preservation of the architectural theme of the Development and the adjudication upon any proposed extension, addition and/or alterations to the property or erections situate thereon within the Development in accordance with the Design Guidelines.

11. VALIDITY OF ACTS OF EXCOM MEMBERS

Any act performed by Excom members shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or continuance in office of any Excom member, be as valid as if such Excom member has been duly appointed in office.

12. REMUNERATION

Excom members shall be entitled to be repaid all reasonable and bona fide expenses incurred by them in connection with and incidental to the performance of their duties as Excom members but save as aforesaid, shall not be entitled to any other remuneration, fees or salary, in respect of the performance of such duties.

13. INDEMNITY

No Excom members shall be liable to the Association or to any member thereof, or to any other person whomsoever for any act or omission by himself, by the Association or by its servants or agents.

An Excom member shall be indemnified by the Association against any loss or damage suffered by him in consequence of any purported liability, provided that such member has, upon the basis of information known to him, or which should reasonably have been known to him, acted in good faith and without gross negligence.

14. GENERAL MEETINGS OF THE ASSOCIATION

- a. That the financial year end of the Boskloof Eco-Estate Homeowners' Association shall be October of every year. The Association shall before the end of April of each 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, calling the meeting.
- b. Such Annual General Meeting shall be held at such time and place, subject to the foregoing provisions, as Excom shall decide from time to time.
- c. All general meetings other than Annual General Meetings shall be called special general meetings.
- d. Excom may, whenever they think fit, convene a special general meeting, and shall convene a special general meeting upon the requisition of seven (7) members in writing.

15. NOTICE OF MEETINGS

A General Meeting shall be convened on not less than twenty-one (21) days' notice and will be sent to Members electronically. The notice shall be inclusive of the day on which it is given and shall specify the place, the day and the hour of the meeting and, the general nature of the matter to be discussed, provided that any meeting shall, notwithstanding that it is called by shorter notice than that specified, be deemed to have been correctly called if it is so agreed by eighty per cent of the members present.

16. VALIDITY OF MEETING

The accidental omission of giving notice of a meeting to, or the non-receipt of a notice of a meeting by any person entitled to receive such notice, shall not invalidate the proceedings of that meeting.

17. QUORUM

- a. No matters shall be discussed at any meeting unless a quorum is present when the meeting commences. Save for the purposes of a Resolution required in terms of Clause 27.1 hereof, a Quorum for all other purposes shall be members present in person or by proxy and holding not less than 50% of the total number of votes available to be cast by members at the time that the meeting commences. The Quorum for the purposes of Clause 27.1 shall be members present in person or by proxy and holding not less than 75% of the total number of votes available to be cast by members at the time that the meeting commences.
- b. 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 Chairperson of the meeting shall appoint, and if at such resumed meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the members present and entitled to vote, shall be a quorum. No resolution required in terms of Clauses 25 or 27.1 hereof shall be passed at this resumed meeting.

18. CHAIRPERSON

The Chairperson of Excom shall preside at every General Meeting.

19. VOTES

19.1 At all general meetings resolutions put to the vote, shall take place by show of hands unless by majority vote the meeting decides that voting shall be by ballot, in which event the ballot shall take place immediately. Voting, whether by show of hands or by ballot, shall take place in accordance with the following provisions:-

- a. each member present in person shall have one vote for every erf registered in his name;
- b. each person present as proxy for a member shall have one vote for every erf registered in the name of the member for whom he is proxy;
- c. each member and person present as proxy for a member shall indicate clearly how he casts each vote to which he is entitled as aforesaid;
- d. all resolutions shall, except as otherwise provided herein, be by simple majority of those members present in person or proxy at the meeting and voting;
- e. the chairperson of the meeting shall count the votes cast for and against the resolution and shall declare it carried or lost as the case may be.

19.2 For the purpose of passing a resolution, save for the purposes of a Resolution required in terms of Clauses 25 or 27.1 hereof, a resolution in writing signed by 70% of the members, in person or by proxy and entitled to vote, shall be valid in all respects as if it had been duly passed at a general meeting duly convened.

20. AGENDA

In addition, to any other matters required to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:

- a. the consideration of the Chairperson's report;
- b. the election of Excom;
- c. the consideration of the report of the Auditors and fixing of their remuneration;
- d. the confirmation of any budget proposed by Excom;
- e. 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;
- f. the confirmation of the annual subscription and any special levy determined by Excom for the year.

21. PROXY

Votes may be given either personally or by proxy.

- a. The instrument appointing a proxy shall be in writing in the common form, or any form approved by Excom under the hand of the appointer, or of his attorney duly authorized in writing, or if such appointer is a company, under the hand of an officer duly authorized in that behalf.
- b. The instrument of appointing a proxy, together with the power of attorney (if any) under which it is signed or a Notarially certified copy thereof shall be deposited at the Domicilium Citandi of the Association prior to the meeting, or adjourned meeting, at which the person named in such instrument proposes to vote; otherwise the person so named shall not be entitled to vote in respect thereof.

22. SUBSCRIPTIONS

- a. The Association, through Excom, shall be entitled to levy a monthly subscription for the purpose of meeting all expenses, which the Association has incurred or to which Excom reasonably anticipates the Association will be put and to defray the costs of managing and administering the Association to achieve its objects. Such subscription may be increased to a maximum of the CPIX on the 1st day of each financial year i.e. 1st November until such time as the budget is approved at the following Annual General Meeting and collected monthly in advance.
- b. Excom may from time to time determine and collect special levies from members in addition to the monthly subscriptions should the need for such additional levies arise or circumstances so dictate.
- c. If the monthly subscription or any part thereof is not paid within ninety days of due date, then such subscription shall become delinquent, and the Association may institute legal proceedings against the member for the recovery thereof. A member whose subscription is delinquent for the current year shall not be entitled to:
 - i. nominate candidates for election to Excom;
 - ii. serve on Excom.
- d. An owner shall be liable for all costs, including all legal costs with any attorney (to the maximum as prescribed in the Guidelines of the Cape Law Society) and incurred by the Association, tracing fees, collection commission, Advocate's fees, expenses, as well as all other costs and expenses, administrative or otherwise, incurred by the Association in obtaining the recovery of arrear levies or any other arrear amounts due to it, or in enforcing compliance with this Constitution. These costs will be charged to the errant owner's levy account and be due and payable upon presentation of the levy account.
- e. Interest will be charged on any amounts in arrears at 6% above the prime interest rate as determined by the Association's bankers from time to time.
- f. All monies received from a member towards their levy account shall be apportioned firstly towards interest, then towards legal and administrative costs, then towards fines, other costs and service charges and lastly towards levies.
- g. Excom shall be obliged to impose penalty levies against members or their successors in title who fail to "commence" and/or "complete" building construction within the time limitations imposed on the members as per Clauses 31 and 32 below. Such penalty levy shall be stipulated as two times the normal monthly levy. Further, such penalty levy shall be increased by one times the normal monthly levy after each completed 12 month period since the last increase, to a maximum penalty levy of five times monthly levy.

23. ACCOUNTS

- a. Excom shall cause proper books of accounts of the administration and finance of the Association to be kept at the Domicilium of the Association or such other place or places as it may think fit.
- b. Excom shall cause to be laid before the Association in Annual General Meeting, books of account, balance sheets and reports of the Association.
- c. At least once a year the accounts of the Association shall be examined and the correctness of the Income and Expenditure Account and the balance sheets ascertained by the Auditors.

24. DOMICILIUM

For all purposes arising out of this constitution including the giving of notices and the serving of legal process, the Association and each member chooses Domicilium Citandi et Executandi as follows:

- a. Gate House, Boskloof Eco-Estate, Boskloof Avenue, Somerset West, 7130;
- b. each member - at the erf registered in his name provided that a member may by written notice change his Domicilium to some other physical address in South Africa.

Any notice which may be required to be given in terms of this Constitution may be given by the dispatch of such notice in writing by pre-paid post, in which event; such notice shall be deemed to have been received ten days after the posting thereof from any Post Office within the Republic of South Africa.

25. AMENDMENTS TO THE CONSTITUTION

Any amendment or addition to the Constitution must be:

- a. Passed by a resolution in writing signed by not less than 75% (seventy five percent) of all the members, in person or by proxy, shall be valid in all respects as if it had been duly passed at an annual general meeting or a special general meeting duly convened; and
- b. Confirmed by the Municipality in writing.

26. NON-LIABILITY OF MEMBER

No member of the Association shall incur any personal liability in respect of acts done or liabilities incurred by, or on behalf of, the Association.

27. DEALING WITH THE PRIVATE OPEN SPACE

27.1 Neither the whole nor any portion of the Private Open Space shall be: sold, let, alienated, otherwise disposed of, subdivided or transferred; or

- a. mortgaged; or
- b. subjected to any rights, whether registered in a Deeds Registry or not, of use, occupation or servitude, other than those existing at the establishment of the development; without
 - i. the sanction of a Special Resolution of the Association passed at a General Meeting of the Association at which not less than 75% of members entitled to vote are present at the meeting and vote in favour of the proposed Resolution; and
 - ii. the written consent of the municipality.

27.1.1 The Conservation Stewardship Programme was unanimously approved on 3rd December 2014.

27.2 Neither the whole nor any portion of the Private Open Space shall be:

- a. built upon, improved or enhanced in value by the construction of buildings, erections, facilities or amenities; without,
 - i. complying with the provisions of the Design Guidelines, as well as the Management Plan; and
 - ii. the written consent of the municipality.

28. INTERPRETATION/ARBITRATION

- a. Should any dispute or doubt arise as to the interpretation or meaning of this Constitution or any Rules and Regulations of the Association, Excom shall be the final arbiter and its decision shall be binding upon the members.
- b. Apart from questions of interpretation, any other dispute whatsoever which may arise shall in the first instance be referred to Excom to decide whether the dispute in fact relates to any legal question or constitutes a dispute relating to physical design or landscaping.

Thereafter the dispute, if legal, shall be referred for decision to a practicing senior advocate of the Cape Bar of not less than five years standing or if relating to physical design or landscaping to a qualified Architect or Landscape Architect of not less than 10 years standing, agreed upon by the parties to the dispute, who shall then determine the dispute.

In the event of the parties being unable to agree upon a senior advocate or architect or landscape architect who should be appointed to determine the dispute, then the Arbitrator shall be nominated by either the President of the Cape Bar Council or the President-in-Chief of the Institute of South African Architects or the Institute of Landscape Architects of South Africa, as the case may be.

- c. The Arbitrator shall not be bound to follow strict principles of Law, but may decide the matter submitted to him according to what he considers just and equitable in the circumstances and, therefore, the strict rules of Law need not be observed or taken into account by him in arriving at his decision. The parties desire that such decision be arrived at as expeditiously and as informally as possible without any pleadings or discovery of documents, and without it being necessary to observe the strict rules of evidence, or the usual strict formalities or procedures. In the absence of agreement between the parties, the procedure to be followed shall be laid down by the Arbitrator.
- d. Without in any way limiting, or derogating from the generality of his powers, the Arbitrator shall, in addition, be entitled to make such order as to the payment of legal costs and other expenses incurred by the parties to the arbitration as he deems just and equitable in all the circumstances.
- e. The parties irrevocably agree that the decision of the Arbitrator on any matter in dispute shall be final and binding upon all of them, whether they were parties to the dispute or not, and may be made an order of any competent Court. Notwithstanding the reference in this Clause to "an Arbitrator", any such Arbitrator shall act as an expert and shall not therefore be bound by the provisions of any arbitration laws for the time being in force.

29. SUBMISSION OF PLANS

No Member shall submit any plans to the Municipality or commence the erection of, or alteration or addition to any building or other structure on any Land Unit comprised within the Development or permit the same unless the plans thereof have first been submitted to and approved by the Design Review Committee in accordance with the procedures set forth in the Design Guidelines. Alteration includes changing of external finishes, materials and colour schemes or any other item included or referred to under the Design Guidelines.

30. BURNING OF FYNBOS

Owners must personally ensure that their properties are adequately insured against fire as the Boskloof Eco-Estate Homeowners' Association will not be held liable for any damage caused as a result of spread of fire within the Estate.

31. BUILDING TIMEFRAME

Timeframe of building: 31st December 2008. All buildings to be completed and members must be in possession of a Municipal occupational certificate, or levies will be levied on incomplete homes, open erven or uncompleted buildings in terms of clause 22(g).

32. BUILDING OPERATIONS

Any building operations on erven must be completed within 1 (one) year from date of commencement of building operations to occupation certificate. Failing to comply with this will lead to levies being levied in terms of Clause 22(g).

The owner must then ensure that the building operations are signed off by the Homeowners' Association and the building deposit returned within 6 (six) months of the date of issue of the occupation certificate. Failing to comply with this will lead to levies being levied in terms of Clause 22(g).

33. SUBDIVISION AND CONSOLIDATION

No Member shall be entitled to subdivide or consolidate any Land Unit in the Development registered in his name.

34. PLANTING RESTRICTIONS

On account of the ecological sensitivity of the area it is necessary to impose a limitation on members as to what plant species may be cultivated on members' individual erven. Members may only plant species on their erven in accordance with a predetermined list of acceptable plants.

a. General:

All members (or potential members) are requested to avail themselves of the contents of the Management Plan. Such plan offers comprehensive information on, amongst other, the plant life in the area as well as which practices are preferred or otherwise.

b. Erven:

Only plant species, as prescribed in the Design Guidelines may be planted in erven. Alien plants must be removed. The indigenous plant life must be least disturbed.

c. Private Open Space:

The indigenous plant life in such areas must be least disturbed. Any removal, replacement or new plantings of indigenous plants within such areas are subject to the consent of the estate manager or Excom. Only plant species as prescribed in the Management Plan may be planted. Alien plants must be removed from such areas.

35. ALIEN VEGETATION

All members shall be obliged to be conscious of the potential threat of alien vegetation and to assist in the control and eradication thereof as a matter of priority.

36. ENVIRONMENTAL TRUST GUARANTEE

It is specifically recorded that the Developer was required by the Municipality on approval of the development of the Boskloof Eco-Estate to establish a "Guarantee Fund" set aside as a Guarantee in terms of an Environmental Management System.

The System inter alia requires the observation of and compliance with the Environmental Management Programme for the ongoing long-term management of the Eco-Estate. The System also requires that:

- a. an Environmental Advisory Forum be established consisting of representatives of the Home Owners Association, the Municipality and Cape Nature Conservation which will supervise the implementation of the Environmental Management Programme and review the results of environmental audits and any corrective actions that may be necessary;
- b. regular Environmental Audits be conducted by an independent consultant to ensure that the Eco-Estate is managed on a sound environmental basis.

The Home Owners Association shall ensure that the "Guarantee Fund", so established by the Developer, is at all times specifically set aside in its current account as a Guarantee so that should the Municipality require to implement the Guarantee and utilize funds for any remedial actions that may be required resulting from the Environmental Audits above, it may immediately obtain payment of the funds necessary to cover the expenses incurred by the remedial action. In the event that the funds as established to cover the Environmental Trust Guarantee are so utilized, the Association shall be obliged to re-establish the original amount of the "Guarantee Fund" within 60 days of the expenditure by means of a special levy.

The interest which accrues to the "Guarantee Fund", set aside for the Environmental Trust Guarantee from time to time, may be utilized by the Association for the normal running expenses of the Association.

37. ROAD MAINTENANCE FUND

A Special road maintenance levy of R2,000.00 will be paid by all owners on commencement of building operations. The levy is to be paid simultaneously with the Building Deposit. The amount will be inflated by 5% per annum from 1st March of each year. In the event of this levy having not been paid by 31 December 2008 by any member, whether they have commenced building operations or not, the amount of the levy at that date shall become immediately due and payable.

38. PROVISIONS FOR INCOME TAX PURPOSES

- 38.1 The sole object of the association must be to manage the collective interest common to all its members, which includes expenditure applicable to the common property of such members and the collection of levies for which such members are liable.
- 38.2 The association is not permitted to distribute its funds to any person other than to a similar association of persons.
- 38.3 On dissolution the remaining assets must be distributed to a similar association of persons, which is also exempt from income tax in terms of section 10(1)(e)(iii) of the Act.
- 38.4 Any amendments to the constitution must be submitted to the Commissioner for the South African Revenue Service.
- 38.5 Funds available for investment may only be invested with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No 97 of 1990), and in securities listed on a stock exchange as defined in section 1 of the Stock Exchange Control Act, 1985 (Act No 1 of 1985).

38.6 The association is not or was not knowingly a party to, or does not knowingly permit or has not knowingly permitted itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other Act administered by the Commissioner for the South African Revenue Service.

38.7 Annual returns of income tax together with financial statements shall be submitted to the Tax Exemption Unit.

Amended: 3rd December 2014