



**THE RIDGE**  
**ZIMBALI LAKES**

**CONSTITUTION**  
**OF**

**THE RIDGE, ZIMBALI LAKES**  
**OWNERS ASSOCIATION**

This Association is constituted to undertake the functions and obligations assigned to the Association, and to protect and advance the interests of owners of immovable property in The Ridge, Zimbali Lakes. This Constitution shall moreover serve as, and in lieu of, the Management Rules of each of the Bodies Corporate mentioned herein.

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## INDEX

No.	CLAUSE HEADINGS	PAGE
1	DEFINITIONS AND INTERPRETATION	4
2	THE RIDGE STRUCTURE	12
3	STATUS OF THE ASSOCIATION AND CONSTITUTION	12
4	OBJECTIVES OF THE ASSOCIATION	13
5	MEMBERSHIP OF THE ASSOCIATION	14
6	FUNCTIONS AND POWERS OF THE ASSOCIATION	15
7	THE COMMON AMENITIES AND FACILITIES	15
8	FIDUCIARY POSITION OF TRUSTEES	15
9	NUMBER OF TRUSTEES	15
10	QUALIFICATIONS OF TRUSTEES	15
11	NOMINATION AND ELECTION OF TRUSTEES AND TENURE OF OFFICE	16
12	VACANCY IN NUMBER OF TRUSTEES	16
13	ALTERNATE TRUSTEES	16
14	REMUNERATION OF TRUSTEES	16
15	VALIDITY OF ACTS OF TRUSTEES	17
16	INDEMNITY	17
17	REMOVAL OF TRUSTEES FROM OFFICE AND REPLACEMENT	17
18	FUNCTIONS, POWERS AND DUTIES OF TRUSTEES	18
19	TRUSTEES' MEETINGS: WHEN TO BE HELD AND NOTICE	19
20	QUORUM AT TRUSTEES' MEETINGS	19
21	CHAIRPERSON AND VICE-CHAIRPERSON OF THE TRUSTEES	19
22	VOTING AT TRUSTEES' MEETINGS	20
23	INSURANCE	20
24	LEVIES	21
25	RECORD OF THE CONSTITUTION, CONDUCT RULES AND DIRECTIVES	23
26	IMPROVEMENTS TO THE COMMON PROPERTY OR THE REMOVAL THEREOF	23
27	MINUTES	24
28	BOOKS OF ACCOUNT AND RECORDS	24
29	BUDGET, FINANCIAL STATEMENTS AND REPORT	24
30	AUDIT	25
31	DEPOSIT AND INVESTMENT OF FUNDS	25
32	NO REFUNDS OR DISTRIBUTION OF PROFITS OR ASSETS	26
33	GENERAL MEETINGS OF MEMBERS	26
34	BUSINESS AT ANNUAL GENERAL MEETINGS	27
35	QUORUM OF GENERAL MEETINGS	27

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	Certificates from the ZFM, the relevant Member Association and the ZSC Consent, must be obtained prior to the ZLR issuing the said clearance certificate as provided for in the ZLR Constitution.
Common Property	In relation to a sectional title scheme in The Ridge, being the land included in the scheme and such part of the building/s in that scheme that are not included in a Section.
Communal Property	The common areas within The Ridge, <i>inter alia</i> comprising the private open spaces in The Ridge, including certain public and private open spaces, parks, water features, water bodies and waterways, certain areas of indigenous bush, wetlands, certain road verges, private roads and public thoroughfares, walkways, common parking areas, the gateways, entrance buildings, security fences and infrastructure, boundary walls, landscaping and other improvements from time to time erected on the private open spaces in The Ridge, controlled and managed by the Association, but excluding any residential Sub-divisions, Sections and any commercial enterprise in the Resort.
Conduct Rules	The Conduct Rules, if any, adopted for the Ridge as referred to in this Constitution.
Design Review Committee	The Design Review Committee appointed for the Resort by the Developer during the Development period, and by the ZLR thereafter.
Design Guides	The Architectural Guidelines, the Landscaping Guide and the Sustainability Guidelines prepared by the Developer and enforceable as part of the ZLR Governing Rules.
Developer	Zimbali Resort Developments Joint Venture Partnership, between Zimbali Land Developments Proprietary Limited (Registration Number: 1996/016290/07) and Zimbali Hotels & Resorts South Africa Proprietary Limited (Registration Number: 2003/023856/07) and/or any of the associated companies, holding companies or subsidiaries of the joint venture partners, or its successor/s in title or the Associated Companies
Developer Trustee	A Trustee appointed by the Developer during the Development Period.
Development Manual	The Zimbali Lakes Resort Development Manual, as amended and added to from time to time by the Developer during the Development Period.
Development Period	The period from the date of signature of this Constitution by the Developer until the Transfer Date upon which the Developer passes transfer of the last of its Properties in the Resort to an independent third party purchaser thereof.
Estate Agent	An estate agent contracted by an Owner for the letting or reselling of his or her Property, approved and listed by the Developer or the ZLR in terms of the ZLR Constitution in terms of criteria determined by the Developer during the Development Period and by the ZLR thereafter.

Fair Market Value	In respect of a Property, is the amount at which a willing seller would sell and a willing buyer would buy it, which amount shall be determined by the Trustees of the ZLR, and in determining the amount the Trustees may in their sole discretion accept the Sale Price (if any), including VAT and agent's commission, as the Fair Market Value or rely upon the valuation/s of a third party or parties, irrespective of whether such party or parties is or are sworn appraiser/s or not: Provided that if the Transferor disputes the amount in writing, the Trustees shall appoint a sworn appraiser at the cost of the Transferor to determine the Far Market Value, which determination shall be binding upon the Transferor and the ZLR.
Financial Institution	A financial institution as defined in section 1 of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001.
Financial Year	The period from 1 January each year to the last day of December of that year.
Governing Rules	The Governing Rules to govern, amplify and/or implement the provisions of the ZLR Constitution, to be drafted and approved by the Developer and implemented and enforced by the ZLR and the Association.
In writing	Written, printed or lithographed, or partly one or partly another and other modes of representing or producing words and/or figures in visible form.
Juristic Person/s	A company, close corporation, trust or other legal or juristic person (excluding the body corporate of a sectional title scheme).
Lakes Stabilisation Levy	The contribution or Levy payable by an Owner to the ZLR, equal to 2% (two percent) of the Fair Market Value of the Property at the Alienation of his or her Property, the bare dominium thereof or a share therein or a Right in respect thereof, capped at a maximum amount of R250 000.00 (Two Hundred and Fifty Thousand Rand), or such other amount as the ZLR may determine from time to time, save as recorded in this Constitution as it relates to the sale of a commercial venture, or an interest therein, as a going concern

Landscaping Guide	The Landscaping Guide adopted for the Association as referred to in the Design Guides.
Lessee/s	The lessee/s of a Property, approved in writing by the Trustees.
Lease	A written agreement pursuant to which an Owner parts with possession of his or her Property to a Lessee for a determined period of time exceeding 30 calendar days against payment of an agreed rental.
Levy	The monthly amount payable by a Member as determined by the Board, from time to time, in terms of clause 24 hereof.
Levy Clearance Certificate	A certificate required by an Owner wishing to Alienate Property in The Ridge and issued by the Association.
Levy Contribution Percentage	The proportions in which Members shall contribute towards the levy fund, as determined by the Trustees.
Local Authority	KwaDukuza Municipality, its successors in title or assigns, having jurisdiction over the Resort.
Management Participation Quota	The Management Participation Quota of a Section in any Scheme in The Ridge shall be a percentage expressed to four decimal places, and arrived at by dividing the floor area of the Section as indicated on the relevant sectional plan, correct to the nearest square meter, by the floor area of all the Sections in in all the Schemes in the Ridge, correct to the nearest square meter. The Quota so determined may be calculated and adjusted (where necessary) by the Trustees once a year at the beginning of the Financial Year, in terms of the provisions of the Act.
Manager	A person as may be appointed by the Trustees as an employee of the Association in terms of this Constitution.
Managing Agent	Any person or entity as may be appointed by the Developer, during the Development Period, and thereafter by the Trustees of the Association, as an independent contractor to undertake any or all of the management functions of the ZLR, the Association and/or any Body Corporate in the Resort, subject to and in terms of the provisions of the ZLR Constitution.
Member/s	A Member of the Association as described in clause 5 of this Constitution.
Month	A calendar month.
Nominated Occupant/s	The Occupant/s of a Property, nominated in writing by the Owner or Transferee of the Property and approved in writing by the Trustees: provided that there shall always be a Nominated Occupant for a Property, with the Owner being the Nominated Occupant in the event that the Property is not let to a Lessee.



Notarial Servitude/s	The various servitudes of right of way, access, encroachment and use and the additional rights and duties as may be applicable or required, as concluded or to be concluded between the ZLR and the Association and/or the Members as directed or prescribed by the Developer in its discretion.
Ordinary Resolution	At any general meeting an ordinary resolution put to the vote of the meeting shall be decided on an ordinary majority of Members present or represented, provided that such provisions shall apply to the Association in its entirety in respect of every such resolution, and not to Bodies Corporate individually.
Owner/s	Any person who is a registered owner of a Sub-division or an undivided share in a Sub-division, provided that for the purposes of this Constitution, the Body Corporate of any sectional title scheme on a Sub-division, shall be deemed to be the Owner of such Sub-division (it being specifically recorded for the purposes of clarity, that the owner of a Unit, shall be deemed not to be an Owner for purposes of this Constitution).
Plan	The lay-out plan attached hereto marked Annexure "AA", depicting all immovable property within The Ridge.
Prime Rate	The prime bank overdraft rate of interest charged by Nedbank Limited or its successor/s from time to time and more commonly known as its prime rate (in the case of a dispute, the rate may be certified by any manager or assistant manager of any branch of the said bank whose certificate shall be final and binding on the Association or Owner, as the case may be).
Property	Any Subdivision within The Ridge, whether such Subdivision is improved or not, and a sectional title Unit under the provisions of the Act, where a sectional title scheme has been established on any such Subdivision.
Registered Auditor	A person or firm registered as an auditor with the Independent Regulatory Board of Auditors established in terms of section 3 of the Auditing Profession Act, No. 26 of 2005.
Registration date	The date the Owner became the registered owner of the Property, or the bare dominium thereof or share therein, or the date the Right was registered or cancelled in the Deeds Registry.
Resident/s	The Owner, Nominated Occupant/s, Lessee/s or other occupant/s of a Property, approved in writing by the Trustees.
Resort	The entire extent of the Zimbali Lakes Resort, which comprises of the area outlined in red on the Plan, comprising all of the immovable property therein contained, and including such additional immovable property as may be incorporated into the Resort at the Developer's discretion, including any subdivision of properties in the Resort but excluding any property which is owned by the Local Authority (or which otherwise constitutes a public road) or is excluded by the Developer.
Right	A long term lease agreement, or a personal servitude of usufruct, <i>usus</i> or <i>habitatio</i> to be registered in the Deeds Registry in respect of a Property or the cancellation of such Right.

Sale Price	The sale price or purchase price of a Property, the bare dominium thereof or a share therein or in respect of a Right, as disclosed in the Agreement of Sale, with such price to include VAT (if applicable) and estate agent's commission.
Section	A Section as defined in the Act.
Scheme	A sectional title scheme as defined in the Act, being a Scheme in The Ridge.
Special Resolution	A resolution passed at a general meeting of the Association, which complies with the provisions of the Act in respect of a special resolution, provided that such provisions shall apply to the Association in its entirety in respect of every such resolution, and not to Bodies Corporate individually.
Spouse	The spouse, wife, common law wife, husband, common law husband, or lifelong companion of a Resident and as may be defined in applicable legislation.
Sustainability Guidelines	The Guidelines related to the sustainable use of resources, as adopted by the ZLR from time to time in terms of the Design Guides.
Sub-division	Any portion of freehold property in The Ridge, capable of separate, individual, legal ownership.
The Ridge	The proposed development designated on the Plan, comprising single residential Sub-divisions and sectional title Units in Schemes within The Ridge.
Transfer Date	The date of registration of the transfer of the Property, or the bare dominium thereof or share therein, or a Right in respect thereof from or by the Transferor to a Transferee, or where applicable, the date when the Right is cancelled.
Transferee	The person or Juristic Person to whom a Property, the bare dominium thereof or a share therein, or Right in respect thereof, is Alienated or transferred or in whose favour the Right is reserved.
Transferor	The Owner, the executor of his or her estate or any other person Alienating or transferring the Property, the bare dominium thereof or a share therein or a Right in respect thereof.
Trustee	A Trustee for the time being, a member of the Board of Trustees.

Trustees	The Board of Trustees of the Association.
Unit/s	In relation to a sectional title scheme shall mean a Section together with its undivided share in the common property of that particular sectional title scheme apportioned to that Section in accordance with the participation quota of such Section.
(the) Undertaking	The written letter of undertaking to secure the payment of the Lakes Stabilisation Levy to the ZLR on registration of transfer or Alienation of a Property, to be provided to the ZLR by the conveyancers attending to such registration of transfer or Alienation of a Property.
Vice-Chairperson	The vice-chairperson for the time being of the Board of Trustees.
Year	A calendar year.
ZFM	Zimbali Facilities Management (Pty) Ltd with registration number: 2018/110668/07, a private company established by the Developer to own, operate and manage utilities in the Resort, a Member Association.
ZLR	Zimbali Lakes Resort Management Association.
ZLR Constitution	The Constitution of the ZLR, which this constitution and the Association shall be subject to at all times.
ZSC	The Zimbali Sports Club (Pty) Ltd with registration number: 2018/561978/07, a Member Association.
ZSC and ZFM Consent	The written consent required from the ZSC and ZFM respectively prior to the issue by the ZLR of a Clearance Certificate.
ZSC Membership	the member base of the ZSC shall comprise, but not be limited to the following groups, being Owners or Residents of Zimbali Lakes Resort, owners or residents of Zimbali Coastal Resort, voluntary members, commercial, corporate members and members from outside either of these resorts. Each such grouping shall be entitled to distinct and different membership options, joining and usage fees, and broader offerings, and subject to rules related to access to and use of facilities at various times, and generally as may be determined by the ZSC from time to time.



- 1.2 The following rules shall apply in respect of the interpretation of this Constitution:
- 1.2.1 The clause headings are for convenience and shall be disregarded in construing this Constitution.
- 1.2.2 Unless the context clearly indicates a contrary intention, words importing:
- 1.2.2.1 the singular number only shall include the plural, and the converse shall also apply;
- 1.2.2.2 the masculine gender shall include the feminine, and neuter genders, and the neuter gender shall include the masculine and feminine genders;
- 1.2.2.3 a reference to natural persons shall include legal persons, and the converse shall also apply.
- 1.2.3 Words and expressions defined in any sub-clause shall, for the purpose of the clause to which that sub-clause forms part and in subsequent clauses, unless inconsistent with the context, bear the meaning assigned to such words and expressions in such sub-clause.
- 1.2.4 If there is a conflict between the words and numerals in the interpretation of a clause, the words shall prevail.
- 1.2.5 If any provision in a definition in this Constitution is a substantive provision conferring rights or imposing obligations on any of the Members, Residents, Owners or the Association, then, notwithstanding that it is only in the definition clause of this Constitution, effect shall be given to it as if it were a substantive provision of this Constitution.
- 1.2.6 If any provision of this Constitution is in conflict or inconsistent with any Law, the invalidity of any such provision shall not affect the validity of the remainder of the provisions of this Constitution.
- 1.2.7 When any number of days is prescribed in this Constitution, the same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or proclaimed public holiday in the Republic of South Africa, in which event the last day shall be the next succeeding day which is not a Saturday, Sunday or proclaimed public holiday.
- 1.2.8 In interpreting this Constitution, no provision shall be construed in a limiting fashion or in accordance with the *Eiusdem Generis* Rule.
- 1.3 It is the intention that this Constitution of the Association be read with the ZLR Constitution, however, to the extent that there is any conflict in this regard the provisions of the ZLR Constitution shall prevail.



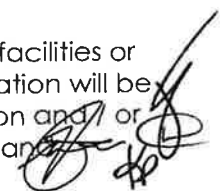
**2 THE RIDGE STRUCTURE**

- 2.1 The Ridge shall be managed by the Association, to achieve the objectives of the Association as recorded in this Constitution.
- 2.2 The Association will be a member of the ZLR and will at all times perform their management obligations, and exercise their rights (all of which will be derived from the provisions of the ZLR Constitution), as directed by the ZLR and in such manner and upon such conditions as may be prescribed by the Board of Trustees of the ZLR from time to time.
- 2.3 The Association will contribute monthly to the ZLR Levy Fund to be established, in the proportions and to the extent as determined by the ZLR Constitution, to allow the ZLR to perform the management functions undertaken in the ZLR Constitution.
- 2.4 Every Owner of Property in The Ridge will in turn be a Member of the Association. With The Ridge comprised of both single residential Sub-divisions and sectional title Schemes, every Owner of Property will derive their Membership of the Association as follows:
- 2.4.1 Every Owner of a Sub-division in The Ridge shall be a Member; and
- 2.4.2 The Body Corporate of any sectional title scheme in The Ridge, shall also be a Member of the Association;
- 2.5 Every Owner will be obliged to pay a monthly levy to the Association to allow for the performance by the Association of its management functions and to allow the Association to pay the required levy contribution to the ZLR, as referred to in the ZLR Constitution. The ZLR may direct that such contributions be paid to it directly from every Owner, or via Association, in the discretion of the ZLR.
- 2.6 Every Owner shall moreover be liable to the ZLR for the payment of a Lakes Stabilisation Levy upon the Alienation of his or her Property in The Ridge, in the manner provided for in the ZLR Constitution.
- 2.7 It will not be permitted for any Owner or Resident to govern or operate a short-term letting enterprise (rental periods shorter than 30 days similar to an 'Airbnb' enterprise) on their Properties, save for the Developer or Owners or Residents within Tatali, as well as erven 501 and 630 Zimbali Lakes (subject to the Conduct Rules), which will be allowed to govern or operate a short-term letting enterprise on their Properties.

**3 STATUS OF THE ASSOCIATION AND CONSTITUTION**

- 3.1 The Association shall be known as The Ridge, Zimbali Lakes Owners Association and is established as a management association for the Members and the Bodies Corporate in The Ridge. This Constitution shall also serve as the Management Rules of each of the Bodies Corporate in The Ridge for the purposes of section 35(2) of the Act and the Bodies Corporate accordingly cede and assign their powers and functions, in respect thereof, to the Association.
- 3.2 The date of establishment of the Association shall be on such date as the Developer designates the establishment thereof in writing and signs this Constitution; alternatively, the date of filing of this Constitution as substituted Management Rules of the Bodies Corporate, respectively, at the Pietermaritzburg Deeds Registry.

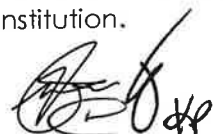


- 3.3 The Association shall be responsible for the enforcement of the ZLR Constitution, the Governing Rules, this Constitution and the Conduct Rules, if any, issued in terms hereof, and for the control, administration and management of the Common Property and Communal Property for the benefit of all Members and Residents.
- 3.4 The provisions of the Companies Act, No. 71 of 2008, shall not apply in relation to the Association.
- 3.5 The Association shall be structured as a common law association not for profit and without capital.
- 3.6 The Association shall have perpetual succession and be capable of suing and of being sued in its corporate name in respect of:
- 3.6.1 any contract made by it;
- 3.6.2 any damage to the Communal Property or Common Property;
- 3.6.3 any matter in connection with the land or building/s for which the Association or any of the Bodies Corporate are liable;
- 3.6.4 any matter arising out of the exercise of any of its powers or the performance or non-performances of any of its duties under the Act, the ZLR Constitution, the Governing Rules, this Constitution and any Conduct Rules issued pursuant thereto.
- 3.7 None of the Owners or Residents in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association.
- 3.8 The Trustees shall from time to time determine the address constituting the *domicilium citandi et executandi* of the Association, subject to the following:
- 3.8.1 Such address shall be situated in the magisterial district in which the Resort is situated;
- 3.8.2 The Trustees shall give notice to all Owners and Residents of any change of such address.
- 4. OBJECTIVES OF THE ASSOCIATION**
- 4.1 The objectives of the Association are to promote the collective interests of all the Members by functioning as a management association in respect of The Ridge and by performing all functions and exercising all powers of the Bodies Corporate, and to manage and control all the affairs of the Association, and in particular by:
- 4.1.1 attending to the management and administration, including financial administration, of the Association;
- 4.1.2 enforcing compliance with the provisions of the Act, the ZLR Constitution, the Governing Rules, this Constitution and the Conduct Rules issued in terms hereof;
- 4.1.3 promoting and managing the collective interests of all its Members;
- 4.1.1 regulating, maintaining and managing the Communal Property, Common Property and the reciprocal rights and duties of Members, Owners and Residents in respect thereof;
- 4.1.2 to acquire and grant servitudes;
- 4.1.3 to ensure compliance with the Development Manual, Design Guides, Governing Rules, the Conduct Rules and any other control measures in respect of the Resort required by law or the ZLR Constitution;
- 4.1.4 to enter into and to implement any contract relating to the provision of services, facilities or amenities, and to incur any costs in this regard, it being recorded that the Association will be bound by any contracts concluded by the Developer on behalf of the Association and/or Managing Agent, either before or after the date of approval of this Constitution; and
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- 4.1.5 to enter into any agreement and other appropriate arrangement with any supplier, contractor or other third party, in relation to the administration, management and/or control of The Ridge, to which the Association will be similarly bound.
- 4.2 The Association does not pursue any pecuniary gain for itself, the Trustees or any of its Members, Residents or Owners and will not be permitted to distribute any of its funds other than in accordance with the provisions of the ZLR Constitution.
- 4.3 The main object of the Association is to manage the collective interest common to all its Members and Owners, which includes expenditure applicable to the Communal Property, Common Property (where applicable) and the collection of Levies for which such Members or Owners are liable.
- 4.4 The Association is not permitted to distribute its funds to any person other than to a similar association of persons, save as regards the remuneration of Trustees as provided for in clause 14 below.
- 4.5 Funds available for investment may only be invested or re-invested with registered financial institutions as defined in section 1 of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001.
- 4.6 The Association is not, was not and will not knowingly be 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.
- 4.7 The Association shall submit annual returns for income tax together with financial statements to the South African Revenue Services or similar relevant government departments as required.

## **5 MEMBERSHIP OF THE ASSOCIATION**

- 5.1 Membership of the Association is compulsory and automatic for every Owner.
- 5.2 Membership shall commence simultaneously with the registration of transfer of a Property into the name of the Transferee.
- 5.3 Save as regards the Developer referred to in 5.5 below, membership of the Association shall be limited to, and compulsory for, all registered Owners of Property, provided that where any such Owner is more than one person, all the Owners of that Property shall be deemed jointly and severally to be one Member.
- 5.4 When a Member ceases to own a Property in The Ridge, he or she shall automatically cease to be a Member of the Association.
- 5.5 The Developer's membership shall terminate upon expiry of the Development Period.
- 5.6 A registered Owner may not resign as a Member of the Association, nor may his or her membership be ceded to another.
- 5.7 The rights and obligations of a Member shall not be transferable, and every Member shall:
- 5.7.1 to the best of his or her ability adhere to and promote the objects and interests of the Association;
- 5.7.2 observe and comply with the provisions of the Act, the ZLR Constitution, the Conduct Rules, the Governing Rules, the Design Guides, this Constitution, issued in terms hereof, and the Directives made by the Trustees of the ZLR in accordance with the provisions of the ZLR Constitution.



5.8 The Trustees may provide for the issue of a membership certificate, which certificate shall be in such form as the Trustees may prescribe.

5.9 The *domicilium citandi et executandi* of a Member shall be the address of the Property registered in his or her name.

## **6 FUNCTIONS AND POWERS OF THE ASSOCIATION**

The Association shall exercise the powers and perform the functions entrusted to the Members and the individual Bodies Corporate as set out in the Act, the ZLR Constitution, this Constitution, the Conduct Rules and the Governing Rules, and such ancillary functions, which may not be in conflict with the provisions of the said authorities, specifically the ZLR Constitution or the Conduct Rules, and as may be necessary in pursuit of its objectives. The Association will also have the following additional powers:

6.1 Upon authorisation by the ZLR in writing and the Members by Special Resolution, to borrow moneys required by it in the performance of its functions or the exercise of its powers or for any of the objects of the Association and upon such terms and conditions as the Trustees shall decide, including but not limited to the payment of liabilities; the preserving or acquiring of any assets or equipment and the replacement of such equipment from time to time; with powers from time to time to consent to any alteration or variation of the terms applicable to the finance; and as security for any money so borrowed, the Association will be entitled to mortgage, pledge (either generally or specifically) or otherwise encumber, all or any portion of the Association's funds, in the manner and on terms and conditions as it sees fit, with the right also to replace such borrowings or security.

## **7 THE COMMON AMENITIES AND FACILITIES**

Members shall enjoy access and reasonable usage of the Common Amenities and Facilities, irrespective whether they are situated on the Common Property of any particular Scheme, subject to the reasonable conditions imposed from time to time by the ZLR or the Trustees, as the case may be and subject to the Constitutions of the Member Associations, which Communal Property and Common Property of the Resort may include: all accesses, roads, walkways, open areas and services situated on the Communal Property or Common Property, save such installations or services owned and operated by the ZFM or other service providers and such further amenities, facilities and services as might at any time be provided by the ZLR.

### **TRUSTEES:**

## **8 FIDUCIARY POSITION OF TRUSTEES**

Each of the Trustees shall stand in a fiduciary relationship to The Ridge and to the Members and each of the Bodies Corporate.

## **9 NUMBER OF TRUSTEES**

9.1 During the Development Period, there shall be a maximum of 5 (Five) Trustees and a minimum of 3 (Three) Trustees, 3 (Three) of whom shall be appointees of the Developer and 2 (two) of which may be appointed by a majority resolution of the trustees or directors of the Member Associations.

9.2 After the expiry of the Development Period, there shall be a maximum of 10 (Ten) Trustees and a minimum of 2 (Two) Trustees;

## **10 QUALIFICATIONS OF TRUSTEES**

A Trustee or an alternate Trustee shall not be required to be an Owner or a nominee of an Owner who is a juristic person, in order to qualify for office as a Trustee, provided that:

10.1 the majority of the Trustees (excluding the Trustees appointed by the Developer during the Development Period, or the ZSC or Managing Agent generally) are Owners, spouses of Owners or representatives of an entity which is an Owner;



- 10.2 to qualify as an Owner for the purposes of appointment as a Trustee, he or she may be an owner of a Sub-division or a Unit in any of the Schemes.

## **11 NOMINATION AND ELECTION OF TRUSTEES AND TENURE OF OFFICE**

- 11.1 Trustees shall be elected at each annual general meeting of the Association, and shall, subject to clause 17, hold office until the next annual general meeting, but they shall be eligible for re-election, if so nominated.
- 11.2 Nominations by Members for the election of Trustees at any annual general meeting of the Association shall be given in writing, accompanied by the nominated person's written consent, to be received by the Association not less than 48 (forty eight) hours before the annual general meeting: Provided that Trustees may also be elected by way of nominations with the nominee's accompanying consent given at the annual general meeting itself, should the Trustees have received insufficient nominations to comply with the provisions of clause 9 above: Provided further that no nomination or appointment as Trustee, of a person in breach of clause 38.4.1 and 38.4.2 may be made or accepted.
- 11.3 The chairperson and deputy chairperson shall be elected by the Trustees at their first meeting in the financial year, provided that for the Development Period, the chairperson and the deputy chairperson shall be Trustees appointed by the Developer.

## **12 VACANCY IN NUMBER OF TRUSTEES**

The Trustees may fill any vacancy in their number. Any Trustee so appointed shall hold office until the next annual general meeting when he or she shall retire and be eligible for re-election as though he or she had been elected at the previous annual general meeting.

## **13 ALTERNATE TRUSTEES**

- 13.1 The Trustees may appoint another person, whether or not he or she is an Owner or Member, to act as an alternate Trustee during the absence or inability of a Trustee to act.
- 13.2 An alternate Trustee shall have the powers and be subject to the duties of a Trustee as set out in this Constitution.
- 13.3 An alternate Trustee shall cease to hold office if the principal ceases to be a Trustee, or if the alternate Trustee's appointment is revoked by the Board of Trustees.

## **14 REMUNERATION OF TRUSTEES**

- 14.1 Trustees shall not be permanently employed by the Association, but shall be entitled to receive reasonable remuneration for his or her services as a Trustee of the Association.
- 14.2 The Association may remunerate Trustees at such rate as may be determined by the Association, provided that an alternative Trustee shall claim his or her remuneration, if any, from the Trustee whom he or she replaced and not from the Association, unless the Association has been instructed in writing by such Trustee to pay any portion of his or her remuneration to such alternate Trustee.
- 14.3 Trustees shall be entitled to have refunded to them any disbursements and expenses actually and reasonably incurred by them in carrying out their duties and exercising their powers.



**15 VALIDITY OF ACTS OF TRUSTEES**

Any act performed by the Board of Trustees shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment or the continuance in office of any Trustee, be as valid as if such Trustee had been duly appointed or had duly continued in office.

**16 INDEMNITY**

16.1 Every Trustee, agent or other officer or servant of the Association shall be indemnified by the Association against all costs, losses, expenses and claims which he or she may incur or become liable for by reason of any act done by him or her in the discharge of his or her duties, unless such costs, losses, expenses or claims are caused by the *mala fide* or grossly negligent act or omission of such person.

16.2 The Trustees shall pay such indemnity out of the funds of the Association.

16.3 The indemnity referred to above shall not apply in favour of any Managing Agent appointed by the Association in accordance with clause 41.

**17 REMOVAL OF TRUSTEES FROM OFFICE AND REPLACEMENT**

17.1 A Trustee shall cease to hold office as such if:

17.1.1 by notice in writing to the Association, he or she resigns his or her office;

17.1.2 he or she is or becomes of unsound mind;

17.1.3 he or she surrenders his or her estate as insolvent, or if his or her estate is sequestrated, whether provisionally or finally;

17.1.4 he or she is convicted of an offence which involves dishonesty;

17.1.5 by Ordinary Resolution of a general meeting of the Association, he or she is removed from office, provided that the intention to vote upon the removal from office has been specified in the notice convening the meeting;

17.1.6 he or she is or becomes disqualified in terms of section 69 of the Companies Act, No. 71 of 2008 as may be amended, from being appointed or acting as a director of a company;

17.1.7 he or she is absent from 3 (three) consecutive trustees' meetings without an apology;

17.1.8 he or she is in arrears for more than 60 (sixty) days with any Levies and amounts payable in respect of his or her Property and if he or she fails to bring such arrears up to date within 7 (seven) days of being notified in writing to do so.

17.2 The Association may, at a general meeting, appoint another Trustee in the place of any Trustee who has ceased to hold office in terms of clause 17.1 above, for the unexpired part of the term of office of the Trustee so replaced, provided that the Trustees had not yet acted in terms of clause 12 to fill the vacancy.

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**18 FUNCTIONS, POWERS AND DUTIES OF TRUSTEES**

- 18.1 The functions, duties and powers of the Association shall, subject to the provisions of the Act, the ZLR Constitution and this Constitution, and to any restriction imposed or directive given at a general meeting, be performed or exercised by the Trustees holding office in terms of this Constitution.
- 18.2 Subject to any restriction imposed or directive given at a general meeting, the powers of the Trustees shall include the following:
- 18.2.1 To appoint for and on behalf of the Association such agents and employees as they deem fit in connection with:
- 18.2.1.1 the control, management and administration of the Communal and Common Property; and
- 18.2.1.2 the performance and exercise of any or all of the functions, duties, and powers of the Association;
- 18.2.2 To delegate to one or more of the Trustees such of their powers and duties as they deem fit and at any time to revoke such delegation;
- 18.2.3 To perform all functions in respect of the issue of Levy Clearance Certificates, as provided for in this Constitution.
- 18.3 The Association must not make loans from the Association's funds without the authority of a Special Resolution of the Members and may not, under any circumstances, make loans on behalf of the Association to Members.
- 18.4 No document signed on behalf of the Association shall be valid and binding unless it is signed by two (2) Trustees, or by one (1) Trustee and the Manager or Managing Agent, except a Levy Clearance Certificate, which shall be signed by 1 (one) Trustee.
- 18.5 Without detracting from the scope of the additional duties specified herein and subject to the provisions of relevant clauses, the Trustees shall in respect of The Ridge perform the functions assigned to Trustees of the Bodies Corporate by section 37 and section 39 of the Act.
- 18.6 The Board shall do all things reasonably necessary for the control, management and administration of the affairs and of the Communal Property, as well as the Common Property of the Bodies Corporate, and shall do all things reasonably necessary for the enforcement of the provisions of the ZLR Constitution, the Governing Rules, the Design Guides, this Constitution and any Conduct Rules issued pursuant thereto.
- 18.7 The Board may from time to time issue Directives to amplify the provisions of the Constitution or the Conduct Rules, provided that such Directives may only relate to the practical implementation of a provision of this Constitution or of the Conduct Rules and may not constitute a new clause of the Constitution or new Conduct Rule.
- 18.8 The Board shall have the power to make Conduct Rules, from time to time, as well as the power to substitute and to amend or repeal same for the management, control, administration and use of The Ridge, for the purposes of giving proper effect to the provisions of this Constitution and any other purpose, which powers shall include the right to impose reasonable financial penalties to be paid by Members who fail to comply with the provisions of this Constitution, or the Conduct Rules.



**TRUSTEES' MEETINGS:****19 WHEN TO BE HELD AND NOTICE**

- 19.1 The Trustees may give notice convening meetings, meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. It shall not be necessary to give notice to any Trustee for the time being absent from the Republic, but notice of any such meeting shall be given to his or her alternate, if one has been appointed, and such an alternate is in the Republic.
- 19.2 A Trustee may at any time convene a meeting of the Board of Trustees by giving to the other Trustees not less than 7 (seven) days written notice of a meeting proposed by him or her, which notice shall specify the reason for calling such a meeting, provided that in cases of urgency such shorter notice as is reasonable in the circumstances may be given.
- 19.3 The nominee of any such first mortgagee shall be entitled to attend and speak at all meetings of the Trustees but shall not, in his or her capacity as such, be entitled to vote thereat.
- 19.4 A Member shall be entitled to attend and speak at any meeting of the Trustees but shall not in his or her capacity as such, be entitled to vote thereat.

**20 QUORUM AT TRUSTEES' MEETINGS**

- 20.1 At a meeting of Trustees, sixty percent (60%) of the Trustees shall form a quorum.
- 20.2 If the number of incumbent Trustees falls below the number necessary to form a quorum, the remaining Trustee or Trustees may continue to act, but only for the purpose of appointing or co-opting additional Trustees to make up the quorum, or for the purpose of convening a general meeting of Members.
- 20.3 If at any meeting of Trustees a quorum is not present within 30 (thirty) minutes of the appointed time for the meeting, such meeting shall stand adjourned to the next Business Day at the same time and the Trustees then present, who shall not be less than 2 (two), shall then form a quorum.

**21 CHAIRPERSON AND VICE-CHAIRPERSON OF THE TRUSTEES**

- 21.1 At the commencement of the first meeting of Trustees after an annual general meeting at which Trustees have been elected, the Trustees shall elect a chairperson and vice-chairperson from their number who shall both hold office as such until the next annual general meeting of the Association, provided that for the Development Period, the chairperson and the deputy chairperson shall be Trustees appointed by the Developer.
- 21.2 The chairperson of the Board of Trustees, or the vice-chairperson in the former's absence, shall represent the Association at all general or special meetings of the ZLR and shall vote thereat in accordance with his or her mandate from the Association.



- 21.3 The Trustees at a Trustees' Meeting or the Association at a special general meeting, in respect of either of which notice of the intended removal from office of the chairperson or vice-chairperson has been given, may remove the chairperson and/or vice-chairperson from his or her office, provided that only the Developer shall be entitled to remove a chairperson or vice-chairperson during the Development Period.
- 21.4 Should a chairperson vacate his or her office or no longer hold office because he or she has been removed by the Trustees, Developer or the Association, the vice-chairperson shall, unless another chairperson has been elected by the Trustees or the Developer, during the Development Period, fulfil the duties of the chairperson for the remainder of the chairperson's period of office.
- 21.5 If the chairperson vacates the chair during the course of a meeting or is not present or is for any other reason unable to preside at any meeting, the vice-chairperson at such meeting shall fulfil the duties of the chairperson and shall have the same voting rights as the chairperson.
- 21.6 In the event that neither the chairperson nor the vice-chairperson is present or is for any reason unable to preside at any Trustees' meeting, the Trustees present at such meeting shall choose another chairperson for such meeting who shall have the same voting rights as the chairperson.

## **22 VOTING AT TRUSTEES' MEETINGS**

- 22.1 All matters at any meetings of the Trustees shall be determined by the majority of the votes of the Trustees present and voting. Notwithstanding the aforesaid, during the Development Period, the Trustees who are nominees of the Developer and are present at such meeting, shall, for the purposes of voting on any proposed resolution of the Board, be deemed, jointly and severally, to hold between them 51% of the votes of Trustees present at the meeting.
- 22.2 At Trustees' meetings, the chairperson shall have a casting vote in addition to his or her deliberative vote.
- 22.3 A Trustee shall be disqualified from voting in respect of any contract, or any litigation or proposed litigation, with the ZLR, the Association or any of the Bodies Corporate, by virtue of any interests he may have therein.
- 22.4 A resolution in writing signed by all the Trustees for the time being present in the Republic and being not less than sufficient to form a quorum, shall be as valid and effective as if it had been passed at a meeting of the Trustees duly convened and held.

## **23 INSURANCE**

- 23.1 At the first meeting of the Trustees or as soon thereafter as possible, and annually thereafter, the Trustees shall, on behalf of the Bodies Corporate, take steps to insure all the buildings, including Sections, Common Property and all improvements to the Common Property of the Schemes within The Ridge with the approved insurance provider (as appointed by the ZLR) to the full replacement value thereof. It is recorded that there will only be one approved insurance provider appointed by the ZLR for the entire Resort, to be utilised by Bodies Corporate of sectional title schemes and Owners of erven.
- 23.2 It will remain the responsibility of each body corporate or Owner, in the case of an erf, to advise the approved insurance provider of the current replacement value of all buildings or Units. The premiums will be paid by each Owner or body corporate directly to the insurance provider. The Board of the Association, together with the Trustees of the Member Associations, will review the insurance policies, in respect of all of the buildings in the Resort, to ensure that the replacement values are correctly recorded by the approved insurance provider.
- 23.3 In respect of Golf Cart Insurance:
- 23.3.1 In order to safeguard all stakeholders in the Resort, it is obligatory for all golf carts which are operated in the Resort to be adequately insured.





- 23.3.2 Each Owner of a golf cart shall annually arrange insurance cover for all golf carts registered in his or her name with the Association's approved insurance provider. The premium costs shall be paid by the owner directly to the insurer.
- 23.3.3 Once an Owner has complied with the above, they will be issued with a sticker to be displayed on their golf cart at all times, which will allow the association the opportunity to easily identify those Owners who are compliant.

## 24 LEVIES

- 24.1 The Board shall establish and maintain a levy fund sufficient in their opinion for the repair, upkeep, control management and administration of the Association and of The Ridge including, but in no way limited to the provision of security services for The Ridge, landscape maintenance services, verge and private road maintenance, insurance premiums, the payment of rates and taxes and other charges on The Ridge levied by the local or any other authority, any charges for the supply of electric current, gas, water, fuel and sewage disposal, refuse collection and any other services to The Ridge and any services required by the Association to enable it to carry out its main and ancillary objects and of all other expenses incurred or to be incurred in relation to The Ridge and for the discharge of any other obligation of the Association (provided that nothing in this Constitution shall be construed as obliging the Association to pay service charges due by Owners to the relevant authority or service provider).
- 24.2 All levies due by Members shall be payable to the Association immediately same become due and owing without deduction, demand or set-off.
- 24.3 Notwithstanding anything contained herein or elsewhere, the Developer shall, in his sole and absolute discretion, during the Development Period determine what portion, if any, of the total expenditure of the Association is to be paid for by the Developer.
- 24.4 Subject to the provisions of clause 24.3, the Board shall in its sole discretion determine the proportions in which Member Associations shall contribute towards the levy fund in accordance with the following principles, having regard to all circumstances prevailing at the time and to the principles of reasonableness and equity:
- 24.4.1 they shall assign those costs arising directly out of a particular Sub-division or a sectional title scheme to The Owner thereof and
- 24.4.2 they shall assign those costs relating to The Ridge generally to all Members equally, provided that :
- 24.4.2.1 the Body Corporate of a sectional title scheme laid out on a Sub-division, shall pay one levy for every Unit in the scheme;
- 24.4.2.2 in respect of the commercial sites, namely Erven 501 and 603, the Owner shall pay one levy in respect of each erf until the development of same has been completed (in the opinion of the board), whereafter the Owner shall pay five levies per developed erf.
- 24.5 All contributions received from Member(s) and the Developer (if he so resolves pursuant to 24.3) shall forthwith be deposited into a separate account which the Association shall open and keep with a financial institution.
- 24.6 The monies in the levy fund shall be utilised to defray the expenses referred to in clause 24.1 above.
- 24.7 Subject to the provisions of clause 24.3, the Board shall have the power to impose additional special levies on Member Associations, and by extension on Owners, in respect of any unforeseen expenditure and shall determine how such levies are to be paid in accordance with the principles set out in clause 24.4.



- 24.8 Any amount due by a Member by way of a levy shall be a debt due by him to the Association payable within such time as determined by the Trustees. The obligation of a Member to pay a levy shall cease upon his ceasing to be a Member save that he shall remain liable for all levies calculated up to the date upon which he ceases to be a Member. No levies paid by a Member shall be repayable by the Association upon his ceasing to be a Member. A Member's successor in title to a Property shall be liable as from the Transfer Date upon which he becomes a Member pursuant to the transfer of such Property, and become obliged to pay the levies attributable to that Property. No Member shall be entitled to transfer his Property until the Trustees have certified that the Member has, at the Transfer Date, paid all amounts owing by him to the Association.
- 24.9 To ensure compliance with the provisions of the ZLR Constitution and this Constitution, it shall be registered as a Condition of Ownership of Property that no Property shall be transferred without the prior written consent of the Association first being had and obtained in the form of a Levy Clearance Certificate, which consent shall be given if the proposed Transferee agrees to abide by the ZLR Constitution, the Conduct Rules made in terms thereof and this Constitution, in a manner acceptable to the Association, and the Transferor has complied with all his obligations in and to the Association, including the payment of all levies due.
- 24.10 An Owner shall be liable for and pay all legal costs, including costs as between attorney and own client, collection commission, expenses, including administrative expenses, and charges incurred or levied by the Association in obtaining the recovery of arrear Levies or any other arrear amount due and owing by such Owner to the Association, or in enforcing compliance with the Act, the ZLR Constitution, the Conduct Rules, the Governing Rules, and this Constitution issued in terms hereof.
- 24.11 The Trustees shall be entitled to charge interest on arrear amounts at such rate as they may from time to time determine, provided that it will not be more than the Prime Rate plus five percent (5%).
- 24.12 Should an Owner be more than 60 (Sixty) days in arrears with the payment of any levies due in terms of this Constitution, or any other amount of any nature whatsoever due to the Association by such Owner (including but not limited to any fine that may be imposed by the Association or ZLR on any such Owner) and remain in arrears notwithstanding demand for payment by the Association, then in that event such Owner shall not be entitled either in person or by proxy to speak or vote at a meeting of members of the Association. A certificate by the chairperson of the board of the Association, dated not more than 14 (Fourteen) days prior to any such meeting, shall constitute proof of non-payment of any arrear levies by such Owner and shall entitle the chairperson of such meeting of the Association to prevent such Owner or his proxy speaking or voting at such meeting (even if payment is made by such Owner before such meeting but subsequent to the aforesaid certificate having been signed by the chairperson of the Board).
- 24.13 In the event of there being a dispute between the Association and an Owner as to the amount of any levy due by the Owner, such dispute shall be referred to the Association's Auditors for a decision, whose decision shall be final and binding on the parties.
- 24.14 The Trustees shall be entitled to impose directives from time to time with reference to the payment of levies and for the purpose of credit control.
- 24.15 Owners shall be liable to the Association, the ZLR or the ZFM for the payment of the service charges as determined by the ZLR Trustees in respect of any services rendered by the ZLR, the Association or the ZFM, as the case may be, to them. Specifically pertaining to the purchase of electricity, water or other services from the ZLR, ZFM, the Association or any other service provider, any shortfall with reference to the tariff paid by the Owner and the higher tariff paid by the Association, may be recovered from the Owner concerned.
- 24.16 Every Owner shall upon alienation of his/her Property be liable to the ZLR for payment of a Levy Stabilisation Fund contribution in accordance with and as more fully described in the ZLR'S constitution.

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- 24.17 All contributions levied under the provisions of this Constitution shall be due and payable by Members on the passing of a resolution to that effect by the Board and may be recovered by the ZLR and the Association by action in any Court (including any Magistrates Court) of competent jurisdiction from persons who were Owners at the time when such contributions became due.
- 24.18 No Property shall be transferred unless it is a condition of such transfer that the Transferee, in a manner acceptable to the ZLR and the Association, agrees to abide by the ZLR Constitution and this Constitution in the manner prescribed by the ZLR and the Association.
- 24.19 Notwithstanding anything contained herein or elsewhere, the Developer shall not be required to obtain a Clearance Certificate from the ZLR when the Developer Alienates any Property owned by the Developer, nor shall consent be required from the ZLR to the mortgage of any Property simultaneously with the transfer thereof from the Developer.

## **25 RECORD OF THE CONSTITUTION, CONDUCT RULES AND DIRECTIVES**

- 25.1 The Trustees shall keep a complete record of the Constitution, Conduct Rules, and Directives, as in force from time to time.
- 25.2 The Trustees shall, on the application of –
- 25.2.1 an Owner of a Property, or
- 25.2.2 an occupier of a Property, or
- 25.2.3 a prospective purchaser of a Property, or
- 25.2.4 the holder of any registered sectional mortgage bond, or
- 25.2.5 the Managing Agent, or
- 25.2.6 the Auditor
- supply to any such person a copy of the Constitution, Conduct Rules and Directives in force, and may require them to pay a reasonable charge therefor.

## **26 IMPROVEMENTS TO THE COMMON PROPERTY OR THE REMOVAL THEREOF**

- 26.1 The Trustees may, if the Members of the Body Corporate of any Scheme within The Ridge by Unanimous Resolution so decide, effect or remove improvements of a luxurious nature on the Common Property of such Scheme.
- 26.2 The Trustees may, if the Members of the Body Corporate of any Scheme within The Ridge by Special Resolution so decide, effect or remove improvements of a non-luxurious nature on the Common Property of such Scheme.
- 26.3 Notwithstanding the provisions of clause 26.2, should the Trustees wish to effect or remove any non-luxurious improvements to the Common Property of any Scheme within The Ridge, they shall give written notice of their intention to effect or remove a non-luxurious improvement to the Common Property to all Members of the Body Corporate of that Scheme and such notice shall:
- 26.6.1 indicate the intention of the Trustees to proceed with the non-luxurious improvement or removal thereof upon the expiry of a period of not less than 30 (thirty) days from the date of posting such notice; and
- 26.6.2 provide details of the improvement or removal thereof as to:
- 26.6.2.1 the cost thereof;
- 26.6.2.2 the manner in which it is to be financed and the effect upon Levies paid by Members of that particular Body Corporate, it being expressly understood that neither the Owners of Units in other Schemes in The Ridge, nor the Owners of Sub-divisions in The Ridge, shall contribute to such improvement or removal;

26.6.2.3 the need, desirability, and effect thereof;

and after expiry of such notice period the Trustees may proceed with effecting such improvement or with the removal thereof: Provided that, at the written request of any Member of the Body Corporate of the Scheme in question, a special general meeting of the Members of the Body Corporate of that Scheme shall be convened in order to discuss and deliberate upon the proposals contained in the notice, at which meeting the Members may approve such proposals by means of a Special Resolution, with or without amendments: Provided further that in the event of such special general meeting being called, the Trustees shall not proceed with their proposals until the holding of such meeting, whereupon they shall be bound by any Special Resolution ensuing therefrom.

## 27 MINUTES

27.1 The Trustees shall:

27.1.1 keep minute books of all their proceedings, including all special meetings of the Board of Trustees and meetings of Sub-committees;

27.1.2 cause minutes to be kept of all meetings of the Association in the minute books of the Association;

27.1.3 include in the minute book of the Association a record of all the Unanimous and Special Resolutions, specifically those taken by Members of the respective Bodies Corporate, and other resolutions of the Association.

27.2 The Trustees shall keep all minute books in perpetuity.

27.3 On the written application of any Member, the Trustees shall make all minutes of their proceedings and the minutes of the Association available for inspection by such Member, not later than 2 (two) weeks from the date of the request.

## 28 BOOKS OF ACCOUNT AND RECORDS

28.1 The Trustees shall cause proper books of account and records to be kept so as fairly to explain the transactions and financial position of The Ridge including:

28.1.1 a record of the assets and liabilities of the Association;

28.1.2 a record of all sums of money received and expended by the Association and the matters in respect of which such receipts and expenditure occurred;

28.1.3 a register of Owners of Units in The Ridge and of all other persons having real rights in Property (insofar as written notice shall have been given to the Trustees by such Owners, mortgagees or other persons) showing in each case their addresses; and

28.1.4 individual ledger accounts in respect of each Owner.

28.2 On the application of any Owner, or of the Managing Agent, the Trustees shall make all or any of the books of account and records available for inspection by such Owner, mortgagee or Managing Agent, at the Office.

28.3 The Trustees shall cause all books of account and records to be retained for a period of 6 (six) years after completion of the transactions, acts or operations to which they relate.

## 29 BUDGET, FINANCIAL STATEMENTS AND REPORT

29.1 Before every annual general meeting, the Trustees shall cause to be prepared a Budget, as referred to in clause 24.1 above, which shall be laid before the annual general meeting of the Association for consideration.

29.2 The Budget shall include a reasonable provision for contingencies and for reserves.

- 29.3 The Trustees shall cause to be prepared, and shall lay before every annual general meeting for consideration, a financial statement in conformity with generally accepted accounting practice, which statements shall fairly present the state of affairs of the Association and its finances and transactions as at the end of the Financial Year concerned.
- 29.4 The financial statement shall include information and notes pertaining to the proper financial management by the Association, including:
- 29.4.1 an analysis of the periods of debts and the amounts due in respect of Levies and other contributions;
- 29.4.2 an analysis of the periods and the amounts due, owing by the Association to the ZLR and creditors, and in particular to any public or local authority or the ZFM in respect of rates, taxes and charges for consumption or services, including but not limited to, water, electricity, gas, sewerage and refuse removal;
- 29.4.3 the expiry dates of all insurance policies applicable to the Bodies Corporate.
- 29.5 The Trustees shall further cause to be prepared and shall lay before every annual general meeting a report signed by the chairperson and one Trustee, reviewing the affairs of the Association during the past year.
- 29.6 The Trustees shall cause copies of the Budget, audited statements and reports referred to above, to be delivered to each Member, and to any mortgagee which has advised the Association of its interest, at least 14 (fourteen) days before the date of the annual general meeting at which they are to be considered.
- 29.7 The Trustees shall keep copies of the schedules of insurance replacement values in respect of the Bodies Corporate at the Office, where it shall be available for inspection by the Members and mortgagees.

### 30 AUDIT

At every annual general meeting, the Association shall appoint a Registered Auditor to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting. It shall be the task of the Registered Auditor to:

- 30.1 audit the books of the Association; and
- 30.2 advise the Trustees of any financial or administrative irregularities in a report to the Trustees.

### 31 DEPOSIT AND INVESTMENT OF FUNDS

- 31.1 The Trustees shall cause all monies received by the Association to be deposited to the credit of an account or accounts with a registered commercial bank in the name of the Association and, subject to every directive given by the ZLR or restriction imposed at a general meeting of the Association, such monies shall only be withdrawn for the purpose of payment of the expenses of the Association or for investment purposes of any surplus funds, provided that such investments shall only be made in the name of the Association.
- 31.2 The Trustees may authorise an employee or the Managing Agent to administer and operate the accounts referred to in clause 31.1 above, subject to such conditions and restrictions as they may impose.
- 31.3 Any funds not immediately required for disbursement may be invested with any Financial Institution or Institutions approved by the Trustees from time to time, provided that at least fifty percent (50%) of the funds shall be invested with any registered South African commercial bank/s approved by the Trustees from time to time.
- 31.4 Interest on monies invested may be used by the Association for any lawful purpose as contemplated in this Constitution.



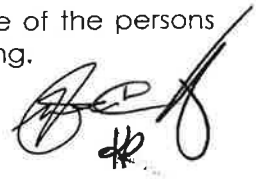


**32 NO REFUNDS OR DISTRIBUTION OF PROFITS OR ASSETS**

- 32.1 The Members shall not be entitled to a refund of Levies lawfully levied upon them and duly paid by them.
- 32.2 No portion of the profits or gains of the Association shall be distributed to any Owner of a Property or to any other person except upon destruction or deemed destruction of the Units in a Scheme that had been insured as anticipated in clause 23 above, or where such profit or gain is of a capital nature.

**GENERAL MEETINGS:****33 GENERAL MEETINGS OF MEMBERS**

- 33.1 General meetings of Members shall be convened in accordance with the provisions of this Constitution.
- 33.2 An annual general meeting shall be held within nine (9) months of the end of each Financial Year.
- 33.3 Unless otherwise decided at a general meeting or by the Trustees, the Financial Year of the Association shall run from the first day of January each year to the last day of December of the same year.
- 33.4 All general meetings other than the annual general meeting shall be called special general meetings.
- 33.5 The Trustees may, whenever they think fit, and shall upon a request in writing made by Members representing 60% (sixty percent) of the Members in number convene a special general meeting. If the Trustees fail to call a meeting so requested within 21 (twenty one) days of the request, the Members concerned shall be entitled themselves to call the meeting.
- 33.6 At least 21 (twenty one) days written notice of every general meeting, specifying the place, the date and the hour of the meeting and, in the case of special business, the general nature of such business, shall be given to:
- 33.6.1 all Members;
- 33.6.2 all holders of registered mortgage bonds over Units in Schemes in The Ridge who have advised the Trustees of their interests; and
- 33.6.3 the Managing Agent.
- 33.7 The holders of registered mortgage bonds as referred to in 33.6.2 and the Managing Agent shall have the right to attend a meeting herein referred to and to speak at such meetings, but shall not, in their respective capacities as such, be entitled to vote thereat.
- 33.8 The notice to a person or entity referred to in clause 33.6 above shall be deemed to have been sufficiently given and delivered, if sent or delivered:
- 33.8.1 by hand with a written acknowledgement of receipt, or
- 33.8.2 by pre-paid registered post addressed to the domicilium address of the Member, and to the Managing Agent or any mortgagee as aforesaid, to the address of such Managing Agent or mortgagee as reflected in the records of the Association, or
- 33.8.3 by e-mail to the e-mail address as reflected in the records of the Association.
- 33.9 Inadvertent omission to give the notice referred to in clause 33.6 to any person entitled to such notice or the non-receipt of such notice by such person shall, save in the case of the persons contemplated in clause 32.6.2, not invalidate any proceedings at any such meeting.



- 33.10 A special general meeting of the Association may be called on shorter notice than that specified in clause 33.6, provided it is, in the opinion of the Trustees justified by the circumstances and such shorter notice is condoned by the meeting by way of an Ordinary Resolution.
- 33.11 A special general meeting for the purposes of a Special Resolution may be convened for a date 30 (thirty) days after notice has been given to all Members. The Trustees may convene such a meeting at shorter notice if, in the opinion of the Trustees, it is necessary due to the urgency of a matter or due to the specific nature of a matter. All Members present and entitled to attend and vote at such special general meeting in person or by proxy or by representation by proxy must condone the shorter notice period.

#### **34 BUSINESS AT THE ANNUAL GENERAL MEETING**

- 34.1 All business at any general meeting other than business referred to in clause 34.2 shall be special business.
- 34.2 The following business shall be transacted at an annual general meeting:
- 34.2.1 Consideration of the audited financial statements and report;
- 34.2.2 Approval with or without amendment of:
- 34.2.2.1 the Budget (the itemised estimate of all anticipated income and expenditure, with specific reference to the Association's expected contributions to the ZLR).
- 34.2.3 The appointment of an Auditor;
- 34.2.4 The determination of the number of Trustees for the ensuing year;
- 34.2.5 The election of Trustees for the ensuing year;
- 34.2.6 Any special business of which due notice has been given;
- 34.2.7 The giving of directions or the imposing of restrictions;
- 34.2.8 Determination of the *domicilium citandi et executandi* of the Association;
- 34.2.9 Submission for consideration of a report by the Trustees on maintenance and improvements effected by them during the past Financial Year;
- 34.2.10 The confirmation by the Trustees that any amendment, substitution, addition or repeal of the Constitution and/or Conduct Rules related to the Schemes (as contemplated in section 35(5) of the Act) have been submitted to the Registrar of Deeds for filing as contemplated in section 35(5)(c) of the Act.

#### **35 QUORUM AT GENERAL MEETINGS**

- 35.1 No business shall be transacted at any general meeting unless a quorum of Members is present in person or by proxy at the time when the meeting proceeds to business.
- 35.2 A quorum at a general meeting shall be the number of Members holding at least twenty percent (20%) of the votes in number, present in person or by proxy or by representation recognised in law, and entitled to vote provided that:
- 35.2.1 the quorum for the passing of a Unanimous Resolution shall be eighty percent (80%) of the Members in number and value present in person or by proxy or by representation recognised in law and entitled to vote;
- 35.2.2 the quorum for the passing of a Special Resolution shall be twenty percent (20%) of the Members in number and value present in person or by proxy or by representation recognised in law and entitled to vote;



- 35.2.3 a representative of the Developer, present in person or by proxy or by representation recognised in law, must during the Development Period be present at the meeting for a quorum to be established.
- 35.3 If within half-an-hour from the time appointed for 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, and if at the adjourned meeting a quorum is not present within half-an-hour of the time appointed for the meeting, the Members present in person or by proxy or by representative recognised in law and entitled to vote shall form a quorum.
- 35.4 Provided that at the adjourned meeting constituted without the necessary quorum as referred to in clause 35.3. above, no Unanimous or Special Resolution may be passed.

### **36 CHAIRPERSON OF GENERAL MEETING**

- 36.1 The chairperson of the Board of Trustees shall preside as chairperson at every general meeting of the Association.
- 36.2 If there is no such chairperson or if, at any meeting, the chairperson of the Board of Trustees is not present within 15 (fifteen) minutes after the time appointed for the holding of the meeting, or if he or she is unwilling or unable to act as chairperson, the vice-chairperson shall act as chairperson and, in the event that he or she is also unwilling or unable to act as chairperson, the Members present shall elect a person present to be chairperson.

### **37 VOTING AT GENERAL MEETINGS**

- 37.1 At any general meeting a resolution, except for a Special Resolution or an Unanimous Resolution, put to the vote of the meeting shall be decided on a show of hands unless prior to or on the declaration by the chairperson of the result of the vote, a poll is demanded by any person entitled to vote at such meeting or by the chairperson.
- 37.2 For the purpose of a Unanimous or Special Resolution voting shall be conducted by poll.
- 37.3 A declaration by the chairperson that a resolution has been carried on a show of hands shall be conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

### **38 VOTES**

- 38.1 On a show of hands each Member, shall have one vote
- 38.2 On a poll, which may be called by any Member or its proxy or the chairman of the meeting, each Member shall have 1 (one) vote provided that:
- 38.2.1 the Body Corporate of a sectional title Scheme laid out on a Sub-division, shall have the number of votes equal to the number of Units in the Scheme;
- 38.2.2 in the event of a Member owning more than one Sub-division, such Member shall have a vote for each Sub-division it owns;
- 38.3 Notwithstanding the aforesaid, during the Development Period, the Developer shall, for the purposes of voting on any proposed resolution of the Association, be deemed to have the higher of the actual number of votes that then vest in the Developer and the number of votes as are held, in aggregate, by all of the other Members present in person or by proxy at the relevant meeting.

- 38.4 Except in cases where a Special Resolution or a Unanimous Resolution is required under the Act or in this Constitution, a Member shall not be entitled to vote at any general meeting if:
- 38.4.1 any Levies payable by him or her in respect of his or her Property have not been duly paid; or
- 38.4.2 he or she persisted in breach of any provisions of the Act, the ZLR Constitution, the Conduct Rules, the Governing Rules, or this Constitution, issued in terms thereof, notwithstanding written warning by the Trustees, or the Managing Agent to refrain from breaching such provision:
- 38.5 Where an Owner of a Property is as such a trustee of a trust, he or she shall exercise voting rights in respect of the Property to the exclusion of persons beneficially interested in the trust and such persons shall not be entitled to vote.
- 38.6 When two or more persons are entitled to exercise one vote jointly, that vote shall be exercised only by one person (who may or may not be one of them) jointly appointed by them as their proxy, provided that either one of them may demand a poll.
- 38.7 Votes at a general meeting may be cast either personally or by proxy, whether on a poll or on a show of hands.
- 38.8 A proxy shall be appointed in writing under the hand of the appointer, or his or her agent duly appointed in writing, and shall be handed in at the Association, at least 24 hours prior to the commencement of the meeting; provided that the aforesaid provisions shall not apply in the case of any proxy created and contained in any registered mortgage bond passed over a Unit, if such mortgage bond or a copy certified by a conveyancer, is produced at the meeting.
- 38.9 A proxy need not be an Owner, but shall not be the Managing Agent or any of his or her employees, or an employee of the Association.

**GENERAL:****39 DUTIES OF OWNERS AND OCCUPIERS**

- 39.1 In addition to his or her obligations in terms of this Constitution and the ZLR Constitution, an Owner:
- 39.1.1 shall not use his or her Property, Section, Exclusive Use Area or any part of the Common Property or the Communal Property, or permit it to be used, in such a manner or for such purpose as shall be injurious to the reputation of The Ridge or the Resort;
- 39.1.2 shall not contravene, or permit the contravention, of any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any license, relating to or affecting the occupation of dwellings on Sub-divisions or Sections, or the carrying on of business in The Ridge, or so contravene or permit the contravention of the conditions of title applicable to his or her Property or any other Property;
- 39.1.3 shall not make alterations, which are likely to impair the stability of his or her Property or the use and enjoyment by other Members of any other Property, the Common Property, the Communal Property or any Exclusive Use Area;
- 39.1.4 shall not do anything to his or her Property, which in the sole discretion of the Trustees is likely to prejudice the aesthetic appearance of The Ridge or the Resort;
- 39.1.5 shall, when the purpose for which an Exclusive Use Area in a Scheme within The Ridge is intended to be used, is shown expressly or by implication on or by a registered sectional plan, or specified in this Constitution or the Conduct Rules, not use, nor permit such Exclusive Use Area to be used, for any other purpose: Provided that with the written consent of all Members of the Body Corporate of the relevant Scheme such Exclusive Use Area may be used for another purpose;
- 39.1.6 as regards the Schemes in The Ridge, shall maintain the hot water installation which serves his or her Section, or where such installation serves more than one Section, the Owners concerned shall maintain such installations pro rata, notwithstanding that such appliance is situated in part of the Common Property and is insured in terms of the policy taken out by the Association;

- 39.1.7 shall repair and maintain his or her Property in a state of good repair and keep it in a clean and neat condition as required by and to the satisfaction of the Trustees;
- 39.1.8 permit any person authorised in writing by the Association, at all reasonable hours on notice (except in case of emergency, when no notice shall be required), to enter his or her Property for the purpose of maintenance or for the purposes of ensuring that the provisions of the Act, the ZLR Constitution, the Conduct Rules, the Governing Rules, this Constitution or the Conduct Rules are being observed.
- 39.2 The provisions of the Act, the ZLR Constitution, the Governing Rules, the Design Guides, this Constitution or the Conduct Rules, and the duties of an Owner in relation to the use and occupation of Property shall be binding on all Owners, lessees and occupants of Property, and it shall be the duty of the Owner to ensure compliance with the provisions of the Act, the ZLR Constitution, the Governing Rules, the Design Guides, this Constitution or the Conduct Rules by his or her lessee or occupant of his or her Property, including the family members, guests, visitors, employees or contractors of the Owner, the lessee or occupant.
- 39.3 If an Owner fails to repair or maintain his or her Property in a state of good repair and in a clean and neat condition as required by the Trustees, and any such failure persists for a period of 30 (thirty) days after the giving of written notice to repair or maintain given by the Trustees, or by the Managing Agent on their behalf, the Association shall be entitled to remedy the Owner's failure and to recover the reasonable cost of doing so from such Owner.

#### 40 DESIGN GUIDES

The Developer has developed a set of Architectural Guidelines in respect of the construction of new dwellings or buildings, or physical alterations and attachments to such dwellings or buildings in The Ridge, with such Architectural Guidelines forming part of the Design Guides. The Architectural Guidelines, as well as the balance of the Design Guides, shall be effective and binding upon all Members. The Design Guides may only be amended with the Developer's prior written approval.

#### 41 RESTRICTION ON TRANSFER

- 41.1 As provided for in both the ZLR Constitution and this Constitution, no Alienation or transfer in respect of a Property may be effected unless the Association has granted its consent to such transfer, evidenced by a Levy Clearance Certificate issued by the Trustees on behalf of the Association.
- 41.2 The Association may withhold the issue of a Levy Clearance Certificate if:
- 41.2.1 any Levies or any other monies due in respect of such Property have not been paid, or remains unpaid or inadequate provision has been made in respect of the payment thereof; or
- 41.2.2 the ZLR refuses to issue a Clearance Certificate in terms of the ZLR Constitution; or
- 41.2.3 any building additions exist in respect of such Property, which have not been properly authorised and registered, as the case may be, in terms of the Act, the ZLR Constitution, the Governing Rules, the Design Guides, this Constitution or the Conduct Rules; or
- 41.2.4 if the Owner of the Property is substantially in breach of the provisions of the Act, the ZLR Constitution, the Governing Rules, the Design Guides, this Constitution or the Conduct Rules to an extent reasonably to justify withholding such certificate; or
- 41.2.5 the format and content of the Agreement of Sale does not substantially comply with the format and content prescribed by the Developer, during the Development Period, or the Trustees thereafter.



**42 SALE OF UNITS**

- 42.1 Whereas the Association recognises the needs of its Members to have assistance from competent and informed estate agents, the Trustees are authorised to implement the ZLR policy for the accreditation of estate agents for The Ridge and to introduce accreditation procedures for estate agents in terms thereof and to grant accreditation to estate agents who comply with the ZLR requirements.
- 42.2 A Member or other Transferor of Property may only appoint an accredited estate agent to secure a prospective purchaser for the Property.
- 42.3 All Agreements of Sale shall be concluded in terms of the standard written Agreement of Sale as prepared and required by the Developer, during the Development Period, and the Trustees of the ZLR from time to time thereafter.
- 42.4 The Owner shall ensure that the prospective purchaser shall disclose in the Agreement of Sale all information required by the Trustees, including the full names and identity numbers of the Nominated Occupant/s.
- 42.5 All agreements of sale shall be subject to a suspensive condition that it must be approved in writing by the Developer, during the Development Period, or the Trustees, thereafter, failing which the agreement shall lapse. The Developer, or the Trustees, as the case may be, shall provide the approval or refusal (as the case may be) expeditiously, acting reasonably.
- 42.6 All transfers of Property shall be conducted by the Attorney appointed from time to time by the Developer, during the Development Period, or the Trustees, thereafter, in order to protect the interests of the Association and the ZLR in such transaction, specifically as regards the payment of the Stabilisation Levy. Notwithstanding the aforesaid, the Attorney shall be the agent of the Transferor.

**43 OCCUPATION OF PROPERTY**

- 43.1 A Property shall only be occupied by the Nominated Occupant/s as approved in writing by the Trustees and shall not be otherwise occupied by any other person/s, provided that:
- 43.1.1 it shall be deemed not to be a breach of this clause for the Owner or the Nominated Occupant/s of a Property, to let the Property, subject to the Trustees approving the Lessee/s and/or Occupant/s in writing;
- 43.1.2 it shall be deemed not to be a breach of this clause for the Lessee/s or Nominated Occupant/s of a Property to part with occupation, whether on a sub-lease or other basis, during the temporary absence on holiday or otherwise of such Nominated Occupant/s or Lessee/s, provided that the Trustees have consented thereto in writing, which consent will not unreasonably be withheld;
- 43.1.3 a Nominated Occupant/s or Lessee/s may temporarily house his or her family members, guests, or visitors in his or her Property for a period of up to 60 (sixty) days during any calendar year. The maximum occupancy of 2 (two) people per bedroom may not be exceeded at any time. An extension of such period will require the prior written consent of the Trustees.
- 43.2 No Owner or Nominated Occupant/s of a Property shall let or grant a right of occupancy in respect of his or her Property, without the written consent of the Trustees, who may attach reasonable conditions to their consent. To obtain the written consent of the Trustees, the Owner or Nominated Occupant/s of the Property shall apply to the Trustees in writing and shall furnish the Trustees with the following information and documentation:
- 43.2.1 a copy of the lease agreement, the terms of which must be agreed to by the Trustees;
- 43.2.2 the particulars and contact details of the intended Lessee/s or Occupant/s.



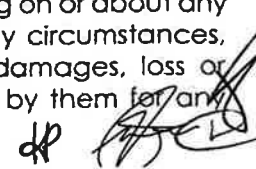
#### 44 DISPUTE RESOLUTION

- 44.1 Any dispute between the Association and an Owner or between Owners arising out of or in connection with or related to the Act, this Constitution or the Conduct Rules, save where an interdict or any other form of urgent relief may be required or obtained from a Court having jurisdiction, shall be determined in terms of these provisions. Disputes related to the ZLR Constitution, the Conduct Rules or the Governing Rules shall be dealt with as provided for in the ZLR Constitution.
- 44.2 If such dispute arises, the aggrieved party shall notify the other interested party or parties in writing and copies of such notification shall be served on the Trustees and Managing Agent, if any, and should the dispute or complaint not be resolved within 14 (fourteen) days of such notice, either of the parties may demand that the dispute or complaint be referred to arbitration: Provided that, if an Owner declares a dispute with the Association, it shall be sufficient notice if notification is served on the Trustees and the Managing Agent, if any, and such Owner will not be required to serve notice on each of the other Owners.
- 44.3 Having regard to the nature and complexity of the dispute or complaint and to the costs which may be involved in the adjudication thereof, the parties or, in the instance of a stated case as contemplated above, the Trustees, shall appoint an arbitrator who shall be an independent and suitably experienced and qualified person as may be agreed upon between the parties to the dispute.
- 44.4 If the parties cannot agree as to the arbitrator to be appointed in terms of clause 45.3 within 3 (three) days after arbitration has been demanded, the President for the time being of the Legal Practice Council of Kwa-Zulu Natal or his or her nominee shall upon written application appoint an arbitrator within 7 (seven) days after he or she has been required to make the appointment so that the arbitration can be held and concluded without delay.
- 44.5 Arbitration shall be held informally or otherwise as the arbitrator may determine. The arbitrator shall have the right to require that the party demanding the arbitration furnish the arbitrator with security for payment of the costs of arbitration in such amount and form as the arbitrator may determine, failing which the arbitration shall not be proceeded with. Where possible the arbitration shall be concluded within 21 (twenty one) days after the matter has been referred to for arbitration in terms of clause 45.2 provided that security for costs has been furnished, if required by the arbitrator.
- 44.6 The arbitrator shall make his or her award within 7 (seven) days from the date of the completion of the arbitration and shall in making his or her award, have regard to the principles laid down in terms of the Act, if applicable, the ZLR Constitution, the Governing Rules, the Design Guides, this Constitution and the Conduct Rules. The arbitrator may determine that the costs of the arbitration be paid by any one of the disputing parties or any of them jointly or in such shares as he or she may determine and as he or she in his or her discretion, may deem appropriate, having regard to the outcome of the arbitration.
- 44.6 The decision of the arbitrator shall be final and binding and may be made an Order of the High Court upon application of any party to be affected by the arbitration.

#### 45 AMENDMENT OF THIS CONSTITUTION

This Constitution may be amended from time to time by the Members by means of a Special Resolution: Provided that during the Development Period, this Constitution shall not be varied or amended without the prior written consent of the Developer. Notwithstanding the aforesaid, during the Development Period the Developer shall be entitled to amend the Constitution in his discretion and without reference to the Association.

#### 46 DISCLAIMER OF RESPONSIBILITY

- 46.1 The Association shall not be liable for any injury to any person, damage to or loss of any property, to whomsoever it may belong, occurring or suffered, upon The Ridge regardless of the cause thereof nor shall the Association be responsible for **any theft of property occurring on or about any Property within The Ridge. Owners, Residents and Lessees shall not, under any circumstances, have any claim or right of action whatsoever against the Association for damages, loss or otherwise, nor be entitled to withhold or defer payment of any amount due by them for any reason whatsoever.**
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- 46.2 The Association and/or its agents shall not be liable to any Resident or Owner or any of the Owner's Lessees, or their respective employees, agents, servants, invitees or customers or any member of the public dealing with the Resident or Owner, for any injury or loss or damage of any description which the Owner or any such other person aforesaid may suffer or sustain whether directly or indirectly in or about The Ridge, regardless of the cause thereof.
- 46.3 Residents and Owners hereby indemnify the Association and its employees, servants and agents and lawful invitees and hold them harmless against all claims by any person arising from any injury or loss or damage as contemplated in this clause 47.

#### 47 DELIVERY OF NOTICES

- 47.1 A notice by the Association to a Member in terms of this Constitution, the Governing Rules or the Conduct Rules shall be deemed to have been sufficiently given and delivered, if:
- 47.1.1 delivered by hand to the Member with a written acknowledgement of receipt, or
- 47.2 transmitted by e-mail to the e-mail address of the Member as reflected in the records of the Association and sent to the electronic mail address referred to above, shall be deemed to have been received on the date and at the time recorded by the computer used by the sender (unless there is conclusive evidence that it was delivered on a different date or a different time).

#### 48 ZFM & ZSC

- 48.1 The ZFM, ZSC and any other entity established by the Developer to provide facilities and amenities to the Resident/s of The Ridge shall be privately owned. Information in respect of such business ventures may be obtained from the provisions of the ZLR Constitution or the respective entities, once established.
- 48.2 The Developer intends developing the Zimbali Sports Club (ZSC) and related facilities which may comprise and which may include: an 18 (Eighteen) hole golf course, tennis courts, squash courts, cycling trails, walking trails and other sporting facilities, commercial and hospitality facilities, public and privately accessible areas so designed as to facilitate an aesthetic and harmonious blending within the environment and the hosting of corporate, local, national and international events.
- 48.3 No obligation rests on the Developer to provide all of the said facilities and neither is the above to be regarded as a comprehensive or definitive list of facilities or activities to be catered for. Every Owner and Resident will be obliged, at all times, to co-operate with the Developer in an endeavour to facilitate the success of the said developments, tournaments, events and competitions.
- 48.4 Also in this respect, it is recorded that no Owner or Resident will interfere with any of the proposed developments or lodge any objection with any competent authority in respect of any developments or events. In particular, without detracting from the generality of the aforesaid, no Owner or Resident will object to any application made by and on behalf of the Developer, its nominees or its agent for special usage consent, licenses for sporting, shopping, commercial rights, zoning applications, or removal of restrictive conditions applications.
- 48.5 Again, in no way detracting from the generality of the aforesaid, it is recorded that the Developer may, from time to time, erect temporary buildings and other structures in the Resort, including temporary structures during the aforesaid events, which may block or otherwise interfere with views from an Owner or Resident's Property. No Owner or Resident shall have the right to object to the construction of any such structures on the Resort, on the basis that such buildings or other structures block or otherwise interfere with the views from his or her Property, nor will they have any claim for any alleged diminishment in value of their Property arising out of any interference with the views from the Property by reason of the construction of such temporary buildings or other structures.

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- 48.6 It is recorded that the ZSC and ZFM are private facilities and that no Owner or Resident (or any other subscriber) shall have any proprietary or voting rights in the ZSC or ZFM and shall not be entitled to partake in the management of the ZSC or ZFM. Admission to the ZSC shall be in the sole and absolute discretion of the Developer or the proprietor thereof and shall be categorised accordingly into the ZSC Membership. In no way detracting from the generality of the aforesaid, it is specifically recorded that persons, who are not owners of immovable property on the Resort, may become subscribers, at the proprietor's discretion.
- 48.7 All members of each of the Member Associations, save for the Evergreen Zimbali Lakes Body Corporate which is subject to the provisions of its Constitution, within the Resort shall be obliged to join the ZSC and pay a joining fee in respect of its class of membership as determined by the proprietor of the ZSC. The joining and subscription fees shall be subject to escalation, as determined by the proprietor from time to time. Membership of the ZSC shall not be mandatory for the Evergreen Zimbali Lakes Body Corporate or the residents of Evergreen Zimbali Lakes but such residents shall be entitled to join on a voluntary basis at the standard rates applicable to all members of the ZSC.
- 48.8 In the event of an Owner or Resident or his or her family breaching the rules and regulations of the ZSC, the proprietor shall be entitled to suspend such Owner or Resident's rights of use of the ZSC facilities, which suspension shall in no way alleviate the Owner or Resident's obligation to pay the annual subscription and other amounts due by the Owner or Resident to the proprietor.
- 48.9 The ZSC and ZFM will form an integral part of the Resort and the successful management and operation of its facilities and services is considered vital to the use and enjoyment Owners and Residents will derive from the Resort. To ensure the sustainability of the ZSC it shall be registered as a Condition of Ownership of Property that no Property shall be transferred without the prior written consent of the ZLR first being had and obtained in the form of the Clearance Certificate, which certificate shall be given upon receipt by the ZLR of the ZSC Consent, in addition to such other requirements that may apply prior to the Clearance Certificate being issued. The ZSC shall only provide the ZLR with the ZSC Consent in the event that the Transferor shall have performed all his or her obligations to the ZSC in full. In addition, the ZLR will have to receive the ZFM Consent prior to transfer of the Transferor's Property to ensure that the Transferor shall have performed all of his or her obligations to the ZFM in full.
- 48.10 In the event of an Owner leasing his or her Property to a Lessee, then and in that event, at the Owner's election, either:
- 48.10.1 The Owner shall nominate the Lessee as the beneficiary of the Owner's right of use of the ZSC, in which event the Lessee shall be entitled to exercise all the Owner's rights of use of the ZSC to the exclusion of the Owner. In the event of the Owner electing this option, the Owner shall remain responsible for all its obligations to the ZSC, including payment of the annual subscription and other amounts due to the proprietor, and it shall be the responsibility of the Owner to recover such amounts from its Lessee); alternatively
- 48.10.2 The Lessee shall have the option to become a (separate) subscriber of the ZSC, for the duration of his lease of the Property, should the Owner retain his Membership.

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