

**TOUWSBERG PRIVATE GAME  
&  
NATURE RESERVE**

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**HOME OWNERS ASSOCIATION  
CONSTITUTION**

## DEFINITIONS

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|-------------------------------|---|
| Home Owners Association (HOA) | An association of the Owners of Portions in the Touwsberg Private Game and Nature Reserve and the Developer and the Reserve Manager.  |
| Owner                         | Person, persons or other legal entity (company, trust etc.) which own a total of four shares in any of the four companies that own the land that make up the Touwsberg Private Game and Nature Reserve, which shareholding affords the Owner the right to construct a dwelling on a Portion of the Reserve. |
| Member                        | Owner who is a Member of the HOA and the Developer and the Reserve Manager. In the case of a legal entity other than a person or a group of persons, the Owner will be represented on the HOA by a person appointed by the Owner to represent its interests in the HOA and who will thus act as a Member.   |
| Developer                     | Dr Freddie la Grange or his successor in title. The Developer can also act as Reserve Manager in the absence of a specific appointment in that position.  |
| Reserve                       | Touwsberg Private Game and Nature Reserve consisting of the combined property of the companies: Touwsberg Nature Reserve 1 (Pty), Ltd Touwsberg Nature Reserve 2 (Pty) Ltd, Touwsberg Plathuis (Pty) Ltd and Touwsberg Wolverfontein (Pty) Ltd.   |
| Portion                       | The portion of the reserve allocated to an Owner on which he may construct a dwelling. (Refer PC Clause 9)  |
| Management Committee          | Committee appointed by the HOA in terms of the HOA Constitution to manage the day-to-day affairs of the HOA.  |
| Purchase Contract (PC)        | Agreement entered into between the Developer and the Owner for the purpose of obtaining shares in one of the companies that underlie the land ownership of the Reserve.   |

## 1 GENERAL

- 1.1 The purpose of the HOA is to manage to the development known as Touwsberg Private Game and Nature Reserve (Reserve) consisting of the combined property of the companies: Touwsberg Nature Reserve 1 (Pty) Ltd, Touwsberg Nature Reserve 2 (Pty) Ltd, Touwsberg Plathuis (Pty) Ltd and Touwsberg Wolverfontein (Pty) Ltd. This has been necessitated due to the complex environmental management that is required and the very delicate nature of the property on which the Reserve is being developed.

- 1.2 Further responsibilities of the HOA are to develop and ensure compliance with the **Aesthetic Building Guidelines** and **Conduct Rules** and to ensure that all members understand and appreciate the very delicate environment and surroundings of this very prestigious and unique development. (Refer PC Clause 33)
- 1.3 Other than being a forum for the dissemination or gathering of information and a regulatory body for ensuring levy payments, the HOA has no responsibility or authority in the management and control of the four companies underlying the ownership of the land that makes up the Reserve, which companies must be managed as required by the Companies Act.
- 1.4 All Owners will automatically become Members of the HOA upon registration of the shares purchased in one of the companies.

## **2 HOME OWNERS ASSOCIATION (HOA)**

- 2.1 The HOA is ultimately responsible for the management, upkeep and maintenance of the Reserve as well as the monitoring and control of game numbers.
- 2.2 All Owners are obligated to become Members of the HOA and shall be represented on the HOA by a person elected by the Owner in the event that the Owner is not a natural person e.g. a trust, company or group of persons.
- 2.3 The HOA will meet at least once a year at an annual general meeting (AGM), which meeting will follow a prescribed agenda as stated below. Special general meetings (SGM) may also be held subject to certain criteria as stated below.
- 2.4 The HOA shall elect yearly, at the AGM, a Chairperson who will take the responsibility of leading the functioning of the HOA and will also be the Chairperson of the Management Committee. The Chairperson's term of office will be until the next AGM, unless it is ended earlier by way of a Special General Meeting or his resignation.
- 2.5 The HOA shall elect yearly, at the AGM, a Management Committee as stated below, to take care of the day-to-day running of the HOA in terms of its mandate. The Management Committee's term of office will be until the next AGM, unless it is ended earlier by way of a Special General Meeting or resignation.
- 2.6 In order to execute its responsibility, the HOA has the right to determine and collect levies from all Owners on behalf of the underlying companies as stated below.
- 2.7 Owners/Members are obligated to provide the HOA with a current e-mail address, which address will be deemed to be the sole required means of communication between the HOA and its members. All communications successfully sent to this address will be deemed as sent by the HOA and received by the Owner/Member.
- 2.8 All communication intended for other Members, the Management Committee, the Developer and/or the Reserve Manager should be directed to the Reserve office for onward distribution.

## **3 GENERAL MEETINGS OF THE HOA**

- 3.1 Annual General Meetings
  - 3.1.1 Annual General Meetings (AGM) of the HOA shall be held yearly at roughly the same time of the year.
  - 3.1.2 The current Chairperson will be responsible to send out notices of the upcoming AGM to reach Members at least 28 days before the date of the meeting. Such notice shall specify the time, date and place of the meeting and will be accompanied with a provisional agenda, standard proxy forms, financial statements of the previous year and budget proposals for the following year.
  - 3.1.3 The standard AGM agenda will include at least the following:
    - 3.1.3.1 Welcome and attendance
    - 3.1.3.2 Confirmation of representation of Members and proxies
    - 3.1.3.3 Confirmation and welcoming of new Owners/Members
    - 3.1.3.4 Discussion, correction and approval of minutes of previous AGM
    - 3.1.3.5 Annual Chairperson's report
    - 3.1.3.6 Report on game numbers and future planning

- 3.1.3.7 Report on new houses built
- 3.1.3.8 Annual financial report
- 3.1.3.9 Presentation of budget for the following year and proposal of levies
- 3.1.3.10 Vote on budget and levies
- 3.1.3.11 Conduct Rules and Aesthetic Building Guidelines
- 3.1.3.12 Other agenda items properly submitted
- 3.1.3.13 Election of Chairperson for the following year (refer to Section 4 for election procedure)
- 3.1.3.14 Election of additional members of the Management Committee for the following year (refer to Section 4 for election procedure)
- 3.1.4 Up to 21 days before the AGM, Members may submit to the Chairperson, in writing, detailed proposals for additional agenda items in such a format that it may be distributed to other Members if required.
- 3.1.5 No later than 14 days before the AGM, the Chairperson shall send to the Members the final agenda for the AGM, along with additional, relevant information if required.
- 3.1.6 A quorum at the AGM shall constitute 50% of Members which number shall exclude the Developer's unsold Portions, whether physically present or by proxy.
- 3.1.7 If within half an hour from the time appointed for the AGM 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 postponed meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members and proxies present shall be a quorum. Proxies for the original date of the AGM will be applicable to the postponed AGM as well.
- 3.1.8 At an AGM each Member will have one vote per Portion owned. The Developer will have one vote per Portion not yet sold. In matters which require approval by voting, the votes will be counted and recorded and motions will be carried by simple majority. Members will have the right to have their opposing votes recorded if they so wish.
- 3.1.9 In order to affect an amendment or addition to this constitution, the approval of 66% of the Members and proxies present will be required.
- 3.1.10 Only those Members whose levy payments are up to date will be eligible to cast votes at an AGM.
- 3.2 Special General Meetings
- 3.2.1 If so required by the Chairperson and the Management Committee, or if called for in writing by at least 20% of all Members (excluding the Developer), a Special General Meeting (SGM) may be called and the Chairperson is obligated to arrange such a meeting within a reasonable period of time.
- 3.2.2 The Chairperson will be responsible to send out notices of the upcoming SGM to reach Members at least 28 days before the date of the meeting. Such notice shall specify the time, date and place of the meeting and will be accompanied by all relevant information that led to the scheduling of the SGM, with detail of the matter to be decided upon at the SGM.
- 3.2.3 The purpose of an SGM is not meant to duplicate the matters that normally are dealt with during the AGM, but may include the election of a new Chairperson and/or members of the Management Committee before expiry of their current term. A SGM can also be called in the event that important decisions need to be taken by the HOA on matters of urgency.
- 3.2.4 A quorum at the SGM shall constitute 50% of Members which number shall exclude the Developer's unsold Portions, whether physically present, or by proxy.
- 3.2.5 If within half an hour from the time appointed for the SGM 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 postponed meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members and proxies present shall be a quorum. Proxies for the original date of the SGM will be applicable to the postponed SGM as well.

- 3.2.6 At an SGM each Member will have one vote per Portion owned. The Developer will have one vote per Portion not yet sold. In matters which require approval by voting, the votes will be counted and recorded and motions will be carried by simple majority. Members will have the right to have their opposing votes recorded if they so wish.
- 3.2.7 In order to affect an amendment or addition to this constitution, the approval of 66% of the Members or proxies present will be required.
- 3.2.8 Only those Members whose levy payments are up to date will be eligible to cast votes at an SGM.
- 3.3 The Chairperson will arrange to have detailed attendance records and minutes kept of all General Meetings, which minutes shall be distributed to all Members within 28 days after the General Meeting.

#### **4 MANAGEMENT COMMITTEE**

- 4.1 The Management Committee (MC) will consist of the Chairman of the HOA, the Developer, the Reserve Manager and an additional minimum of two and maximum of four other Members of the HOA. The Developer may fulfill the role of Reserve Manager, in which case he will occupy a single position on the MC.
- 4.2 The Chairman of the HOA and the Members of the MC will be elected yearly at the AGM or at a SGM in two separate elections. Candidates for these positions must be proposed and seconded by Members present at the meeting or in writing by Members who are unable to be present. In the event that a candidate so proposed is not in attendance at the meeting, the proposer must also submit a document, signed by the candidate, wherein he/she accepts the candidacy.
- 4.3 In the event that a vote is taken, the candidates with the most votes will be elected for the positions and the outgoing Chairman shall inform them in writing of their election within two days after the meeting.
- 4.4 The Chairperson of the HOA will, as part of his duties, serve as the Chairperson of the MC.
- 4.5 The MC will have the responsibility to manage the day-to-day affairs of the HOA, with the Reserve Manager acting as executive member. The MC has the authority to appoint for and on behalf of the HOA, such agents and employees as is required in the execution of its responsibilities. In emergency situations, the Reserve Manager may act in the best interest of the Reserve without waiting for approval of the MC, and inform the MC of his actions as soon as is reasonable thereafter.
- 4.6 The MC will have the authority to collect levies and approve expenditure in terms of the approved budget. For this purpose the MC has the responsibility to open and maintain a bank account with a registered bank.
- 4.7 All expenditure (cheques, transfers etc.) must be approved by the Chairman and at least one other member of the MC.
- 4.8 The MC will have the responsibility to keep financial records and prepare and submit a yearly financial report to the HOA. This report may take the form of audited financial statements of the four underlying companies. All financial records and statements shall be available for scrutiny by any member of the HOA upon request.
- 4.9 The MC shall be responsible to prepare and submit all other reports required by the HOA at the AGM.
- 4.10 The MC shall hold at least two formal meetings each year which meetings may be conducted electronically and shall be spread reasonably evenly throughout the year. Members must be informed of planned MC meetings at least 28 days in advance. Minutes of these meetings shall be kept and distributed to all Members with 14 days after the meetings have taken place.
- 4.11 In the event that any matter has to be voted on during an MC meeting, each member of the MC has one vote and motions will be carried by simple majority. In undecided matters, the Chairperson will have an additional casting vote. In addition, the Developer has the right of veto on any matter while he holds ownership of 25% or more of all available Portions.

- 4.12 In the event that Members want to raise any issues for discussion by the MC at one of its scheduled meetings, such an issue must be forwarded to the Chairman of the HOA in writing, with sufficient detail and information, at least 14 days before the meeting.
- 4.13 The MC or any members of the MC may meet informally as often as is required by the issues at hand.
- 4.14 In the event that the Chairperson of the HOA cannot attend a MC meeting, the MC may appoint a member of the MC to act in the capacity of chairperson for the meeting.
- 4.15 In the event that the Chairperson of the HOA can for whatever reason not complete his term of office, the MC has the authority to temporarily appoint a member of the MC to act as Chairman of the HOA until a SGM or AGM can be held and a Chairperson formally elected. All Members of the HOA must be informed of such a situation in full and immediately.
- 4.16 The MC, on behalf of the HOA, is obligated to monitor game numbers and arrange for the harvesting of game in compliance with the principles of nature conservation, sustainably and in an ethical manner. The HOA shall be informed in advance of any game harvesting that is being planned.
- 4.17 The MC has the right to co-opt additional members to assist in specialist tasks if so required. Co-opted members will not have voting rights in MC meetings.
- 4.18 The MC has the mandate to, on behalf of the HOA, ensure that the Conduct Rules and Aesthetic Building Guidelines are adhered to.

## **5 LEVIES**

- 5.1 Every Owner shall pay monthly levies in advance on the first day of every month commencing on the starting date of any building activity, but not later than two years after purchases of shares. (Refer PC Clause 4)
- 5.2 Although the HOA will administer and enforce levy payments, the levies will be received in the each of the four applicable companies that underlie the ownership of the Reserve. These companies will then be invoiced for maintenance costs by the HOA or Developer.
- 5.3 The HOA has the right to review the conditions contained in this document in respect of payment of levies.
- 5.4 All costs occasioned to collect outstanding levies due to an Owner/Member's failure to pay the levies will be recoverable against the Owner/Member on an attorney/own client scale and will be added to the levy account for payment.
- 5.5 The MC shall prepare and serve, together with the notice of the AGM of the HOA, upon every Member at the address chosen by him, an estimate (if applicable) in reasonable detail of any amount which shall be required by the HOA to meet the expenses during the following financial year, including the cost of providing essential services. The MC shall include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature. The above shall only apply if the anticipated expense cannot be met by the reserves of the levy account.
- 5.6 At every AGM of the HOA, the Members must consider the estimated income and expenses of the Reserve as prepared by the MC, and having made any amendments they consider necessary to the MC's estimates, the Members must at that meeting approve an estimate of income and expenses for the ensuing year, and shall determine the amount estimated to be required to be levied upon the Owners/Members during the ensuing financial year.
- 5.7 Within 14 (fourteen) days after each AGM the MC must serve notice to each Owner/Member specifying the contribution payable by that Owner/Member towards such approved estimate of expenses and reserve referred to above. On delivery of such notice, the amount becomes payable in monthly instalments.
- 5.8 The MC may from time to time propose special levies upon the Members in respect of any unforeseen expenses which are not included in any estimate made as detailed in paragraph 5.5, which special levy must be approved at the AGM or a SGM of the HOA.
- 5.9 Any amount due by an Owner/Member by way of levy and interest shall be a debt due by him to the relevant company. The obligation of an Owner/Member to pay a levy

charge and interest shall cease upon his ceasing to be an Owner/Member without prejudice to the HOA to recover arrear levies and interest. No levy or interest paid by an Owner/Member shall under any circumstances be repayable by the HOA upon his ceasing to be an Owner/Member. An Owner/Member's successor in title to ownership in the Reserve shall be liable from the date upon which he becomes an Owner pursuant to the transfer of that share, to pay the levy and interest attributable to that Portion.

- 5.10 No share in the companies underlying ownership in of a Portion in the Reserve shall be capable of being transferred without a certificate first being obtained from the MC confirming that all levies and interest have been paid up to and including the date of registration of transfer of such share. (Refer PC Clause 13)
- 5.11 An Owner who is the registered owner of more than one Portion shall be liable to make payments of levies in respect of each Portion owned by him.
- 5.12 Should any Owner/Member's levy be in arrears at the seventh of the month, he shall pay interest (at 3% above the current prime overdraft rate of the Standard Bank of South Africa), and such interest shall be applied to the full amount overdue, from the first day of the month up until the date of payment.
- 5.13 Owners/Members in arrears after sixty days shall have their overdue account, and the full interest thereon, handed over for collection and possible legal action. Any Costs incurred by these proceedings and all additional interest up to the date of final settlement shall be for the Owner/Member's account. Any interest on, or collection fees for overdue levies shall be considered to be part of the levy and treated as such.
- 5.14 Levy amounts may not be reduced to offset against real, perceived, partial or non-provision of services or for any other reason whatsoever.
- 5.15 The Management Committee have the authority to impose fines against those Owners who have contravened the Conduct Rules, which fines will be determined by the HOA from time to time and may be added to the levy account and be deemed payable immediately upon delivery of the account.

## **6 SALE OF SHARES/PORCION BY OWNER**

- 6.1 In the event that an Owner sells his share portion in an underlying company which will result in the transfer of ownership of a Portion, such sale agreement will be subject to the requirements of Purchase Contract Clause 23 by including all the relevant conditions contained in the original Purchase Contract. The Owner shall furthermore ensure that the buyer is fully informed about the contents of the conditions of sale, the HOA Constitution, the HOA Conduct Rules and the HOA Aesthetic Building Guidelines. (Refer PC Clauses 13 and 23)

## **7 ARBITRATION**

- 7.1 Every Owner agrees that, should any dispute arise out of the matters dealt with in this Constitution or the Conduct Rules or the Aesthetic Building Guidelines, the matter will be settled by arbitration. The arbitrator will be appointed by the MC with due regard as to the qualifications of the arbitrator related to the type of dispute. (Refer PC Clause 28)

### Contact Details

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