

THE RETREAT AT HAZELDEAN 1

MANAGEMENT RULES

(Section 35 (2) (a) of the Sectional Titles Act, 1986)

Preliminary

1. The Rules contained herein shall not be added to, amended or repealed except in accordance with section 35 (2) (a) of this Act, and subject to the provisions of section 35 (3) and (5) of the Act.

Interpretation

2. In the interpretation of these rules, unless the context otherwise indicates-
 - (a) 'Act' means the Sectional Titles Act, 1986 (Act 95 of 1986), as amended from time to time and any regulations made and in force there under;
 - (b) 'accounting officer' means a person who in terms of section 60 (2) of the Close Corporation Act, 1984 (Act 69 of 1984), is qualified to perform the duties of an accounting officer;
 - (c) 'Association' means The Retreat at Hazeldean Owners Association, a company incorporated as such under section 21 of the Companies Act, 1973;
 - (d) 'auditor' means an auditor qualified to act as such under the Public Accountant's and Auditors' Act 1951 (Act No 80 of 1991);
 - (e) 'annual general meeting' and 'general meeting' means a general meeting of the Association as contemplated in article 13 of the Articles of Association of the Association, unless the contrary is evident from the contents hereof;
 - (f) 'Board of Directors' means the board of directors of the Association and 'director' shall have a corresponding meaning;
 - (g) 'Body Corporate' means the body corporate of The Retreat at Hazeldean 1 scheme, the functions, duties and powers whereof shall be assigned to the Association as contemplated in Regulation 30(2)(b) of the Act from the date of its establishment and performed by the Board of Directors;
 - (h) 'communal facilities' means the communal facilities to be established on Tijger Vallei Extension 24 Township or such other designated property, comprising, but not necessarily limited to, a clubhouse and related facilities and a frail care facility, and the "owner of the communal facilities" shall have a corresponding meaning, whether such owner is the developer or its successors in title;
 - (i) 'developer' means Hazeldean Retreat (Proprietary) Limited, No. 2003/027268/07, The Hariva Trust, No IT 3443/2007 and The Intercare Infinity Property Trust, No IT 3603/2007;
 - (j) 'development' means the retirement property development known as The Retreat at Hazeldean, which development is to be laid out on sub-divisions of Portion 152 (A Portion of Portion 19) of the Farm Zwartkoppies No 364, JR, and on which properties certain extensions of the townships named Tijger Vallei are to be

established and which development shall comprise the respective sectional title schemes and the communal facilities;

(k) 'development period' means, for the purpose of these rules, the period from the establishment of the first body corporate in the development until all the land (including a unit in a sectional title scheme or an interest or right therein) and portions thereof in the development have been fully developed and transferred by the developer to members of the Association;

(l) 'Management Association' means a Management Association established with effect from the date on which the developer first alienates a housing interest for occupation as contemplated in section 7 of the Retired Persons Act and Regulation 7 of the Regulations thereto;

(m) 'managing agent' means a managing agent appointed in terms of rule 6(1)(v);

(n) 'monthly levy' means the contributions from owners or nominated occupants levied in terms of rule 10 in order to manage, control, operate, administer, repair, service and maintain the common property in the scheme and, where applicable, in the development as a whole and 'levy' shall have a corresponding meaning;

(o) 'nominated occupant' means a person to which an interest in a housing development scheme is alienated for occupation as contemplated in section 7 of the Retired Persons Act and a reference to an "owner" in these rules shall, unless the contrary is evident from the contents hereof, also include a nominated occupant;

(p) 'owner' means an owner of a unit in the scheme and shall include, unless the contrary is evident from the contents hereof, a nominated occupant;

(q) 'registered mortgagee' means any mortgagee of whom the body corporate has been notified in writing as contemplated in section 44 (1)(f) of the Act;

(r) 'Retired Persons Act' means the Housing Development Schemes for Retired Persons Act 65 of 1988 as amended;

(s) 'scheme' means The Retreat at Hazeldean 1 sectional title scheme, which scheme forms a part of the development;

(t) 'trustee' means a trustee of the Body Corporate as defined in 2(g) above, and insofar as the powers, functions and duties of the Body Corporate shall be assigned to the Association, reference to 'trustee' shall include 'director' and *vice versa* unless the contrary is clear from the contents hereof;

(u) words and expressions to which a meaning has been assigned in the Act, shall bear the meanings so assigned to them;

(v) words importing the singular number only shall include the plural, and the converse shall also apply;

(w) words importing the masculine gender shall include the feminine, and neuter genders; and the neuter gender shall include the masculine and feminine genders;

(x) the headings to the respective rules are provided for convenience of reference only and are not to be taken into account in the interpretation of the rules.

Assignment of functions, powers and duties of Body Corporate

3. (1) The development shall comprise various sectional title schemes, of which this scheme will be one, together with the communal facilities.
 - (2) The members of the Association, as such owners or occupiers of units in the respective sectional title schemes, shall share the communal facilities and enjoy traversing rights over each others' property, rendering the individual management, administration and control of the respective sectional title schemes expensive and impractical.
 - (3) Therefore, notwithstanding any rule contained herein and in order to:
 - (i) save on administration costs, management fees and expenses; and
 - (ii) where necessary comply with various Acts and legislation that may be or may become applicable to the development; and
 - (iii) overcome any practical restrictions and conflicts in the applicable legislation and in order to effectively manage, control and administrate the affairs of the respective Bodies Corporate through a single body,

the duties, functions and powers of the Body Corporate and its trustees shall be assigned to the Association and its directors as contemplated in regulation 30(2)(b) of the Act.

Trustees of the Body Corporate

4. (1) The members of the Association in general meeting shall elect 2(two) trustees for the scheme; *provided that* during the development period one of the trustees shall be the developer or its nominee.
 - (2) The trustees so elected for the scheme, one of whom shall be the developer during the development period, shall be appointed to the Board of Directors of the Association, which Board shall thereafter perform the powers, functions and duties of the trustees as contemplated in Regulation 30(2) of the Act.
 - (3) To the extent that the minimum required number of trustees can not be appointed in respect of any particular sectional title scheme, additional trustees may in that event be nominated and elected, at any general meeting of the Association, from the ranks of the members of any of the other sectional title schemes.
 - (4) A trustee shall at all times be qualified to act as a director of a company as contemplated in the Companies Act, 1973.
 - (5) The Board of Directors shall conduct their business and manage their affairs in the manner prescribed in the Articles of Association of the Association.

The Functions, Powers and Duties

General

5. (1) The Retreat at Hazeldean 1 scheme is a scheme as contemplated in Regulation 30(2)(a) and(b) of the Act. The functions, duties and powers of the body corporate shall be performed or exercised by the Board of Directors of the Association.

(2) The trustees may conduct business pertaining exclusively to the Retreat at Hazeldean 1 scheme with due prior notice thereof to, and the consent thereto by the Board of Directors. Such business shall be concluded in a manner according to Articles of Association of the Association and these rules, with amendments where necessary.

Powers

6. (1) Without detracting from the scope of their powers as set out in the Articles of Association of the Association, the powers of the Board of Directors in the execution of their duties on behalf of the body corporate shall include, but not be limited to, the following:
- (i) manage, control and administer the sectional title schemes in the development, as well as the communal facilities, as one scheme;
 - (ii) be entitled to appoint such committees or sub-committees from their ranks and to delegate certain tasks to such committees or sub-committees as they deem fit and appropriate;
 - (iii) prepare one budget and to apply as far as possible the participation quotas, applicable to every member with regard to any contributions or special levies due by members in respect of the development as a whole or the scheme, with regard to the budgeted expenses;
 - (iv) regard the common property of the individual schemes, and any property owned by the Association, for purposes of the management of the development, as common property of a single scheme;
 - (v) appoint one Managing Agent; *provided that* during the development period and one year thereafter, the Managing Agent shall be appointed by the developer;
 - (vi) appoint one Auditor; *provided that* during the development period and one year thereafter, the auditor shall be appointed by the developer;
 - (vii) appoint such employees for the Association and the bodies corporate (where applicable) as they deem fit and appropriate and allow the Managing Agent to appoint such employees and service providers as the Managing Agent may deem necessary in the proper execution of its duties;
 - (viii) operate one bank account, as far as possible;
 - (ix) insure all buildings, common property and communal facilities, as required by the Act and Regulations, under one Insurance Policy;
 - (x) convene a single annual general meeting in respect of the members of the respective bodies corporate and the Association (excluding a general meeting contemplated in section 36(7)(a) of the Act), which general

meeting shall be held in accordance with the provisions of the Articles of Association of the Association

Duties

Statutory and General Duties

7. (1) Without detracting from the scope of the duties specified herein or in the Articles of Association of the Association, the Board of Directors shall perform the duties and functions entrusted to the trustees by sections 36 to 39 of the Act, with the necessary amendments.
- (2) The directors shall do all things reasonably necessary for the control, management and administration of the scheme and the common property in terms of the powers conferred upon the body corporate by the Act and these rules.

Signing of Instruments

8. No document signed on behalf of the body corporate, shall be valid and binding unless it is signed by a director and the managing agent, or by two trustees or, in the case of a certificate issued in terms of section 15B (3) (i) (aa) of the Act, by the managing agent.

Insurance

9. (1)(i) The Board of Directors shall take steps to insure the buildings and all improvements to the common property to the full replacement value thereof, and keep it so insured at all times, subject to negotiation of such excess, premiums and insurance rates as in the opinion of the directors are most beneficial to the owners, against-
- (a) fire, lightning and explosion;
 - (b) riot, civil commotion, strikes, lock-outs, labour disturbances or malicious persons acting on behalf of or in connection with any political organisation;
 - (c) storm, tempest and flood;
 - (d) earthquake;
 - (e) aircraft and other aerial devices or articles dropped therefrom;
 - (f) bursting or overflowing of water tanks, apparatus or pipes;
 - (g) impact with any of the said buildings or improvements by any road vehicle, horses or cattle;
 - (h) housebreaking or any attempted thereat;
 - (i) loss of occupation or loss of rent in respect of any of the above risks;
 - (j) such other perils or dangers as the directors or any holder of first mortgage bonds over not less than 25% in number of the units in the scheme, may deem appropriate.
- (ii) The Board of Directors shall at all times ensure that in the policy of insurance referred to in paragraph (i) above-
- (a) there is specified the replacement value of each unit-
 - (aa) initially (but subject to the provisions of subparagraph (cc)) in

accordance with the directors' estimate of such value;

(bb) after the first annual general meeting of the Association (but subject to the provisions of subparagraph (cc)) in accordance with the schedule of values as approved in terms of paragraph (iii); or

(cc) as required at any time by any owner in terms of subparagraph (iii)(c);

(b) any 'average' clause is restricted in its effect to individual units and does not apply to the building as a whole.

(c) there is included a clause in terms of which the policy is valid and enforceable by any mortgagee against the insurer notwithstanding any circumstances whatsoever which would otherwise entitle the insurer to refuse to make payment of the amount insured unless and until the insurer on not less than 30 days' notice to the mortgagee shall have terminated such insurance.

- (iii) Before every annual general meeting of the Association, the Board of Directors shall cause to be prepared schedules reflecting their estimate of-
- (a) the replacement value of the buildings and all improvements to the common property; and
- (b) the replacement value of each unit, the aggregate of such values of all units being equal to the value referred to in subparagraph (i) above, and such schedules shall be laid before the annual general meeting of the Association for consideration and approval.
- (c) Any owner may at any time request the increase of the replacement value as specified in the insurance policy in respect of his unit; *provided that* such owner shall be liable for payment of the additional insurance premium and shall forthwith furnish the body corporate with proof thereof from the insurer.
- (d) The directors shall, on the written request of a mortgagee and satisfactory proof thereof, record the cession by any owner to such mortgagee of the owner's interest in the application of the proceeds of the policies of insurance.
- (e) Any exclusion applicable to a specific sectional title scheme or communal facilities or any claims not covered adequately or at all in terms of the Insurance Policy in respect of a specific sectional title scheme or communal facilities shall be the liability of the members or owner of that specific scheme or facility only.
- (2) The Board of Directors shall take all reasonable steps, at all times,-
- (i) to insure the owners and directors and to keep them insured against liability in respect of-
- (a) death, bodily injury or illness; or
- (b) loss of, or damage to, property, occurring in connection with the common property, for a sum of liability of not less than One Hundred Thousand Rand, which sum may be increased from time to time as directed by the general meeting of the Association; and

- (ii) to procure to the extent, if any, as determined by the members of the Association in a general meeting, a fidelity guarantee in terms of which shall be refunded any loss of moneys belonging to the body corporate or for which it is responsible, sustained as a result of any act of fraud or dishonesty committed by any insured person being any person in the service of the body corporate or Association and all trustees and persons acting in the capacity of managing agents of the Association.
- (3) The owners may by special resolution direct the directors to insure against such other risks as the owners may determine.

Contributions in terms of sections 37 (1) and 47 of the Act

- 10. It shall be the duty of the Board of Directors to levy and collect contributions from the owners and nominated occupants in accordance with the provisions of article 4 of the Articles of Association of the Association.

General Meetings

- 11. (1) In terms of the provisions of section 36(7)(a) the first meeting of owners shall be held within sixty days of the establishment of the body corporate, at least seven days' notice of which shall be given in writing, and which notice shall be accompanied by a copy of the agenda of such meeting and details of the items referred to in sub-rule 2.
- (2) The agenda for the first meeting convened under sub-rule (1), shall comprise at least the following:
 - (i) the consideration, confirmation or variation of the insurances effected by the developer or the body corporate;
 - (ii) The consideration, confirmation or variation of an itemised estimate of the anticipated income and expenses of the body corporate and the Association for the ensuing financial year;
 - (iii) the consideration and approval, with or without amendment, of the financial statements relating to the management, control and administration of the building from date of establishment of the body corporate to the date of notice of the meeting referred to in sub-rule (1);
 - (iv) subject to section 47(2) of the Act, the taking of cession of such contracts relating to the management, control and administration of the building as may have been entered into by the developer for the continual management, control and administration of the building and the common property and in respect of which the developer shall be obliged to submit such contracts to the meeting;
 - (v) the appointment of an auditor, subject to rule 6(i)(vi) and the Articles of Association of the Association.
 - (vi) the election of the first trustees; and
 - (vii) determination of the *domicilium citandi et executandi* of the body corporate.

12. (1) An annual general meeting shall thereafter be held in the manner prescribed in the Articles of Association of the Association.
- (2) For purposes of any quorum requirement and for approval of a special or unanimous resolution, the members of all the sectional title schemes shall participate jointly and shall be reckoned for purposes of each resolution, as one scheme comprising of all the units of the individual schemes; *provided that* where any resolution or amendment of any of the rules affects a particular sectional title scheme only, the members of that specific scheme may resolve to adopt the required resolution or amendment; *provided further that* such resolution or amendment shall stipulate clearly that it is applicable to and enforceable by the members of that particular scheme only.
- (3) Notwithstanding its date of incorporation, the financial year of the body corporate shall coincide with the financial year end of the Association and shall run from the first day of July in each year to the last day of June in the following year.

Domicilium citandi et executandi

13. (1) The directors shall from time to time determine the address constituting the *domicilium citandi et executandi* of the body corporate as required by section 37 (1) (m) of the Act, subject to the following-
- (a) Such address shall be situated in the magisterial district in which the scheme is situated and shall be the address of the Association;
- (b) no change of such address shall be effective until written notification thereof has been received by the Registrar of Deeds.
- (c) the Board of Directors shall give notice to all owners of any change of such address.
- (2) The *domicilium citandi et executandi* of each owner shall be the address of the section registered in his name; *provided that* such owner shall be entitled from time to time to change the said *domicilium* but that any new *domicilium* selected shall be situate in the Republic, and that the change shall only be effective on receipt of written notice to this effect by the body corporate at its *domicilium*.

Duties of Owners and Occupiers of Sections

14. In addition to his obligations in terms of section 44 of the Act, an owner-
- (1) shall not use his section, exclusive use area or any part of the common property, or permit it to be used, in such a manner or for such purpose as shall be injurious to the reputation of the building or contrary to the common purpose of the development;
- (2) shall not contravene, or permit the contravention, of any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any licence, relating to or affecting the occupation of the building or the

common property, or so contravene or permit the contravention of the conditions of title applicable to his section or any other section or to his exclusive use area or any other exclusive use area;

- (3) shall not make alterations which are likely to impair the stability of the building or the use and enjoyment of other sections, the common property or any exclusive use area;
- (4) shall not do anything to his section or exclusive use area which is likely to prejudice the harmonious appearance of the building;
- (5) shall, when the purpose for which an exclusive use area is intended to be used, is shown expressly or by implication on or by a registered sectional plan, not use, nor permit such exclusive use area to be used, for any other purpose; *provided that* with the written consent of all owners such exclusive use area may be used for another purpose;
- (6) shall not construct or place any structure or building improvement on his or her exclusive use area, without the prior written consent of the directors, which shall not be unreasonably withheld and that the provisions of section 24 and section 25 or other relevant provisions of the Act or the rules, will not be contravened;
- (7) shall maintain the hot water installation which serves his section, or, where such installation serves more than one section, the owners concerned shall maintain such installation 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 body corporate.

Binding nature

15. The provisions of these rules, the conduct rules, the Articles of association of the Association and the duties of the owner in relation to the use and occupation of sections and common property shall be binding on the owner of any section and any lessee or other occupant of any section, and it shall be the duty of the owner to ensure compliance with the rules by his lessee or occupant, including employees, guests and any member of his family, his lessee or his occupant.

Owner's failure to maintain

16. If an owner-
 - (1) fails to repair or maintain his section in a state of good repair as required by section 44 (1) (c) of the Act; or
 - (2) fails to maintain adequately any area of the common property allocated for his exclusive use and enjoyment,and any such failure persists for a period of thirty days after the giving of written notice to repair or maintain given by the directors or 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.

Determination of disputes

17. Any dispute between the Association or body corporate and an owner or between owners arising out of or in connection with or related to the Act, these

rules or the conduct rules, save where an interdict or any form of urgent or other relief may be required or obtained from a Court having jurisdiction, shall be determined in terms of the provisions of the Articles of Association of the Association.

General

18. (1) The rights derived from and the obligations conferred upon any sectional title scheme in terms hereof shall entitle such scheme irrevocably to sue or to be sued or to take any action for the enforcement of the provisions of the Act and the Rules in its own name, without reference or formal cession from any of the other schemes; *provided that* the Board of Directors approves and oversees the institution or defense of such action and subject to any directions that may be given by the Association in general meeting.
- (2) Insofar as any administrative, procedural and management aspects may require amendment in order to attain the objects of the Memorandum and Articles of Association of the Association, the Board of Directors may constitute a Rules Committee to supplement and/or amend and/or repeal any of these rules as they deem appropriate and in a manner they deem fit and proper; *provided that* these rights do not confer upon the directors the right to impose any restrictive conditions on the proprietary rights of any of the members without their knowledge or consent thereto.
- (3) No amendment to the rules shall be adopted unless the corresponding rule(s) of all the other sectional title schemes in the development and the corresponding provisions the Memorandum and Articles of Association of the Association are similarly amended.
- (4) For the purpose of reference, a copy of the Memorandum and Articles of Association of The Retreat at Hazeldean Owners Association is annexed hereto as Annexure "A", the contents whereof shall, where necessary, be read herewith as if specifically incorporated herein.
- (5) In the event of any contradicting provisions in these management rules and the Articles of Association of The Retreat at Hazeldean Owners Association, the provisions of the Articles of Association shall prevail.

Annexure

Annexure "A": Articles of Association of The Retreat at Hazeldean Owners Association, Registration No. 2008/006842/08