

LA TOSCANA HOME OWNERS ASSOCIATION
CONSTITUTION

1. THE NAME

1.1 The name of the Association is : LA TOSCANA HOME OWNERS ASSOCIATION

2. DEFENITIONS AND INTERPRETATION

2.1 In this constitution unless the context otherwise indicates:

2.1.1 Any notices for all purposes of this constitution including the dissolution thereof, shall:

2.1.1.1 Be in writing;

2.1.1.2 Be sent by registered post, by facsimile transmission, delivered by hand or by e-mail;

2.1.1.3 Be addressed to the respective party at his chosen *domicilium citanti et executandi* in terms of this constitution; and

2.1.1.4 Be deemed to have been received by the party to whom it is addressed at the time of delivery thereof, or on the 14th (fourteenth) day following the posting thereof (excluding the day upon which it is posted) in the Republic of South Africa, as the case may be. Notwithstanding anything to the contrary contained herein, a notice received by a party shall be deemed to be a notice in terms of this clause,

notwithstanding that it was not sent in terms of the foregoing provisions.

2.1.2 The heading to the respective clauses are for reference purposes only, and shall not be taken into account in the interpretation of this constitution.

2.1.3 Where any consent or approval is required for any act by a Member, such consent or approval, shall:

2.1.3.1 Be in writing and signed by the Association or its authorized agent;

2.1.3.2 Not be unreasonably withheld; and

2.1.3.3 Be given prior to the Member taking such action.

2.1.4 The singular shall include the plural and vice versa.

2.1.5 The male gender shall include the female and neuter genders and vice versa.

2.1.6 In the event of any provision of this constitution being unenforceable for any reason whatsoever, then such provision shall be deemed to be separate and severable, without in any way affecting the validity of the remaining provisions.

2.1.7 The following words and expressions shall bear the meanings assigned to them hereunder.

2.1.7.1 **Alienate** – Alienate any Land, Subdivision or any undivided share therein. This includes by way of sale,

exchange, donation, deed, intestacy, will, session, and assignment, Court Order or Insolvency, including any alienation whether voluntary or involuntary, irrespective of whether such alienation is subject to a resolutive or suspensive condition. Alienation shall have a corresponding meaning.

- 2.1.7.2 **Association** – La Toscana Home Owners Association.
- 2.1.7.3 **Building** – Any building in the Village.
- 2.1.7.4 **Committee** – The committee elected in this constitution.
- 2.1.7.5 **Financial year** – From the first day of October in a year to the last day of September in the next year.
- 2.1.7.6 **Founder member** – the developer namely Sabie Gardens (Pty) Ltd
- 2.1.7.7 **Land** – The erven situated within the townships of Bardene Extensions 27 and 33, Registration Division I.R., Province of Gauteng.
- 2.1.7.8 **Member** – A Member of the Association shall be the registered owner of an Erf in the Township, Bardene Extensions 27 and 33, Registration Division I.R., Province of Gauteng which membership shall be automatic on date of registration of the Erf or a portion thereof or consolidation thereof or within two (2) months of having signed the purchase agreement in respect of the Erf (whichever is the earlier). One natural person shall, only present an owner other than a natural person, duly

nominated by such owner. Such joint owners shall nevertheless as far as the payment of levies is concerned, be liable for payment thereof jointly, severally and in solidum.

- 2.1.7.9 **Registered address** – The Registered Address of a Member in terms of this constitution shall be the member's Erf.
- 2.1.7.10 **Rules** – The Conduct Rules, annexed hereto marked Annexure "A"
- 2.1.7.11 **Village** – All the Erven including the Road portions in Bardene Extensions 27 and 33, Registration Division I.R., Province of Gauteng.
- 2.1.7.12 **Township** – Bardene Extensions 27 and 33, Registration Division I.R., Province of Gauteng
- 2.1.7.13 **Erf** – An Erf in the Township of Bardene Extensions 27 and 33, Registration Division I.R., Province of Gauteng.
- 2.1.7.14 **Levies** – as contemplated in 7.5
- 2.1.7.15 **Owner** – A natural or Juristic person, partnership, church, society, voluntary association, trust, or other body of persons or any institution (whether created by statute or otherwise).
- 2.1.7.16 **Developer** – Sabie Gardens (Pty) Ltd.

3. **PREAMBLE**

WHEREAS:

- 3.1 The land is to consist of the erven in the Village.
- 3.2 No Erf or portion thereof in the Village may be transferred without the prior written consent of the La Toscana Estate Home Owners Association, which shall be given on payment of all levies due and payable in terms of a written advice from the said Association, which written consent shall be given within seven (7) days of receipt of the final payment and the request being made.

4. **OBJECTS DUTIES AND OBLIGATIONS OF THE ASSOCIATION**

- 4.1 The objects, duties and obligations of the Association are:
- 4.1.1 To make the road available to members. Also at the cost of members to maintain the road in every aspect which shall have been constructed at the cost of the Founder Member and which the Founder Member has specifically agreed to ensure is in a good condition subject to the applicable wear and tear on completion of all building within the Village, including full responsibility for the function and proper maintenance of the portion for roadway purposes. (The Local Authority shall not be liable for the defectiveness or the in falling of the Roadway and/or essential services); and
- 4.1.2 To maintain the supply of water and electricity for lighting to the Road and common areas;

- 4.1.3 To maintain and control the security of the Village, including the replacement of any equipment which may be required;
- 4.1.4 To maintain and replace where necessary the entrance and exit gates, the fences and perimeter wall/fences in the Village;
- 4.1.5 To read any meters for the supply of any service in respect of which the Association is held responsible;
- 4.1.6 To maintain those parts of the Road which constitute a garden and/or park in the Village;
- 4.1.7 To do anything which may be necessary to give effect to the nature and purpose of the Village, or to carry out any specific direction or instruction of majority of Members;
- 4.1.8 To ensure acceptable aesthetic, architectural and environmental standards in the Village;
- 4.1.9 To ensure that each of the Members of the Association use the private road in the Village in consideration of and deliberation of the other members, which use shall be entirely at the user's own risk;
- 4.1.10 To collect levies from all Members and to issue clearance certificates as contemplated in paragraph 3.2;
- 4.1.11 To enforce all Conduct Rules, Architectural Rules and rules relating to Building activities in the Village;

5. **NATURE OF THE ASSOCIATION AND ITS PROFITS**

5.1 The Association is a corporate body under the common law known as a universitas personarum.

5.1.1 The Association has perpetual succession that is, it continues as an entity notwithstanding changes of membership in it. The Association holds its assets distinct from its Members and no Member has any right, title, claim or interest to the assets of the Association by reason of his membership. The Association is capable of suing and being sued in its own name.

5.1.2 The Association is responsible for payment of its debts and not its Members'; and

5.1.3 The Association does not have the object of doing business that has as its aim the making of any profit or gain for the Association or its Members.

5.2 The Association is not permitted to distribute any of its funds, profits, or its gains to its Members or any person which profits or gains are to be derived solely from transactions with or on behalf of its Members; and

5.3 The Association is required to utilize its funds, profits or gains solely for the object for which it has been established.

6. **POWERS OF THE ASSOCIATION**

6.1 Subject to clause 4 the Association shall have the necessary power to give effect to its object. This includes the power to:

- 6.1.1 Enter into any arrangements with any Government or authorities, supreme, municipal, local or otherwise;
- 6.1.2 Invest and deal with the money of the Association that is not immediately required in such a manner as the Association may deem fit, except for speculation.
- 6.1.3 Remunerate any person or company for services rendered or to be rendered in respect of organizing or managing the Association's affairs;
- 6.1.4 Open bank accounts and to draw, make, accept, endorse, discount, execute and issue negotiable or transferable instruments of any kind to borrow money, subject to the provisions of 9.3.7;
- 6.1.5 Apply for and to obtain any order, regulation or other authorization or provision that is to the benefit of this Association;
- 6.1.6 Make such Rules as are conducive to the Association attaining its object, to amend such Rules including the Rules annexed hereto, and this constitution – which can only be done at a General Meeting of which notice to do so is given;
- 6.1.7 Generally do or have all such things done as may appear in the Association to be incidental or conducive to the attainment of the objects of the Association;

7. **MEMBERS AND MEMBERSHIP**

- 7.1 The Association shall have the following classes of Membership:

7.1.1 Founder Membership. In this regard the only Founder Member shall be the Developer. When the Developer is no longer the registered owner of Land, he shall cease to be the Founder Member and Founder membership shall, in terms of this constitution cease;

7.1.2 The Founder Member shall be liable to pay levies in the amount of R200.00 (two hundred Rand) in respect of any unimproved land (registered in the Founder Member's name) in the Village on a monthly basis;

7.1.3 In addition to the aforementioned, the costs of security will be divided on a pro rata basis between the HOA and the Founder member (the basis being the percentage of occupation);

7.1.3 Ordinary Membership. Shall be a Member defined in 2.1.7.8 hereof.

7.2 **Application for membership**

7.2.1 Ordinary Members obtain Membership as defined in 2.1.7.8 hereof;

7.2.2 A Member shall be obliged to insert as a condition of sale, when alienating the Member's erf or Member's interest in a Close Corporation / Shares in a company or interest in a trust which owns such erf, that the purchaser thereof is aware that he is purchasing subject to the express condition that on date of registration of transfer of the erf into his name he shall automatically be a member of the Association and thereby be subject to the Association's Constitution and Rules.

7.3 **Termination of membership**

7.3.1 Membership shall terminate automatically when a member is no longer the registered owner of an Erf or a portion thereof in the Township (see also 2.1.7.8). In such event the member shall, notwithstanding termination of his membership, remain liable for any dues owing by him to the Association as at that date.

7.4 **Rights and obligation of a member**

7.4.1 A member shall be deemed to have knowledge of the Constitution and Rules made in terms thereof;

7.4.2 A member shall be entitled to knowledge or sight of the minutes of the meetings of the Committee;

7.4.3 A member shall notify the Association of any change of address;

7.4.4 Membership is transferable, but only when a Member alienates his Erf/portion. In such event the Member's membership is transferred automatically, providing there is compliance with 7.2, to the transferee and compliance with 3.2;

7.4.5 Each member shall have one vote, per property that is registered in that member's name, at any General Meeting of the Association, unless he is in arrear with any dues;

7.4.6 A Member may not alienate his Erf/portion or any interest therein including any alienation of Shares in a Company, any alienation of any Members interest in a Close Corporation or any alienation

of interest or right in a Trust where such Company, Close Corporation or Trust is the owner of such Erf/portion without first obtaining a clearance certificate from the HOA wherein it is certified that all levies have been paid. The Association shall require that a transferee becomes a Member of the Association. The Association shall also be entitled on Alienation of an Erf by a member that the Member pays or makes provision to the satisfaction of the Association for any dues owing by him to the Association as at that date.

7.4.7 A Member may only erect buildings on the erf in accordance with municipally approved building plans, which have also been approved in writing by the HOA.

7.5 **LEVIES**

RAISING OF LEVIES

7.5.1 The Committee shall from time to time raise levies which are payable by the members for the purpose of meeting any expenses which the Association is to incur / has incurred pursuant to its obligations in terms of this Constitution. If any member negligently or intentionally damages any asset of the Association such member shall be personally responsible for such damage.

7.5.2 Before every Annual General meeting, the Committee shall cause to prepare an itemized estimate of the anticipated income and expenses of the Association during the ensuing Financial Year ("the Budget"). The budget shall include a reasonable

provision for future expenses or contingencies. The budget shall be laid before the Annual General meeting for consideration.

RESPONSIBILITY OF MEMBERS

7.5.2 Each member shall be liable for the nett expenses of the Association in terms of the Budget, which shall be calculated in terms of the method agreed upon by the majority of the members by means of a vote, which shall be done from time to time. The levy is due and payable by the Member who is a member at the time the levy is raised and is due and payable, as determined by the Committee.

7.5.3 The credit policy in respect of the payment of arrear levies shall be as follows:

30 days- letter requesting payment;

45 days- final demand

60 days- member will be handed over to attorneys for collection.

The costs will be for the member's account on an attorney and own client scale.

8. MANAGEMENT

8.1 The affairs of the Association shall be controlled, administered and managed by a Committee, elected by the members present in person or by proxy at an Annual General Meeting of the Association, which Committee shall hold office for a period of one year, subject to the following conditions;

COMPOSITION OF THE COMMITTEE AND EXECUTIVE COMMITTEE

8.1.1 The Committee shall consist of only members of the Association. The Committee shall consist of five (5) members, who shall be natural persons or in the case of a member who is not a natural person, such member's nominee.

8.2 **MANAGEMENT**

8.2.1 The election of the Committee referred to in clause 8 hereof shall be performed at each Annual General Meeting in the following manner:

- (a) election of a Chairperson;
- (b) election of a Secretary;
- (c) election of a Treasurer;
- (d) election of a further two (2) committee members;

8.2.2 At all meetings of the Committee, the Chairperson shall act as Chairperson of the meeting or in his absence any other member of the Committee nominated by the chairperson, shall act as Chairperson.

8.2.3 At all meetings of the Committee, 4 (four) members including the Chairperson shall constitute a quorum.

8.2.4 All questions arising at any meeting shall be decided by simple majority and in case of an equality of votes, the chairperson, shall have a casting vote in addition to his deliberative vote.

8.2.5 The Secretary of the Committee may and shall on the requisition of a Committee member or 2 (two) members, summon a meeting of the Committee.

8.2.6 The Committee shall meet and conduct its business as it deems fit.

8.2.7 At least 7 (seven) clear days written notice of meetings shall be given to all Committee Members. However, should a majority of the Committee agree to accept short notice of a meeting, the meeting shall be deemed to be duly constituted.

8.2.8 All acts done by any meeting of the Members of the Committee or of a Committee of the Members of the Committee, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Members of the Committee, or that they or any of them were disqualified for any reason, be as valid as if every such person had been duly appointed and was qualified to be a Member of the Committee.

8.2.9 A committee member may be removed from office by the committee in the event of his failure to attend 4 (four) consecutive committee meetings, without prior written notice.

8.3 **VACANCIES**

8.3.1 A Committee Member automatically vacates his office if he ceases to be a Member.

8.4 **POWERS AND DUTIES OF THE COMMITTEE**

8.4.1 The Committee shall have all such powers as the Association has in paragraph 6 and also such further powers as may be required to give effect to the objects of the Association in terms of this Constitution.

8.4.2 Without limiting the generality of the powers afforded to the committee, it is recorded that the committee shall have the authority to incur expenditure on behalf of the Association or commit the Association to obligations not exceeding R10,000.00 (Ten Thousand Rand) in value during any one calendar month without the authority of a general meeting of the Association.

8.4.3 The committee members shall be reimbursed by the Association for all reasonable substantial expenditure incurred by them on behalf of the Association during the course of carrying out their duties as committee members.

8.4.4 The committee shall, provided that the expenditure thereby incurred is in accordance with the budget approved by the members of the Association in a general meeting, have specific power and authority to do all such things as may be reasonably necessary in order to maintain the road, curb stones, perimeter wall, access gates and intercom system within the Village.

8.5 **MINUTES**

8.5.1 The members of the Committee shall cause written minutes to be made in a minute book/file provided for that purpose, which minutes shall also record all agreements concluded by the Committee, the names of the members present at each meeting

of the Committee and all resolutions and proceedings of all meetings of the Committee. All minutes shall be available to all members on notice. Only resolutions shall be minuted – not the discussion relating thereto. This clause shall also apply to General Meetings.

9. **GENERAL MEETING**

9.1 Convening and notice of general meetings

9.1.1 The Association shall not later than 6 (six) months after the end of each Financial Year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year.

The Annual General Meetings shall be held at such place and at such time as the Committee may decide. All meetings other than the Annual General Meeting, shall be called Special General Meetings.

9.1.2 The Committee may meet whenever they deem fit, and they shall upon requisition made in writing by at least 10 (ten) members of the Association who are entitled to vote, and, who state the object of the meeting, convene a Special Meeting.

9.1.3 In the case of a Special Meeting called in pursuance of a requisition, unless such meeting shall have been called by the Committee, no business other than that stated in the requisition as the object of the meetings shall be transacted.

9.1.4 An Annual General Meeting and a Special General Meeting shall be called by giving at least 7 (seven) days written notice thereof. The notice shall be exclusive of the day for which it is given, and

shall specify the place, the day and the hour of the meeting, and in case of special business, the general nature of such business. Every notice calling an Annual General Meeting or Special General Meeting, shall specify the meeting as such.

9.1.5 In every notice calling a General Meeting of the Association, there shall appear with reasonable prominence a statement that a member entitled to attend a vote is entitled to appoint a proxy to attend and vote instead of him. Such holder of a proxy may hold only one proxy appointment.

9.1.6 The *bona fide* omission to give notice to any member entitled under the Constitution to receive notice of a general meeting or the non-receipt by any such member of such notice shall not invalidate the proceedings at the meeting.

9.2 **PROCEEDINGS AT GENERAL MEETINGS**

9.2.1 The business of an Annual General Meeting shall be to:

- (a) confirm the minutes of the previous Annual General meeting, and any Special General Meeting held in the Year proceeding the meeting;
- (b) receive and consider the income statement and balance sheet for the previous financial year;
- (c) receive and consider the report of the Chairperson of the Committee;
- (d) elect auditors and fix their remuneration;
- (e) table the budget for approval with or without amendment for the ensuing year; and
- (f) any other matters which any member or the Committee wishes to discuss and in respect of which notice is given.

- 9.2.2 No business shall be transacted at any General meeting unless a quorum of members is present. A quorum shall consist of not less than 15 (fifteen) members plus at least a quorum of the committee personally present or represented by proxy who are entitled to vote, and the proxy or nominee of the Contractor/Developer while he is a member.
- 9.2.3 If, within half-an-hour from the time appointed for a General Meeting, a quorum of members is not present, the meeting, if convened by or on the requisition of members shall be dissolved. In any other case (i.e. convened by the Committee) it shall stand adjourned to the same date of the next week at the same time and place, and if, at such adjourned meeting, a quorum is not present within half-an-hour from the time appointed for the meeting, those members who are present shall be deemed to be a quorum and may do all business which a quorum might have done.
- 9.2.4 The Chairperson of the Committee or in his absence the duly nominated Committee member shall reside as Chairperson at every General Meeting of the Association. If there is no such Chairperson or nominated Committee member at any meeting or if he is not present within 15 (fifteen) minutes after the time appointed for holding the meetings, or is unwilling to act as Chairperson, the members present shall choose one of the members of the Committee present and willing to take the chair, to be Chairperson.
- 9.2.5 The Chairperson may, with the consent of any General Meeting, at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time and from place to

place, but no business shall be transacted to any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 (thirty) days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give notice of an adjourned meeting or of the business to be transacted thereat.

9.3 **VOTING AT GENERAL MEETINGS**

9.3.1 At any General Meeting, every question shall be decided in the first instance by a poll on a show of hands, unless a poll by ballot be (on or before declaration of the result of the poll by show of hands) directed by the chairperson or demanded by at least 4 (four) members entitled to vote. A declaration by the Chairperson that a resolution has been carried or not carried by a particular majority, and an entry to that effect in the minute book/file of the Association shall be conclusive evidence of the votes recorded in favour of or against such resolution. The demand for a poll by ballot may be withdrawn.

9.3.2 If a poll by ballot be directed or demanded in the manner before mentioned, it shall, subject to the provisions of 9.3.1 be taken at such time and such poll shall be deemed to be a resolution of the meeting at which the poll was directed.

9.3.3 No objections to the admission or rejection of any vote shall be taken except at the meeting at which the vote in dispute is given or tendered. The Chairperson shall determine any such objection that is made within the due time and such determination shall be final and conclusive.

9.3.4 A poll by ballot demanded upon the election of a Chairperson or upon question of adjournment shall be taken forthwith. Any business other than that upon which a poll by ballot has been demanded, may be proceeded with pending the taking of the poll.

9.3.5 Any matter excluding the amendment or repeal of the Constitution, is decided by simple majority vote. The amendment or repeal of the constitution shall be decided by a simple majority vote at a special general meeting specially convened for that express purposes.

9.3.6 Each member shall have one vote on either a show of hand or by ballot, provided that at the time of the meeting he is not in arrear with any dues to the Association. A certificate under the hand of the auditor shall be prima facie evidence that a member is in arrear with dues to the Association at the time of the meeting.

9.3.7 Only a General Meeting can pass resolutions in respect of those matters referred to in 9.2.1 (b)(d)(e), the amendment or repeal of the constitution and borrowing of money.⁴

9.3.8 The General Meeting may delegate other matters to the Committee.

10. **NOTICE**

10.1 Unless a member notifies the Association to the contrary, a member's *domicilium citandi et executandi* for all purposes arising from or connected with this Constitution, shall be the member's erf. The Association's *domicilium citandi et executandi* shall initially be or such

other address as the Association may from time to time notify members. A member may, subject to 10.2 change his address by notifying the Association accordingly, provided such address is neither a post box number nor a *poste restante* address.

10.2 No member shall be entitled to have a notice served on him at any address not within the Republic, but any member whose registered address is not within the Republic may, by notice, require the Association to register an address within the Republic which, for the purposes of the service of notices, shall be deemed to be his registered address. A member who has no registered address within the Republic and has not given notice as aforesaid, shall not be entitled to receive any notice from the Association.

10.3 Notice of every General Meeting shall be given in any manner hereinbefore provided to: -

10.3.1 Every member who is entitled to vote. In this regard a member is not entitled to vote if he is in arrear with any of his dues to the Association in terms of 9.3.6; and

10.3.2 The Auditor of the Association. No other person shall be entitled to receive notices of General Meetings.

11. **ACCOUNTS**

11.1 The Committee shall cause proper books of accounts (being such books of accounts as are necessary to give a true and fair view of the state of the Association's affairs and to explain the transactions) to be kept with respect to:

- 11.1.1 All sums of money received and expended by the Association and the matters in respect of which such receipts and expenditures take place; and
- 11.1.2 The assets and liabilities of the Association;
- 11.1.3 A current banking account shall be opened in the name of the Association and transactions thereon shall require the signature of any two of either the Treasurer or the Chairperson and an alternative member of the Association.
- 11.2 The books of account shall be kept at the offices of the Association or the Auditor's offices or at such other place as the Committee may determine and shall always be open for inspection of the members of the Committee.
- 11.3 The Association shall from time to time in accordance with generally accepted accounting practice, cause to be laid before the Association at the Annual General meeting an income statement and balance sheet.
- 11.4 A copy of every balance sheet and income statement, including every document, required by generally accepted accounting practice to be annexed thereto, which is to be laid before the Association at an Annual General Meeting, together with a copy of the Auditor's Report, shall be available for any Member present at a General Meeting.
- 11.5 The reference to "Auditor" in terms of this Constitution is a reference to any auditor qualified to act as such under the Public Accountants and Auditors Act 1991, Act No. 80 of 1991, or an Accounting officer who in terms of Section 60(2) of the Close Corporation Act, 1984, Act No. 69 of 1984, is qualified to perform the duties of an Accounting officer. The

Auditor's duties are similar to those of an accounting officer of a Close Corporation in terms of the said Close Corporation Act.

12. **INDEMNITY**

12.1 Every member of the Committee, agent, auditor, secretary, servant and other officer or employee for the time being of the Association, shall be indemnified out of the assets of the Association, against any liability incurred by him arising out of his aforesaid office in defending any proceedings, whether civil or criminal, on which judgment is given in his favour or in which he is acquitted, provided that the Association's liability pursuant to such indemnity shall only extend such amount which the Association may recover from its insurers or such amount as the Committee in its discretion may decide.

12.2 Should the Association be dissolved or wound up, the assets of the Association must be given or transferred to another society, Association or company that has similar objectives to those of the Association, after all obligations of the Association have been met.

13. **DETERMINATION OF DISPUTES**

13.1 Any dispute, arising out of or in connection with this Constitution, except where an interdict is sought or urgent relief may be obtained from a Court of competent jurisdiction must be determined in terms of this clause.

13.2 If a dispute arises, the party who wishes to have the dispute determined must notify the other party, including the Committee thereof. Unless the dispute is resolved amongst the parties to that dispute within 14 (fourteen) days of such notice, either of the parties may refer the dispute for determination in terms hereof.

- 13.3 The expert shall be, if the matter in dispute is –
- a) primarily an accounting matter, an independent registered chartered accountant;
 - b) primarily a legal or any other matter, a practising attorney;
- agreed upon between the parties involved in the dispute and failing agreement in that regard within 14 (fourteen) days after the determination has been demanded, appointed by the President for the time being of the South African Institute of the Chartered Accountants or Law Society of the Northern Provinces as the case may be.
- 13.4 Any person nominated as aforesaid (the Expert) shall in all respects act as an Expert and not an arbitrator.
- 13.5 Subject to 13.6 and 13.10 in regard to costs, the Expert shall be bound to follow the general principles of South African law.
- 13.6 The Expert shall be vested with the entire discretion as to the procedure and manner to be followed in arriving at his decision, and in this regard shall be bound to the principles of South African law regarding procedure and evidence.
- 13.7 The parties shall use their best endeavours to ensure that the decision of the Expert shall be given as soon as possible after it has been demanded.
- 13.7.1 The Expert's decision shall be final and binding subject to the right of appeal referred to in 13.7.2, on all the parties affected in any manner thereby and shall be carried into effect and may be

made an order of any competent Court at the instance and cost of any of the parties.

13.7.2 Any party to the dispute, any member of the Association or the Committee, shall have a right to appeal such decision to the High Court and shall note the appeal within 30 (thirty) days of the expert's decision with the Registrar of the High Court and shall thereafter prosecute the appeal as provided in the Supreme Court Act 59 of 1959, failing which 13.7.1 shall apply.

13.8 The provision of this clause; -

13.8.1 Constitute the irrevocable consent by the members to any proceedings in terms thereof and none of the parties shall be entitled to withdraw there from or claim that in any such proceedings that it is not bound by such provisions; and

13.8.2 Are severable from the rest of this Constitution and shall remain in effect even if this Association is disbanded for any reason whatsoever.

13.9 The party who exercises his right in terms of 13.2 shall establish from the Expert what his estimated fees will be, and the parties shall in equal shares be liable for payment of such fees irrespective of any other award the Expert may make in regard to any other costs. The amount shall be deposited with the Expert prior to the commencement of the proceedings, whom shall hold such amount in trust for himself. If any party fails to comply with his obligation, he shall be deemed to be in breach of the provisions of this Constitution.

13.10 The Constitution shall be deemed to have come into operation on the date of the proclamation of the Township known as La Toscana.

THUS DONE AND SIGNED BY THE CHAIRPERSON AND COMMITTEE MEMBER
AT _____ ON THIS THE ____ DAY OF _____

AS WITNESS:

1. _____
CHAIRPERSON

2. _____
COMMITTEE MEMBER

THUS DONE AND SIGNED BY THE MEMBER/PURCHASER AT _____
ON THIS _____ DAY OF _____

AS WITNESS:

1. _____
MEMBER/PURCHASER