

CONSTITUTION

STEINHOFF INDUSTRIAL PARK (GEORGE) PROPERTY OWNERS ASSOCIATION

A Body Corporate established
In terms of Section 29 of the Land Use
Planning Ordinance, 15 of 1985

1. ESTABLISHMENT IN TERMS OF STATUTE

Steinhoff Industrial Park (George) Property Owners Association is constituted, as a body corporate, in terms of Section 29 of the Land Use Planning Ordinance, No. 15 of 1985, in accordance with the conditions imposed by the Municipality of George when approving, in terms of Section 25(1) and 42 of the said Ordinance, the subdivision of Erf 21710 George, in the Municipality and Division of George, Province Western Cape.

2. INTERPRETATION

In these presents:-

- 2.1 The following words shall, unless the context otherwise require, have the meanings hereinafter assigned to them:

“these presents”	means this Constitution and regulations and by-laws of the Association from time to time in force;
“the Association”	means the Steinhoff Industrial Park (George) Property Owners Association;
“the Office”	means the registered office, from time to time, of the Association;
“month”	means calendar month;
“year”	means calendar year;
“in writing”	means writing, printed or lithographed or partly one and partly the other, and other modes of representing or producing in words in a visible form;

“the Unit Erven”	means the subdivisions of Erf 21710 George, in the Municipality and Division of George, Province Western Cape
“Member”	means a member of the Association qualifying as such in terms of the provisions of clause 6 hereunder;
“the Trustee Committee”	means the Board of Trustees;
“a Trustee”	means one of the Trustee Committee;
“Chairman”	means any the Chairman of the Trustee Committee;
“Vice-Chairman”	means the Vice-Chairman of the Trustee Committee;
“Auditors”	mean the Auditors appointed by the Trustee Committee;
“the Developer”	means The Brood (Pty) Ltd or its nominee;
“the Council”	means the Municipality of George or its successor(s) in title succeeding to its present statutory responsibilities;
“Business Day”	means weekdays other than Saturdays, Sundays and Public Holidays;

“Special Resolution” means a resolution passed at a special general meeting of which not less than 21 clear days’ notice has been given specifying the intention to propose the resolution as a special resolution, in terms and effect of the resolution and the reasons for it, and passed, on a show of hands, by not less than three fourths of the total number of members present at the meeting who, at minimum, form a quorum for a general meeting;

“Steinhoff Industrial Park (George)” means the industrial park to comprise of unit erven No Erf24948toErf24986including 25784/25243/25242 excluding Erf 24968/9/70 which have been increased in size and are now Erf 25787/25786/25785 GEORGE.

“Steinhoff Industrial Park (George) Development Guidelines” means the Development Guidelines annexed hereto or such manual as may be substituted in respect thereof pursuant to the provisions of clause 18 hereunder.

“Steinhoff Industrial Park (George) Regulations” means the regulations annexed hereto or such regulations as may be substituted or amended by the trustee committee

pursuant to the provisions of
clause 19 hereunder.

- 2.2 unless the context otherwise requires, any words importing the singular number only shall include the plural number, and vice versa and words importing any one gender shall include the other two genders.

3. PURPOSE DESCRIBING THE MAIN BUSINESS

- 3.1 The main business of the Association is to carry on the promotion, maintenance, advancement and protection of the Members as well as to control and regulate the development of individual Unit Erven within the Steinhoff Industrial Park (George).

- 3.2 In order to qualify for Income Tax exemption in respect of levy income in terms of section 10(1)(e)(iii) of the Income Tax Act the following conditions shall apply:-

3.2.1 The main object of the association is to manage the collective interests common to all its members, which includes expenditure applicable to the common property of such members and the collection of levies for which such members are liable.

3.2.2 The association is not permitted to distribute its funds to any person other than legally required to a similar association of persons.

3.2.3 On dissolution the remaining assets must be distributed to a similar association of persons which is also exempt from income tax in terms of section 10(1)(e)(iii) of the Act.

3.2.4 Any amendments to the constitution must be submitted to the Commissioner of the South African Revenue Service.

3.2.5 Funds available for investment may only be invested with registered financial institutions as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984, and in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985, (Act No. 1 of 1985).

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

3.2.7 Annual returns of income together with financial statements shall be submitted to the Receiver of Revenue, Cape Town.

4. **MAIN OBJECT**

The main object of the Association is:

4.1 The control over –

4.1.1 all buildings, and/or structures erected or to be erected on the Unit Erven;

4.1.2 the landscaping and maintenance of pavements and public open spaces within Steinhoff Industrial Park (George);

4.1.3 the maintenance of the security corridor and fencing enclosing Steinhoff Industrial Park (George) as well as any security controls and/or structures which may be erected; and

4.2 the promotion, advancement and protection of the communal and group interest of the Members generally.

5. FINANCIAL YEAR END

The financial year end of the Association is end of June of each year.

6. MEMBERSHIP

6.1.1 Membership of the Association shall be compulsory for every registered owner of a Unit Erf

6.1.2 Such membership shall commence simultaneously with the transfer of the Unit Erf into the name of the transferee thereof.

6.2 Membership of the Association shall be limited to the registered owners of the Unit Erven provided that:

6.2.1 A person who is entitled to obtain a certificate of registered title to any such Unit Erf shall be deemed to be the registered owner thereof;

6.2.2 Where any such owner is more than one person, all the registered owners of that Unit Erf shall be deemed jointly and severally to be one Member of the Association.

7. When a Member ceases to be the registered owner of a Unit Erf, he shall *ipso facto* cease to be a Member of the Association.

8. A member shall not be entitled to:

8.1 sell or transfer a Unit Erf unless it is a condition of the sale and transfer that:

8.1.1 the transferee becomes a Member of the Association;

8.1.2 the registration of transfer of that Unit Erf into the name of that transferee shall *ipso facto* constitute that transferee as a Member of the Association;

- 8.1.3 he first obtains the written consent of the Association which consent shall be given provided the purchaser of such Unit Erf agrees in writing to abide by the rules of the Constitution of the Association.
- 8.2 the purchaser shall not erect any buildings and/or structures of any nature whatsoever, nor make any alterations, modifications or renovations to such buildings and/or structures ("the proposed work") on his Unit Erf without the written approval of the Trustees, which approval shall only be given-
 - 8.2.1 after detailed plans of the proposed work has been submitted to the Trustees, or any person nominated by the Trustees (who may be an Architect, registered with the South African Council of Architects or the Institute of South African Architects); and
 - 8.2.2 the Trustees or their nominees are satisfied that the proposed work is in accordance with the Development Guidelines, for the purpose of which, the Trustees or their nominee(s) shall be the sole arbiter and their decision shall be final and binding on the member; and
 - 8.2.3 provided that the foregoing shall not be interpreted as detracting from the obligation of the Member to submit to the Council the building plans in respect of the proposed work for approval nor from the sole and final responsibility of the Council to approve or reject such building plans.
- 9. The registered owner of a Unit Erf may not resign as a member of the Association.
- 10. The Trustee Committee may, by regulation, provide for the issuing of a membership certificate, which certificate shall be in such form as may be prescribed by the Trustee Committee.
- 11. The rights and obligations of a member shall not be transferable and every member shall:

- 11.1 to the best of his ability further the objects and interest of the Association;
- 11.2 observe all by-laws and regulations made by the Association or the Trustee Committee, provided that nothing contained in this Constitution shall prevent a member from ceding his rights in terms of this Constitution as security to a Mortgagee of that Member's Unit Erf.

12. LEVIES

- 12.1 The Trustee Committee shall from time to time, impose levies upon the Members for the purpose of meeting all the expenses incurred by the association from time to time, or which the Trustee Committee reasonably anticipates the Association will incur by way of maintenance, repair, improvements and keeping in order and good condition the security fence enclosing Steinhoff Industrial Park (George) as well as any other security controls or structures as may be erected by the Association in respect of Steinhoff Industrial Park (George), and/or for payment of all expenses necessarily or reasonably incurred in connection with the management of the Association, and the Association's affairs. In calculating levies the Trustee Committee shall take into account, income, if any, earned by the Association.
- 12.2 The Trustee Committee shall estimate the amount which shall be required by the Association to meet the expenses during each year, together with such estimated deficit, if any, from the preceding year, and shall impose a levy upon the Members, in accordance with the formula as stipulated in 15 hereunder. The Trustee Committee may include in such levies an amount to be held in reserve to meet anticipated future expenditure not of an annual nature. Every such levy shall be made payable by annual instalments due in advance on the first day of each en every succeeding year.
- 12.3 The developer will pay 50% of the levies for security and landscaping beside the normal levy contribution payable in the make up of the levy statements in the 2009/2010 financial year 65% in the 2010/2011 and

80% in the 2011/2012 financial and full levies for the years 2012/2013 and thereafter.

13. The Trustee Committee may, from time to time, impose special levies upon the Members in respect of all such expenses as are mentioned in 12.1 (which are not included in any estimate made in terms of 12.2), and such levies may be paid in such instalments and at such times as the Trustee Committee shall determine.
14. Any amount due by a Member by way of a levy shall be a debt due by him to the Association. The obligation of a Member to pay a levy shall cease upon his ceasing to be member of the Association, without prejudice to the Association's right to recover arrear levies. No levies paid by a Member shall under any circumstances be repayable by the Association upon his ceasing to be a Member. A Member's successor in title to a Unit Erf shall be liable as from the date upon which he becomes a member pursuant to the transfer to that Unit Erf, to pay the levy attributable to the Unit Erf.
15. The total annual amount(s) payable by all the Members pursuant to the provisions of 12.2 shall be apportioned to and be payable as annual levies by the Members in accordance with the following formula:

$$\left(\frac{A}{B} \right) \times C$$

Where;

- "A" is equal to the extent of the Unit Erf of the specific Member, expressed in square metres;
- "B" is equal to the aggregate extent, expressed in square metres, of all the Unit Erven sold and transferred, from time to time, comprising Steinhoff Industrial Park (George);

- "C" is equal to the actual or projected total annual expenses, (including any accrued deficit) by the Trustees in terms of 12.2 above.

15.1 Any special levies imposed by the Trustees in terms of clause 13 shall be apportioned amongst the Members by the Trustees in a proportion which the Trustees regard reasonable. Regard shall be had to the direct benefit which the Member(s) derive from the proposed expenditure for which the special levies are imposed.

16. No Member shall be entitled to any of the privileges of membership unless and until he shall have paid all levies which shall be due and payable to the Association in respect of his membership hereof.

17. **SECURITY FENCE**

17.1 All Members who are registered owners, from time to time, of Unit Erven in Steinhoff Industrial Park (George) of which one or more boundaries is/are enclosed by the existing security fence erected by the Developer shall be responsible for the maintenance and upkeep of that portion of the said fence enclosing their Unit Erven.

17.2 The said Members shall:

17.2.1 fully maintain that portion of the security fence in the same good order and condition as it was at the time of the erection thereof.

17.2.2 Utilise material of a similar nature and quality used to erect the said fence when repairing same.

17.2.3 Not in any way change the nature, appearance or design of the fence to ensure conformity with existing appearance of the fence.

17.3 In the event of any Member referred to in 17.1 failing to comply with their obligations as recorded in 17.2.1 to 17.2.3, the

Association shall be entitled to either effect the required repairs to and/or maintenance of the security fence, in which event the Member on whose Unit Erf such works are carried out shall be liable to refund to the Association all expenses incurred by it in this regard or, alternatively, to apply to Court for an appropriate order compelling the Member to carry out the required maintenance and/or repairs, in which event the relevant Member shall be liable for all legal costs incurred by the Association in this regard on the Attorney and own scale.

18. STEINHOFF INDUSTRIAL PARK DEVELOPMENT GUIDELINES

All improvements on any Unit/Erven shall comply with the Development Guidelines, a copy of which is Annexed hereto for information purposes. It is recorded that these guidelines may be substituted by the Developer in its sole discretion from time to time prior to the transfer of the first Unit Erf. The Trustees may, in liaison and with the consent of the Council, amend, amplify, clarify or add to the provisions of the said Guidelines. In the event of provisions of the Guidelines being amended or added to and such amendment or addition materially affects any further development of Unit Erven, the Trustees shall by written notice inform all Members of the amendment to the Guidelines.

19. CONTRACTS AND REGULATIONS

19.1 The Trustee Committee may from time to time:

19.1.1 make regulations governing *inter alia*;

19.1.1.1 security control measures for Steinhoff Industrial Park (George);

19.1.1.2 the landscaping and maintenance of side walks and open space areas within Steinhoff Industrial Park (George);

19.1.1.3 the provision of and utilisation of parking areas within Steinhoff Industrial Park (George).

19.2 enter into agreement(s) with the Council governing the matters set out in 19.1 and any other incidental matters.

20. Each Member undertakes to the Association that he shall comply with:

20.1 the provisions of this Constitution;

20.2 any regulations made in terms of 19.1;

20.3 any agreements referred to in 19.2 insofar as those agreements may directly or indirectly impose an obligation on him.

21. **BREACH**

21.1 Should any Member:

21.1.1 fail to pay on due date any amount due by that member in terms of this Constitution or any regulation made hereunder and remain in default for more than 7 days after being notified in writing to do so by the Trustees; or

21.1.2 commit any other breach of any other provisions of this Constitution or any regulation made hereunder and fails to remedy within a period of 7 days after the receipt of written notice to that effect by the Trustees, the Trustees may institute legal proceedings on behalf of the Association against such Member for payment of such overdue amount or for performance of such obligations in terms of this Constitution or any regulation made thereunder, as the case may be; or in the case of clause 21.1.2, to remedy such breach and immediately recover the total cost incurred by the Trustees or Association in so doing from such Member.

21.2 Should the Trustees institute any legal proceedings against any Member pursuant to a breach by that Member of this Constitution or any regulation made hereunder, then without prejudice to any other rights which the Trustees or the Association or any other Member may have in law, the Trustees shall be entitled to recover from such member all legal costs incurred by the Trustees or the Association, including attorney/and own client charges, tracing fees and collection commission.

21.3 Without prejudice to all or any of the rights the Trustees or the Association granted under this Constitution, should any Member fail to pay any amount due by that Member on due date, then such Member shall pay interest thereon at the publicly quoted prime rate of interest charged by the Association's bankers from time to time calculated from the due date for payment until the actual date of payment of such amount.

21.4 Without prejudice to all or any of the rights of the Trustees or the Association granted under this Constitution, should any member fail to pay any amount due by that member on a due date and the Trustees, as a result thereof have to issue further written notice to such member for payment of such arrear amount, the member shall pay an additional administrative charge to the Association calculated at 25% of the member's arrears or R100.00, whichever is the greater. Such administrative charge will be an amount due by the member to the Association from the date upon which the Trustees dispatched to the member a notice for payment of such arrears.

22. **CESSATION OF MEMBERSHIP**

No Member ceasing to be a Member of the Association, for any reason, shall (nor shall any such Member's executor, curators, trustees or liquidators) have any claim upon or interest in the funds or other assets of the Association.

This clause shall be without prejudice to the rights of the Association against the member of his ceasing to be a Member.

23. **TRUSTEE COMMITTEE**

23.1 There shall be a Board of the Trustees appointed/elected for the Association which shall consist of not less than 3 (three) and not more than 6 (six).

23.2 Every Trustee shall be a Member of the Association.

24. **REMOVAL & ROTATION OF TRUSTEE MEMBERS**

Save as set forth in 25 below, each Trustee shall continue to hold office until the Annual General Meeting following his appointment. At such meeting each

trustee shall be deemed to have retired from office. Each Trustee shall be eligible for re-election to the Trustee Committee at such meeting.

25. A TRUSTEE SHALL BE DEEMED TO HAVE VACATED HIS OFFICE UPON:

- 25.1 his estate being sequestrated, whether provisionally or finally, or his surrendering his estate;
- 25.2 his making any arrangement or compromise with his creditors;
- 25.3 his conviction for any offence involving dishonesty;
- 25.4 his becoming of unsound mind;
- 25.5 his resigning from office in writing delivered to the Secretary;
- 25.6 his death;
- 25.7 his being removed from office by a Special Resolution of the members.

provided that anything done in the capacity of a Trustee in good faith, by a person who ceases to be a Trustee, shall be valid until the fact that he is no longer a Trustee has been recorded in the Minute Book of the Trustee Committee.

- 26. Upon any vacancy occurring on the Trustee Committee, the vacancy shall be filled by a person nominated by those remaining for the time being of the Trustee Committee.

27. OFFICE OF TRUSTEES

- 27.1 The Trustees shall elect from amongst themselves, a Chairman and Vice-Chairman.

- 27.2 The first Chairman, and Vice-Chairman, shall be appointed by the Developer. Such office bearers shall hold their offices until the First Annual General Meeting following the date of their appointment, provided that any such office shall *ipso facto* be vacated by the Trustee holding such office upon his ceasing to be a Trustee for any reason.
- 27.3 Within 7(seven) days of the holding of such Annual General Meeting, the Trustee Committee shall meet and shall elect from its own number the Chairman and Vice-Chairman, who shall hold their respective offices until the next Annual General Meeting, provided that the office of the Chairman or Vice-Chairman shall *ipso facto* be vacated by the Trustee holding such office upon his ceasing to be a Trustee for any reason. No one Trustee shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in any of the aforesaid offices at any time, the Trustee Committee shall immediately meet to appoint one of their number as a replacement in such office.
- 27.4 Save as otherwise provided in these presents, the Chairman shall preside at all meetings of the Trustee Committee, and all general meetings of members, and shall perform all duties incidental to the office of Chairman and such other duties as may be prescribed by the Trustee Committee or a majority of Members.
- 27.5 The Vice-Chairman shall assume the powers and duties of the Chairman in the absence of the Chairman, or his inability or refusal to act as Chairman, and shall perform such other duties as may from time to time be assigned to him by the Chairman or the Trustee Committee.
- 27.6 Trustees shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as office bearers, but, save as aforesaid, shall not be entitled to any other remuneration fees or salary in respect of the performance of such duties.

28. **FUNCTIONS & POWERS OF THE TRUSTEE COMMITTEE**

- 28.1 Subject to the express provisions of these presents, the Trustee Committee shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and

affairs and, save as may be expressly provided in these presents, may exercise all such powers of the Association, and do all such acts on behalf of the Association as may be exercised and done by the Association in general meeting, subject nevertheless to such regulations as may be prescribed by the Association in general meeting shall invalidate any prior act of the Trustee Committee which would have been valid if such regulation had not been made.

28.2 The Trustee Committee shall have the right to vary, cancel or modify any of its decisions and resolutions from time to time.

28.3 The Trustee Committee shall have the right to co-opt onto the Trustee Committee any Member. A co-opted Trustee shall enjoy all the rights and be subject to all the obligations of the Trustees.

28.4 The Trustee Committee may, should it so decide, investigate any suspected or alleged breach by any Member or Trustee.

28.5 The Trustee Committee may make regulations and by-laws, not inconsistent with this Constitution, or any regulations or by-laws prescribed in the Association in general meeting:

28.5.1 as to disputes generally;

28.5.2 for the furtherance and promotion of any of the objects of the Association;

28.5.3 for the better management of the affairs of the Association;

28.5.4 for the advancement of the interests of members;

28.5.5 for the conduct of Trustee Committee meetings and general meetings; and

28.5.6 to assist it in administering and governing its activities generally and shall be entitled to cancel, vary or modify same from time to time.

29. **PROCEEDINGS OF THE TRUSTEE COMMITTEE**

- 29.1 The Trustee Committee shall meet for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of these presents.
- 29.2 Meetings of the Trustee Committee shall be held at least once every quarter, provided that if all the Trustees shall in writing have waived the above requirement in respect of a particular quarter, then no meeting of the Trustee Committee need be held for that quarter.
- 29.3 The quorum necessary for the holding of any meeting of the Trustee Committee shall be 3 (three) Trustees.
- 29.4 The Chairman shall preside at all meetings of the Trustee Committee. Should at any meeting of the Trustee Committee the Chairman not be present within 5 (five) minutes after the time appointed for the holding thereof, then the Vice-Chairman shall act as Chairman at such meeting, provided further that should the Vice-Chairman also not be present within 5 (five) minutes of the time appointed for holding the meeting, those Trustees present shall vote to appoint a Chairman for the meeting, who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.
- 29.5 A Trustee shall keep minutes of every Trustee Committee meeting. Which minutes shall be reduced to writing without delay after the meeting. These minutes shall be certified correct by the Chairman of the meeting. All minutes of Trustee Committee meetings shall after certification as aforesaid be placed in the Trustee Committee Minute Book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of directors of companies. The Trustee Committee Minute Book shall be open for inspection by Trustees, the Auditors, the Association Members and the Council at all reasonable times.
- 29.6 All competent resolutions recorded in the minutes of any Trustee Committee meeting shall be valid and of full force and effect as therein recorded, with effect from the passing of such resolutions, and until varied or rescinded, but no resolution or purported resolution of the Trust Committee shall be of any force or effect, or shall be binding upon the Members or any of the Trustees

unless such resolution is competent AND within the powers of the Trustee Committee.

29.7 Save as otherwise provided the proceedings at any Trustee meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

29.8 A resolution signed by all the Trustees shall be valid in all respects as if it had been duly passed at a meeting of the Trustee Committee duly convened.

30. GENERAL MEETINGS OF THE ASSOCIATION

30.1 The Association shall before 31st September in each calendar year, hold a general meeting as its Annual General Meeting, in addition to any other general meetings, during that year, and shall specify the meeting as such in the notices, in terms of 31 below calling it.

30.2 Such Annual General Meeting shall be held at such time and place, subject to the foregoing provisions, as the Trustee Committee shall decide from time to time.

30.3 All general meetings other than Annual General Meetings shall be called special general meetings.

30.4 The Trustee Committee, may, whenever they think fit, convene a special general meeting.

31. NOTICE OF MEETINGS

31.1 An Annual General Meeting and a meeting called for the passing of a Special Resolution, shall be called by not less than 21 (twenty-one) days' notice in writing. A special general meeting, other than one called for the passing of a special resolution, shall be called by not less than 14 (fourteen) days' notice in writing. In each case, the notice period shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting and, in the case of special business, in addition to any other requirements contained in these presents, the general nature of that

business, and in the case of a Special Resolution, the terms and effect of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such other manner as may be prescribed by the Trustee Committee to such persons as are entitled to receive such notices from the Association. A general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified here in, , be deemed to have been duly called if it is so agreed:

31.1.1 in the case of a meeting called as the Annual General Meeting, by all the Members entitled to attend and vote thereat; and

31.1.2 in the case of a special meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 75% (seventy five per centum) of the total voting rights of all Members.

31.2 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of these presents, or the non-receipt of any such notice, notification of document by any Member or other person entitled to receive same, shall not invalidate the proceedings or any resolution passed at any meeting.

32. **VENUE OF MEETING**

General Meetings of the Association shall take place at such a place/s as shall be deemed fit by the Trustees Committee from time to time.

33. **QUORUM**

33.1 No business shall be transacted at any general meeting unless a quorum is present. The Quorum necessary for the holding of any general meeting shall be such number of the Members entitled to vote as together represent ten percent (10%) of the total number of Members entitled to vote, for the time being, save that not less than three (3) Members must personally be present.

- 33.2 If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting if convened on the request of Members, shall be adjourned. In any other case it shall stand adjourned to the same day, time and place the next week, or at such other place as the Chairman of the meeting shall decide, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present shall be a quorum.

34. AGENDA AT MEETINGS

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

- 34.1 the consideration of the Chairman's report to the Trustee's Committee;
- 34.2 the election of the Trustee Committee;
- 34.3 the consideration of any other matters raised at the meeting including any resolutions proposed for adoption by such meeting, and the voting upon any such resolution;
- 34.4 the consideration of the financial statements of the Association for the last financial year preceding such meeting;
- 34.5 the consideration of the report by the Auditors;
- 34.6 the consideration of the total levy (as referred to in 12.2) for the calendar year during which such Annual General Meeting takes place; and
- 34.7 the consideration and fixing of the remuneration of the Auditors for the financial year of the Association preceding the Annual General meeting.

35. PROCEDURE AT GENERAL MEETINGS

- 35.1 The Chairman shall preside at all general meetings. Should he not be present within five minutes after the time appointed, the Vice-Chairman shall

act as Chairman. Should the Vice-Chairman also not be present within five minutes of the time appointed then the members present at such meeting entitled to vote, shall vote to appoint a Chairman for the meeting, who shall thereupon exercise all the powers and duties of the Chairman in relation to such meeting.

35.2 The Chairman may, with the consent of any general meeting at which a quorum is present (and if so directed by the meeting) adjourn a meeting from time to time and from place to place, but no business shall be transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save for the aforesaid, the Members shall not be entitled to any notice of adjournment, or of the business to be transacted at an adjourned meeting.

35.3 Except as otherwise set forth in these presents, all general meetings shall be conducted in accordance with generally accepted practice.

36. **PROXIES**

36.1 A Member may be represented at a general meeting by a proxy, who need not be a Member of the Association. The instrument appointing a proxy shall be in writing, signed by the Member concerned or his duly authorised agent, but need not be in any particular form. Where a Member is more than one person, any one of those persons may sign the instrument appointing a proxy on such Member's behalf. Where a Member is a company, the same may be signed by the Chairman of the Board of Directors of the Company or by its secretary, and where an association of persons, by the secretary thereof.

36.2 The instrument appointing a proxy and the Power of Attorney or other authority under which it is signed, or a notarially certified copy thereof, shall be deposited at the office of the Chairman at any time before the time appointed for the commencement of the meeting, or adjourned meeting, at which the person named in the instrument is authorised to vote. No instrument appointing a proxy shall be valid after the expiration of 12 (twelve) months from the date of its execution.

- 36.3 A vote cast in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation shall have been received by the Trustee Committee at least one hour before the time fixed for the holding of the meeting.
- 36.4 Should a Member be absent from Steinhoff Industrial Park (George) for a continuous period in excess of three (3) weeks, a proxy must be appointed by such Member prior to his absence in accordance with 36.1 and 36.2, failing which a Member shall not be entitled to vote, at any special general meeting, called during such Member's absence.

37. **VOTING**

- 37.1 At every general meeting every Member present in person or represented by a proxy and entitled to vote shall have:-
- 37.1.1 One vote for each Unit Erf registered in his name;
- 37.1.2 A further one vote for every completed 1000 square metres by which the extent of the Member's Unit Erf exceeds the extent of 1 999 square metres.

Provided that if a Unit Erf is registered in more than one person's name, then they shall jointly have one vote or such additional vote(s) as may be applicable in terms of 37.1.2, and provided further that the Developer, for as long as it is the registered owner of any number of Unit Erven shall at all times be entitled to only one vote.

38. Save as expressly provided for in these presents, no person other than a Member duly registered and who shall have paid every levy and other sum (if any) which shall be due and payable to the Association in respect of or arising out of his membership, and who is not under suspension, shall be entitled to be present and to vote on any question, either personally or by proxy, at any general meeting.
- 38 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hand, unless either prior to or on the declaration by the

Chairman of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.

- 39 Notwithstanding the provisions of 39 as aforesaid, voting on the election of a Chairman at a general meeting (if necessary) or on any question of adjournment, shall be decided on a show of hands by a majority of the members present in person or by proxy, and entitled to vote.
- 41 Every resolution and every amendment of a resolution and every amendment of a resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall be deemed not to have been proposed.
- 42 An ordinary resolution (that is a resolution other than a special resolution) or the amendment of any ordinary resolution, shall be carried on a simple majority of all the votes cast thereon, and an abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the general meeting shall be entitled to a casting vote in addition to his normal vote.
- 43 Unless any Member present in person or by proxy at a general meeting shall before closure of the meeting have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, whether by show of hands or a poll, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted, and an entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the number of votes recorded in favour of or against such motion, shall be exclusive evidence of the vote so recorded if such entry conforms with the declaration made by the Chairman of the meeting as to a result of any voting at the meeting.
44. **OTHER PROFESSIONAL OFFICERS**

Save as specifically provided otherwise in this Constitution, the Trustee Committee shall at all times have the rights to engage on behalf of the Association, the services of Accountants, Auditors, Attorneys, Advocates, Architects, Engineers, any other professional person or firm and/or any other employee/s whatsoever, for any reason thought necessary by the Trustee Committee and on such terms as the Trustee Committee shall decide, subject to any of the provisions of these presents, provided that any expenditure incurred in respect of the above, shall not exceed 5% (five per centum) of the total annual levy for the year in question unless authorised by a Special Resolution.

45. ACCOUNTS

45.1 The Association in general meeting, or the Trustee Committee, may from time to time prescribe reasonable conditions and regulations as to the time and manner for the inspection by the Members of the accounts and books of the Association, or any of them, and subject to such conditions and regulations, the accounts and books of the Association shall be open to the inspection of Members at all reasonable times during normal business hours.

45.2 At each Annual General Meeting the Trustee Committee shall have available a proper income and expenditure account for the immediately preceding financial year of the Association, together with a balance sheet accompanied by proper and extensive reports of the Trustee Committee and the Auditors, and there shall be attached to the notice sent to Members convening each Annual General Meeting, as set forth in 31.1 above, copies of such accounts, balance sheets and reports and of any other documents required by law to accompany the same.

46. AUDIT

Once at least in every year, the accounts of the Association shall be examined and the correctness of the income and expenditure account and balance sheets ascertained by the Auditors.

47. SERVICE OF NOTICES

47.1 A notice shall be in writing and shall be given or served by the Association upon any Member:

47.1.1 either personally or by post, properly addressed to the Member at the address stipulated by the Member as contemplated in 47.2 hereunder or, failing such notification, at the address of the Unit Erf owned by him; or

47.1.2 by telefax transmission to such telefax number or e-mail to such e-mail address as the Member notified the Association, of as contemplated in 47.2 hereunder.

47.2 No Member shall be entitled to have a notice served on him at any address outside the Republic of South Africa. Any Member may require the Association, by notice, to record a postal address within the Republic of South Africa which shall be deemed to be his address for the purpose of the service of notices. Each member, with the notification as herein contemplated, shall also furnish the Association with the Member's contact telephone and telephone, e-mail and telefax number as well as the details of the contact person of the Member should the Member be a juristic person.

47.3 Any notice by post shall be deemed to have been received 10 days after same was posted by registered mail.. Proof of posting shall be sufficient to prove that the letter containing the notice was properly addressed and posted. Any notice transmitted by telefax or by e-mail during normal business hours to the contact telefax number or e-mail address of the member, shall be deemed to have been received on the first business day after the date of transmission.

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

48. **INDEMNITY**

48.1 All Trustee members shall be indemnified out of the funds of the Association against any liabilities *bona fide* incurred by them in their respective capacities.

- 48.2 A Trustee member shall not be liable for the acts, receipts, neglects or defaults of the Auditors or of any of the other Trustee members, whether in their capacities as Trustee members or as Chairman or Vice-Chairman, or of any loss or expenses sustained or incurred by the Association through the insufficiency or deficiency of title to any property acquired by the Trustee Committee for or on behalf of the Association, or for the insufficiency or deficiency or any security in or upon which any of the monies of the Association shall be invested, or for any loss or damage arising from the insolvency or tortuous act of any person with whom any monies, securities or effects shall be deposited, or for any loss or damage occasioned by any error of judgement or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of any duties of his office/s or in relation thereto, unless the same shall happen through lack of *bona fides* or breach of duty or breach of trust.

49. **ARBITRATION**

- 49.1 Any dispute, question or difference arising at any time between Members or between Members and Trustees out of or in regard to:

49.1.1 any matters arising out of this Constitution; or

49.1.2 the rights and duties of any of the parties mentioned in this Constitution; or

49.1.3 the interpretation of this Constitution;

shall be submitted to and decided by arbitration on notice given by any party to the other party.

- 49.2 Such arbitration shall take place in George informally and otherwise in terms of the provisions of the Arbitration Act No 42 of 1965 (as amended from time to time). It is intended that, if possible, it shall take place and be concluded within 21 (twenty-one) Business Days after it has been submitted.

- 49.3 Save as otherwise specifically provided herein, the Arbitrator shall be, if the question in dispute is:

- 49.3.1 primarily an accounting matter – and independent accountant;
- 49.3.2 primarily a legal matter – a practicing counsel or attorney of not less than 10(ten) years standing;
- 49.3.3 any other matter – an independent and suitably qualified person as may be agreed upon between the parties to the dispute.
- 49.4 If agreement cannot be reached on whether the question in dispute falls under 49.1.1 or 49.1.2 or 49.1.3 or upon a particular arbitrator in terms of 43.3, within 3 (three) Business Day after the arbitration has been demanded, then:
- 49.4.1 the President for the time being of the Law Society of the Cape of Good Hope shall determine whether the question in dispute falls under 49.3.1, 49.3.2 or 49.3.3; and
- 49.4.2 the said President shall nominate the arbitrator to act in the matter within 7 (seven) Business Days after the parties have failed to agree so that the arbitration can be held and concluded as soon as possible and within the 21 Business Days referred to in 49.2.
- 49.5 The arbitrator shall give his ruling within 7 (seven) days after completion of the arbitration and shall, have regard to the principles laid down in this Constitution in giving such ruling. The arbitrator may determine that the cost of the arbitration be paid either by one or other or both the disputing parties or by the Association as he in his sole discretion may deem fit.
- 49.6 The decision of the arbitrator shall be final and binding and may be made an Order of the Cape Provincial Division of the Supreme Court of South Africa upon the application of any party to the arbitration.
- 49.7 Notwithstanding anything to the contrary contained in 49.1 to 49.6 inclusive, the Trustees shall be entitled to institute legal proceedings on behalf of the Association by way of application, action or otherwise in any Court having jurisdiction.

50. **EFFECTIVE DATE**

The provisions hereof shall come into force simultaneously with the passing of transfer of the first Unit Erf from the Developer to a Member.

51. AMENDMENTS TO CONSTITUTION

This constitution, or any part thereof, shall not be amended, and no new rules shall be made, save by a Special Resolution of the Members and subject, to the written Consent of the Council being obtained to any such amendment or addition to the Constitution.

52. ENTRANCE FROM PW BOTHA BOULEVARD

52.1 It is recorded that the P.O.A. will become the registered owner of Erf 24986 George which is partly a private road and which allows access to the members of the P.O.A., the owner of Erf 21710 and the public from PW Botha Boulevard to the Steinhoff Industrial Park.

52.2 The owner of the Remainder of Erf 21710 George and its invitees shall have a servitude of right of way over that portion of the road connecting PW Botha Boulevard with the entrance to its property. This right of way over the aforesaid Erf 24986 George shall be in perpetuity and shall be used jointly with the members of the P.O.A., their invitees and the public in general.

52.3 The P.O.A. shall upon request by the owner of the Remainder of Erf 21710 George sign all the necessary documents to enable it to register the aforesaid servitude.

52.4 The members of the P.O.A. and their invitees shall have the joint use of the road over Erf 24986 George. The P.O.A. shall be responsible for the maintenance of the road and the security gate. In addition the P.O.A. and the owner of the Remainder of Erf 21710 George shall, jointly, be liable for any structural repairs required in respect of that portion of the road connecting PW Botha Boulevard with the entrance to the Remainder of Erf 21710 George.