

MANAGEMENT RULES

NEGESTER KLEIN-KARIBA RETIREMENT ESTATE HOMEOWNERS ASSOCIATION

1. INTERPRETATION

In the interpretation of these Management Rules, the expressions in *bold italics* shall have the meanings ascribed to them in this clause, unless the context otherwise indicates:

- 1.1 "Act" means the Companies Act, 2008 (Act 71 of 2008), as amended from time, to time and any regulations made and in force thereunder.
- 1.2 Words and expressions to which a meaning has been assigned in the Memorandum of Incorporation of *the Negester HOA* (hereafter referred to as "*the Mol*"), shall bear the same meanings in these Management Rules.
- 1.3 These Management Rules were accepted by the subscribers to *the Mol* and *the developer*, in terms of clause 5.2.1 of *the Mol*, for purposes of further managing the affairs of *the Negester HOA* and of *the township*.

2. MANAGING AGENT

- 2.1 Subject to any restriction imposed in terms of *the Mol*, or a direction given at a *general meeting of the Negester HOA*, *the board of directors* shall be entitled to appoint a *managing agent* for and on behalf of *the Negester HOA*, to:
 - 2.1.1 control, manage and administer *the common property* in *the township*; and
 - 2.1.2 exercise such of the powers and duties of *the board of directors* in terms of *the Mol* delegated to *the managing agent* in terms of a written resolution of *the board of directors*;
 - 2.1.3 assign *in writing* to such *managing agent*, the rights and obligations of *the Negester HOA* to enforce the Conduct Rules of *the Negester HOA*,

and at any time to revoke such assignment, with 30 (thirty) days written notice.

2.2 **The board of directors** shall, if required by an ordinary majority of **the members** in a **general meeting**, appoint a **managing agent** in terms of a written contract to control, manage and administer **the common property** and the obligations of **the Negester HOA** in terms of the conditions of establishment of **the township**, or to any public or local authority, and to exercise such powers and duties as may be entrusted to **the managing agent**, including the power to collect levies and to appoint a township manager, provided for in clause 5.5 of **the Mol**; provided that such appointment shall only be for an initial period of 1 (one) year and thereafter upon 1 (one) month's written notice of termination of appointment by either party.

2.3 The contract with **the managing agent** in terms of sub-rule 2.2 shall provide for the appointment to be revoked if an ordinary resolution of **the members** is passed to that effect.

2.4 **The board of directors** shall ensure that **the managing agent**:

2.4.1 keeps full records of his administration; and

2.4.2 report to **the board of directors** on all matters which may detrimentally affect the value or amenity of **the common property** or any of **the private properties**.

2.5 **The managing agent** or an authorised representative of **the managing agent** shall attend all meetings of **the board of directors** and **the Negester HOA** and be given an opportunity to furnish a report on his administration of **the township**.

2.6 **The managing agent** appointed in terms of this rule 2, is authorised to co-sign such documentation as may be necessary to lawfully discharge their duties and obligations in terms of their written appointment, on behalf of **the Negester HOA** and **the board of directors**, together with a director duly authorised thereto.

2.7 **The managing agent** shall do all things reasonably necessary for the enforcement of **the Mol**, these Management Rules, the Conduct Rules, the Architectural Guidelines, and well as the Conduct Rules For Builders in force from time to time.

3. **INSURANCE**

3.1 As soon as is possible, and annually thereafter:

3.1.1 ***the board of directors*** shall take steps to insure the buildings, and all insurable improvements to ***the common property***, to the full replacement value thereof, subject to negotiation of excesses, premiums and insurance rates as are in the opinion of ***the board of directors*** most beneficial to ***the members***, against-

3.1.1.1 acts of God including storms, floods, lightning or earthquakes;

3.1.1.2 fire, or explosions;

3.1.1.3 failure of the internal engineering services;

3.1.1.4 civil riots or commotion, labour disturbances of any nature or malicious action motivated by political dissent or intolerance;

3.1.1.5 air or traffic disasters of any nature;

3.1.1.6 crime of which violence or dishonesty are elements;

3.1.1.7 illegal occupation of ***the common property***, and the cost of eviction of unauthorised persons therefrom;

3.1.1.8 public indemnity insurance;

3.1.1.9 malfunction of computer systems and loss of data and the cost of the replacement or restoration thereof;

3.1.1.10 such other perils or dangers as ***the managing agent*** may advise ***the board of directors*** as being appropriate;

3.1.1.11 loss of income as a result of any of the above risks.

3.2 If ***the managing agent*** is instructed to take out the insurance in clause 3.1, he shall

ensure that the replacement value of each insured item is specified in accordance with the estimate of **the board of directors**, in the policy of insurance referred to in clause 3.1.1 above.

3.3 Before every **annual general meeting of the Negester HOA**, **the board of directors** or the **managing agent** shall cause to be prepared a schedule reflecting their estimate of the replacement value of all improvements to **the common property**, and such schedules shall be laid before **the annual general meeting** for consideration and approval.

3.4 **The board of directors** shall take all reasonable steps:

3.4.1 to insure **the members, the Negester HOA** as separate legal entity and **the board of directors**, and to keep them insured against liability in respect of:

3.4.1.1 death, bodily injury or illness; or

3.4.1.2 loss of, or damage to **private property**,

resulting from any occurrence or omission on **the common property**. The amount of the insurance cover shall be increased from time to time as directed by **the members** in **general meeting**; and

3.4.2 to procure to the extent required by **the members** of **the Negester HOA** in a **general meeting**, for any loss of moneys:

3.4.2.1 belonging to **the Negester HOA** or for which it is responsible, occasioned by any act of fraud or dishonesty committed by any employee in the service of **the Negester HOA** or **the managing agent** or **the directors**; and

3.4.2.2 in the course of business up to an amount equal to the aggregate of all types of levies payable to **the Negester HOA**, or such lesser amount as it may be advised by an independent loss adjuster.

3.5 **The members of the Negester HOA** may by special resolution direct **the board of**

directors or *the managing agent* to insure against such other risks as *the members* may require.

4. **LEVIES**

4.1 It is the duty of *the board of directors*, or *the managing agent*, if applicable, to collect levies from *the members* in accordance with the provisions and in the proportions determined in terms of clause 5.3 of *the Mol*.

4.2 In addition to the monthly levies approved at an *annual or special general meeting* of *Negester HOA*, *members* shall make contributions in the form of a special levy, in the *pro rata* proportions calculated in terms of *the Mol*, in respect of any amount for which *the Negester HOA* may be held liable for and have insufficient funds to pay, if it was not included in the estimate of income and expenditure for that year.

4.3 The amount due in terms of clause 4.2, shall be payable within 14 (fourteen) days after presenting each *member* with a tax invoice reflecting the amount payable.

5. **DEPOSIT AND INVESTMENT OF FUNDS**

5.1 *The board of directors* shall cause all moneys received by *the Negester HOA* and not immediately required for its operations, to be deposited to the credit of an investment account or accounts with a registered commercial bank in the name of *the Negester HOA* and, subject to any direction given or restriction imposed at a *general meeting* of *the Negester HOA*, such moneys shall only be withdrawn for the purpose of payment of the expenses of *the Negester HOA*.

5.2 *The board of directors* may authorise *the managing agent* to administer and operate the investment account referred to in clause 5.1 and if *the managing agent* is an estate agent as defined in the Estate Agents Act, 1976 (Act 112 of 1976), *the board of directors* may authorise such *managing agent* to hold such moneys in a separate interest bearing trust account as contemplated in section 32(3) of the Estate Agents Act, 1976, and only be used for the purposes of the business of *the Negester HOA*.

5.3 Interest earned on moneys invested, may be used by *the Negester HOA* for any lawful purpose.

6. **RECORD OF RULES AND THEIR AVAILABILITY**

The board of directors shall:

- 6.1 file a complete set of *the Rules* with the Companies and Intellectual Property Commission ("*the CIPC*") in terms of sub-section 15(3) of *the Act*;
- 6.2 keep a complete record of all *Rules* in force from time to time at the registered-, and on site management office of *the Negester HOA*;
- 6.3 on application of a *member* or occupier of a *private property* or the prospective purchaser of a *private property*, furnish to such person a copy of all *Rules* in force, against payment of a reasonable charge therefore.

7. **VOTING RIGHTS**

One voting right is conferred on each *member* with the transfer of a *property* in *the Negester HOA*, to him / her.

8. **IMPROVEMENTS TO COMMON PROPERTY**

- 8.1 *The board of directors* may effect any improvements to *the common property*, other than luxurious improvements referred to in sub-rule 8.3, by:
 - 8.1.1 giving 30 (thirty) days prior written notice to all *members* of their intention to proceed with such improvements; and
 - 8.1.2 providing details of:
 - 8.1.2.1 the nature of the improvements to be effected;
 - 8.1.2.2 the need and desirability of such improvements;
 - 8.1.2.3 the cost of the improvements;
 - 8.1.2.4 the manner in which it is to be financed; and

8.1.2.5

the amounts to be levied from *members*, if any.

8.2

The board of directors shall at the written request of *members*, holding 40% (forty percent) of the votes, convene an extraordinary *general meeting* in order to discuss and deliberate upon the proposals contained in the notice referred to in sub-rule 8.1 and approve, with or without amendments, such proposals by way of ordinary resolution, or reject it.

8.3

The board of directors may, if *the members* by means of a 80 % (eighty percent) majority, after compliance with the provision of sub-rule 8.1, resolve to effect improvements of a luxurious nature on *the common property*.

9. NO DISTRIBUTION OF PROFITS OR ASSETS

9.1

The members shall not be entitled to a refund of any contributions lawfully levied upon them in terms of *the Mol* or *the Rules* and paid by them to *the Negester HOA*.

9.2

No portion of any interest earned, or of the profits or gains of *the Negester HOA*, if any, shall be distributed to *members* or any other person, at any time.

10. INTERNAL SERVICES

10.1

To be managed in terms of clause 5.2.4.2 of *the Mol* of *the Negester HOA*.

10.2

The board of directors may:

10.2.1

sink boreholes on *the common property* for the extraction and use of subterranean water for use in *the township*;

10.2.2

erect a plant for the purification of such subterranean water for domestic use in *the township*, and levy *members* for the use thereof;

10.2.3

do all that is necessary regarding grey water for use in *the township*.

11. IMPROVEMENT OF PRIVATE PROPERTIES

11.1 Township Architect

11.1.1 *The board of directors* may appoint a person or firm registered as an architectural professional in terms of the Architectural Professions Act, 2000, to render *architectural services*, as defined in clause 11.1.2.

11.1.2 "*Architectural services*" for purposes of these Management Rules shall mean:

PART 1 : SERVICES

The architectural services listed in PART 1 are to be rendered by the architect to *the member* without any remuneration being due and payable by *the member* to the architect:

11.1.2.1 Stage 1 – Inception

Receive, appraise and report on *the member's* requirements with regard to:

- a) the available *development options*;
- b) *the property's* rights and constraints;
- c) *the member's* budgetary constraints;
- d) the need for appointment of other consultants;
- e) the need for a project programme;
- f) the basis of contracting with approved builders.

11.1.2.2 Stage 2 – Concept and viability (concept design)

- a) Explain and advise *the member* on:

i) the best available **development option** when regard is had to *the property* constraints and *the member's* requirements and budgetary constraints

ii) proposed materials and required building services

iii) the technical and functional characteristics of the available **development options**

b) Ensure conformity of the design concept with the use rights and **development options**

c) Review the anticipated costs of the project

d) Review the project programme

11.1.2.3

Stage 3 – Design development

a) Confirm the type of **the development option** decided on in Stage 2 with *the member*

b) Review any proposed amendments to the development options and obtain approval from *the developer* or *the Negester HOA* as the case may be

c) Finalise the design, construction system, materials and components

d) Incorporate and co-ordinate all services and the work of other consultants, if applicable

e) Review the design, costing and programme with the consultants, if applicable

11.1.2.4

Stage 4 – Documentation and procurement

- a) Prepare documentation sufficient for local authority approval for submission to *the Negester HOA*:
 - i) co-ordinate technical documentation with the other consultants, if applicable, and complete primary co-ordination
 - ii) prepare specifications for the works
 - iii) review the costing and programme with the other consultants, if applicable
 - iv) obtain *the member's* authority and submit documents for approval by *the Negester HOA* and local authority, if required

- b) Complete construction documentation to proceed to call for tenders from accredited contractors:
 - i) obtain *the member's* authority to prepare documents to procure offers for the execution of the works
 - ii) obtain offers for the execution of the works
 - iii) evaluate offers and recommend on the award of the building contract
 - iv) prepare the contract documentation (and arrange the signing of the building contract)

11.1.2.5

Stage 5 – Construction

- a) Administer the building contract
- b) Give possession of the site to the contractor
- c) Issue construction documentation

- d) Initiate and/or check sub-contract design and documentation as appropriate
- e) Inspect the works for conformity to the contract documentation
- f) Administer and perform the duties and obligations assigned to the principal agent in the JBCC building agreements, or fulfil the obligations provided for in other forms of contract
- g) Issue the certificate of practical completion
- h) Assist *the member* to obtain an occupation certificate

11.1.2.6

Stage 6 – Close out

- a) Facilitate the project close-out including the preparation of the necessary documentation to effect completion, handover and operation of the project
- b) After the contractor's obligations with respect to the building contract are fulfilled, the architect shall issue the certificates related to contract completion
- c) Provide *the member* with as-built drawings and relevant technical and contractual undertakings by the contractor and sub-contractors

PART 2 : SERVICES

Any other service which forms part of the scope and service of an architectural professional as contemplated in the Architectural Professions Act, 2000 (Act 44 of 2000), and the Guidelines for Professional Service and Fees for persons registered in terms of the said Act, published by the SACAP, the National Building Standards Act, 1977 (Act 103 of 1977), the National Building Regulations SANS 10400 agreed and recorded in a separate Client : Architect Agreement to be entered into between *the member* and the architect.

11.2 Development Options

A *member* may only improve his / her *private property* in accordance with one of *the development options*; provided that a *member* may request *the architect* to effect amendments to the pre-approved floorplan of a development option without altering the elevation or esthetics of *the development options*; and provided further that such a *member* obtains approval of the amendments from *the board of directors*.

11.3 Builders

11.3.1 Only builders accredited by *the Negester HOA* may carry out any structural improvements to a *private property*.

11.3.2 Building contractors who wish to effect structural improvements to a *private property* must apply to *the Negester HOA* for accreditation in the manner prescribed in terms of *the Conduct Rules for Builders*.

11.4 Code of Conduct for Builders

The board of directors may make rules regulating the builders and amend to add to such rules by means of an ordinary majority of members.

12. **POWER TO MAKE AND ENFORCE CONDUCT RULES**

The Negester HOA is authorised to make Rules regulating the use of *private properties* and the conduct of *members*, their immediate family members, invitees, or contractors who enter and spend time in *the township*, and amend to add to such Rules by means of an ordinary majority of members, in terms of clause 5.2.2.8 of *the Mol* and to enforce such Rules in terms of clause 5.2.2.10 and impose fines by means of penalties in terms of clause 5.2.2.11 of *the Mol*.

13. **USE OF PRIVATE PROPERTIES**

A *member* may only use a private property in accordance with *the Conduct Rules*.



14. RECOVERY OF LEGAL COSTS AND INTEREST

14.1 *The Negester HOA* is entitled to recover all its legal costs and disbursements incurred as a result of any breach of the Conduct Rules by a *member* on an attorney-and-own-client scale, as evidenced in tax invoices rendered to, and paid by *the Negester HOA*, without the need to have it assessed or taxed.

14.2 *The Negester HOA* shall be entitled to charge interest at the prescribed statutory default interest rate in terms of the Prescribed Rate of Interest Act, 1975, on any arrear amounts.

