
SIMBITHI COUNTRY CLUB C O N S T I T U T I O N

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CONSTITUTION OF THE SIMBITHI COUNTRY CLUB

1. ESTABLISHMENT AND NAME OF CLUB

- 1.1. An association is hereby established under this Constitution with the aims, objects and powers hereinafter set forth.
- 1.2. The association's name is the SIMBITHI COUNTRY CLUB.

2. INTERPRETATION AND DEFINITIONS

- 2.1. In this Constitution –
 - 2.1.1. any gender shall include the other genders;
 - 2.1.2. the singular shall include the plural and vice versa;
 - 2.1.3. the head-notes are for convenience only and no reliance shall be placed on them in the interpretation or construction of this Constitution;
- 2.2. In this Constitution, unless the context otherwise requires -
 - 2.2.1. "CLUB" shall mean the SIMBITHI COUNTRY CLUB and its facilities;
 - 2.2.2. "DEBT" shall mean any amount due and owing by a MEMBER to the CLUB, whether in respect of a subscription for membership or any other amount due and owing, howsoever arising;
 - 2.2.3. "DEFAULTING MEMBER" shall mean a MEMBER who is a DEFAULTING MEMBER in terms of 5.5;
 - 2.2.4. "DEPENDANTS" shall mean children of a MEMBER who have not yet attained the age of 18 years and any other person including children older than 18 years who are shown to the satisfaction of EXCO to still be dependant on the relevant MEMBER;

- 2.2.5. "ESTATE" means "Estate", as defined in the Memorandum of Incorporation of SEEHOA;
- 2.2.6. "EXCO" means the executive management committee of the CLUB made up of the members from time to time of the Board of SEEHOA;
- 2.2.7. "FINANCIAL YEAR" shall in each year mean the period from 1 March to 28(29) February;
- 2.2.8. "GENERAL MANAGER" shall mean a general manager of the CLUB, appointed by the EXCO from time to time;
- 2.2.9. "HONORARY MEMBER" shall mean a person referred to in 5.1.3 who has been granted honorary membership of the CLUB;
- 2.2.10. "JOINING FEE" shall mean the fee payable by any MEMBER on joining the CLUB as determined by the EXCO from time to time;
- 2.2.11. "MEMBER" shall mean a person who is a MEMBER of the CLUB as provided for in 5;
- 2.2.12. "NOTICE" shall mean notice in writing given to a MEMBER by ordinary post at the address which the CLUB has on record as the MEMBER's address or the posting on a notice board of the clubhouse of a notice, in both cases, where notice of a meeting is being given, not less than 14 (FOURTEEN) days before the date of the meeting advised of in such NOTICE; The sending of any notice or other communication to a MEMBER at an electronic mail address, nominated by such MEMBER for these purposes in writing to the CLUB, shall be deemed to be good and proper services of such notice or other communication, in terms of this Constitution, and shall be deemed to have been received by the MEMBER on the date that such communication or other notice was sent by electronic mail;
- 2.2.13. "NON-RESIDENTIAL MEMBER" shall mean a person who is a member of the CLUB and who is not a member of SEEHOA and an owner of immovable, residential property in the ESTATE;
- 2.2.14. "ORDINARY RESOLUTION" shall mean a resolution supported by more than

50% (fifty percent) of the voting rights exercised on the resolution.

2.2.15. "RESIDENTIAL MEMBER" shall mean a person who is a member of SEEHOA and owns immovable, residential property in the ESTATE and is obliged to be a member of the CLUB and "RESIDENTIAL MEMBERSHIP" shall have a corresponding meaning;

2.2.16. "RULES OF THE CLUB" shall mean the Rules determined by the EXCO from time to time regulating the conduct of the MEMBERS;

2.2.17. "SCC MANCO" shall mean the committee established by the EXCO to implement the EXCO decisions and manage the day to day operations of the CLUB;

2.2.18. "SECTION" shall mean a division within the CLUB, established by the EXCO, for the undertaking of an activity approved of, from time to time;

2.2.19. "SECTION CHARTER" shall mean the rules and regulations under which any SECTION operates as is more fully provided for in 8.5.1;

2.2.20. "SECTION COMMITTEE" shall mean the management committee of a SECTION, the establishment of which is provided for in this Constitution;

2.2.21. "SECTION MEMBER" shall mean any member of a SECTION as provided for in terms of 8 and any applicable SECTION CHARTER;

2.2.22. "SEEHOA" means Simbithi Eco Estate Homeowners Association NPC Reg. No. 2004/009153/08;

2.2.23. "SPECIAL RESOLUTION" shall mean a resolution supported by at least 75% (seventy five percent) of the voting rights exercised on the resolution; and

2.2.24. "SUSPENDED MEMBER" shall mean a MEMBER whose membership of the CLUB is suspended.

3. CLUB'S OBJECTS

The CLUB shall own and occupy premises on the ESTATE and its principal object is to

promote social and recreational amenities and facilities for the MEMBERS and their guests and to this end, to provide, encourage, support and organise sports, recreation, cultural and social activities, of a non-political nature, as approved by the EXCO, from time to time.

4. CLUB'S POWERS

- 4.1. Subject to 6.4.3, all powers of the CLUB as set forth in 4.2 are hereby delegated to and may be exercised by the EXCO provided that such delegation shall not preclude the CLUB, in general meeting, from exercising such powers and, provided further, that any decision of the EXCO under such delegation may be varied by SPECIAL RESOLUTION of the MEMBERS in general meeting, and provided further that the MEMBERS in general meeting may also vary the extent and effect of such delegation.
- 4.2. The powers of the CLUB to attain its objects, but without limitation to such objects, shall be the power to:
 - 4.2.1. regulate the conduct of MEMBERS and their guests and the admission of guests;
 - 4.2.2. establish different classes of membership and stipulate the rights and obligations of such different classes of membership;
 - 4.2.3. establish SECTIONS and delegate authority to SECTION COMMITTEES;
 - 4.2.4. carry on any business and promote all activities consistent with its objects;
 - 4.2.5. purchase, acquire and accept donations of any kind of movable and immovable property;
 - 4.2.6. manage, insure, sell, lease, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its property and assets;
 - 4.2.7. borrow money and to secure payment of moneys borrowed in any manner including the mortgaging and pledging of property, with or without security;
 - 4.2.8. invest money in any manner;

- 4.2.9. open and operate banking and savings accounts;
- 4.2.10. make, draw, issue, execute, accept and endorse bills of exchange;
- 4.2.11. amalgamate with other associations having objects similar to those of the CLUB;
- 4.2.12. remunerate any person who provides services to or is employed by the CLUB;
- 4.2.13. act as principals, agents or contractors;
- 4.2.14. pay gratuities or pensions to its employees;
- 4.2.15. apply for and hold, in such manner as may be prescribed, a liquor licence for the CLUB, provided that no profit from the sale of liquor under such liquor licence shall accrue to any MEMBER;
- 4.2.16. initiate and defend any legal proceedings in the name of the CLUB;
- 4.2.17. remove from office, by a majority decision, of the EXCO any persons serving on a SECTION COMMITTEE;
- 4.2.18. suspend any MEMBER in terms of 10.4 for any period and from time to time and otherwise discipline or expel MEMBERS;
- 4.2.19. impose annual or seasonal subscriptions or JOINING FEES or levies in respect of membership of the CLUB, in such amount as is determined, from time to time, provided that different subscriptions or fees or levies may be raised in respect of different classes of MEMBERS;
- 4.2.20. arrange and agree the terms and conditions of reciprocity with other associations or clubs;
- 4.2.21. do all such things which may be necessary and/or requisite for the achievement of the objects of the CLUB;
- 4.2.22. appoint SEEHOA as its agent for the administration, accounting functions, collection of debts and to attend to any other function, which in the opinion of

SEEHOA will be more efficiently conducted using the resources of SEEHOA;

4.2.23. the right to make and amend from time to time rules (to be known as the RULES OF THE CLUB) where appropriate in furtherance of such powers.

5. MEMBERSHIP OF THE CLUB

5.1. Categories of membership

Membership categories and the rights attaching thereto shall be determined from time to time by the EXCO and are detailed in the RULES OF THE CLUB.

The following broad categories of membership have been created subject to this CONSTITUTION and such further terms and conditions as may be determined by the EXCO from time to time and detailed in the RULES of the CLUB:

5.1.1. RESIDENTIAL MEMBERS: All members of SEEHOA who are owners of immovable, residential property in the ESTATE who subject to 5.7 below shall be compulsory MEMBERS of the CLUB;

5.1.2. RESIDENTIAL TENANT MEMBERS: Lessees of immovable, residential property in the ESTATE who have entered into any lease with a SEEHOA member for over one month's duration and who may be admitted to membership on a non-voting basis;

5.1.3. RESIDENTIAL FAMILY MEMBERS: Spouses and DEPENDANTS of RESIDENTIAL MEMBERS or RESIDENTIAL TENANT MEMBERS who may register at no additional cost as non-voting MEMBERS of the CLUB;

5.1.4. NON-RESIDENTIAL MEMBERS: Persons who do not own immovable property in the ESTATE and who may be admitted to membership on an annually renewable, non-voting basis;

5.1.5. HONORARY MEMBERS: Persons upon whom honorary membership of the CLUB has been bestowed and who may or may not also be RESIDENTIAL MEMBERS from time to time.

Further sub-categories of membership may be created from time to time as required by

the EXCO and dictated by the needs of the CLUB or the ESTATE in general. The EXCO shall also be entitled to determine the manner in which pre-existing membership categories and/or rights may be phased out over time to bring them in line with any re-classification provided for in this amended Constitution and/or the amended Rules of the CLUB.

5.2. **Requirements for Membership**

The requirements for membership and the application and approval process shall be determined from time to time by the EXCO. No person may take up membership of a SECTION unless they are a MEMBER of the CLUB in one of the categories as provided for in 5.1 above.

5.3. **Continuation of Membership**

The basis for the continuation of membership shall be determined by the EXCO and are detailed in the RULES OF THE CLUB.

5.4. **MEMBERS bound by Constitution and Rules of the CLUB**

All MEMBERS –

5.4.1. shall be deemed to be aware of and to be bound by this Constitution and the RULES OF THE CLUB, as well as all decisions of the EXCO (which bears the responsibility for management of the CLUB) and amendments to the Constitution or RULES OF THE CLUB of which the MEMBERS have been given notice in terms of this Constitution;

5.4.2. shall, in the event of any dispute or disagreement between MEMBERS and/or the EXCO and MEMBERS, regarding the meaning, effect or interpretation of this Constitution and/or RULES OF THE CLUB, be bound by the majority decision of the EXCO in that regard and in respect of which the Chairperson shall have a casting vote in addition to a deliberative vote in the event of any deadlock in voting by the EXCO.

5.5. **DEFAULTING MEMBER**

5.5.1. A MEMBER -

5.5.1.1. who has failed to pay his annual subscription or any part thereof for a period of 60 (SIXTY) days beyond the due date for such payment, or

5.5.1.2. who has failed to pay any other DEBT for a period of 30 (THIRTY) days after the same is due;

5.5.1.3. who is suspended in terms of 10.4, during the period of such suspension and any MEMBER who has been requested to resign in terms of 10.4,

shall without prejudice to the CLUB's right to claim interest on any overdue amounts, be suspended and will cease to be able to enjoy the privileges of the CLUB or to use the facilities or amenities of the CLUB and shall be regarded as a DEFAULTING MEMBER.

5.5.2. Any NON-RESIDENTIAL MEMBER who becomes a DEFAULTING MEMBER and who fails to pay a DEBT within 7 (SEVEN) days of the MANAGER or his appointed staff member giving NOTICE to the MEMBER to do so, shall cease to be a MEMBER of the CLUB with effect from expiry of such notice but shall not be entitled to a refund of any subscriptions, fees or levies that may have already been paid by the DEFAULTING MEMBER for any period following cessation of membership.

5.5.3. The EXCO may, in its sole discretion, in respect of any person who has become a DEFAULTING MEMBER or otherwise ceased to be a MEMBER in terms of this sub-clause reinstate such person's applicable membership status with all of the privileges attaching to such membership.

5.6. **Cessation and resignation of MEMBERS**

5.6.1. Subject to 5.6.2 below, a MEMBER may resign by giving written notice to the MANAGER at least one calendar month prior to the expiry of the MEMBER's current subscription, failing which the MEMBER shall be liable for the following year's subscription.

5.6.2.

5.6.2.1. RESIDENTIAL MEMBERS may not resign their membership of the

CLUB;

5.6.2.2. RESIDENTIAL FAMILY MEMBERS may resign on notice to the CLUB and their membership shall automatically terminate if and when they cease to qualify as RESIDENTIAL FAMILY MEMBERS i.e. they cease to be a spouse or a DEPENDANT of a RESIDENTIAL MEMBER or a RESIDENTIAL TENANT MEMBER;

5.6.2.3. RESIDENTIAL TENANT MEMBERS may resign on notice to the CLUB and their membership shall automatically terminate if and when they cease to qualify as RESIDENTIAL TENANT MEMBERS i.e. they cease to lease immovable, residential property in the ESTATE.

5.6.3. Any associated SECTION membership shall automatically terminate in the event of membership of the CLUB terminating.

5.6.4. No MEMBER shall be entitled to a refund of his/her subscription for the unexpired portion of the year following submission of his/her letter of resignation or cessation of his/her membership.

5.7. Special provisions relating to RESIDENTIAL MEMBERS

5.7.1. Persons who have entered into a sale agreement with a SEEHOA member for the acquisition of immovable, residential property on the ESTATE shall be obliged to register for one principal RESIDENTIAL MEMBERSHIP on a special application form as approved by the EXCO from time-to-time, it being recorded that, due to the fact that the granting of RESIDENTIAL MEMBERSHIP is intended to be a suspensive condition to such sale agreements, the EXCO shall be entitled to adopt measures aimed at expediting the applications with the minimum delay.

5.7.2.

5.7.2.1. RESIDENTIAL MEMBERS, being persons who are members of SEEHOA owning immovable, residential property in the ESTATE to the South of Shaka's Rock Road shall, at their election, be entitled to apply for golf SECTION membership;

5.7.2.2. RESIDENTIAL MEMBERS being persons who are members of

SEEHOA owning immovable, residential property on the ESTATE to the North of Shaka's Rock Road, shall be obliged to apply for a minimum of one golf SECTION membership.

5.7.2.3. RESIDENTIAL MEMBERS may also authorize spouses and DEPENDANTS to apply for RESIDENTIAL FAMILY MEMBERSHIP and membership of any SECTION but this shall not be compulsory.

5.7.2.4. Further details of the rights attaching to these memberships may be set out in the RULES OF THE CLUB.

5.7.3. Where the purchaser of immovable property on the ESTATE, as contemplated in 5.7.1, is comprised of a number of individuals who intend to acquire the relevant immovable property and to hold it by way of co-ownership, one of the co-owners (the "nominated co-owner") shall, register for membership of the CLUB on the basis set out in 5.7.1 and 5.7.2 above and shall hold the RESIDENTIAL MEMBERSHIP in respect of the relevant immovable property acquired. Similarly, where the purchaser is an artificial person, a nominee of the artificial person being either a director, shareholder, member or beneficiary or trustee of the artificial person as the case may be or the spouse of any of the aforesaid persons shall register for membership of the CLUB on the basis set out in 5.7.1 and 5.7.2 above and shall become the RESIDENTIAL MEMBER in respect of the relevant immovable property acquired. Co-owners and the nominees of artificial persons shall be individuals having full contractual capacity. This shall not preclude additional co-owners or other directors, shareholders, members or beneficiaries or trustees of the aforesaid artificial persons applying for membership of the CLUB as well as any SECTION but their membership shall fall into the NON-RESIDENTIAL MEMBERSHIP category.

5.7.4. Membership of the CLUB and SECTIONS may not be sold or transferred however co-owners may make application to vary the "nominated co-owner" for purposes of 5.7.3 from time to time which application may be granted on such terms and conditions as the EXCO may in its sole discretion prescribe. Similarly the nominee of an artificial person may on application be varied from time to time and on such terms and conditions as the EXCO may in its sole discretion prescribe and particularly subject to the payment of further CLUB, and where applicable also SECTION, joining fees in the event of a "deemed alienation" envisaged in terms of clause 2.1.3 of the Memorandum of Incorporation of

SEEHOA giving rise to the variation.

5.7.5. If a RESIDENTIAL MEMBER enters into a lease of his immovable, residential property in the ESTATE for over one month duration then the RESIDENTIAL MEMBER may either:

5.7.5.1. elect to retain his membership of any SECTION; or

5.7.5.2. may elect to cede his membership of any SECTION to his tenant/lessee in which event the tenant/lessee shall be obliged to register as a RESIDENTIAL TENANT MEMBER in order to enjoy SECTION privileges.

6. MEETINGS OF MEMBERS OF THE CLUB

6.1. General Meeting

6.1.1. Subject to the conditions regarding the convening of such meetings as in this Constitution provided, an Annual General Meeting shall be held within 6 (SIX) months of the end of each FINANCIAL YEAR.

6.1.2. The EXCO may convene general meetings of the CLUB at any time.

6.1.3. The EXCO shall convene a general meeting of the CLUB within 30 (THIRTY) days of a request being made thereto, by written advice to the SCC MANCO, signed by 2 (TWO) members of the EXCO or by 25 (TWENTY FIVE) MEMBERS, provided that such notice shall specify the business which it is proposed to deal with at such meeting, and provided further that the same business shall not be dealt with twice in the same FINANCIAL YEAR without the written consent of the EXCO.

6.1.4. The EXCO shall determine the place, date and time for the holding of general meetings.

6.1.5. NOTICE of general meetings shall be given to MEMBERS but the failure of a MEMBER to receive the NOTICE shall not vitiate the meeting.

6.2. Proceedings at General Meetings

- 6.2.1. Annual General Meetings shall deal with and dispose of the following business:
- 6.2.1.1. to receive and consider the annual report of the EXCO;
 - 6.2.1.2. to receive and consider the audited financial statements of the CLUB;
 - 6.2.1.3. to appoint the auditor of the CLUB for the ensuing year (which shall generally be the same as the SEEHOA auditor) and to consider the level of remuneration in respect of the past audit;
 - 6.2.1.4. any matter provided for in the NOTICE of the meeting;
 - 6.2.1.5. any matter which, by written advice to the SCC MANCO, signed by not less than 10 (TEN) MEMBERS or 2 (TWO) members of the EXCO is to be dealt with, provided that such written advice shall be given not less than 7 (SEVEN) days before the date on which NOTICE for the holding of an Annual General Meeting, is to be given or such shorter period as the meeting may determine.
- 6.2.2. General meetings shall deal with and dispose of matters specified in the NOTICE of the meeting;
- 6.2.3. A general meeting may not proceed unless a quorum of MEMBERS is present at the time when the meeting proceeds to business. Save, as herein provided, 10% (TEN PERCENT) of MEMBERS present in person or by proxy shall be a quorum.
- 6.2.4. If within 15 (FIFTEEN) minutes after the time appointed for a general meeting a quorum is not present the meeting shall, if it was requested by MEMBERS in terms of 6.1.3, lapse and otherwise the meeting shall stand adjourned to a day not earlier than 7 (SEVEN) days and not later than 21 (TWENTY ONE) days after the date of the meeting and if at such adjourned meeting a quorum is not present within 15 (FIFTEEN) minutes after the time appointed for the meeting the MEMBERS present in person or by proxy shall be a quorum;
- 6.2.5. Where a meeting has been adjourned, the SCC MANCO shall, within 3 (THREE) days after the adjournment, give notice to MEMBERS stating the date,

time and place to which the meeting has been adjourned, the matter before the meeting when it was adjourned and the grounds for adjournment;

6.2.6. The chairman of the EXCO, or in his absence, the vice-chairman, or in his absence, any member of the EXCO, shall preside at all general meetings;

6.2.7. The chairman 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. NOTICE of the adjourned meeting shall be given as herein before provided;

6.2.8. Subject to 6.2.9 below only RESIDENTIAL MEMBERS in good standing i.e. a RESIDENTIAL MEMBER who is not a DEFAULTING MEMBER or a SUSPENDED MEMBER shall be entitled to attend and speak, and if applicable vote at any meeting of the CLUB.

6.2.9. RESIDENTIAL FAMILY MEMBERS, RESIDENTIAL TENANT MEMBERS and NON-RESIDENTIAL MEMBERS in good standing i.e. who are not DEFAULTING or SUSPENDED MEMBERS are allowed to attend and speak at a General Meeting but will not have a vote.

6.3. **Minutes**

Minutes shall be kept of every general meeting and such minutes shall be available for inspection by MEMBERS. The minutes shall be distributed by the EXCO after every general meeting and shall be formally confirmed at the next general meeting of the CLUB. Any objections or comments thereon shall be lodged with the EXCO within 30 (THIRTY) days of distribution thereof.

6.4. **Votes of Members**

6.4.1. Only RESIDENTIAL MEMBERS in good standing i.e. not a DEFAULTING MEMBER or a SUSPENDED MEMBER and not a RESIDENTIAL FAMILY MEMBER or a RESIDENTIAL TENANT MEMBER, shall be entitled to vote. No other category of MEMBER shall be entitled to vote. This shall not preclude RESIDENTIAL FAMILY MEMBERS, RESIDENTIAL TENANT MEMBERS, NON-RESIDENTIAL MEMBERS and HONORARY MEMBERS and any other category of MEMBERS voting within SECTIONS to which they belong subject

to the terms of any applicable SECTION CHARTER. For the sake of certainty any HONORARY MEMBER in good standing who also owns immovable property in the ESTATE and as such is also a RESIDENTIAL MEMBER in good standing shall be entitled to vote.

6.4.2. Every RESIDENTIAL MEMBER present in person or by proxy and entitled to vote shall have one vote per residential property owned within the ESTATE provided that the votes of artificial persons and co-owners of immovable property on the ESTATE shall only be exercised by one person holding RESIDENTIAL MEMBERSHIP so as to ensure that only one vote is exercised by co-owned immovable properties on the ESTATE and immovable properties owned by artificial persons.

6.4.3. In addition to any other provision of this Constitution requiring a SPECIAL RESOLUTION none of the following actions may be taken or done without a SPECIAL RESOLUTION of the MEMBERS (being the RESIDENTIAL MEMBERS entitled to vote only):

6.4.3.1. a change in the basis of accounting or accounting policies used during the immediately preceding financial year;

6.4.3.2. a change in the financial year of the CLUB;

6.4.3.3. save in the event of an emergency and further save in respect of the maintenance of existing infrastructure and/or assets, the incurring of any unbudgeted capital expenditure by the CLUB exceeding R2 000 000.00 (TWO MILLION RANDS) in aggregate;

6.4.3.4. the adoption by the CLUB of any tax schemes not in the ordinary and regular course of business of the CLUB;

6.4.3.5. the acquisition or disposal of immovable property by the CLUB.

6.5. Proxies

6.5.1. A MEMBER may appoint another RESIDENTIAL MEMBER, who shall be a MEMBER in good standing, to be such MEMBER's proxy to attend any general meeting and to speak and, where applicable vote, on such MEMBER's behalf.

- 6.5.2. A proxy may not be a DEFAULTING MEMBER or a SUSPENDED MEMBER or a NON-RESIDENTIAL MEMBER.
- 6.5.3. The instrument appointing the proxy shall be in writing and shall be signed by the grantor and shall specify the general meeting at which the proxy may be exercised and if applicable the manner in which the proxy may be used. In the absence of any stipulation in this regard a proxy may vote as he sees fit.
- 6.5.4. The instrument appointing a proxy shall be lodged with the CLUB in accordance with the directions contained in the notice convening the general meeting at least 48 (forty eight) hours before the commencement of a general meeting and shall be substantially in the form of proxy utilized by SEEHOA as set out in SEEHOA's Memorandum of Incorporation from time to time.
- 6.5.5. A proxy given for any particular general meeting may be exercised at any adjournment of such meeting.

7. ELECTION OR APPOINTMENT TO AND PROCEEDINGS OF THE EXCO

7.1. Composition of the EXCO

- 7.1.1. The EXCO shall subject to 7.1.2 consist of the same persons who have been elected as directors from time to time of SEEHOA. The Chairman of the EXCO shall be appointed by the EXCO at their first meeting following the Annual General Meeting. The Chairman of the EXCO may not be a DEFAULTING MEMBER or a SUSPENDED MEMBER;
- 7.1.2. If, and for so long as, any director of SEEHOA is a DEFAULTING MEMBER or a SUSPENDED MEMBER then that director shall not be entitled to participate on the EXCO in respect of any matters pertaining to the CLUB.

7.2. Role and Responsibilities

- 7.2.1. The EXCO shall manage the business and affairs of the CLUB in accordance with the powers conferred on it by this Constitution. It shall serve as the executive body of the CLUB, and oversee and supervise the management of the CLUB and its assets.

7.2.2. The EXCO shall establish policy and shall provide strategic direction to the SCC MANCO and the GENERAL MANAGER. The EXCO may delegate certain of its functions, as it deems fit, to the SCC MANCO or any other person or committee of persons, or any 1 (ONE) or more of them.

7.3. **Proceedings of the EXCO**

Any decision of the EXCO in relation to the policy or strategic direction to be implemented by the SCC MANCO shall be conveyed to the SCC MANCO and/or the GENERAL MANAGER by the Chairman of the EXCO. The SCC MANCO shall report directly to the Chairman of the EXCO.

7.4. **Votes on the EXCO concerning CLUB affairs**

7.4.1. Each person serving on the EXCO shall, respectively, have 1 (ONE) vote;

7.4.2. Voting shall be by show of hands unless a secret ballot is requested by not less than 2 (TWO) members of the EXCO in which event the vote shall be by secret ballot;

7.4.3. in the case of an equality of votes, the Chairman of the EXCO shall have a second or casting vote in addition to his deliberative vote.

7.5. **Minutes**

Minutes of the proceedings of the EXCO shall be kept in such manner as may be determined by the Chairman from time to time and shall, upon written request, be available for inspection by MEMBERS.

7.6. **Appointment of sub-committees**

7.6.1. The EXCO may, from time to time, appoint and disband such sub-committees, whether comprising persons serving on the EXCO or not, with such objects and such powers as the EXCO determines.

7.6.2. The chairman of the EXCO or his duly appointed representative (who shall also be a member of the EXCO) shall, ex officio, serve on all sub-committees;

7.6.3. The provisions of this Constitution as applied to the proceedings of the EXCO shall mutatis mutandis, apply to sub-committees.

7.7. Nominations

There shall be no separate nominations by MEMBERS of the CLUB for positions on the EXCO as the directors of SEEHOA serve on the EXCO for the same period as they serve on the board of directors of SEEHOA.

7.8. Elections

There shall be no elections for positions on the EXCO which positions will be filled in accordance with the provisions of SEEHOA's Memorandum of Incorporation

8. SECTIONS

The EXCO may, from time to time, establish and disband SECTIONS within the CLUB for the promotion of any activity consistent with the objects of the CLUB. The SECTION MEMBERS shall consist of those persons who, from time to time, have applied for and been admitted to membership of any SECTION and who have agreed to pay the applicable subscriptions and fees due in respect of membership of a SECTION.

8.1. Establishment of SECTION COMMITTEES

8.1.1. Each SECTION established by the EXCO shall be managed by a SECTION COMMITTEE established within the provisions hereinafter set forth, which SECTION COMMITTEES shall have the powers hereinafter provided and such other powers as are delegated to it by the EXCO;

8.1.2. After the Annual General Meeting of the CLUB, each SECTION shall hold an Annual General Meeting within 60 (sixty) days, for the purpose of:

8.1.2.1. electing a SECTION COMMITTEE which, subject to the provisions of clause 7.6.2, will consist of a minimum of 3 (three) and a maximum of 9 (nine) persons each of whose appointment shall be supported by more than 50% (FIFTY PERCENT) of the votes exercised on their appointment (with abstentions being excluded and not being regarded

as a vote for or against) and which persons shall hold office for a period as determined by the relevant SECTION Charter and who on retirement shall be eligible for re-election;

8.1.2.2. considering the report of the Captain and or Chairman on the affairs and the activities of the SECTION during the preceding year;

8.1.2.3. transacting any further business specified in the NOTICE convening the meeting;

8.1.3. At all times any SECTION COMMITTEE shall consist of at least 51% (FIFTY ONE PERCENT) RESIDENTIAL MEMBERS in good standing with the CLUB and all SECTIONS to whom they belong.

8.2. Proceedings at general meetings of SECTIONS

8.2.1. The quorum for general meetings of SECTIONS shall be 5% (FIVE PERCENT) of all paid up SECTION MEMBERS being personally present;

8.2.2. Decisions at a SECTION general meeting shall be by simple majority vote of SECTION members present in person either on a show of hands or ballot at the discretion of the Chairperson of the SECTION COMMITTEE.

8.2.3. In the case of an equality of votes the chairman of the SECTION general meeting shall have an additional or casting vote in addition to his deliberative vote;

8.2.4. SECTION COMMITTEES shall meet at such time, place and date as the chairman, and failing him any person serving on a SECTION COMMITTEE determines, provided that each SECTION COMMITTEE shall meet as determined by the SECTION COMMITTEE but at least once every 3 (THREE) months.

8.2.5. The relevant SECTION Charter shall make provision that for the appointment of all office bearers for that SECTION at the annual general meeting of the relevant SECTION.

8.3. Minutes of SECTION COMMITTEES

Minutes of the proceedings of meetings of SECTION COMMITTEES shall be kept and shall be at the discretion of the relevant Chairperson be made available for inspection by SECTION MEMBERS and will not be unreasonably be withheld. All minutes must be made available to EXCO.

8.4. Election of Office Bearers of SECTION COMMITTEES

8.4.1. At the first meeting of each SECTION COMMITTEE after its election, the SECTION COMMITTEE shall, from its number, elect a Chairperson.

8.4.2. Any relevant SECTION CHARTER when duly adopted will regulate the appointment of any further SECTION COMMITTEE members restricted to the maximum number provided for in this CONSTITUTION.

8.4.3. SECTION COMMITTEES shall have the option to co-opt additional SECTION COMMITTEE MEMBERS to perform specific duties on behalf of the relevant SECTION from time to time. These co-opted SECTION COMMITTEE MEMBERS will not have a vote.

8.5. Powers of SECTION COMMITTEES

The powers of SECTION COMMITTEES shall include the following powers, all of which shall be subordinate to the decisions of the EXCO, namely:

8.5.1. to frame, a SECTION CHARTER for approval by the applicable SECTION MEMBERS, which SECTION CHARTER shall not be inconsistent with this Constitution and the RULES OF THE CLUB and shall include rules and regulations for the orderly conduct, including discipline in respect of any “rules of the game”, and activities of the SECTION, and which SECTION CHARTER shall only be effective on written approval being issued by the EXCO;

8.5.2. to prescribe the functions of the SECTION COMMITTEE office bearers;

8.5.3. to be responsible for organising and controlling the activities of the SECTION and proposing SECTION membership criteria, operating budget, annual fees and subscriptions of the SECTION for the approval by the EXCO;

- 8.5.4. to act in an advisory capacity in relation to the protection and upkeep of the property of the CLUB in its charge or used by the SECTION and shall have a duty not to cause or permit to be caused any damage thereto;
- 8.5.5. to call general meetings of the SECTION upon receipt of a written request signed by 25 (TWENTY FIVE) MEMBERS belonging to the SECTION;
- 8.5.6. to present to the Annual General Meeting of the SECTION a report of the affairs of the SECTION for the previous year;
- 8.5.7. subject to the approval of EXCO to fill any vacancy in their number from amongst MEMBERS belonging to the SECTION, which replacement shall hold office until the person whom he has replaced would have retired;
- 8.5.8. during the year to make written application to the EXCO for funds and or the right to raise funds and sponsorship for its activities, providing such details as it considers necessary and as the EXCO requires.

9. The GENERAL MANAGER AND SCC MANCO

- 9.1. The EXCO shall create an appropriate SCC MANCO, consisting of at least 4 (FOUR) salaried persons from within management of the CLUB and whose functions will be to implement the EXCO decisions and manage the day to day operations of the CLUB under the direction of the GENERAL MANAGER so as to ensure maximum membership satisfaction, both short term and long term; the accumulation of funds compatible with the best interest of the MEMBERS; the maintenance and improvement of the quality of the CLUB's products or services; and the security and protection of the CLUB's assets and facilities. The GENERAL MANAGER shall be appointed by and reports to the EXCO.as often and in such form as may reasonably be required.
- 9.2. The GENERAL MANAGER shall have authority to manage and administer the CLUB and its operations in conformity with the policies established by the EXCO, the CLUB's Constitution, the RULES OF THE CLUB, any SECTION CHARTER and such management agreement (s) as may be in place from time to time.
- 9.3. The GENERAL MANAGER shall, ex-officio, be entitled to attend and vote at meetings of all the committees, including SECTION COMMITTEES, of the CLUB and unless

otherwise provided for in this Constitution any membership limit for such committee shall be deemed to be increased to include him.

- 9.4. The GENERAL MANAGER shall be appointed or removed by the EXCO.
- 9.5. The SCC MANCO shall report to the MEMBERS at Annual General Meetings on the financial affairs of the CLUB, shall report to the EXCO on all aspects of the CLUB'S finances and shall ensure that the CLUB'S fiscal policies are duly implemented.
- 9.6. In addition to any duty specifically delegated to it by this Constitution, the SCC MANCO shall ensure that the CLUB's records including the deeds and documents of the CLUB and membership records and minutes of all meetings of the CLUB are duly maintained, ensure that notice of all meetings of the CLUB is given in accordance with this Constitution and otherwise carry out such other activities as the EXCO shall reasonably require.

10. STATUS OF MEMBERS, BREACH AND DISCIPLINE

- 10.1. Membership of the CLUB shall not give to any MEMBER any proprietary right, title, interest, claim or demand in or to any of the property of the CLUB, but shall confer on MEMBERS the rights and privileges of the CLUB and its facilities in accordance with the RULES OF THE CLUB approved by the EXCO and any applicable SECTION CHARTER and in accordance with this Constitution.
- 10.2. No profit from the sale of liquor or food or any other product or service by the CLUB shall accrue to any MEMBER.
- 10.3. The liability of MEMBERS is limited to the amount of unpaid subscriptions, entrance fees, or other amounts owing by them to the CLUB from time to time;
- 10.4. Should any MEMBER, commit any breach of this Constitution or the RULES OF THE CLUB or any applicable SECTION CHARTER, or introduce to the CLUB any person whose presence, in the opinion of the EXCO, is prejudicial to the CLUB, or should a MEMBER be guilty of un-sportsmanlike or unbecoming conduct or of conduct prejudicial to the character, interest or reputation of the CLUB, whether on the CLUB's premises or outside of them, then if appropriate the MEMBER may, at the discretion of the EXCO, be subjected to a disciplinary process as defined by the RULES OF THE CLUB and/or any relevant SECTION CHARTER and after being given the opportunity

to respond to any allegations made against him or her may be issued with a warning, suspended, expelled, or requested to resign save that a RESIDENTIAL MEMBER may not be expelled or may not resign or be requested to resign and further provide that any decision to expel a MEMBER or to suspend a MEMBER for longer than 6 (SIX) months shall be ratified by the EXCO. Should a MEMBER requested to resign not do so within 14 (FOURTEEN) days from the date of the letter addressed to him setting forth such request, the EXCO shall be empowered to expel such MEMBER and to remove such persons name from the list of MEMBERS. No MEMBER shall have the right to take any legal action against the CLUB or its officers, or any SECTION, or any Disciplinary or Appeals Committee as a result of any such decision. In the event of a RESIDENTIAL MEMBER becoming a SUSPENDED MEMBER, the obligation to pay all subscriptions based on ownership of a property within the ESTATE shall remain in force as an incident of ownership of property within the ESTATE.

- 10.5. All disciplinary action shall be dealt with by a Disciplinary Committee constituted by the SCC MANCO in each instance depending on the nature and severity of the conduct or breach complained of provided that the SCC MANCO shall always be represented on the Disciplinary Committee. The SCC MANCO shall also have the power to determine whether any disciplinary action relates to a CLUB (general conduct) or a SECTION (conduct specific to the particular activity or "rules of the game") disciplinary issue and to constitute the Disciplinary Committee accordingly. A right of appeal against any decision of a Disciplinary Committee, be it a CLUB or a SECTION Disciplinary Committee, shall lie to an Appeals Committee. The Appeals Committee shall be the same Appeals Committee which functions as the Appeals Committee of SEEHOA and whose decision on appeal shall be final and binding and not subject to any further appeal or review.
- 10.6. Subject to due process the EXCO is empowered to raise penalties on MEMBERS as a sanction against MEMBERS who are in breach of any of the terms of this Constitution or the RULES OF THE CLUB or any applicable SECTION CHARTER.
- 10.7. The CLUB, EXCO, SECTION COMMITTEES, and any of their officers or staff shall not be liable, in any manner whatsoever, for any losses, damages or injury to any person or property suffered or sustained by any MEMBER or his guest whilst on the CLUB's premises or while present at any of the CLUB's activities or while representing the CLUB in any way, whether on the CLUB's premises or elsewhere, provided that if the Consumer Protection Act 68 of 2008 (CPA) applies for the benefit of any MEMBER or his guest, the exclusion of liability in this clause will not apply to any loss directly or

indirectly attributable to the gross negligence of the CLUB, the EXCO, SECTION COMMITTEES or any person acting for or controlled by any of them.

11. AUTHORISED SIGNATORIES OF THE CLUB

All documents executed on behalf of the CLUB shall be signed by the MANAGER or such other persons authorised thereto by the EXCO

12. CLUB COLOURS

The colours of the CLUB and its badge shall be as determined by the EXCO from time to time and use thereof controlled in terms of the marketing policy of SEEHOA.

13. INDEMNITY

13.1 The EXCO, SCC MANCO, SECTION COMMITTEES and all officers and staff thereof are hereby indemnified and held harmless out of the funds and property of the CLUB in respect of any and all claims against them personally or collectively arising out of the activities of such, provided that they shall not be indemnified in respect of any actions by them committed or omitted in bad faith recklessly or with the intention of causing damage or loss to the CLUB or its MEMBERS.

13.2 MEMBERS agree that they enter upon the ESTATE and utilize the facilities of the CLUB entirely at their own risk and that Simbithi Eco-Estate (Pty) Ltd, the CLUB and SEEHOA shall not be liable under any circumstances whatsoever for any injury to person or any loss of, or damage to, any property that may occur as a consequence of any MEMBER entering upon the ESTATE and/or using the CLUB'S facilities. MEMBERS waive all claims against Simbithi Eco-Estate (Pty) Ltd, the CLUB and SEEHOA for any loss of or damage to property or injury to person which any may be sustained in or about the ESTATE, including the CLUB, and indemnify Simbithi Eco-Estate (Pty) Ltd, the CLUB and SEEHOA against any such claim that may be made against Simbithi Eco-Estate (Pty) Ltd, the CLUB and SEEHOA by members of their family, their invitees or any other person who may go upon the ESTATE, including the CLUB, by virtue of their rights thereto, for any loss or damage to property or injury to person suffered in or about the ESTATE and the CLUB however such loss or damage to property to injury to person may be caused. If the CPA applies for the benefit of a MEMBER or any person who goes upon the ESTATE and the CLUB by virtue of the MEMBER's rights, the exclusion of liability and indemnity in this clause will not apply to

any loss directly or indirectly attributable to the gross negligence of Simbithi Eco-Estate (Pty) Ltd, the CLUB or SEEHOA or any person acting for or controlled by any of them.

14. ANNUAL AUDIT

The EXCO shall ensure that the CLUB's records and books of account are audited annually.

15. GENERAL

15.1 In cases of doubt as to the meaning or interpretation of the Constitution or RULES OF THE CLUB or any SECTION CHARTER, the interpretation and/or decision of the EXCO in those regards shall be final and binding on MEMBERS.

15.2 Should any part of this Constitution or of the RULES OF THE CLUB or any SECTION CHARTER be in conflict with any statutory provision, then the relevant part of the Constitution or of such RULES OF THE CLUB or of such SECTION CHARTER shall be deemed to have been altered, modified or amended so as to comply with such statute.

15.3 This Constitution shall not be altered except by SPECIAL RESOLUTION of the MEMBERS present in person or by proxy at a general meeting of the CLUB called specifically for such purposes and in respect of which notice has been duly given.

15.4 All amendments to the Constitution shall, unless otherwise provided, become effective from the date of the passing of the SPECIAL RESOLUTION altering the Constitution and a certificate given under the hand of the chairman of the general meeting at which the Constitution was altered confirming the amendments to the Constitution shall be conclusive evidence thereof.

16. WINDING UP OF THE CLUB

The CLUB may be liquidated and its affairs wound up upon a resolution passed at a general meeting of the CLUB called specifically for such purpose, provided that such resolution shall be passed by not less than 90% (NINETY PERCENT) of MEMBERS present in person or by proxy. Together with the resolution to wind up being passed, a resolution shall be passed appointing a liquidator or liquidators, which resolution shall give directions as to the methods of such winding up, provided that, other than the repayment of any amounts due to MEMBERS no funds or assets of the CLUB shall be distributed to any MEMBER, but shall be distributed

to another association having aims and objects similar to the CLUB.

17. FORMAL ADOPTION AND RATIFICATION OF THE CONSTITUTION

The Constitution was formally adopted and ratified by the Board of Directors of Simbithi Eco Estate Home Owner's Association, for the benefit of all of its Members on 2 September 2010.

Changes were made to the initial Constitution and formally adopted at the AGM held on 29 August 2012.

Further changes were made and formally adopted at the AGM held on _____

Chairman of Simbithi Country Club

Date