

MOQUINI HOME OWNERS ASSOCIATION

1. NAME

The name of the Association:

MOQUINI HOME OWNER'S ASSOCIATION

The Association shall consist of all registered owners of erven 649 to 659, 661 to 702 and 946 to 963 Stillbay East as indicated on the General Plan SS 659 / 1996.

2. DEFINITIONS

In this Constitution, unless the context indicates the contrary:

- 2.1 "the Association" shall mean Moquini Home Owner's Association;
- 2.2 "the Constitution" shall mean the constitution of the Moquini Home Owner's Association as established in terms of Section 29 of the Land Use Planning Ordinance, Nr 15 of 1985;
- 2.3 "a day" shall mean a business day and not a holiday or Saturday or Sunday;
- 2.4 "the Developer" shall mean Ellenrust Eiendomme (Pty) Ltd (Nr 1994/0021115/07);
- 2.5 "erf / erven" shall mean the erven as described in clause 1.2 hereof;
- 2.6 "EXCOM" shall mean the Executive Committee constituted in terms of Clause 7.2 hereof, and shall consist of members.
- 2.7 "the Local Authority" shall mean the Municipality Hessequa;
- 2.8 "member" shall mean a member as defined in Clause 5 hereof;
- 2.9 "person" shall include a Company, Close Corporation, Partnership, current Trustees of a Trust or other Association of persons entitled in law to hold title to immovable property;
- 2.10 "the Private Open Area" shall mean erven 674, 678, 686, 703 and 964 Stillbay East as described by General Plan SS 659/1996
- 2.9 "the Township" shall mean the private area which consists of fifty single residential erven and eighteen group housing erven, roads and private open areas situated on the remainder of Erf 218 Stilbay East
- 2.10 words importing the singular shall include the plural and the converse shall also apply; the masculine gender shall include feminine and neuter genders and the neuter gender shall include the masculine and feminine genders.

3. **HEAD NOTES**

- 3.1 The head notes to the Clauses in this Constitution are inserted for reference purposes only and shall not effect the interpretation of any of the provisions to which they relate.

4. **OBJECTS OF THE ASSOCIATION**

The objects of the Association are:

- 4.1 Through EXCOM, to promote and enforce standards for community-living in the Township and Private Open Area and liaison with other organizations in such a way that members may derive the maximum collective benefit there from,
- 4.2 To ensure that the Association meets its obligations to control, own and maintain private open areas and services constructed for the benefit of members.
- 4.3 That the Association, through EXCOM, shall have the power to do such acts as are necessary and reasonably required to give effect to the provisions of the Constitution.
- 4.4 The Association shall be an association:
 - 4.1.1 with separate legal personality, capable of suing and being sued in its own name, and
 - 4.1.2 none of whose members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by EXCOM in terms of, and subject to the provisions in this Constitution, and
 - 4.1.3 not for profit, but for the benefit of the members and occupants of immovable property situate in the Development.

5. **MEMBERSHIP**

- 5.1 The Association shall be organized without capital and membership thereof shall be evidenced by registered ownership in the Deeds Registry in Cape Town of one or more erven in the Township. Upon registration of ownership, membership of the Association shall be automatic and members shall be obliged to comply with the provisions of this Constitution. No person shall be entitled to cease to be a member of the Association while remaining the registered owner of an erf in the Township.
- 5.2 Each member shall be entitled to ONE (1) vote for each erf owned in the Township. Ownership of an erf in undivided shares shall constitute only one membership, which membership shall be represented by one individual in terms of the provisions of Clause 8.10 hereof.
- 5.3 Membership shall be transferred by the registration of a Deed of Transfer in the Deed's Registry at Cape Town, passing transfer of one or more erven in the Township to the new member.

- 5.4 Every member shall pay an annual levy/subscription to the Association, the amount of which shall be determined by EXCOM in terms of Clause 10 hereof. The subscription so determined shall apply equally to erven and shall be payable in respect of each erf owned by a member.

6. COMMITTEE

- 6.1 The powers of the Association other than those to be exercised by the members in General Meeting, shall be exercised by EXCOM.

7. EXECUTIVE COMMITTEE

7.1 Composition

- 7.1.1 The number of EXCOM members shall be determined from time to time by the members of the Association at the Annual General Meeting, provided that there shall not be less than THREE (3) or more than FIVE (5) EXCOM members.
- 7.1.2 The first EXCOM members have already been appointed by the members and developer.
- 7.1.3 Until such time as the Association has held its first Annual General Meeting, the duties of EXCOM shall be performed by the executive committee appointed at the Annual General Meeting during December 2005.

7.2 Election at Annual General Meeting

- 7.2.1 EXCOM members shall be elected annually at the Annual General Meeting and shall, subject to the provisions herein contained, remain in office until the following Annual General Meeting.
- 7.2.2 Nominates of candidates for election to EXCOM at any meeting shall be in writing, signed by TWO (2) members and accompanied by the written consent of the candidate nominated, and to be handed in before the meeting.
- 7.2.3 EXCOM members may fill any vacancy in their number of co-opt any additional member, provided that the number of EXCOM members shall not exceed FIVE (5). Any EXCOM members so appointed or co-opted shall hold office until the next Annual General Meeting when he shall retire and be eligible for re-election as though he had been elected at the previous Annual General Meeting.

7.3 Vacation of office

- 7.3.1 by notice in writing to EXCOM, he/she resigns his office;
- 7.3.2 he/she is or becomes of unsound mind;

- 7.3.3 he/she surrenders his/her estate as insolvent or his/her estate is sequestrated;
- 7.3.4 he/she is convicted of an offence which involves dishonesty;
- 7.3.5 he/she absents himself/herself from THREE (3) consecutive meetings of EXCOM without special leave of absence from EXCOM;
- 7.3.6 by resolution of a General Meeting of the Association, he/she is removed from his/her office;
- 7.3.7 he/she ceases to be a member.

7.4 Meetings and Procedures

- 7.4.1 EXCOM members may give notice convening meetings, as described in clause 7.4.2 hereof, meet together for the dispatch of business, adjourn or otherwise regulate their meetings as they think fit.
- 7.4.2 An EXCOM member may at any time convene a meeting of EXCOM by giving to the other EXCOM members no less than TEN (10) days written notice of a meeting proposed by him, which notice shall specify the reason for calling such a meeting, provided that in case of urgency shorter notice may be given within reason and according to circumstances. These meetings shall be convened in such a manner that it will be possible for all EXCOM members to participate telephonically and/or electronically and to communicate with the other members.
- 7.4.3 THREE (3) EXCOM members shall form a quorum where EXCOM consist of either THREE (3) or FIVE (5) members. If at any meeting a quorum is not present within THIRTY (30) minutes of the appointed time of the meeting, such meetings shall stand adjourned to the next business day at the same time.
- 7.4.4 If the number of EXCOM members falls below the number necessary to form a quorum, the remaining members may constitute a quorum, but only for the purpose of convening a General Meeting of members.
- 7.4.5 At the commencement of the first meeting of EXCOM members after each Annual Meeting, EXCOM members shall elect a Chairman from their number who shall hold office as such until the end of the next ensuing Annual General Meeting and such Chairman shall have a casting as well as a deliberative vote. If any Chairman vacates his office or is removed there from by the members of a General Meeting the EXCOM members shall elect another Chairman who shall hold office for the remaining period in respect of which the first mentioned Chairman was elected and he shall have the same rights of voting.
- 7.4.6 All matters at any meeting of EXCOM shall be determined by the majority or those present and voting.
- 7.4.7 EXCOM members may from time to time appoint a person to be Secretary of the Association, to fulfil the normal functions of a Secretary and, inter alia, to attend all meetings and keep Minutes thereof.

7.5 Powers of EXCOM

The management and administration of the Association shall vest in EXCOM which may exercise all such powers of the Association and also on behalf of the Association, all such acts as may be exercised by the Association itself and which are not, by its Constitution, required to be exercised or executed by the Association in a General Meeting. Without in any way limiting the generality of the afore-going, such powers shall include but not be limited to the following:

- 7.5.1 The determination of what constitutes an appropriate standard for community living and the maintenance of properties in the Private Open Area and ensuring house rules if need be;
- 7.5.2 The performance of such acts as are necessary to accomplish the objects expressed or implied herein;
- 7.5.3 The investment and re-investment of monies of the association which are not immediately required, in such a manner as may be determined from time to time.
- 7.5.4 The operation of a banking account with all relevant powers;
- 7.5.5 The making of, entering into and carrying out of contracts of agreement for any of the purpose of the Association;
- 7.5.6 The employment and payment of agents, servants and any other parties;
- 7.5.7 To institute proceedings in the name of the Association (after obtaining the written authority of the majority of all the members), to defend actions in the name of the Association and to appoint legal representatives for this purpose; in particular and without derogating from the generality of the afore-going;
- 7.5.8 The power to sue shall include the right to sue members for the payment of subscriptions in arrears an/or for not carrying out of their obligations in terms of the Constitution. It is recorded that EXCOM does not require the approval of the members as stipulated in 7.5.7 above to institute an action against any member;
- 7.5.9 The levying of a subscription payable by the members are provided in Clause 10 hereof;
- 7.5.10 To issue and regulate the regulations regarding the maintenance of undeveloped erven of members.
- 7.5.11 To issue and regulate the regulations regarding the development and occupation of the private open areas by members;

7.6 Validity of Acts of EXCOM members

- 7.6.2 Any act performed by EXCOM members shall, notwithstanding that it is after the performance of the act discovered that there was some defect in the appointment of continuance of any EXCOM member, be as valid as if such EXCOM member had been duly appointed in office.

7.7 **Remuneration**

- 7.7.2 EXCOM members shall be entitled to be repaid all reasonable and bona fide expenses incurred by them in connection with and incidental to the performance of their duties as EXCOM members but save as aforesaid, shall not be entitled to any other remuneration, fees or salary in respect of the performance of such duties.

7.8 **Indemnity**

- 7.8.1 No EXCOM member shall be liable to the Association or any member thereof, or to any other person whomsoever for any act or omission by himself, by the Association or by its servants or agents. An Excom member shall be indemnified by the Association against any loss or damage suffered by him in consequence of any purported liability, provide that such member has upon the basis of information known to him, or which should reasonably have been known to him, acted in good faith and without gross negligence.

8. **MEETINGS**

- 8.1 Annual General Meetings shall be held once a year during the month of December at such time and place as may be determined by EXCOM, but so that no more than FIFTEEN (15) months shall be allowed to elapse between any TWO (2) such successive meetings. The business to be done at the Annual General Meeting shall include:

- 8.1.1 the receipt of a report on the affairs of the association;
- 8.1.2 the election of members to EXCOM;
- 8.1.3 the adoption of the Balance Sheet account;
- 8.1.4 the consideration of any Resolutions concerning the affairs of the Association of which due notice has been given;
- 8.1.5 any other business.

8.2 **Ordinary General Meetings**

- 8.2.1 EXCOM may call an Ordinary General Meetings during the month of December each year whenever it thinks fit. An ordinary General Meeting shall also be called upon the written request of not less than THREE (3) members, directed to the Chairman of EXCOM.

8.3 **Notice of Meetings**

- 8.3.1 An Annual Meeting shall be convened during the month of December each year by a minimum of TWENTY ONE (21) days notice in writing and the Minutes of the previous Annual General Meeting shall be sent to members together with the notice convening the meeting. An Ordinary General Meeting shall be called by a minimum of FOURTEEN (14) days notice in writing. The notice shall specify the place, the day and the hour

of the meeting and the general nature of the matter to be discussed, provided that any meeting shall notwithstanding that it is called by shorter notice than that specified, be deemed to have been correctly called if it is agreed by the SEVENTY PERCENT (70%) of the members present.

8.4 Validity

- 8.4.1 The accidental omission of giving notice of a meeting to, or the non-receipt of a notice of a meeting by any person entitled to receive such notice, shall not invalidate the proceedings of that meeting. The provisions of this Clause shall not apply to EXCOM meetings.

8.5 Quorum

- 8.5.1 No matters shall be discussed at any meeting unless a quorum is present when the meeting commences. For all purposes, the quorum shall be not less than TWENTY (20%) of the total number of members, and consisting of members present in person or represented by proxy.

8.6 Adjournment

- 8.6.1 If within half an hour from the time appointed for the holding of the meeting, a quorum is not present, the meeting if convened on the request of members, shall be dissolved. It shall stand adjourned to the next day in the same week at the same time and place. If a quorum is not present at the adjourned meeting within half an hour from the time appointed for the holding of the meeting, the members present shall constitute a quorum. All members of the Association shall be given notice of such an adjourned meeting.

8.7 Chairman

- 8.7.1 The Chairman of EXCOM shall preside at every General Meeting, but if there be no such Chairman, the members present shall choose a Chairman from the members of EXCOM, or if no such EXCOM members are present, they shall choose some other member present to be Chairman of the meeting.

8.8 Votes

At all Annual and Ordinary General Meetings a resolution put to the vote of the meeting shall be decided on a poll which shall be taken immediately in accordance with the following provisions:

- 8.8.1 Each member present in person shall have ONE(1) vote for every erf registered in his name;
- 8.8.2 Each person present as proxy for a member shall have ONE (1) vote for every erf registered in his name;
- 8.8.3 Each member and person present as proxy for a member shall verbally announce how he cast each vote to which he is entitled as aforesaid.
- 8.8.4 All Resolutions shall be with the majority vote representing 70% of the votes of those members present in person or proxy at the meeting and voting;

8.8.5 The Chairman of the meeting shall count the votes cast for and against the Resolution and shall declare it carried or lost as the case may be;

8.8.6 A declaration by the Chairman of the result of the poll and entry thereof in the Minute book of the Association shall be conclusive evidence of that fact.

8.9 Incapacity

8.9.1 Should any member be declared incapable of managing his own affairs, or a prodigal or insolvent, or in the case of a Company, placed under Judicial Management, or into liquidation such member shall be represented by his Curator Bonis, Trustee, Judicial Manager or Liquidator as the case may be, who shall be entitled to vote on his behalf, either personally or by proxy.

8.10 Co-ownership

8.10.1 If two or more persons are jointly registered owners of an erf, then in voting upon any question, the vote of the senior, who tenders a vote, whether in person or by proxy, shall be accepted to the exclusions of the votes of the other registered owners of the unit, and for this purpose, seniority shall be determined by the dates of birth of the joint owners as recorded in the Deed's Registry, Cape Town. In the event of an erf being jointly owned by a natural person and a Company, then in such event the natural person shall cast a vote on behalf of such membership.

8.11 Proxy

8.11.1 Votes may be given either personally or by proxy, or by postal vote or by fax.

8.11.2 The instrument appointing a proxy shall be the original or a copy of the common form, or any form approved by EXCOM under the hand of the appointed, or his Attorney or agent, duly authorized in writing, or if such appointee is a Company, under the hand of an Officer duly authorized in that behalf;

8.11.3 Copies of the instrument of appointing a proxy, together with the Power of Attorney (if any) under which it is signed shall be deposited at the meeting, or adjourned meeting, at which the person named in such instrument proposed to vote, otherwise the person so named shall not be entitled to vote in respect thereof.

8.12 Companies / Trusts

8.12.1 Any Company which is a member of the Association may, through Resolutions of its' Directors or other governing body, authorize such person as it thinks fit to act as its' representative at any meeting of the Association and the person so authorized shall be entitled to exercise the same power on behalf of that Company which such person, as a representative of that Company, could exercise as if it were an individual member of the Association. The foregoing provisions shall apply mutatis mutandis in the case of a Trust.

9. **THE STATUS OF THE ASSOCIATION**

The Association shall be an Association:

- 9.1 with legal personality, capable of suing and being sued in its own name;
- 9.2 none of those members in their personal capacities shall have any right, title or interest to or in the property, funds or assets of the Association, which shall vest in and be controlled by EXCOM in terms hereof;
- 9.3 not for profit, but for the benefit of the owners and occupants of immovable property situated in the Private Open Area;
- 9.4 able to obtain registration in its' name of the Private Open Area.

10. **ANNUAL SUBSCRIPTIONS**

- 10.1 The Association, through EXCOM, shall be entitled to levy an annual subscription to, defray and provide for all the costs for which the Association may become responsible in order to give effect to its objects in terms of this constitution. Such subscriptions may be fixed and collected annually in advance.
- 10.2 The amount of the annual subscription shall be determined by EXCOM and may be increased or decreased by vote of the members of the Association at the Annual General Meeting. Approval of such increases or decreases in the amount of the annual subscription shall be given by SEVENTY PERCENT (70%) of the members of the Association present at the Annual General Meeting.
- 10.3 The annual subscription shall commence on the first day of the year preceding the Annual General Meeting.
- 10.4 If the subscription is not paid before the due date mentioned in 10.5, same shall bear interest from the date of delinquency at a rate per annum equivalent to the prime overdraft rate charged from time to time by the Absa Bank plus one percent (1%) and the Association may institute legal proceedings against the member for the recovery thereof and the costs of such proceedings shall be added to the subscription and interest.
- 10.5 A member whose subscription together with any interest and costs is unpaid by the 31st day of May and further neglects to pay the arrear amount within the given period of time after the receipt of one final letter of demand shall not be entitled to vote in person or by proxy or make any resolution or motion at any General Meeting or Annual General Meeting of that year.

11. **ACCOUNTS**

- 11.1 EXCOM shall cause proper books of account of administration and finance of the Association to be kept at the domicile of the Association, or such other place of places as it may think fit, and shall produce an annual balance sheet.

- 11.2 EXCOM shall cause to be laid before the Association in Annual General Meeting, the annual balance sheet.

12. DOMICILIUM

- 12.1 For all purposes arising out of this Constitution, including the giving of notices and the serving of legal process, each member chooses domicilium citandi et executandi as follows:

12.1.1 at the erf registered in his name whether or not such erf is vacant land;

12.1.2 provided that any member may at any time by notice change his domicilium citandi et executandi to some other address, which new address shall be in the Republic of South Africa and shall not be a Post Office Box or post restante; and provided further that such change shall become affective only FOURTEEN (14) days after receipt of the notice in question.

- 12.2 For all purposes arising out of this Constitution, including the giving of notices and the serving of legal process, the Association chooses domicilium citandi et executandi as follows:

12.2.1 at the business address of the Chairman of EXCOM at that time;

12.2.2 the physical address at present is:

c/o Kriek & Fouche Attorneys,
2 Pinotage House,
Dorp Street,
The Vineyard Estate,
99 Jip de Jager Street
Bellville

- 12.3 Any written notice which may be required to be given in terms of this Constitution may be delivered by hand or may be given by dispatch of such notice in writing by pre-paid registered post, in which event, such notice shall be deemed to have been received FIVE (5) days after the posting thereof from any Post Office within the Republic of South Africa, the exhibition of the certificate of registered item shall be full and complete proof of the date of dispatch of the said notice.

13. WINDING UP

- 13.1 The Association may be wound up by a Resolution of the members in General Meeting provided that:

13.1.1 SEVENTY PERCENT (70%) of members present or represented at the meeting, duly convened, vote in favour thereof; and

13.1.2 the Local Authority consents thereto.

- 13.2 In the event of such winding up, it shall be the duty of EXCOM, or a Receiver to be appointed by it, to convert the Association's assets into cash, pay all the liabilities of the Association and thereafter distribute the rest to all the members in accordance with the number of erven registered in the name of each member. If, within a period of TWELVE (12) months from such distribution, EXCOM or the receiver is unable to find, locate or trace any member, such member's share shall then be paid to the Guardians' Fund.

14. RULES AND REGULATIONS AND AMENDMENTS TO THE CONSTITUTION

- 14.1 Subject to the provisions of section 20 hereof any amendment or addition to the Constitution may be effected by a Resolution passed by a majority of SEVENTY (70%) PERCENT of all the members present at an Annual General Meeting, after written notice thereof setting out such amendment or addition in full, has been given in the notice calling the meeting.

15. INTERPRETATION / DISPUTES

- 15.1 Any other dispute whatsoever between members shall be referred for decision to a practicing Senior Advocate of the Cape Bar of not less than TEN (10) years agreed upon by the parties to the dispute, who shall then, acting as an expert and not as an Arbitrator, determine the outcome of the dispute and his decision shall be final and binding upon the parties and capable of being enforced in a Court of Law.
- 15.2 In the event of the parties being unable to agree upon the Senior Advocate who should be appointed to determine the dispute, then he shall be nominated by the President of the Cape Bar Council.
- 15.3 Notwithstanding anything to the contrary herein contained, EXCOM shall at its sole option be entitled to institute proceedings in the Court having jurisdiction for any relief to which it is entitled under the provision of this Constitution, including subscriptions which are in arrears.

16. SUBMISSION OF PLANS

- 16.1 Members shall be obliged to submit all building and sewage plans for new construction, renovations, alterations or additions to EXCOM or its nominee (who is bound by the Local Authority) for examination and approval prior to the submission of such plan to the Local Authority for approval and the EXCOM shall make known its decision to the applicant within FOUR (4) weeks of the plan being submitted to it.
- 16.2 If any member is dissatisfied with the decision of the EXCOM, he/she shall have the right to call for a meeting of EXCOM and put his/her case.
- 16.3 EXCOM or its nominee shall submit the building and sewage plans with the Local Authority for approval. The Local Authority may authorize or decline the decision made by EXCOM and its decision is final and binding.
- 16.4 The building and sewage plans will be strictly in accordance with the building regulations of the Association (in terms of clause 17 hereof) and the Local Authority and the township conditions of establishment.

- 16.5 All members and / or their architects and contractors should inspect the contents of the regulations and the township conditions of establishment as described in clause 16.4 above before they submit any plans to EXCOM or the Local Authority.

17. **BUILDING REGULATIONS**

The building regulations which are applicable to townships are set out in Annexure "A" which is attached hereto. All building plans must be lodged with EXCOM for approval first before it will be examined by the Hessequa Municipality. The local authority has the final authority to approve any building plans for the townships.

18. **MAINTENANCE OF DEVELOPED ERVEN BY MEMBERS**

Members are responsible to clean out all *Acacia Cyclops* ("rooi pitjie" bushes) and Port Jackson bushes on their property or properties. The members shall develop their properties with vegetation in accordance with the general practices and regulations of the local authority and other local authorities in South Africa

19. **MAINTENANCE OF THE OPEN AREA**

EXCOM shall be responsible to clean out all *Acacia Cyclops* ("rooi pitjie" bushes) and Port Jackson bushes, develop and maintain the open area with vegetation according to national and provincial legislation (if applicable) and in accordance with the accepted general practices of the local authority and other local authorities in South Africa.

20. **OPTION OF MEMBERS**

- 20.1 The Association shall not be able to sell or develop the private open areas directly in front of erven 946 to 959 Stillbay East and erven 662 to 669 Stillbay East and erven 675 to 677 Stillbay East;
- 20.2 Members who are the registered owners of properties on the front dune, namely erven 679 to 685 Stillbay East, erven 687 to 691 Stillbay East and erven 692 to 702 Stillbay East will have the option to either rent or purchase a pro rata portion of Erf 703 Stillbay East and Erf 678 Stillbay East (if applicable) adjacent to their own properties from the Association. Such portions will be measured in accordance with the side boundaries of the aforementioned members. All these members will be responsible to enter into written lease or purchase agreements with EXCOM in terms of section 7.5.5 hereof and each member shall be responsible for his/her own sub-division, transfer and other legal costs (if applicable);
- 20.3 Any amendment or addition to the provisions of sub-sections 20.1 and 20.2 above may only be effected by the written consent of 100% (one hundred per centum) of all the members of the Association.

21. INTERPRETATION / ARBITRATION

- 21.1 Should any dispute or doubt arise as to the interpretation or meaning of this Constitution EXCOM shall be the final arbiter and its decision shall be binding upon the members.
- 21.2 Apart from questions of interpretation, any other dispute whatsoever which may arise shall in the first instance be referred to EXCOM to decide whether the dispute in fact relates to any legal question or constitutes a dispute relating to physical design or landscaping. Thereafter the dispute, if legal, shall be referred for decision to a practicing Senior Advocate of the Cape Bar of not less than five years standing or if relating to physical design or landscaping to a qualified Architect or Landscape Architect of not less than 10 years standing, agreed upon by the parties to the dispute, who shall then determine the dispute. In the event of the parties being unable to agree upon a senior advocate or architect or landscape architect who should be appointed to determine the dispute, then the Arbitrator shall be nominated by either the President of the Cape Bar Council or the President-in-Chief of the Institute of South African Architects or the Institute of Landscape Architects of South Africa, as the case may be.
- 21.3 The Arbitrator shall not be bound to follow strict principles of Law, but may decide the matter submitted to him according to what he considers just and equitable in the circumstances and, therefore, the strict rules of Law need not be observed or taken into account by him in arriving at his decision. The parties desire that such decision be arrived at as expeditiously and as informally as possible without any pleadings or discovery of documents, and without it being necessary to observe the strict rules of evidence, or the usual strict formalities of procedures. In the absence of agreement between the parties, the procedure to be followed shall be laid down by the Arbitrator.
- 21.4 Without in any way limiting, or derogating from the generality of his powers, the Arbitrator shall, in addition, be entitled to make such order as to the payment of legal costs and other expenses incurred by the parties to the arbitration as he deems just and equitable in all the circumstances.
- 21.5 The parties irrevocably agree that the decision of the Arbitrator on any matter in dispute shall be final and binding upon all of them, whether they were parties to the dispute or not, and may be made an order of any competent Court. Notwithstanding the reference in this Clause to "an Arbitrator", any such Arbitrator shall act as an expert and shall not therefore be bound by the provisions of any arbitration laws for the time being in force.

22. TERMS AND CONDITIONS

- 22.1 All the terms and conditions of this constitution are with retrospective effect until 01 December 2005.