



MONTE CHRISTO ECO ESTATE
HOMEOWNERS' ASSOCIATION

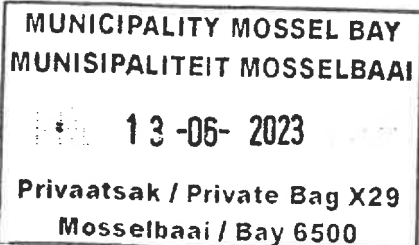
CONSTITUTION

REVISION 3

Approved by the Annual General Meeting on 20 May 2023

The Afrikaans version of this document was approved by the Management Committee and Municipality. If there is any discrepancy between the Afrikaans and English versions of this document, the Afrikaans version will prevail.

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1. INTRODUCTION

This Constitution derives from the empowering provisions of section 29 of Provincial Ordinance 15 of 1985 as amended, and may not be changed without the final approval of the Mossel Bay Municipality.

The Homeowners' Association (HOA) will:

- 1.1. be a legal person and will exist independently from its members;
- 1.2. not be dissolved;
- 1.3. be capable of suing and being sued with regard to:
 - 1.3.1. any agreement concluded; or
 - 1.3.2. any damage done to any property of the HOA; or
 - 1.3.3. any matter arising from or which is related to the powers and authorities of the HOA as set out in this Constitution;
- 1.4. be capable, subject to the provisions of this Constitution, of:
 - 1.4.1. acquiring or disposing of property; or
 - 1.4.2. acquiring or disposing of rights; or
 - 1.4.3. agreeing to or amortising financial obligations.

2. DEFINITIONS

In this Constitution, unless the context otherwise indicates, the following terms mean:

'Architectural Rules'	those rules which control the design of the landscape, buildings (as well as improvements and extensions) and the Building Rules herein contained and to which all members shall adhere.
'Auditors'	external auditors, appointed by the members at a General Meeting, who certify that the prescribed financial requirements were adhered to.



'Building Rules'	those rules contained in the Architectural Guidelines and Code of Conduct for Service Providers, which must be followed by the owner, contractor and service providers during the building process of houses.
'communal areas'	those parts of the Estate, such as roads, parks, sidewalks, main road, erven, nature reserve, as well as the improvements thereof, which are the communal property of the members of the HOA, and which can be changed by members of the HOA.
'decision'	a decision taken by Members at an Annual General Meeting (AGM), Special General Meeting (SGM) or a Management Committee Meeting.
'Environmental Management Plan'	the document for the establishment of environmental management, the promotion of local indigenous vegetation and the creation and maintenance of an environment suitable for country living.
'erf'	an erf on the Estate, excluding the communal area.
'General Meeting'	a meeting called by the Management Committee of the HOA, being an AGM or a SGM.
'homeowner'	a natural person, member of a Closed Corporation, trustee of a Trust or a member of a Company who owns a house in Monte Christo Eco-Estate.
'Homeowners' Association'	The Monte Christo Eco Estate Homeowners' Association or HOA.
'levies'	the compulsory monthly payments which members must pay to the HOA to cover the expenses of the HOA regarding administration/management/maintenance/improvements of the Estate, which shall be approved by members at a general meeting.
'Managing Agent'	an establishment or person appointed by the Management Committee to assist them with secretarial/administrative/bookkeeping tasks as agreed.



'Management Committee'	a committee elected in terms of the provisions of clause 9 of this Constitution.
'Committee Members'	persons elected in terms of the provisions of clause 8 of this Constitution.
'Estate Manager'	a person appointed by the Management Committee to execute the daily management tasks and enforcement of the Constitution and Rules.
'member'	Every owner of an erf in Monte Christo Eco Estate, Monte Christo Retirement Village, De Caravel Sectional Title Scheme and any other Sectional Title Scheme in the Monte Christo Estate or any subdivision thereof or an interest therein or any unit thereon as defined in the Sectional Titles Act, shall become a member and will remain a member of the Monte Christo Eco Estate Homeowners Association and be subjected to its Constitution until he or she cease to be an owner as aforesaid.
'Notice'	a formal communication between parties deemed to be given or delivered to a member or a Committee Member, which delivery might be by hand, post or electronic means.
'owner'	the owner of an erf by means of a Title Deed, who pays a levy to the HOA.
'person'	natural or legal person(s).
'proxy'	a written document under which a member gives full powers to another member or to his spouse, in terms of the provisions of this Constitution, to represent him at the meeting and to vote on behalf of the member.
'quorum'	the minimum number of members who must be present at a meeting (including proxies) as defined in this Constitution.
'resident homeowner'	a natural person who owns a house and physically resides full time in Monte Christo Eco-Estate.
'Rules'	a set of Rules of Conduct and Codes of Conduct Guidelines/Building Rules, compiled by the Management Committee, and which are



submitted for cognisance, from time to time, to members at a General Meeting.

'Service Provider'

any person and/or establishment which performs development or building services on the Estate, including (but not limited to) building contractors, subcontractors, project managers, suppliers of building materials, developers and owner builders. This definition of service providers is not exhaustive and where interpretation warrants it, shall also include: employees, agents, contracted labour of the service provider, which has been appointed for the development and building activities on the Estate.

'Special Meeting'

a meeting for Members of the HOA where there is given no less than 10 working days' written notice to members by the Management Committee, and where the purpose and agenda for the meeting shall be set out in the notice.

'spouse'

lawful husband or wife of the member.

'resident homeowner'

a natural person who own a house and physically and resides full time in Monte Christo Eco-Estate

'working day'

any day, excluding a Saturday, a Sunday or a Public Holiday.

Unless the context indicates the contrary, all definitions given in the singular shall also include the plural and vice versa, and all definitions that refer to one gender shall also include the other gender.

3. OBJECTIVES

The main objectives of the HOA are:

- 3.1 the control of and the maintenance of buildings, services, communal areas and facilities;
- 3.2 the management, monitoring of the environment and environmental audits of the Nature Reserve according to the Environmental Management Plan;
- 3.3 to ensure the safety and security of residents;
- 3.4 to acknowledge, promote and protect the interests of the members of the HOA;
- 3.5 to adhere to fair administrative justice in all actions;



- 3.6 to collect the statutory compulsory levies from members;
- 3.7 to empower the Management Committee to employ levies judiciously to the benefit of the members of the HOA;
- 3.8 to ensure that the Architectural Guidelines and all other Rules are adhered to; and
- 3.9 to ensure that all Rules are drawn up according to this Constitution and that these Rules are not contrary to higher-order legislation.

4. **FINANCIAL YEAR**

The Financial Year of the HOA ends on the last day of February of each year.

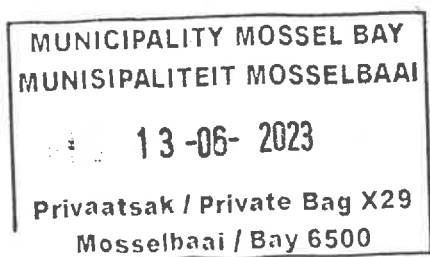
5. **MEMBERSHIP**

- 5.1 It is mandatory for each owner, including owners in the Monte Christo Retirement Village, to be a member of the HOA.
- 5.2 Membership of the HOA will be limited to registered owners of erven, as well as registered owners of erven in sectional title units in the Group Housing Areas, provided that, where any erf or sectional title unit is held by more than one person, all the registered owners, jointly and severally, shall be deemed one member of the HOA.
- 5.3 Registration of transfer of the property in the Deeds Office shall, ipso facto, imply membership of the HOA.
- 5.4 The owner of an erf cannot resign as a member of the HOA, and shall remain a member up to and until the date on which registration of his erf is transferred to the buyer of his erf.
- 5.5 The HOA shall permit a member to sell his property on condition that all financial obligations towards the HOA have been met.
- 5.6 A member shall not be absolved of any obligation towards the HOA resulting from obligations that originated during membership.

6. **OBLIGATIONS OF MEMBERS**

A member shall:

- 6.1 strictly comply with the provisions of this Constitution, and all Rules which are issued by the HOA in terms of this Constitution;
- 6.2 maintain his property in good order;





- 6.3 notify the Management Committee of the sale of his property;
- 6.4 ensure that all residents of, or visitors to his property, comply with the Rules;
- 6.5 ensure that no structure is erected or improvement is made on his erf without prior written permission from the Management Committee, which permission shall not be withheld unreasonably;
- 6.6 ensure that all refuse is removed according to the Rules and regulations; and
- 6.7 organise his behaviour and conduct in such a way that it is in the best interest of residents.

7. DISCIPLINARY ACTIONS

When members or service providers fail to comply with rules and guidelines, a verbal discussion will be held with the transgressor to comply with the rules. If congenial appeals and written admonitions are ignored, fines will be imposed and other further legal actions will be taken by the HOA (see clause 25 of this document).

8. VOTING RIGHT

- 8.1 Each member shall be entitled to one vote, regardless of the number of erven registered in his name.
- 8.2 At the election of members of the Management Committee, the member or his authorised representative, must be present in person as a natural person, a spouse, trustee of a Trust, co-owner, member of a Closed Corporation or Company.
- 8.3 At General Meetings, each member shall personally, or by means of his representative under proxy, be entitled to vote and each member will have one vote, on condition that if an erf is registered in the names of more than person, all the owners of that erf will have only one vote. In the same way, a member and his spouse will also have only one vote.
- 8.4 A member who, on the date of the meeting, is in arrears for 60 days or more with regard to the levies will not be allowed to vote at such meeting.
- 8.5 At each meeting of the Management Committee, each Committee Member is entitled to one vote, and the Chairperson will have the casting vote in the case of an equality of votes.

9. MANAGEMENT COMMITTEE

- 9.1 Will consist of at least five chosen members, with a maximum of nine members, all of whom must be residential homeowners. One of the members must be a nominated member from the Monte Christo Retirement Village Management Committee.



9.2 The spouse of a resident homeowner can be elected by means of a written proxy in case of a prenuptial agreement as a fully-fledged or a co-opted Management Committee member, in which case the resident home-owner shall forfeit the right to be elected or co-opted as a Management Committee member.

9.3 Any member who is 60 days or more in arrears with regard to levies at the time of the election of committee members is not eligible to be nominated or elected as a committee member.

10. OFFICE OF COMMITTEE MEMBERS

10.1 Members of the Management Committee will conduct themselves:

10.1.1 in an honest, responsible and transparent way, to protect and promote the interests and rights of members;

10.1.2 in such a way that there will be no conflict between the Committee Member and the interests and rights of the HOA;

10.1.3 without deriving any personal financial benefit from his membership of the Management Committee;

10.1.4 not become involved with the allocation of tenders or contracts to the Monte Christo Eco-Estate, whereby a personal financial or other advantage may be derived. If it should seem that a financial advantage is to be gained from the allocation of any tenders or contracts, it must be made known beforehand in writing and sanctioned by the Management Committee; and

10.1.5 to act in a transparent way during the appointment of staff (job requirements, advertising and selection) or service providers.

10.2 A committee member shall not be held liable towards the HOA or any member or any other person for any act or omission by him in executing his duties.

10.3 A committee member will be indemnified against all costs, claims, expenses, losses or damages suffered by the HOA as a result of any alleged action in the execution of his duties, provided that such Committee Member acted in good faith in terms of the information available to him without gross negligence, dishonesty or intent.

10.4 If the action of a Committee Member does not comply with clause 10.3, he will be accountable to the HOA for any loss that the HOA suffers as a result of such action.



10.5 Only elected or co-opted members have voting rights in meetings of the Management Committee.

10.6 Any member who is not part of the Management Committee and who attends a Management Committee meeting on invitation, shall with the approval of the Chairperson be entitled to participate in the meeting, but will not have voting rights at the meeting.

10.7 Election of Management Committee Members

10.7.1 The AGM shall appoint the Chairperson and members per portfolio from the nominations received. Should the AGM, due to a lack of nominations, not be able to appoint a Chairperson during the AGM, a Chairperson will be appointed from the nominations that were received for the election of the Management Committee members per portfolio. Such a Chairperson will also serve in the portfolio he was elected for.

10.7.2 Where the office of Chairperson becomes vacant, the Management Committee may immediately elect another Chairperson from its members, or follow the procedure as prescribed in clause 11.5.1.

10.7.3 Should the number of members elected at the AGM to the Management Committee, be less than the minimum requirement of five as determined in clause 9.1, than those members, if they are three or more, shall be authorised to co-opt a residential homeowner or the spouse of such person, in order to comply with the prescribed requirements. If co-option is not successful, then the vacant portfolios in order to comply with clause 9.1 can be outsourced, as determined in clause 10.7.4.

10.7.4 If no nominations were received for any of the portfolios under clause 10.7.3 and co-option in terms of clauses 10.7.3, 11.5.1 and 11.5.2 is not successful, then the relevant portfolios can be outsourced. The Estate Manager in conjunction with Managing Agent will call an SGM within 5 working days, with the sole purpose to decide on outsourcing and procedures.

10.8 The Chairperson will chair all meetings and fulfil all obligations as prescribed in the Constitution.

10.9 Meetings will be conducted according to acceptable procedures, bearing in mind the following:

10.9.1 ensuring that all meetings are properly constituted;

10.9.2 making decisions on points of order and procedure, as well as formulating the valid decisions of the meeting clearly;





- 10.9.3 maintaining order during meetings;
- 10.9.4 remaining impartial at all times;
- 10.9.5 respecting and promoting the rights of members;
- 10.9.6 Committee Members will not be entitled to compensation for services rendered;
- 10.9.7 as compensation for all reasonable expenses incurred by them in the execution of their duties on behalf of the HOA and in recognition of their services rendered, a fixed annual honorarium will be paid to the Management Committee. Such amount will be approved annually at the General Meeting.

11. TERM OF OFFICE OF COMMITTEE MEMBERS

- 11.1 A Committee Member will remain in office until the election of new Committee Members at an AGM.
- 11.2 A Committee Member may be eligible for re-election during an AGM.
- 11.3 No member may be elected unless the member was nominated in writing by another member, which nomination must be accepted in writing by the nominated member. Such nomination must be handed to Chairperson/Managing Agent/Manager not later than one working day before the General Meeting.
- 11.4 A Committee Member will be deemed to have resigned from his office if:
 - 11.4.1 he was conditionally or finally sequestered by a competent court;
 - 11.4.2 he made any arrangement or reached an agreement with his creditors;
 - 11.4.3 he was found to be guilty of any crime related to dishonesty in any court of law;
 - 11.4.4 he was found to be incapable of contracting by a competent court;
 - 11.4.5 he tendered his resignation or withdrawal as a Committee Member in writing;
 - 11.4.6 he failed to attend two consecutive meetings of the Management Committee without any excuse;
 - 11.4.7 he is in arrears with his levies for 60 days and more during his term of office; and
 - 11.4.8 he is no longer a resident homeowner.



11.5 Vacancies

11.5.1 If at any stage a vacancy should occur and a quorum exists, such vacancy shall be filled by co-opting a resident home-owner or the spouse of such person. If co-option is not successful then the vacant portfolios can be outsourced, as determined in clause 10.7.4.

11.5.2 Should the co-opting process not be possible, due to the Management Committee not being a quorum, a SGM shall be convened within 5 working days to co-opt a resident home-owner or the spouse of such home-owner to fill the existing vacancy until the next AGM. Such SGM shall be arranged by the Estate Manager in conjunction with Managing Agent, where after the HOA members must be notified that the meeting will take place within the prescribed period. Should the co-opting process not be successful the specific portfolios could be outsourced, as determined in clause 10.7.4.

11.5.3 Should special circumstances exist, requiring specific expertise which the Management Committee does not possess, a member with such expertise may be asked to assist as and when required.

12. FUNCTIONS AND POWERS OF THE MANAGEMENT COMMITTEE

The Management Committee shall:

12.1 see to it that the administration/management of the statutory allocated control and maintenance functions of the HOA are executed in agreement with the provisions of this Constitution;

12.2 control all treasury activities;

12.3 execute and maintain proper accounting systems and submit audited financial statements to the AGM;

12.4 not give loans to HOA members, staff or any other person or entity;

12.5 only be allowed to borrow money to execute its duties, on condition that the matter was made public to the members and that approval by the members at a General Meeting was obtained beforehand;

12.6 assist the Managing Agent with the collection of unpaid levies;

12.7 not allow a clearance certificate to be issued unless all outstanding levies or other monies due on the property are paid up;

12.8 not be allowed in any way to negotiate with members with regard to the non-payment or waiving of levies;



12.9 take steps to maintain assets, property and communal areas, and where applicable, insure such at replacement value, which includes the following risks:

12.9.1 personal and legal liability;

12.9.2 liability against monetary losses due to dishonest actions by an employee, a Committee Member, Managing Agent or Manager; and

12.9.3 civil unrest and SASRIA.

The replacement value will be determined by the Management Committee and/or professional practitioner. The schedule, as well as the calculations, will be made public annually at the AGM. The schedule shall show estimates of the values of the buildings as well as the improvements on the communal areas.

12.10 invest money in approved investment instruments as approved by the Financial Services Board;

12.11 be empowered to investigate any alleged or suspected violation of any of the provisions of this Constitution or Rules by any Committee Member in such a reasonable way as they may determine from time to time, with the provision that said Committee Member will withdraw from the Management Committee for the duration of the investigation until such time as the investigation has been completed. If necessary, another member could be co-opted until such time as the investigation is completed. As soon as a decision has been made, it shall be made known to the members at a General Meeting.

12.12 be obligated to:

12.12.1 comply with the ordinances of the Municipality with regard to building activities; and

12.12.2 comply with the statutory conditions with regard to the Environmental Management Plan.

12.13 be able to create rules, add rules, change rules and/or cancel rules. This will be binding on all members as if it were part of this Constitution (on condition that members are informed of such changes by means of communication and the rules are tabled for cognisance at the next General Meeting).

12.14 may appoint portfolio subcommittees (for example, Aesthetics, Rules, Architectural Guidelines and Building Rules, Codes of Conduct for Service Providers subcommittees that will have delegated powers to function (see clauses 22, 23 and 24 of this Constitution). Each portfolio subcommittee can compile a document regarding the specific objectives,

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Mosselbaai / Bay 6500



composition and functioning of the subcommittee, as well as the principles, guidelines/criteria which will be used for evaluation.

12.15 be empowered to constitute another specialist subcommittee as the need arises.

12.16 shall not be empowered to purchase or dispose of any property without the approval of a General Meeting.

12.17 be empowered to appoint a Managing Agent.

13. **FUNCTIONING OF THE MANAGEMENT COMMITTEE**

13.1 The Management Committee could meet every second month, but not less than every quarter.

13.2 The Chairperson/Vice-Chairperson shall chair all meetings and in absence, for whichever reason, the rest of the Committee Members may choose an ad hoc Chairperson from amongst themselves to act as Chairperson for the meeting.

13.3 The minutes of all meetings shall be available at the office of the Estate Manager, for HAO members, Management Committee members and the appointed Auditors for perusal and on request be forwarded electronically.

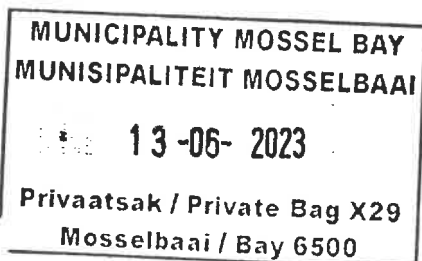
13.4 All decisions recorded in the minutes shall be in force from the date on which the decision was made until such time as the decision is changed. No decision shall be valid for or binding on members or Committee Members if such a decision does not fall within the powers of the Management Committee.

13.5 Subject to the conditions of the Constitution, the Chairperson shall determine the procedure of any Management Meeting.

14. **GENERAL MEETINGS OF THE HOA**

14.1 The AGM shall be held before or on 31 May of each year. Written notice of the General Meeting must be given not less than 10 working days before the meeting.

14.2 The Management Committee shall be entitled to, where necessary, call a Special Meeting and give a written notice to members not less than 10 working days before the meeting.





14.3 The Management Committee shall be obliged to call a Special Meeting if at least 20 members request in writing that the Management Committee call such a Special Meeting, which meeting must be held within 30 days.

15. QUORUM

15.1 No administrative matters may be dealt with at any General, Special or Management Meeting, unless a quorum is present.

15.2 The quorum at the different meetings shall be as follows:

15.2.1 General Meetings: 80 votes present, in person and by proxy

15.2.2 Management Meeting: a minimum of three Committee Members who are entitled to vote;

15.2.3 If a quorum is not present within one hour of the start of the meeting, the Chairperson shall postpone the meeting until a date within 14 days from the original date. At such a meeting, the members present shall constitute a quorum.

16. AGENDAS OF MEETINGS

16.1 Items which a member wants to put on the agenda of the AGM, must reach the Managing Agent no later than 28 February, for consideration by the Management Committee.

16.2 In addition to any other administrative matters with which a General Meeting must deal according to the Constitution, the AGM must consider:

16.2.1 the Chairperson's report to members of the HOA, including the objectives of the previous financial year and the progress made in achieving such objectives;

16.2.2 the election of members to the Management Committee;

16.2.3 any administrative issues which were put on the agenda, including any decisions proposed for acceptance at that Meeting;

16.2.4 the audited financial statements of the HOA as compiled for the previous financial year;

16.2.5 the appointment or re-appointment of Auditors for the next financial year;

16.2.6 the budget, as well as the validation or change of the monthly levy for the next financial year;



16.2.7 a summary of all outstanding levies in categories of (a) 60 days and less, (b) more than 60 days to 90 days, (c) more than 90 days to 6 months, and (d) longer than 6 months; and

16.2.8 taking notice of adding to or amendments to rules if any.

17. PROCEDURE AT GENERAL MEETINGS

17.1 In the event of unruly chaos, the Chairperson may decide at a General Meeting where a quorum is present, to adjourn the meeting from time to time or move the meeting from place to place. Only those members who were present at the adjourned meeting may attend the new meeting. Members who were not present will not be entitled to be notified of the new date for the adjourned meeting.

17.2 All General Meetings will be conducted according to generally accepted procedures for meetings, which include:

17.2.1 The Chairperson and/or the Managing Agent and/or the Manager shall count the votes for and against a decision and inform the members in the Meeting.

17.2.2 If there was an equality of votes, there must be another vote. If there is again an equality of votes, the Chairperson will have the casting vote.

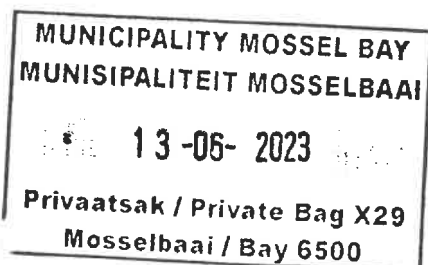
17.2.3 Voting will take place by means of a show of hands. Members may also be requested to stand up to make counting of votes easier. The Chairperson or any member may request, due to the sensitive nature of the subject under the vote, that voting must happen by means of a ballot.

18. PROXIES

18.1 A Member may be represented at a General Meeting by another Member, his spouse or co-owner. The proxy must be signed in writing by both the holder and the giver of the proxy.

18.2 In the case of co-owners, companies, closed corporations or trusts, the owner, director, member or trustee, authorised properly and in writing, must sign the proxy. Such written authorisation must accompany the proxy.

18.3 The proxy, or where applicable, the document which serves as proof that the person who signs the proxy on behalf of a legal entity, was properly authorised, must be handed to the Chairperson at any time before the beginning of the General Meeting or the adjourned Meeting.





18.4 No authorised empowered representative (excluding the Chairperson) shall have more than five proxies.

18.5 In a case where a special resolution was formulated for the AGM or SGM, which requires a vote, the giver of the proxy must indicate his preference on the form of proxy.

18.6 A Committee Member may not give a proxy to a person to represent such member at a meeting of the Management Committee.

19. **DECISION-MAKING AT MEETINGS**

Decisions at General, Special and Management Meetings where a quorum is present, shall be legally valid by means of a simple majority or at least 51% of the members present (or by means of proxy). See clause 28 with regard to amendments to the Constitution.

20. **LEVIES AND BUDGETS**

20.1 The determined levy per erf is payable monthly in advance.

20.2 If any levies are not paid on the due date, the Management Committee shall be entitled to charge interest at a percentage determined at the first Management Committee Meeting after the AGM.

20.3 The liability of a member to pay levies ceases at the time that his membership of the HOA is terminated. This will happen without prejudice of any statutory right of the HOA regarding outstanding levies.

20.4 The next title holder of a Member shall be liable for paying levies from the date on which the erf was transferred in his name.

20.5 No member shall be able to transfer his erf unless the HOA was informed in writing by the Managing Agent that such a member, up to the date of transfer, has fulfilled all his financial obligations towards the HOA.

20.6 Other expenses for which members are individually responsible will be payable in addition to the normal amount of the levy.

20.7 Special levies necessary for special projects may be imposed from time to time and must be approved by members beforehand.

21. **MANAGEMENT OF THE COMMUNAL AREAS**

21.1 No section of the Communal areas shall:

21.1.1 be mortgaged; or



21.1.2 subjected to damaging rights, unless approved by a decision of a General Meeting.

22. ARCHITECTURAL RULES

An elected Aesthetics subcommittee draws up architectural and building rules for implementation, according to which all building plans will be evaluated and approved.

The Monte Christo Retirement Village has its own Architectural Guidelines which are approved by the Monte Christo Eco Estate Home Owners' Association.

23. CODE OF CONDUCT FOR OWNERS AND RESIDENTS

In order to ensure a high-quality lifestyle and security for owners and residents of Monte Christo Eco Estate, it is imperative to have a code of conduct. To maintain good order, a code of conduct may include the following: respect for property, respect for fellow residents, noise pollution, the use of roads and observing speed limits, levies, disposal of property, security measures, parking, maintenance and aesthetics of properties, employees, tenants, keeping animals, etc. A subcommittee may be constituted which could compile a document regarding the specific objectives, composition and functioning of the subcommittee. The implementation and execution of the code of conduct is part of such a document.

24. CODE OF CONDUCT FOR SERVICE PROVIDERS

For effective control over the process of building on the estate, it is imperative to have a code of conduct between the HOA, the owner of an erf, as well as the contractor and/or other subcontractors during the process of building. A written contract between the interested parties comprises the code of conduct regarding the registration of service providers, security, access control, conflict resolution, environmental requirements, building deposit, tidiness of the building site and restrictions regarding deliveries. A subcommittee responsible for drawing up such a code of conduct may be established.

25. NONCOMPLIANCE WITH RULES

In this Constitution and all rules, there are certain rules and restrictions, which members, service providers and tenants must respect and honour. In cases where an appeal is made to transgressors to obey rules and written notices and warnings are ignored, the Management Committee has the power and mandate to consider other steps, such as fines and legal action.

In the case of any dispute between the HOA and any of the members or service providers with regard to the interpretation or the application of this Constitution or rules, such conflict resolution will be done by arbitration.



The process of arbitration may follow the Community Schemes Ombud Service Act (No. 9 of 2011) (the CSOS').

A separate description of this process is contained in the detailed documents of the committees named in clauses 22 to 24.

26. BINDING LEGAL NATURE OF CONSTITUTION AND RULES

This Constitution and Rules issued in terms thereof are binding and legally enforceable on members, tenants, residents, visitors, guests, employees, contractors, sub-contractors, service providers, and a member is obliged to ensure that members of his family or household and any persons who might be associated with a member shall obey the provisions of the Constitution and Rules. Regardless of the obligations of a member to ensure compliance with the Constitution and Rules, the Management Committee is still at liberty to take action against such persons.

27. ACCESS

The Management Committee may make decisions regarding the procedures and requirements for access for service providers, visitors and residents to the Eco Estate, which may be amended according to changing circumstances.

28. AMENDMENTS TO THE CONSTITUTION

28.1 Amendments to this Constitution can be made with a majority of at least 66% of the members present (including proxies) during a General Meeting.

28.2 Any amendment, omission or addition to the conditions of this Constitution will have to be approved by the Council of the Municipality of Mossel Bay, before it may be implemented.

29. DISSOLUTION OF THE HOMEOWNERS' ASSOCIATION

In terms of section 156 of the Constitution of the Republic of South Africa, 1996, the Mossel Bay Municipality Standard By-Law on Municipal Land Use Planning will be applied in the case of the dissolution for whatever reason, of the HOA.

VOORGESTELDE WYSIGING AAN DIE GRONDWET / PROPOSED AMENDMENTS TO THE CONSTITUTION

Die hoofdoel van die wysigings is om die gebreke aan te spreek wat uitgewys is tydens die Spesiale Algemene Vergadering wat op 11 Maart 2023, gehou was. Daar is terselfdertyd ook deur die Bestuurskomitee besluit om na die Grondwet in die geheel te kyk. Die volgende wysigings word in die tabel hier onder aanbeveel vir goedkeuring:

The main purpose of the amendments is to address the shortcomings which were identified at the Special General Meeting held on 11 March 2023. At the same time the Management Committee decided to review the entire Constitution. The amendments listed in the table hereunder are proposed for approval:

VOORGESTELDE WYSIGINGS	VORIGE TEKS
Klousule 2 - Woordomskrywings	
‘Landgoedbestuurder’ ’n persoon aangestel deur die Bestuurskomitee om die daaglikse bestuur en toepassing van hierdie Grondwet en Reëls te behartig.	‘Bestuurder’ ’n persoon aangestel deur die Bestuurskomitee om met die daaglikse bestuur en toepassing van hierdie Grondwet en Reëls behulpsaam te wees..
‘Huiiseienaar’ ’n natuurlike persoon, lid van ’n Beslote Korporasie, ’n trustee van ’n Trust of ’n lid van ’n Maatskappy, wat ’n huis in Monte Christo Eko-Landgoed besit.	‘Huiiseienaar’ ’n natuurlike persoon, lid van ’n Beslote Korporasie, Trust of Maatskappy, wat ’n huis besit.
‘Inwonende huiiseienaar’ ’n natuurlike persoon wat ’n huis in Monte Christo Eko-Landgoed besit en fisies voltyds bewoon.	‘Inwonende huiiseienaar’ Nuwe invoeging.

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<p>‘Spesiale Vergadering’</p> <p>’n vergadering vir lede van die HEV waar daar nie minder nie as 10 werksdae skriftelik deur die Bestuurskomitee kennis aan lede gegee word, en daar in die kennisgewing uiteengesit word wat die doel en agenda van die vergadering sal wees.</p>	<p>‘Spesiale Vergadering’</p> <p>’n vergadering vir lede van die HEV waar daar nie minder nie as 10 werksdae skriftelik deur die Bestuurskomitee kennis aan lede gegee word, en daar in die kennisgewing uiteengesit word waaroor die vergadering gehou sal word.</p>
<p>8.2 (Stemreg)</p> <p>By die verkiesing van Bestuurslede moet die lid of sy gevolmagtigde as natuurlike persoon, gade, trustee van ’n trust, mede-eienaar, lid van ’n Beslote Korporasie of Maatskappy persoonlik teenwoordig wees.</p>	<p>8.2</p> <p>By die verkiesing van Bestuurslede moet die lid in hoedanigheid as natuurlike persoon, gade, trustee van ’n trust, mede-eienaar, lid van ’n beslote korporasie of maatskappy persoonlik teenwoordig wees.</p>
<p>9.1 (Bestuurskomitee)</p> <p>Sal uit ten minste vyf verkose lede bestaan met ’n maksimum van nege lede, welke lede inwonende huiseienaars moet wees. Een van die lede moet ’n aangewese lid uit die Bestuurskomitee van die Monte Christo Aftree-oord wees.</p>	<p>9.1</p> <p>Sal uit ten minste vyf verkose lede bestaan met ’n maksimum van nege lede, welke lede inwonende huiseienaars moet wees behalwe in sodanige geval soos bepaal in klousule 11.5.2. Een van die lede moet ’n aangewese lid uit die Bestuurskomitee van die Monte Christo Aftree-oord wees.</p>
<p>9.2</p> <p>Die gade van ’n inwonende huiseienaar sal met die nodige skriftelike volmag in die geval van ’n Huweliksvoorwaardekontrak, kwalifiseer om as ’n volwaardige lid tot die Bestuurskomitee verkies of gekoöpteer te word, in welke geval die inwonende huiseienaar afstand doen van die reg om tot die Bestuurskomitee verkies of gekoöpteer te word.</p>	<p>9.2</p> <p>Die gade van ’n lid mag ’n gekoöpteerde Bestuurslid word, met dien verstande dat die nodige volmag daartoe deur die lid gegee is in die geval van ’n Huweliksvoorwaardekontrak, in welke geval die lid afstand doen van sy reg om te stem.</p>
<p>10.1.4 (Amp van Bestuurslede)</p> <p>deur nie betrokke te raak by die toekenning van tenders of kontrakte aan die Monte Christo Eko-Landgoed waardeur enige persoonlike finansiële of ander voordele verkry kan word nie. Indien dit sou blyk dat ’enige voordeel verkry kan word deur die toekenning van tenders of kontrakte, moet</p>	<p>10.1.4</p> <p>deur so spoedig moontlik enige persoonlike ekonomiese voordeel wat hom mag toeval uit sy betrokkenheid by of toekenning van tenders of kontrakte, aan die Bestuurskomitee bekend te maak; en</p>

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dit vooraf skriftelik aan die Bestuurskomitee openbaar gemaak en goedgekeur word; en	
10.5 slegs verkose- of gekoöpteerde lede het stemreg op Bestuurskomiteevergaderings;	10.5 slegs HEV-lede het stemreg op Bestuurskomiteevergaderings;
10.7.1 Die AJV sal uit die nominasies ontvang n Voorsitter en lede van die Bestuurskomitee per portefeulje verkies. Indien 'n Voorsitter nie as gevolg van 'n gebrek aan nominasies tydens die AJV verkies kan word nie, sal die AJV 'n Voorsitter, uit die nominasies wat vir die verkiesing van lede tot die Bestuurskomitee per portefeulje ontvang is, kies. So 'n verkose Voorsitter sal ook dien in die portefeulje waarvoor hy genomineer was. NOTA: Die voorgestelde klousule 10.7.1 en 10.7.2 word gekombineer as een klousule.	10.7.1 die AJV sal uit die nominasies 'n Voorsitter en lede van die Bestuurskomitee kies. In die geval waar die amp van die Voorsitter vakant raak, mag die Bestuurskomitee onmiddellik 'n ander Voorsitter uit die geledere van die Bestuurskomitee verkies of 'n eienaar koöpteer om tot die volgende AJV as Voorsitter op te tree of klousule 11.5.2 kan toegepas word. 10.7.2 Indien 'n Voorsitter nie as gevolg van 'n gebrek aan nominasies tydens die AJV verkies word nie, sal die AJV 'n tydelike waarnemende Voorsitter aanwys om die Bestuurskomitee te konstitueer. Waarna klousules 11.5.1 en 11.5.2 gevolg sal word;
10.7.2 Waar die amp van die Voorsitter vakant raak, mag die Bestuurskomitee onmiddellik 'n ander Voorsitter uit die geledere van die Bestuurskomitee verkies, of die prosedure soos voorgeskryf in klousule 11.5.1 volg. NOTA: Die vorige klousule 10.7.1 se tweede sin word gewysig en vervang in 'n nuwe klousule 10.7.2.	10.7.2 In die geval waar die amp van die Voorsitter vakant raak, mag die Bestuurskomitee onmiddellik 'n ander Voorsitter uit die geledere van die Bestuurskomitee verkies of 'n eienaar koöpteer om tot die volgende AJV as Voorsitter op te tree of klousule 11.5.2 kan toegepas word.
10.7.3 Indien die aantal lede wat op die AJV tot die Bestuurskomitee verkies word, minder is as die minimum vereiste van vyf soos bepaal in klousule 9.1, sal die lede wat wel verkies is, indien drie of meer, gemagtig wees om inwonende huiseienaar of dié se gade te koöpteer om aan die voorgeskrewe vereistes te voldoen. Sou koöptering nie suksesvol wees nie, kan die aantal vakante portefeuljes wat benodig word om aan die bepalings van klousule 9.1 te voldoen,	10.7.3 Nuwe invoeging

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uitgekontraakteer word, soos bepaal in klousule 10.7.4.	
10.7.4 Indien daar geen nominasies ontvang word vir enige portefeuljes onder klousule 10.7.3 of koöptering in terme van klousules 10.7.3, 11.5.1 en 11.5.2 nie suksesvol is nie, kan die tersaaklike portefeuljes uitgekontraakteer word. Die Landgoedbestuurder in samewerking met die Bestuursagent sal binne 5 werksdae n SAV belê, met die uitsluitlike doel om oor uitkontraktering en prosedures te besluit.	10.7.4 Nuwe invoeging
10.8 Die Voorsitter moet alle vergaderings lei en hy sal alle verpligtinge nakom wat ingevolge hierdie Grondwet voorgeskryf word;	10.8 Behalwe in die geval waar die Voorsitter 'n finansiële of persoonlike belang het, sal die Voorsitter alle vergaderings lei en sal hy alle verpligtinge nakom wat ingevolge hierdie Grondwet voorgeskryf word;
10.9.4 te alle tye onpartydig bly.	10.9.4 te alle tye neutraal bly.
11.5.1(Termyn van Bestuurskomiteelede) Indien daar op enige stadium 'n vakature in die Bestuurskomitee bestaan, en daar n kworum is, sal die vakature deur koöptering van 'n inwonende huiseienaar of dié se gade gevul word. Indien koöptering nie suksesvol is nie, kan die vakante portefeuljes uitgekontraakteer word, soos bepaal in klousule 10.7.4.	11.5.1 Indien daar enige vakature in die Bestuurskomitee ontstaan voor die hou van die volgende AJV of indien daar buitengewone omstandighede is, sal daardie vakature gevul word deur koöptering van 'n inwonende huiseienaar.
11.5.2 Indien koöptering nie moontlik is nie omdat die Bestuurskomitee nie oor 'n kworum beskik nie, sal 'n SAV belê word binne 5 werksdae om 'n inwonende huiseienaar of	11.5.2 Indien koöptering nie suksesvol is nie, kan die tersaaklike pos uitgekontraakteer word onderhewig aan 14 dae vooraf kennisgewing aan lede.

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<p>dié se gade te koop teer om die bestaande vakatures te vul tot die volgende AJV. Sodanige SAV sal in samewerking tussen die Landgoedbestuurder en die Bestuursagent gereël word en die HEV-lede moet binne die voorgeskrewe tydperk in kennis gestel word dat so 'n vergadering sal plaasvind. Sou koop tering na die SAV steeds nie suksesvol wees nie, kan die tersaaklike portefeuljes uitgekonnekteer word, soos bepaal in klousule 10.7.4.</p>	
<p>11.5.3</p> <p>Indien spesiale omstandighede deskundigheid vereis waarom die Bestuurskomitee nie beskik nie, kan 'n lid met sodanige deskundigheid genader word om bystand te lewer. soos en wanneer benodig.</p>	<p>11.5.3</p> <p>Nuwe Invoeging</p>
<p>13.3 (Funksionering van Bestuur)</p> <p>Die notules van alle vergaderings sal by die kantoor van die Landgoedbestuurder vir HEV-lede, Bestuurskomiteelede en die Ouditeure ter insae wees, en op versoek elektronies versend word</p>	<p>13.3</p> <p>Die notules sal by die kantoor van die Bestuurder of Bestuursagent vir enige Bestuurslid, die Ouditeure en lede van die HEV ter insae wees,</p>

<p>'homeowner'</p> <p>a natural person, member of a Closed Corporation, trustee of a Trust or a member of a Company who owns a house in Monte Christo Eco- Estate.</p>	<p>'home owner'</p> <p>a natural person, member of a Closed Corporation, Trust or a Company who owns a house.</p>
<p>'Estate Manager'</p> <p>a person appointed by the Management Committee to execute the daily management tasks and enforcement of the Constitution and Rules.</p>	<p>'Manager'</p> <p>a person appointed by the Management Committee to assist with the daily management and enforcement of the Constitution and Rules.</p>
<p>'resident homeowner'</p> <p>a natural person who owns a house and physically resides full time in Monte Christo Eco- Estate</p>	<p>'resident homeowner'</p> <p>New insert.</p>
<p>'Special Meeting'</p> <p>a meeting for Members of the HOA where there is given no less than 10 working days' written notice to members by the Management Committee, and where the purpose and agenda for the meeting shall be set out in the notice.</p>	<p>'Special Meeting'</p> <p>a meeting for Members of the HOA where there is given no less than 10 working days' written notice to members by the Management Committee, and where the reason for the meeting shall be set out in the notice.</p>
<p>8.2 (Voting Right)</p> <p>At the election of members of the Management Committee, the member or his authorised representative, must be present in person as a natural person, a spouse, trustee of a trust, co-owner, member of a closed corporation or company.</p>	<p>8.2</p> <p>At the election of members of the Management Committee, the member must be present in person as a natural person, a spouse, trustee of a trust, co-owner, member of a closed corporation or company.</p>
<p>9.1 (Manage Committee)</p> <p>Will consist of at least five elected members, with a maximum of nine members, all of</p>	<p>9.1</p> <p>Will consist of at least five chosen members, with a maximum of nine members, all of</p>

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whom must be residential home-owners. One of the members must be a nominated member from the Monte Christo Retirement Village Management Committee.	whom must be residential homeowners. except in such an event as determined in clause 11.5.2. One of the members must be a nominated member from the Monte Christo Retirement Village Management Committee.
<p>9.2</p> <p>The spouse of a resident homeowner can be elected by means of a written proxy in case of a prenuptial agreement as a fully-fledged or a co-opted Management Committee member in which case the resident homeowner shall forfeit the right to be elected or co-opted as a Management Committee member.</p>	<p>9.2</p> <p>The spouse of a member may become a co-opted member of Management on condition that the necessary proxy had been given by the member in the case of a Prenuptial Agreement, in which case the member loses his right to vote.</p>
<p>10.1.4 (Office of Management Committee Members)</p> <p>not become involved with the allocation of tenders or contracts to the Monte Christo Eco-Estate, whereby a personal financial or other advantage may be derived. If it should seem that a financial advantage is to be gained from the allocation of any tenders or contracts, it must be made known in writing and sanctioned by the Management Committee; and</p>	<p>10.1.4</p> <p>to make known to the Management Committee as soon as possible any financial benefit which may come his way by means of the allocation of tenders or contracts; and</p>
<p>10.5</p> <p>Only elected or co-opted members have voting rights in meetings of the Management Committee.</p>	<p>10.5</p> <p>Only elected or co-opted members of the HOA have voting rights on meetings of the Management Committee.</p>
<p>10.6</p> <p>Any member who is not part of the Management Committee and who attends a Management Committee meeting on invitation, shall with the approval of the Chairperson be entitled to participate in the meeting, but will not have voting rights at the meeting.</p>	<p>10.6</p> <p>Any member who is not part of the Management Committee and who attends a Management meeting on invitation, shall with the approval of the Chairperson be entitled to participate in the meeting, but will not have voting rights at the meeting.</p>
<p>10.7.1</p> <p>The AGM shall appoint the Chairperson and members per portfolio from the nominations received. Should the AGM, due to a lack of nominations, not be able to appoint a Chairperson during the AGM, a Chairperson</p>	<p>10.7.1</p> <p>The AGM shall from the nominations received elect a Management Committee. In the case where the office of Chairperson becomes vacant, the Management Committee may immediately elect another</p>

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<p>will be appointed from the nominations that were received for the election of the Management Committee members per portfolio. Such a Chairperson will also serve in the portfolio he was elected for.</p> <p>NOTE: The proposed clause 10.7.1 and 10.7.2 is combined as one clause.</p>	<p>Chairperson from its members or co-opt an owner to act as Chairperson until the next AGM or clause 11.5.2 may be applied.</p> <p>10.7.2</p> <p>Should the AGM not appoint a Chairperson due to the lack of nominations, it shall appoint a temporary acting Chairperson to constitute the Management Committee. Thereafter, clauses 11.5.1 and 11.5.2 shall be followed.</p>
<p>10.7.2</p> <p>Where the office of Chairperson becomes vacant, the Management Committee may immediately elect another Chairperson from its members, or follow the procedure as prescribed in clause 11.5.1.</p> <p>NOTE: The second sentence of the previous clause 10.7.1 has been amended and replaced with a new clause 10.7.2.</p>	<p>10.7.2</p> <p>Should the AGM not appoint a Chairperson due to the lack of nominations, it shall appoint a temporary acting Chairperson to constitute the Management Committee. Thereafter, clauses 11.5.1 and 11.5.2 shall be followed.</p>
<p>10.7.3</p> <p>Should the number of members elected at the AGM to the Management Committee, be less than the minimum requirement of five as determined in clause 9.1, than those members, if they are three or more, shall be authorised to co-opt a residential homeowner or the spouse of such person, in order to comply with the prescribed requirements. If co-option is not successful, then the vacant portfolios in order to comply with clause 9.1 can be outsourced, as determined in clause 10.7.4.</p>	<p>10.7.3</p> <p>New insert</p>
<p>10.7.4</p> <p>If no nominations were received for any of the portfolios under clause 10.7.3 and co-option in terms of clauses 10.7.3, 11.5.1 and 11.5.2 is not successful, then the relevant portfolios can be outsourced. The Estate Manager in conjunction with Managing Agent will call an SGM within 5 working days, with the sole purpose to decide on outsourcing and procedures.</p>	<p>10.7.4</p> <p>New insert</p>

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10.8 The Chairperson will chair all meetings and fulfil all obligations as prescribed in the Constitution.	10.8 Except in the case where the Chairperson has a financial or personal interest, the Chairperson will chair all meetings and he will fulfil all obligations as prescribed by this Constitution.
10.9.4 remaining impartial at all times;	10.9.4 remaining neutral at all times;
11.5.1 (Term of Office of Committee Members) If at any stage a vacancy should occur and a quorum exists, such vacancy shall be filled by co-opting a resident home-owner or the spouse of such person. If co-option is not successful then the vacant portfolios can be outsourced, as determined in clause 10.7.4.	11.5.1 If any vacancy in the Management Committee should occur before the next AGM, or in the event of extraordinary circumstances, such vacancy shall be filled by co-opting a resident homeowner.
11.5.2 Should the co-opting process not be possible, due to the Management Committee not being a quorum, a SGM shall be convened within 5 working days to co-opt a resident home-owner or the spouse of such home-owner to fill the existing vacancy until the next AGM. Such SGM shall be arranged by the Estate Manager in conjunction with Managing Agent, whereafter the HOA members must be notified that the meeting will take place within the prescribed period . Should the co-opting process not be successful the specific portfolios could be outsourced, as determined in clause 10.7.4.	11.5.2 Should the co-opting process not be successful the specific post could be outsourced, subject to notice be given to members 14 days in advance of such outsourcing.
11.5.3 Should special circumstances exist, requiring specific expertise which the Management Committee does not possess, a member with such expertise may be asked to assist as and when required.	11.5.3 New insert.
13.3 (Functioning of Management Committee) The minutes of all meetings shall be available at the office of the Estate Manager, for HAO members, Management Committee	13.3 The minutes shall be available at the Manager or Managing Agent for inspection

members and the appointed Auditors for perusal and on request be forwarded electronically.	by any Committee Member, the Auditors and members of the HOA.
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