

ATLANTIC BEACH
Golf Estate  Cape Town

These are the Memorandum and Articles of Association of Atlantic Beach Homeowners Association (Association incorporated under Section 21) incorporating the special resolutions passed at an Annual General Meeting of Atlantic Beach Homeowners Association held on 7 December 2000.

Chairman of the Meeting

FORM CM4

MEMORANDUM OF ASSOCIATION
of a Company not having a share capital
[Section 54(1); Regulation 17(3)]

Registration No. of Company
99 00213/08

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1 NAME

1.1 The name of the Association is:

ATLANTIC BEACH HOMEOWNERS ASSOCIATION

(Association incorporated under Section 21)

(hereinafter referred to as "the Association").

1.2 The name of the Association in the other official language of the Republic is:

Not Applicable

(Vereniging ingelyf kragtens Artikel 21).

1.3 There is no shortened form of the name of the Association.

2 PURPOSE DESCRIBING THE MAIN BUSINESS

The main business which the Association is to carry on is:

- 2.1 To promote, advance and protect the communal interests of the owners and occupiers of Atlantic Beach Golf Estate, Melkbosch Strand, as depicted on the general plan No 4286/98 or any extension thereof or addition thereto relating to Atlantic Beach Golf Estate ("the Estate") and in particular to ensure acceptable aesthetic, architectural and environmental standards on the land, and to promote and maintain recreational facilities available to the said owners and occupiers.
- 2.2 To ensure that owners and occupiers of erven in the Estate are entitled to the use of club house and recreational facilities subject always to compliance by such owners and occupiers with the rules and regulations to be formulated for such use.
- 2.3 To implement and maintain security measures and systems for controlled access to the Estate.
- 2.4 To prescribe measures for the landscaping, development of erven and conditions of occupation in the Estate, and for the architectural design and building of improvements on erven in the Estate and the control of exterior alterations, changes of colour finishes or design of all buildings erected on erven within the Estate so as to ensure an harmonious and aesthetic development of the Estate; and to prescribe measures for the maintenance of the Estate and of the common areas within the Estate; and to prescribe and implement all administrative functions in connection therewith.
- 2.5 To grant and register in favour of the local authority service servitudes over the Estate whether in respect of separate erven, common property or common use areas, for the maintenance of sewers, water, electricity supplies or other facilities.

- 2.6 To acquire erven in the Estate for the purposes of road access to and within the Estate; to acquire and hold servitudes in the Association's favour or procure the grant of servitudes in favour of the local authority or individual erven in the Estate over other erven for the maintenance and upkeep of the supply of certain services.
- 2.7 To control and maintain buildings, services and amenities arising from all subdivisions of the Estate, and to control improvements, zoning, subdivisions and consolidations within the Estate.
- 2.8 To maintain and repair the private roads and private open spaces within the Estate and all amenities or improvements which may be erected thereon, in particular the cleaning, sweeping, upkeep, maintenance, improvement (if any) and control of the landscaped areas of the private roads and private open spaces;
- 2.9 To maintain, service and repair verges, sidewalks and all other private open areas within the Estate;
- 2.10 To acquire and take transfer of all private roads and private open spaces within the Estate as and when the same are depicted as such on the relevant general plan; except such as may be specifically reserved to the developer, the local authority, Eskom or any other designated parastatal body.
- 2.11 To apply for and to hold in its name or in the name of its nominee all permissions, licences and authorities for the proper and lawful conduct by it of any business undertaking or undertakings appropriate to the activities of the Association, on an erf or erven within the Estate.
- 2.12 To outsource all or part of its functions and duties as set out above to appropriate professional managers, operators or subcontractors for the provision of specialised services in connection with or relating in any way to the occupation of erven within the Estate. Including the right to outsource or to subcontract to, and to enter into service agreements with, the local authority or any appropriate

body or individual or company for the performance of any such services or the provision of supplies or expertise or facilities for the benefit and enjoyment of such owners and occupiers.

3 MAIN OBJECT

The main objects of the Association are:

- 3.1 to manage and promote the communal interests of the owners and occupiers of the Estate and in particular to manage the collective interests common to all its members, which includes expenditure applicable to the common property of such members and the collection of levies for which such members shall from time to time be liable; and
- 3.2 to carry out the following functions and duties in terms of the Land Use Planning Ordinance (Cape Ordinance) No. 15 of 1985 namely:
 - 3.2.1 the exercise of control over and the maintenance of buildings, services and amenities arising from all subdivisions of the Estate as set out in 2.7 above; and
 - 3.2.2 to ensure that all owners of erven arising from the subdivision concerned shall be members of the Association and as such shall be jointly liable for expenditures incurred by the local authority in connection with the Association as contemplated in section 29(4) of the Ordinance; and

4 ANCILLARY OBJECTS

The ancillary objects of the Association are restricted to its main object.

5 POWERS

- 5.1 The specific powers or part of any powers of the Association which are excluded from the plenary powers or the powers set out in Schedule 2 of the Act are the following:

5.1.1 power (o):

“(o) to make donations.”

5.1.2 power (s):

“(s) to distribute *in specie* or in kind any of its assets among its members.”

The specific powers or part of any specific powers of the Association set out in Schedule 2 to the Act which are qualified under Section 34 of the Act are:

5.1.3 power (e) to be qualified to read as follows:

“(e) to secure the payment of monies borrowed in any manner including the mortgaging and pledging of property and, without detracting from the generality thereof, in particular by the issue of any kind of debenture, with or without security.”

5.1.4 power (k) to be qualified to read as follows:

“(k) to form and have an interest in any company or companies having the same or similar objects to the Association for the purpose of acquiring the under-taking of all or any of the assets or liabilities of that company or companies or for any purpose which may seem, directly or indirectly, calculated to benefit the Association and to transfer to any such company or companies the undertaking of all or any of the assets or liabilities of the Association.”

5.1.5 power (l) to be qualified to read as follows:

“(l) to amalgamate with other associations having the same or similar objects to the Association.”

5.1.6 power (m) to be qualified to read as follows:

“(m) to take part in the management, supervision and control of the business or operations of any other company or business having the same or similar objects as the Association, and to enter into partnerships having the same or similar objects as the Association.”

5.1.7 power (n) to be qualified to read as follows:

“(n) to remunerate any person or persons in cash for services rendered in the formation or development of its business.”

5.1.8 power (r) to be qualified to read as follows:

“(r) to pay gratuities and pensions and establish pension schemes and medical aid schemes in respect of its *bona fide* employees.”

6 CONDITIONS

The following special conditions apply to the Association:

6.1 The income and property of the Association derived from whatever source shall be applied solely towards the promotion of its main object, and no portion thereof shall be paid or transferred, directly or indirectly by way of dividend, bonus, or otherwise howsoever to the members of the Association: provided that nothing herein contained shall prevent the payment in good faith of a reasonable remuneration or fee to any officer or servant of the Association or to any member thereof in return for services actually rendered to the Association.

6.2 Upon its winding-up, deregistration or dissolution the assets of the Association remaining after the satisfaction of all its liabilities shall be given or transferred to some other association or institution or associations or institutions having objects similar to its main objects and which are also exempt from income tax in terms of Section 10(1)(e)(iii) of the Income Tax Act, 58 of 1962, to be determined by the

determination, by a Court of competent jurisdiction.

- 6.3 Those profits or gains of the Association which are derived solely from transactions with or on behalf of its individual members may not be distributed to any persons other than the members with whom or on whose behalf the transactions took place. No person shall be entitled to any benefit other than benefits accruing to that person from transactions with or on behalf of that person except as regards any receipt or accruals from investments of the Association including the letting of property to non members.
- 6.4 The members will be obliged to contribute by way of subscriptions and/or levies toward the funds of the Association, and the Association will be entitled to enforce payment of and to collect and receive from members such contributions and/or levies, including interest on all amounts in arrear.
- 6.5 The Association shall be entitled to enforce compliance with its Articles of Association in such manner as it may deem fit and in particular by means of a system of fines or such other penalties as it may see fit to prescribe.
- 6.6 Funds available for investment shall only be invested with registered financial institutions as defined in Section 1 of the Financial Institutions (Investment of Funds) Act, 1984, and in securities listed on a stock exchange as defined in Section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985).

7 FINANCIAL YEAR

The financial year of the Association will commence on the first day of July and end on the last day of June in each year. The first financial year of the Association will commence on the date of incorporation of the Association and will end on 30 June 2000.

8 LIABILITY

- 8.1 The liability of members is limited to the amount referred to in sub-paragraph 7.3.

- 8.2 There shall during the development period (as defined in the Articles of Association) be two classes of member of the Association, namely A members and the B member, the rights, entitlements and obligations of which shall be as set out in the Association's Articles of Association. On the termination of the development period the B class of membership shall cease to exist and the remaining class will be redesignated as members.
- 8.3 Each member undertakes to contribute to the assets of the Association in the event of it being wound up while he is a member or within one year afterwards, for payment of the debts and liabilities of the Association contracted before he ceases to be a member, and of the costs, charges and expenses of the winding up, and for adjustment of the rights of the contributories among themselves such amount as may be required; provided that during the development period the liability of the A members in this regard shall be limited to R1 per member, whilst the liability of the B member in this regard shall be limited to R2 000. On and after the termination of the development period the liability of members in this regard shall be limited to R1 per member.

9 MANAGEMENT AND CONTROL OF THE ASSOCIATION

- 9.1 Each member of the Association acknowledges and agrees that for the duration of the development period (as defined in the Articles of Association) the management and control of the Association and its affairs shall vest entirely in the hands of the developer, namely Johnnic Property Developments Limited ("Johnnic"), or its successors in title or assigns or in the hands of professional managers, operators or subcontractors as may from time to time be appointed by Johnnic or its successors in title.
- 9.2 During the development period, the A members shall have no right to appoint trustees to the board of trustees of the Association, and voting control at all meetings of members of the Association will for that period vest with the developer.
- 9.3 After the development period the responsibility for managing and carrying out the day to day functions of the Association shall in all respects be delegated, subject to such limitations and restrictions as may from time to time be imposed

by the trustees of the Association, to the Chief Executive Officer of the Association or to such other person or persons as determined by the trustees to be appropriate.

10 AMENDMENT OF MEMORANDUM

Any amendment made to this Memorandum in terms of article 29 of the Articles of Association shall forthwith be submitted to the Commission for the South African Revenue Service.

11 ASSOCIATION CLAUSE

We, the several persons whose full names, occupations, residential, business and postal addresses are subscribed, are desirous of being formed into an Association in pursuance of this Memorandum of Association, and we respectively agree to become members of the Association. It shall not be necessary for the initial subscribers to this Memorandum and Articles of Association to be owners of erven on the land (as defined in the Articles of Association).

Form CM 4B

PARTICULARS OF SUBSCRIBER

Full Names: PETER GEOFFREY SURTEES

Occupation: CHARTERED ACCOUNTANT

Residential Address: 12 Aloe Close
Fish Hoek 7975Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001Postal Address: Private Bag X10
Roggebaai 8012Signature of Subscriber (who by his signature agrees to become a **B MEMBER** of the Association): (Signed) P G SurteesDate: 11 December 1998

PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI

Occupation: SECRETARY

Residential Address: 504 Doverhurst
Dover Road
Sea Point 8005Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001Postal Address: Private Bag X10
Roggebaai 8012

Signature of Witness: (Signed) J Tommasini

Date: 11 December 1998

Form CM 4B

PARTICULARS OF SUBSCRIBER

Full Names: ROBYN JEAN HOLWILL

Occupation: CANDIDATE ATTORNEY

Residential Address: 13 Rodgers Avenue
Constantia 7806

Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Subscriber (who by her signature agrees to become an A **MEMBER** of the Association): (Signed) R J Holwill

Date: 11 December 1998

PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI

Occupation: SECRETARY

Residential Address: 504 Doverhurst
Dover Road
Sea Point 8005

Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Witness: (Signed) J Tommasini

Date: 11 December 1998

Form CM 4B

PARTICULARS OF SUBSCRIBER

Full Names: ROBERT ARTHUR OTTY

Occupation: ATTORNEY

Residential Address: 82 Forest Way
Glencairn 7975

Business Address: 6th Floor, Southern Life Centre
8 Riebeeck Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Subscriber (who by his signature agrees to become an **A MEMBER** of the Association): (Signed) R A Otty

Date: 11 December 1998

PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI

Occupation: SECRETARY

Residential Address: 504 Doverhurst
Dover Road
Sea Point 8005

Business Address: 6th Floor, Southern Life Centre
8 Riebeeck Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Witness: (Signed) J Tommasini

Date: 11 December 1998

Form CM 4B

 PARTICULARS OF SUBSCRIBER

Full Names: PHILIP FRANZ LOTHAR GEROMONT
 Occupation: ATTORNEY
 Residential Address: 26 Molteno Road
 Oranjezicht
 Cape Town 8001
 Business Address: 6th Floor, Southern Life Centre
 8 Riebeeck Street
 Cape Town 8001
 Postal Address: Private Bag X10
 Roggebaai 8012
 Signature of Subscriber (who by his signature agrees to become an **A MEMBER** of the Association): (Signed) P F L Geromont
 Date: 11 December 1998

 PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI
 Occupation: SECRETARY
 Residential Address: 504 Doverhurst
 Dover Road
 Sea Point 8005
 Business Address: 6th Floor, Southern Life Centre
 8 Riebeeck Street
 Cape Town 8001
 Postal Address: Private Bag X10
 Roggebaai 8012
 Signature of Witness: (Signed) J Tommasini
 Date: 11 December 1998

Form CM 4B

PARTICULARS OF SUBSCRIBER

Full Names: KARA CONRADIE

Occupation: ATTORNEY

Residential Address: 12 Misgav Mansions
Exner Road
Vredehoek 8001

Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Subscriber (who by her signature agrees to become an **A MEMBER** of the Association): (Signed) K Conradie

Date: 11 December 1998

PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI

Occupation: SECRETARY

Residential Address: 504 Doverhurst
Dover Road
Sea Point 8005

Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Witness: (Signed) J Tommasini

Date: 11 December 1998

Form CM 4B

PARTICULARS OF SUBSCRIBER

Full Names: KASHIEFA ADAMS

Occupation: SECRETARY

Residential Address: 11 Athens Way
Portlands
Mitchell Plain 7785Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001Postal Address: Private Bag X10
Roggebaai 8012Signature of Subscriber (who by her signature agrees to become an A **MEMBER** of the Association):
(Signed) K Adams

Date: 11 December 1998

PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI

Occupation: SECRETARY

Residential Address: 504 Doverhurst
Dover Road
Sea Point 8005Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001Postal Address: Private Bag X10
Roggebaai 8012

Signature of Witness: (Signed) J Tommasini

Date: 11 December 1998

Form CM 4B

PARTICULARS OF SUBSCRIBER

Full Names: ROSELY RODRIGUES

Occupation: OFFICE ADMINISTRATOR

Residential Address: 21 Tulbagh Street
Brooklyn 7405

Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Subscriber (who by her signature agrees to become an **A MEMBER** of the Association): (Signed) R Rodrigues

Date: 11 December 1998

PARTICULARS OF WITNESS

Full Names: JACQUELINE TOMMASINI

Occupation: SECRETARY

Residential Address: 504 Doverhurst
Dover Road
Sea Point 8005

Business Address: 6th Floor, Southern Life Centre
8 Riebeek Street
Cape Town 8001

Postal Address: Private Bag X10
Roggebaai 8012

Signature of Witness: (Signed) J Tommasini

Date: 11 December 1998
