



E L E M E N T S  
P R I V A T E G O L F R E S E R V E

# **GOLF CLUB CONSTITUTION**

## 1 **PREAMBLE**

- 1.1 The Club is an association of its members and is not established for the purpose of profit or gain.
- 1.2 The Club shall be non-political and non-sectarian.
- 1.3 The Club is established for the purpose of ensuring access to the Peter Matkovich designed golf course situated on the 495 hectare residential estate known as the Elements Private Golf Reserve by the registered owners of property situated on either the Elements Private Golf Reserve or the Waterberg Estate, by virtue of which they are members of either the Elements Body Corporate or the Waterberg Home Owners' Association.
- 1.4 The Club is constituted subject to the approval of the Body Corporate of Elements Private Golf Reserve and the establishment thereof implies the acceptance of any fair and just ruling of the Body Corporate on matters referred to them in terms of this Constitution.
- 1.5 The Club has been formed to promote advance, protect and foster the game of golf and to bring about and maintain close co-operation between its Members.
- 1.6 Notwithstanding anything to the contrary herein contained, the Club shall have no more than 1 400 Members at any stage.
- 1.7 The 18 hole Peter Matkovich designed golf course situated on the Elements Private Golf Reserve and depicted on the diagram attached hereto marked, Annexure A, currently constitutes common property in the Elements Private Golf Reserve sectional title scheme and as such is controlled by the Body Corporate. The Body Corporate has agreed to implement a legal structure to secure the long term use of the course by the Club., in terms whereof, inter alia, the golf course will be leased to the Club for an initial period of 99 years. The details of this structure will be finalised and implemented as soon as possible after the formation of the Club and adoption of this Constitution. Subject to legal and practical matters related thereto, the structure will likely entail the registration of the golf course as an exclusive use area, and transfer that exclusive use area to a Section 21 company owning a sectional title unit in the Elements Private Golf Reserve sectional title scheme. The Section 21 Company shall in turn lease the golf course to the Club for an initial period of 99 years in terms of a lease agreement to be entered into between the Section 21 Company and the Club. Should this structure not be possible or practical to implement, an alternative structure will be utilised which will legally and practically provide the same security to the Club as the envisaged long term lease of the Golf Course to the Club.

## 2 **DEFINITIONS**

- 2.1 In this Constitution –
  - 2.1.1 article headings are for convenience and are not to be used in its interpretation;
  - 2.1.2 unless the context indicates a contrary intention an expression which denotes –
    - 2.1.2.1 any gender includes the other gender;

- 2.1.2.2 the singular includes the plural and vice versa;
- 2.1.3 unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a Saturday, Sunday or Public Holiday, the next succeeding business day;
- 2.1.4 words and expressions defined in any article shall, unless the application of any such word or expression is specifically limited to that article, bear the meaning assigned to such word or expression throughout this Constitution.
- 2.2 In this Constitution, unless the context clearly indicates a contrary intention, the following expressions bear the meaning assigned to them below
- 2.2.1 **ANNUAL GENERAL MEETING** means a meeting of all Voting Members of the Club, as contemplated in article 13.
- 2.2.2 **ANNUAL SUBSCRIPTION** means the amount paid annually by Members defined and referred to in article 8 and shall be approved at the Annual General Meeting prior to the imposition of such subscription.
- 2.2.3 **APPEAL COMMITTEE** means a sub-committee comprising of the President or Vice-President, who shall act as a chairperson and 2 (two) Members who are not Committee Members and who are willing to serve on the Appeal Committee, selected by the Committee from a panel of 5 (five) Members. The Committee shall nominate the panel at its first meeting after the Annual General meeting or at the first subsequent Committee meeting.
- 2.2.4 **BODY CORPORATE** shall mean the Body Corporate of Elements Private Golf Reserve Sectional Title Scheme.
- 2.2.5 **CHAIRPERSON OF THE COMMITTEE** means that Member of the Committee who is elected at the first Committee meeting after the Annual General Meeting or at any subsequent meeting of the Committee. The Committee from its Members must fill any vacancy for the position of Chairperson of the Committee as soon as possible after the vacancy has occurred.
- 2.2.6 **CLUB** shall mean the Elements Golf Club established upon adoption of the Constitution by the Members.
- 2.2.7 **COMMITTEE** shall mean the Golf Club Management Committee established in terms of article 9.
- 2.2.8 **CONSTITUTION** means this Constitution and all rules and regulations made there under.
- 2.2.9 **THE DEVELOPMENT** shall mean the Elements Private Golf Reserve and the Waterberg Estate;
- 2.2.10 **DISCIPLINARY COMMITTEE** means a sub-committee constituted under Article 12.4 comprising of the Captain or the Vice-Captain, one of whom shall

act as chairperson, and at least two other Members of the Committee. The main objects of the Disciplinary Committee shall be to conduct such disciplinary hearings as may be necessary, to reach a verdict and to take such action as may be appropriate in respect of any alleged breach by a Member, or any other party, of this Constitution or of the Rules.

- 2.2.11 **DOMICILIUM** shall mean Elements Private Golf Reserve, Portion 9 (a portion of portion 3), of the farm Elandsfontein No 440 KR., Bela Bela,, Limpopo Province.
- 2.2.12 **ELEMENTS PRIVATE GOLF RESERVE** shall mean the golf course estate established on Portion 9 (a portion of portion 3) of the farm Elandsfontein, Registration Division K.R., Limpopo Province;
- 2.2.13 **GENERAL MEETING** means either an Annual General Meeting or a Special General Meeting.
- 2.2.14 **JURISTIC PERSON** means a company, close corporation, partnership or trust, other than a Corporate Member, which is a Member of the Club and has been duly admitted as such in terms of the Constitution.
- 2.2.15 **MAIN STREET** shall mean Main Street 227 (Proprietary) Limited (Registration Number 2004/017931/07) the developer of Waterberg Estate.
- 2.2.16 **MEMBER** shall mean members as determined in article 6.
- 2.2.17 **MEMBERSHIP COMMITTEE** means a sub-committee comprising of at least three Committee Members appointed by the Committee, of which one shall be either the Chairperson or the Vice Chairperson, the principal objects of which shall be to make recommendations on all matters pertaining to Membership of the Club to the Committee, and to consider and, subject to appeal to the Committee, approve or reject all applications for Membership or nomination of Members.
- 2.2.18 **MEMBERSHIP** means Membership of the Club with all the rights, duties, obligations attached to each category of Membership under the Constitution.
- 2.2.19 **RULES** mean the rules made by the Committee as provided for in articles 12 by Voting Members in General Meeting.
- 2.2.20 **SPECIAL GENERAL MEETING** means a meeting called by the Committee at any time, or a meeting called by it upon a written requisition signed by at least 30 (thirty) Voting Members, specifying the object or objects for which such a meeting is to be held, in accordance with articles 13 hereof. 90 (Ninety) Voting Members are required to requisition a meeting if an object is to amend or revoke a resolution previously passed at a General Meeting, unless the Committee agrees to waive this requirement.
- 2.2.21 **VICE-CHAIRPERSON OF THE COMMITTEE** means the Member of the Committee who is elected by the Committee at its first meeting after an Annual General Meeting or at any subsequent meeting of the Committee.

2.2.22 **VOTING MEMBERS** mean Members as defined and referred to in article 6 with Voting Rights.

2.2.23 **VOTING RIGHTS** means the right to vote at General Meetings.

2.2.24 **WATERBERG HOA** shall mean the Waterberg Homeowners Association and Waterberg Club, being two legal entities to be incorporated as companies not for profit, to own the common property and amenities and administer the affairs related thereto, of Waterberg Estate

2.2.25 **WATERBERG ESTATE** shall mean the adjoining estate being developed on the farm Waterberg Estate No 817, Registration Division K.R., Bela Bela, Limpopo Province

### 3 **NAME AND LEGAL PERSONALITY**

3.1 The name of the Club shall be Elements Golf Club, and may only be changed with the approval of the Body Corporate through a special resolution of the Body Corporate and a special resolution of the Club.

3.2 The Club is a legal person with the capacity to sue and to be sued in its own name and furthermore to acquire assets in its own name and shall as such be a legal person distinct from its Members. The Club has *locus standi* to institute and defend proceedings on behalf of its Members.

3.3 The Club shall have perpetual succession unless dissolved under article 23.

3.4 If any article of this Constitution or part thereof is found by any Court of competent jurisdiction or an arbitrator to be defective or unenforceable for any reason whatsoever, the remaining articles shall continue to be of full force and effect.

### 4 **RULES OF GOLF AND AMATEUR STATUS**

4.1 The Club accepts and is bound by the Rules of Golf and The Rules of Amateur Status together with such amendments or additions thereto as may from time to time be adopted by the Royal and Ancient Rules Limited and the decisions which it may from time to time take on the interpretation of the Rules of Golf and the Rules of Amateur Status.

4.2 The Club shall be affiliated to the South African Golf Association, Womens Golf South Africa and the Limpopo Golf Union.

The Club shall abide by and adhere to the rulings and decisions falling within the object and scope of these constitutions of the various Bodies which they may from time to time issue.

4.3 The Club shall pay to the Limpopo Golf Union, South African Golf Association and Womens Golf South Africa the affiliation fees and/or levies prescribed by these bodies, and shall recover such fees and/or levies from the Members.

5 **FINANCIAL YEAR**

The financial year of the Club shall be from 1 March in any particular year to the last day of February of the immediately following year. Audited financial statements shall be prepared and submitted to the Annual General Meeting for approval.

6 **MEMBERSHIP**

6.1 Members shall comprise only owners of property in either the Elements Private Golf Reserve or the Waterberg Estate save for Honorary Life Members, Junior Members and temporary Members.

6.2 A maximum of 700 Memberships will be allocated to property owners on the Elements Private Golf Reserve and a maximum of 700 Memberships will be allocated to property owners on the Waterberg Estate as per 6.3.

6.3 Subject to 6.2 membership allocations will be applied to owners of property on the Elements Private Golf Reserve as per Annexure B attached hereto.

6.4 Subject to 6.2, the following membership allocations will be applied to owners of property on the Waterberg Estate whatever the type of residential accommodation:

1 or 2 Bedrooms – 1 membership  
3 or more Bedrooms – 2 memberships  
Hotel – maximum of 1 membership per hotel suite

6.5 Surplus memberships within the 700 allocated to the Body Corporate and the Waterberg HOA can be transferred from the Body Corporate to the Waterberg HOA or from the Waterberg HOA to the Body Corporate on terms and conditions as agreed, and subject to approval of the Committee.

6.6 Temporary Members are persons resident at any accommodation in the Development who are allocated memberships for the period they are resident and who shall enjoy the rights of members save that they shall have no voting rights. They may, at the discretion of the Committee, be eligible to play in certain Club competitions.

6.7 No Membership or the right to a Membership or any entitlement in terms thereof may be sold and no Membership may be transferred except as provided for in this Constitution.

6.8 Honorary Life Membership may be allocated by a two thirds majority of Members present at a general meeting on the recommendation of the Committee.

These memberships will not exceed 15 at any one time and will terminate on the death of the Honorary Life Member.

The list of Honorary Life Members at present is as follows:

6.8.1 DJ Clifford snr

- 6.8.2 Ansie Clifford
- 6.8.3 DJ Clifford jnr
- 6.8.4 Leandra Clifford
- 6.8.5 DJ Clifford jnr jnr
- 6.8.6 Christiaan Clifford
- 6.8.7 Abigale Clifford
- 6.8.8 Riaan van Zyl
- 6.8.9 Naomi van Zyl
- 6.8.10 Daniel van Zyl
- 6.8.11 Alexander van Zyl
- 6.8.12 Jacques Wildenboer

An Honorary Life Member shall have all the rights, duties, obligations and privileges of a Member, except as qualified in this article.

An Honorary Life Member shall not have a vote at General Meetings and shall not be liable for Annual Subscriptions or any other charges or levies and shall not be entitled to nominate any Junior Member or any Member in any category of membership as may exist from time to time.

Honorary Life Membership shall not be capable of being sold, bequeathed or transferred.

Honorary Life Members shall be subject to all the provisions of the Constitution and the Rules of the Club.

6.9 Members shall be entitled to a maximum of 3 guests each at any one time and provided the Member is present at all times with the guest.

6.10 Application for membership

6.10.1 Application for membership shall be in writing on the approved form and shall contain the full name, address and occupation of each applicant, with such further details as the Committee may require, and shall be signed by the applicant.

6.10.2 The signature by the applicant of the application form shall be deemed as acknowledgement that he, or she, will be bound by this Constitution and the rules and by-laws of the Club.

6.10.3 On application for membership the applicant must nominate as to whether the membership(s) is linked to a specific natural person(s) or to the specific accommodation to which it attributes. If linked to a natural person then that person is the member and membership benefits attribute to that person. If linked to accommodation then the membership benefits attribute to the persons in residence in that particular accommodation at any point in time. This nomination can be amended at the commencement of each financial year or upon transfer of the ownership of the accommodation.

6.10.4 Where membership is linked to the specific accommodation to which it attributes, natural persons for each membership must be nominated to represent the memberships in terms of voting at General Meetings, being responsible for payment of subscriptions and for abiding by the Rules and Regulations. This nomination to be done at the commencement of each financial year or upon transfer of the ownership of the accommodation.

6.10.5 The 700 memberships which have been allocated to the Waterberg estate are not sufficient to enable Main Street to allocate a membership to each and every property on the Waterberg estate. The Elements Golf Club Membership will on occasion be compulsory and linked to the purchase of a property at the Waterberg Estate, but will generally be offered to potential purchasers at Waterberg Estate as an optional inclusion with the purchase of the property. After the allocation of all 700 memberships to existing properties on Waterberg Estate, a waiting list will be established of existing and prospective owners of property at Waterberg Estate that would want to attach an available membership in the Elements Golf Club to their property. In the event that a property is sold and that the new purchaser does not wish to transfer the membership and chooses to relinquish this, then the Committee will allocate this membership to the applicant that appears on top of the waiting list.

The Waterberg HOA may hold such membership in its own name pending allocation to an applicant subject to it paying the respective subscriptions attributable to that membership, alternatively, the new purchaser shall become liable for such membership until such time as it has been allocated to the applicant on the waiting list.

#### 6.11 Junior members

6.11.1 A Junior Member is the child under 25 years of age, or, at the discretion of the Committee, any other relative or dependent of a Member under 25 years of age and which Junior Member has been admitted to Membership of the Club after application to the Membership Committee;

6.11.2 Playing times and access to Club facilities for Junior Members may be restricted by the Committee from time to time.

6.11.3 Junior Members shall not be entitled to vote at General Meetings or to invite guests.

6.11.4 A Junior Membership shall not be capable of being sold or transferred.

6.11.5 Two categories of Junior Membership shall exist as follow :

##### **Pupil Members**

(a) Pupil Members are natural persons who are younger than 18 (eighteen) years at the beginning of a given subscription year.

(b) Pupil Members shall pay to the Club an annual subscription equivalent to 10% (ten percent) of the annual subscription payable by a Member

and of any other applicable charges as may be laid down or imposed by the Committee, and approved at a General Meeting by Members of the Club.

**Student Members :**

- (a) Student Members are *bona fide* full time scholars or students who are older than 17 (seventeen) years at the beginning of a given subscription year and who will not attain the age of 25 (twenty five) years in a given subscription year.
- (b) Student Members are obliged to submit proof of registration at a recognized educational institution at the beginning of each subscription year.
- (c) Student Members shall pay to the Club an annual subscription in an amount equivalent to no more than 20% (twenty percent) of the annual subscription payable by a Member and of any other applicable charges as may be laid down or imposed by the Committee and approved at a General Meeting by Members of the Club.

**7 ENTRANCE FEES AND PLAYING FEES**

- 7.1 The entrance fee for ordinary Members shall be such sum as the Members in General Meeting may from time to time determine.
- 7.2 Playing fees will be determined and reviewed as and when necessary by the Members in General Meeting for each category of player.
- 7.3 The Committee will determine competition fees.
- 7.4 Notwithstanding anything to the contrary herein contained any first time end user in the development will not pay any entrance fees.

**8 SUBSCRIPTIONS**

- 8.1 The liability of a Member is limited to the payment of his, or her, unpaid subscriptions and any other money due by the Member.
- 8.2 The annual subscriptions for all Members (excluding Honorary Members) shall be such sums as the Members may approve in General Meetings, from time to time, after recommendations from the Committee.
- 8.3 Subscriptions shall be payable monthly in advance, and such subscriptions shall be payable from the 1<sup>st</sup> day of March each year.
- 8.4 Applicants elected as members during any year shall only be obliged to pay a pro-rata share of the subscription for that year or such amount as the Committee may determine.

- 8.5 If any member has not paid the subscription or any other monies due within a period of 60 days after the due date thereof, such member will be advised in writing and if such amount has not been paid within 30 days from the date of the aforesaid letter, then the Committee shall be entitled to suspend or terminate such membership and the Member shall not continue as a Member of the Club and all rights as a Member shall be suspended while these amounts remain unpaid. Such Member may be re-instated by the Committee at its discretion and on such terms as the Committee may decide. Nothing herein contained shall preclude the Club from instituting whatever legal proceedings may be deemed necessary to recover any monies due.
- 8.6 A minute of the Committee meeting stating that any Member subject to the notice referred to in the preceding sub-paragraph, has had such notice duly sent, shall be conclusive evidence that such notice was duly and properly given.
- 8.7 If a Member ceases to be an owner in the Development his/her Membership shall automatically terminate. Any new owner shall be obliged to make application for Membership in terms of Article 6.10.
- 8.8 Any contribution to the Club for which members are liable, such as levies, annual subscriptions or the like, shall only become payable in respect of issued memberships as and when they are allocated to end buyers of individual properties.
- 8.9 Should any Member be in arrear with his/her levy or in respect of any other monies due to the Waterberg HOA or the Body Corporate, as the case may be, then such Member's Membership shall automatically be suspended and all rights as a Member shall likewise be suspended until all such arrears have been paid. Where a natural person has been nominated as a Member by a Juristic Person then the provisions of this sub-article shall apply to such Member if the Juristic Person is in arrears with any amounts due to the Body Corporate or the Waterberg HOA, as the case may be.

## **9 MANAGEMENT OF THE AFFAIRS OF THE CLUB**

- 9.1 The Club shall be governed and its affairs administered by the Committee, whose responsibilities and powers shall be as set out in Article 12 of the constitution.
- 9.2 Golf Club Management Committee:
- 9.2.1 The Golf Club Management Committee shall comprise not less than six and not more than ten Members being in good standing. The Committee Members shall be elected each year at the Annual General Meeting of the Club and it is intended that, as far as reasonably possible, to have equal representation of Members from Elements Private Golf Reserve and from the Waterberg Estate.
- 9.2.2 The Committee at the, first Committee meeting after the Annual General Meeting shall elect the Committee Chairperson, Vice Chairperson and Club Captain provided that the Chairperson shall always be a Member representing the Elements Private Golf Reserve.

10 **NOMINATION FOR AND ELECTION OF COMMITTEE**

- 10.1 Nomination of candidates for the Committee shall be in writing signed by two Members of the Club and the nominee, and shall be delivered to the secretary not later than seven days before the date of the Annual General Meeting. Retiring Members of the Committee shall be eligible for re-election without nomination.
- 10.2 Such nominations for the Committee together with the names of the retiring Committee Members eligible for re-election, shall be posted on the notice board at least five days prior to the Annual General Meeting.
- 10.3 In the event of more than ten nominations for election, the election will be by ballot of the Members present at the Annual General Meeting and eligible to vote.
- 10.4 The first committee shall be nominated by the Trustees of the Body Corporate, and shall remain in office until the first Annual General meeting of the Club.
- 10.5 Only members nominated in terms of Articles 6.10.3 and 6.10.4 are eligible for nomination for the committee.

11 **MEETINGS OF THE COMMITTEE**

- 11.1 The Committee shall meet not less than six times per financial year, and shall provide for proper minutes to be kept.
- 11.2 Seven clear days notice shall be given of all meetings of the Committee, unless all Members of the Committee agree to accept shorter notice.
- 11.3 At all meetings of the Committee, half of the Committee plus one shall constitute a quorum.
- 11.4 The Committee shall have full power to fill such vacancies amongst their number as may occur during their period of office.
- 11.5 The Chairperson, or in his absence, the Captain shall be Chairperson of the Committee. The Chairperson shall have a casting vote in addition to his deliberative vote.
- 11.6 The Committee shall have the power to appoint sub-committees for any purpose and to delegate to these sub-committees, such powers and functions as may be deemed desirable.
- 11.7 The Chairperson shall be ex-officio a Member of all sub-committees in which either the Chairman or vice Chairman have not been elected as a committee member.

12 **POWERS OF THE COMMITTEE**

The entire management and control of the Club shall be vested in the Committee. The Committee shall have full power and authority to do any act, matter or thing which could or might be done by the Club subject to any restrictions or regulations which may be

expressly provided for by the Members in General Meeting. Without in any way limiting the generality of the foregoing the powers and duties of the Committee shall include the following:-

- 12.1 To process applications for membership of the Club, and administer all matters incidental thereto, such as entrance and subscription fees.
- 12.2 The power to deal with any Member who shall owe money to the Club in the same manner as that laid down with regard to arrear subscriptions.
- 12.3 To open and operate bank or savings accounts in the name of the Club and to draw, accept, endorse, make and execute bills of exchange, promissory notes, cheques and other negotiable instruments, operate such accounts electronically and all as may be connected with the business of the Club and authorize, by resolution, any two Members of the Committee or other authorized officers of the Club to act on behalf of the Club in this regard.
- 12.4 The power to appoint sub-committees for such purpose as the Committee may deem fit, to delegate to such sub-committees any of the powers and duties of the Committee itself, and to dissolve such sub-committees.
- 12.5 To organize and run the golf competitions held at the Club, including determining the entry fee for such competitions.
- 12.6 To administer handicapping of Members and affiliation to the SAGU, WGSA and the Union.
- 12.7 To enter teams in such leagues as the Committee may decide.
- 12.8 To make such recommendations relating to the maintenance and upkeep of the golf course and other facilities, as well as the administration of the Clubhouse, as it may deem fit.
- 12.9 Draw up a budget for approval by those Members of the Club present at the Annual General Meeting.
- 12.10 To co-opt, at their discretion, a Member or Members for any purpose pertaining to the running of the Club.
- 12.11 To make, vary and repeal by-laws, policies and guidelines for the regulation of the affairs of the Club, its officials and employees, provided that such by-laws do not conflict with this Constitution.
- 12.12 To recommend auditors for appointment at the Annual General Meeting.
- 12.13 To make staff appointments, suspension and discharge of employees of the Club and fix remuneration and terms of employment.
- 12.14 To institute, conduct, defend, compound or abandon any legal proceedings by or against the Club or its officers, or otherwise concerning the affairs of the Club.

- 12.15 To acquire for the Club any movable property calculated to benefit the Club, provided that such acquisition is within the budget approved at the Annual General Meeting or does not involve expenditure in excess of R30,000.00 in respect of any one project.
- 12.16 To sell, alienate or deal with the movable property assets of the Club as it shall deem expedient in the interests of the Club, provided always that the sale or alienation contemplated shall be limited to a maximum amount of R30,000.00.
- 12.17 To appoint such attorneys, agents, officers and employees for permanent, temporary or special services as it may think fit, to a maximum of 12 months, and to invest them with such powers as it may think expedient, and to determine their duties and fix, vary and pay their salaries or emoluments (if any) and to require security in such instances and to such amounts as it thinks fit, and to suspend or discharge any such persons as it may decide.
- 12.18 To make and give receipts, releases and other discharges for monies payable to the Club, and issue invoices for the claims and demands of the Club, duly signed by a person authorized to act on behalf of the Club.
- 12.19 To invest and deal with any monies of the Club not immediately required for the purposes of the Club upon such securities and on such terms as it may think fit, and from time to time to vary or realize such investments, provided that the investment is approved by a General Meeting in the case that such investment is not in cash instruments or bonds with one of the major South African banks.
- 12.20 To grant consent to persons, who are not Members, to use the Club's property, or enter any grounds or buildings managed or controlled by the Club, upon such terms as it may think fit, or to refuse such consent as it may determine in its discretion.
- 12.21 To establish and maintain pension or provident funds for the benefit of officials, employees, ex-officials and ex-employees of the Club, and to that end to make such capital and annual contributions as it deems fit.

### 13 **ANNUAL AND SPECIAL MEETINGS**

- 13.1 An Annual General Meeting of Members (of which not less than fourteen days notice shall be given) shall be held once in a calendar year at such time and place as the Committee may determine.
- 13.2 Only nominated Members of the Club, as defined in these rules, who are in good standing, shall have the vote at General Meetings.
- 13.3 The business to be transacted at the Annual General Meeting of Members shall be:
  - 13.3.1 To confirm the minutes of the previous Annual General Meeting.
  - 13.3.2 To approve the Annual Financial Statements of the Club.

- 13.3.3 To approve and adopt the budget for the upcoming year.
  - 13.3.4 To appoint the auditors for the upcoming year and approve the auditors remuneration.
  - 13.3.5 To receive the report of the Committee on the affairs of the Club for the preceding calendar year.
  - 13.3.6 To elect Members to the Committee for the ensuing year in the place of the retiring Members;
  - 13.3.7 To consider and pass, with or without amendment, or reject any proposed resolution submitted to the meeting and concerning the affairs of the Club, of which due notice has been given;
  - 13.3.8 To consider any business of the Club which is brought under the consideration by the report of the Committee.
  - 13.3.9 The Committee may, however, at any meeting of Members bring forward any business which it considers requires the immediate decision of Members.
- 13.4 Notice of any resolution to be submitted to any Annual General Meeting other than the ordinary business of the meeting shall be signed by at least two Members and lodged with the secretary of the Club, at least seven days before the date fixed for such meeting, and shall be posted by him / her forthwith on the Club notice board.
- 13.5 The Committee may at any time call a Special General Meeting of Members on giving at least fourteen days notice and specifying the objects for which the meeting is called.
- 13.6 The Committee shall, in like manner, call a Special General Meeting of Members upon receipt of a requisition signed by not less than thirty Members of the Club specifying the purpose for which such a meeting is called.
- 13.7 The quorum for a Special General Meeting called by requisition shall be thirty Members. For all other General Meetings, twenty Members shall be a quorum in person or by proxy. Provided that if no quorum be present within ten minutes after the time fixed for the meeting, the meeting shall, in the case of an Annual General Meeting or a Special General Meeting called by the Committee, be postponed to the same place, day and hour in the following week and at such postponed meeting the Members present shall be deemed to be a quorum for the transaction of all business of the meeting. In the case of a Special General Meeting called by requisition of Members, if no quorum be present within ten minutes of the time fixed for the meeting, it shall be finally dissolved.
- 13.8 Save as otherwise provided for in this Constitution all questions at an Annual General Meeting or a Special General Meeting of Members, shall be decided by simple majority of votes by Members entitled to vote and personally present or by proxy, who shall vote by ballot. The Chairperson of the meetings shall fix the time, place and mode of such ballot.

- 13.9 The Chairman at all Members meetings whether general or special, shall be taken by the Chairperson of the Golf Club, or failing him, the Captain, or failing him the Honorary Secretary. Should all be absent, the Members present shall elect a Chairperson of that meeting.
- 13.10 In all cases of an equality of votes at all Meetings of the Club, the Chairperson shall also have a casting vote. The declaration of the result of a vote by the Chairperson shall be conclusive in all cases.
- 13.11 No unallocated memberships have a right to vote at annual or special meetings of members unless the matter to be voted on is one which is a proposed amendment to this Constitution, an amendment which directly affects the rights of those memberships, or a vote on the dissolution of the Club. In such case the votes attributable to those memberships shall be allocated to the Chairman of the Body Corporate or the Waterberg HOA, as the case may be.

#### 14 **SUSPENSION AND EXPULSION OF MEMBERS**

- 14.1 If any Member, in the opinion of the Committee, commits any breach of this Constitution or of the rules or by-laws of the Club, or is guilty of conduct unbecoming of or prejudicial to the Club's interests, whether within or outside the precincts of the Club, the Committee shall have the power after complying with 14.2:
- 14.1.1 To caution such Member; or
- 14.1.2 To expel such Member; or
- 14.1.3 To suspend such Member for such period and upon such terms as the Committee may deem fit.
- 14.2 Before acting under 14.1 the Committee shall give the Member concerned an opportunity to make written representations to the Committee, alternatively to call upon such Member to appear before the Committee and there explain his or her conduct and should such Member fail to make written representations or to appear before the Committee, to expel or otherwise deal with such Member as provided in this Constitution.

#### 15 **RIGHTS, DUTIES AND PRIVILEGES OF MEMBERS**

- 15.1 All Members shall have the rights, duties, obligations and privileges as set out in the Constitution, subject to such limitations as are set out in the Constitution, be entitled to make use of all the facilities and amenities of the Club at all times, subject to any other restrictions imposed by this Constitution, or by-laws, or the Rules made in terms thereof, or by the Committee.

- 15.2 All nominated Members shall, subject to such limitations set out in the Constitution or bylaws or Rules, have the right to serve on any Committee of the Club to which such Member may be elected.
- 15.3 All Members shall be subject to any security, traffic or safety regulations on Elements Private Golf Reserve imposed by the Body Corporate or the Waterberg HOA.
- 15.4 All Members shall provide the Club by written notice with their postal, fax and e-mail (if available) addresses as set out herein and the onus is on Members to ensure that the Club has their current address.
- 15.5 All Members shall be bound by the terms of this Constitution and any by-laws and Rules made in terms hereof.

16 **DISCIPLINE**

- 16.1 Should any Member in the opinion of the Disciplinary Committee, commit any breach of the Constitution, Rules and/or by-laws of the Club, fail to pay the Annual Subscription, special levies, or any other charges due and payable to the Club, or be guilty of improper, dishonest, un-sportsmanlike, offensive, unseemly, or objectionable conduct, or conduct likely to reflect on or discredit the Club or its Members as a group, or of conduct that is prejudicial to the interests or reputation of the Club, whether within the Club's premises or outside them and in whatever form or manner, the Disciplinary Committee shall have the power in its discretion –
  - 16.1.1 To reprimand such Member ;
  - 16.1.2 To deprive such Member of all or any rights and privileges of Membership for such period as the Disciplinary Committee may deem fit ;
  - 16.1.3 To suspend such Member for such period as the Disciplinary Committee may deem fit ;
  - 16.1.4 To impose a fine on such Member for such amount as it may deem fit which shall be a debt owing to the Club and payable on demand, provided that the maximum fine which may be imposed shall not exceed an amount equivalent to 10% (ten percent) of that Member's Annual Subscription ;
  - 16.1.5 To call upon a Member in writing to resign. If he or she fails to resign within 7 (seven) days the Disciplinary Committee may expel such Member from the Club;
  - 16.1.6 To declare such Member for such period as the Disciplinary Committee shall deem fit ineligible for election or re-election to the Committee or the Club or any sub-committee of the Committee ;
  - 16.1.7 To publish the names of Members against whom disciplinary action has been taken in such form and place as the Committee in its sole discretion may deem fit and appropriate, including but not limited to publication in any newsletter issued by the Committee or the Club ;

- 16.1.8 To publish names of Members who, having been sent a demand to pay, fail to pay their Annual Subscription or any other amount within 60 (sixty) days of it becoming due, in such form and place as the Committee in its sole discretion may deem fit and appropriate.
- 16.2 The powers set out in 16.1 may be exercised only after the Members affected by such disciplinary action have been given the opportunity to make oral or written representations to the Disciplinary Committee within 30 (thirty) days after being notified by the Disciplinary Committee of the impending disciplinary action. After considering the representations by the Member affected, the Disciplinary Committee must notify the Members immediately in writing of its decision.
- 16.3 A Member shall have the right of appeal to the Appeal Committee against any such disciplinary action taken against that Member. Such an appeal shall be lodged in writing with the Appeal Committee within 28 (twenty eight) days of the notice of decision of the Disciplinary Committee. If so requested in writing by the Member appealing, the Member shall be given an opportunity to make oral or written representation to the Appeal Committee by such date stipulated by the Appeal Committee. The Appeal Committee may confirm or reverse all or part of the decision of the Disciplinary Committee or refer the matter back to the Disciplinary Committee for further deliberation and decision and must notify the Member in writing of its decision within 14 (fourteen) days of the decision.
- 16.4 The procedure set out in article 16.2 shall not apply in respect of disciplinary action contemplated in articles 16.1.1 and 16.1.8 or to Members who have failed to pay any amounts referred to in the introduction to article 16.1 within 60 (sixty) days of becoming due. Any disciplinary action taken in respect of late payment of any nature may extend beyond the actual date of payment of the total amount due.

## 17 **PROXIES**

- 17.1 At any General Meeting a Member may be represented by proxy, provided that such proxy is recorded in writing and clearly identifies the Member to whom the proxy is given (who shall be present at such General Meeting) and provided such proxy is lodged with the secretary not later than 48 hours before the time for commencement of the meeting.
- 17.2 A proxy may only be given to a Member of the Club or such other person who shall be approved of by the Committee in its sole discretion.

## 18 **INDEMNITY**

- 18.1 All Committee Members shall be indemnified out of the funds of and by the Club against any liability *bona fide* incurred by them in their respective capacities and in the case of a Committee Member, in his or her capacity as Chairperson or Vice Chairperson, whether defending any proceedings, civil, criminal or otherwise, notwithstanding the fact that such liability may have been incurred or action instituted pursuant to a failure to follow the procedures provided for in this Constitution, alternatively based upon a misinterpretation of this Constitution.

- 18.2 Every Committee Member, agent and employee of the Club shall be indemnified by the Club against all costs, losses and expenses, including traveling expenses, which such person or persons may have *bona fide* incurred or become liable for by reason of any contract entered into, or any act or deed done, including in the case of a Committee Member, their duties as Chairperson or Vice Chairperson out of the funds of the Club. Without prejudice to the generality of the above, the Club shall specifically indemnify every such person against all losses of whatsoever nature incurred arising by him jointly or severally in connection with the *bona fide* discharge of his duties.
- 18.3 A Committee Member in that capacity shall not be liable for the acts, receipts, omissions or defaults of the auditors or of any of the other Committee Members, whether in their capacities as Committee Members or as Chairperson or Vice Chairperson, or for any loss or expense sustained or incurred by the Committee through the insufficiency or deficiency of title to any property acquired by the Committee for or on behalf of the Club, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Club shall be invested, or for any loss or damage occasioned by any error of judgment or oversight on the part of the Committee Member concerned, or for any other loss, damage or misfortune whatsoever which shall happen in the execution of any of the duties of the Committee Member concerned or in relation thereto, unless the same should happen through a lack of *bona fides*, breach of duty or breach of trust or gross negligence of the Committee Member concerned.
- 18.4 Members of the Committee shall not receive any remuneration for services rendered while holding such position.
- 18.5 Committee Members shall not be personally liable to the Club, Member or any third party for any act or omission relating to the *bona fide* carrying out of their duties and powers under this Constitution and shall be indemnified against such liability and claims by the Club.

## 19 **USE OF CLUBHOUSE BUILDINGS**

- 19.1 It is recorded that the Clubhouse together with the associated commercial rights are not owned by the Club. The use of the Clubhouse is governed by agreement between Clubhouse owner and the Club and all Members are bound by the provisions of the Agreement.
- 19.2 Any changes to the Clubhouse building shall be subject to the prior written approval of the owner.
- 19.3 In the event that the Members desire an alteration of the Clubhouse and in the event that the owner of the Clubhouse is agreeable thereto then the cost of such alteration, if not paid for by the owners will be borne by the Club, provided this has been approved in terms of this Constitution and provided all the terms and conditions stipulated by the owner are complied with.

20 **ALTERATIONS TO THE GOLF COURSE**

No material changes may be made to the golf course without the prior approval of the Body Corporate. Any change to the course needs to be sanctioned by the course designer or another experienced, established and qualified golf course architect.

21 **AMENDMENT OF THE CONSTITUTION**

21.1 Any alterations of the Constitution or name change of the Club must be approved by not less than three quarters of the Members present or by proxy at a General Meeting. The rights of unallocated memberships to vote in this regard, as envisaged in Article 13.11, must be taken into account.

21.2 Full details of the proposed alteration and the reason therefore must be included in the notice of the meeting given to Members.

21.3 Further, at least ten days before such meeting, a copy of such new rule or the proposed alteration and the reasons therefore shall be posted on the Club notice board.

21.4 Whenever any addition or alteration is made to the Constitution, a copy thereof shall be supplied to each Member on application.

22 **GENERAL**

22.1 This Constitution and rules and by-laws shall be binding on all Members.

22.2 All notices posted on the notice board and sent to the e-mail address on record for each member shall be considered due notice to every Member except where otherwise provided in the Constitution and except for any General Meeting where written notice to the contact addresses of a Member must be given.

22.3 Members shall communicate any change of address, e-mail address or cell phone number to the secretary who shall keep an official register of all Members and their addresses.

22.4 One copy of these rules shall be supplied to each Member of the Club free of charge on application.

23 **DISSOLUTION OF THE CLUB**

23.1 The Club shall not be dissolved except by a Resolution passed by a majority of three-quarters of the Members present at an Extraordinary General Meeting called for such purpose. No such Resolution shall be in order unless 6 (six) weeks notice thereof has been give to each Member at their contact addresses.

23.2 If a Resolution for the winding up of the Club has been passed as provided for in sub-article 23.1 supra, or if for any reason the Club is unable to continue to function the following shall apply:

23.2.1 The last appointed Chairperson of the Club or, if the Chairperson is not available, the available Members of the last appointed Committee of the Club shall forthwith transmit to the Members of the Club a statement signed by the Chairperson or them setting forth the Resolution adopted by them or the reasons for the Clubs inability to continue to function, as the case may be, and the available Members of the Clubs last appointed Committee shall appoint a liquidator to carry out the winding up. The liquidator shall not be a Member of the Club and shall be paid such fees as may be agreed upon between him and the said Members of the Clubs last appointed Committee.

23.2.2 The liquidator so appointed shall call upon the last appointed office bearers of the Club to deliver to him the Club books of account showing the assets and liabilities together with a list of its Members. The liquidator shall also call upon the said office bearers to hand over to him all unexpended funds of the Club and to deliver to him the Clubs assets and documents necessary in order to liquidate the assets.

23.2.3 The liquidator shall take the necessary steps to liquidate the debts of the Club from its unexpended funds and any other moneys realized from any assets of the Club and if the said funds and moneys are insufficient to pay all creditors after liquidator's fees and the expense of winding up have been met, creditors shall be paid in the same sequence as that prescribed in any law for the time being in force relating to the distribution of assets of an insolvent estate and the liquidator's fees and the expenses of winding up shall rank in order of preference as though he were a liquidator of an insolvent estate and as though the expenses were the cost of liquidation of an insolvent estate.

## 24 **ARBITRATION**

24.1 Save in respect of disciplinary matters where the decisions of the Disciplinary Committee and the Appeal Committee shall be final and binding, should any dispute arise from this Constitution between any Member or Members and the Club or between the Body Corporate and the Waterberg HOA then such dispute shall be referred to arbitration under the Commercial Rules of the Arbitration Foundation of Southern Africa ("AFSA"). Where any AFSA Rules are silent or ambiguous on any matter then the Rules of the South Gauteng High Court shall apply.

24.2 The provisions of this article shall not preclude any Member or the Club or the Body Corporate or the Waterberg HOA from seeking interdict or urgent relief in the appropriate High Court having jurisdiction in the matter.

25 **TECHNICAL AMENDMENTS TO THE CONSTITUTION**

Subject to the unanimous approval of every Member of the Committee, the duly elected Committee at the time may make such changes of a technical nature and consequential changes as may be necessary to the numbering or wording of any articles in the Constitution, to bring those articles into line with the introduction of new articles or amendments to existing articles in the Constitution, as have been duly approved by Members in General Meeting by three-quarters, and eliminate any mistakes, inconsistencies, ambiguities and obsolete provisions in the Constitution, provided such changes do not alter the substance or meaning of any provision of the Constitution in any way other than has been approved by Members in General Meeting by a three-quarter majority.

26 **CADDIES**

No caddies shall be allowed on the Elements Golf Course, except for special events, and then only with the prior written approval of the Committee.