

# **CONSTITUTION**

**KOSMOS RATEPAYERS AND RESIDENTS ASSOCIATION**

# CONSTITUTION

## KOSMOS RATEPAYERS AND RESIDENTS ASSOCIATION

	<u>TABLE OF CONTENTS</u>	<u>Page</u>
1.	Name of Association	1
2.	Constitution	1
3.	Definitions	1
4.	Objectives of the Association	4
5.	Powers of the Association	5
6.	Security	7
7.	Management of the Association	8
8.	Membership	9
9.	Membership Fees	10
10.	Quorum	10
11.	Meetings of Members	11
12.	Limitation of Rights and Obligations	13
13.	Utilisation of Property and Income of the Association	14
14.	Finance	14
15.	Amendment to the Constitution	15
16.	Transparency	15
17.	Dissolution of the Association	16
18.	Motion of no Confidence	16
19.	Interpretation	17
20.	Adoption of the Constitution	17

# **CONSTITUTION**

## **KOSMOS RATEPAYERS AND RESIDENTS ASSOCIATION**

### **1. NAME OF ASSOCIATION**

The name of the Association shall be Kosmos Ratepayers and Residents Association (“KRRR”).

### **2. CONSTITUTION**

2.1 The KRRR shall be non-proprietary and at no time shall the assets or profits of the Association be distributed amongst its Members, provided that nothing herein contained shall be construed as in any way prescribing or restricting the payment of interest on debentures or on loans all of which shall however be subject to approval by at least 75% (seventy five percent) of the vote of Members (present or represented by proxy) in good standing at a Special General Meeting.

2.2 In the event of a dissolution of the Association or should the Association cease to exist, the available funds and its assets, after all debts have been settled, shall be paid to an association or associations having similar objects to that of the Association, or to a charity linked to the Kosmos community and as determined by its Members at a Special General Meeting.

### **3. DEFINITIONS**

3.1 In this Constitution, unless inconsistent with or otherwise indicated by the context –

3.1.1 “the ASSOCIATION” means Kosmos Ratepayers and Residents Association (“KRRR”), a voluntary association not carried on for the purpose of gain;

3.1.2 “COMMITTEE” means the Management Committee;

3.1.3 “MANAGEMENT COMMITTEE” means the Members of the Management Committee appointed by the Association;

3.1.4 “MEMBER” means a member of the Association;

3.1.5 “TOWNSHIP OF KOSMOS” means the former municipality of Kosmos, which includes Caribbean Beach Club, Kosmos Ridge, Montego Bay, Mount Kos, Kosmos Extension 6 and all property owners east of the Kosmos T-Junction;

- 3.1.6 “RATEPAYER” means the owner of any immovable property in Kosmos and if membership of the Association is in respect of a family, his/her spouse; and
- 3.1.7 “RESIDENT” means any person older than 18 (eighteen) years, who customarily lives in Kosmos and who is nominated by a *bona fide* ratepayer of the immovable property he occupies with a maximum of 2 (two) people per such property.
- 3.2 Any reference to the singular includes the plural and *vice versa*.
- 3.3 Any reference to natural persons includes legal persons and *vice versa*.
- 3.4 Any reference to gender includes the other genders.
- 3.5 The clause headings in this Constitution have been inserted for convenience only and shall not be taken into account in its interpretation.
- 3.6 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 3.7 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect shall be given to it as if it were a substantive clause in the body of this Constitution, notwithstanding that it is only contained in the interpretation clause.
- 3.8 If any period is referred to in this Constitution by way of reference to a number of days, the days shall be reckoned, exclusively of the first and inclusively of the last day unless the last day falls on a day which is not a business day, in which event the day shall be the next succeeding business day.
- 3.9 This Constitution shall be governed by, construed and interpreted in accordance with the Laws of the Republic of South Africa.
- 3.10 The Kosmos Chapel Trust is affiliated to the Association.

#### **4. OBJECTIVES OF THE ASSOCIATION**

The Association shall protect and promote the interests of *bona fide* Ratepayers and Residents of the Township of Kosmos, which is situated within the municipal jurisdiction of the Municipality of Madibeng. The objectives of the Association are *inter alia*:

- 4.1 to act as a watchdog body over local government service obligations to the Ratepayers and Residents of the Township of Kosmos;
- 4.2 to monitor adherence to the Kosmos guideline plan, alternatively Hartebeespoort Dam guideline plan by local government including the Municipality of Madibeng, Residents and Ratepayers and to notify the appropriate authorities where potential transgressions have been committed taking cognizance of current legislation;
- 4.3 to monitor adherence to National Building Regulations and local by-laws by all the Ratepayers and Residents within the jurisdiction of the Association and to advise the appropriate authorities to take cognizance of any potential transgressions and institute the required legal action;
- 4.4 to facilitate communication between the local government including the Municipality of Madibeng and other organisations/bodies and the Ratepayers and Residents of the Township of Kosmos, taking cognizance of the needs and expectations of the entire community;
- 4.5 to act as a channel of communication to the Ratepayers and Residents of the Township of Kosmos on matters of mutual interest and importance, which shall include the administration of the security at the Kosmos Security Gate;
- 4.6 to and on behalf of the ratepayers and residents endeavour to obtain the direct or indirect administrative control (which may include the leasing thereof) of areas in the township of Kosmos (i.e. the Kosmos foreshore which includes Agnes Avenue, etc) of which ownership vests in the local municipality of Madibeng or the government and to manage same for the Association;
- 4.7 to provide advice, assistance and/or guidance to its Members within its legal boundaries; and
- 4.8 to act as an unifying body for all Ratepayers and Residents of the Township of Kosmos.

## 5. **POWERS OF THE ASSOCIATION**

The Association shall have the power to carry out all or any of the objectives of the Association as contemplated herein above and, without detracting in any way from the generality of these provisions, shall have the following specific powers, provided that such specific powers shall be approved for each relevant action at a meeting of the Management Committee:

- 5.1 to open and operate banking accounts;
- 5.2 to collect, receive or raise funds, by legacy or otherwise or to manage monies to attain the objectives of the Association;
- 5.3 to remunerate any person(s) in cash or otherwise, for services rendered in the formation, development and/or execution of its objectives;
- 5.4 to make donations to charitable organisations as the Association may deem fit;
- 5.5 to enter into and/or execute agreements and documents;
- 5.6 to institute, conduct, defend, compound or abandon any legal proceedings by or against the Association, and/or in the name of the KRRRA;
- 5.7 to appoint any employee for the Association on such terms and conditions as may be desirable;
- 5.8 to ensure that no member of the Management Committee shall have an undisclosed direct or indirect interest in or benefit from any agreement which the Management Committee may conclude with any entity from time to time;
- 5.9 to ensure that where there is any doubt as to a conflict of interest arising due to a Management Committee member's personal involvement in any issues dealt with by the said Committee, that the member shall not be allowed to influence these matters unduly and should recuse himself from the proceedings of the Committee until such matter is finalised;
- 5.10 to make, amend or repeal the Constitution;
- 5.11 to carry out all such undertakings, acts, matters, legal steps or things as are incidental or conducive to the attainment of the objectives in accordance with the provisions of this Constitution or that may be necessary or incidental to the attainment or of the promotion of the aforesaid objectives;
- 5.12 to acquire by purchase, exchange, lease, sub-lease or otherwise property (movable or immovable); \*
- 5.13 to sell, lease, mortgage, dispose of, give in exchange, turn to account or otherwise deal with all or any part of the property and rights of the Association; \*
- 5.14 to conduct and supervise elections of Members and the Management Committee;

- 5.15 to enquire on the conduct of any member and should it be deemed necessary, to suspend or expel such a member, should the member fail to :
- 5.15.1 comply the provisions of this Constitution; and/or
- 5.15.2 act in the best interests of the Association, its members and/or the Management Committee;
- 5.16 to carry out and give effect to resolutions passed by Members at the Annual General Meeting or Special General Meeting;
- 5.17 to have the custody and control of the funds and property of the Association;
- 5.18 to invest any funds of the Association not immediately required for the purposes of the Association and to withdraw or receive advances on such funds in any or all of the following classes of security:
- 5.18.1 on fixed deposit with any registered bank; and
- 5.18.2 on call or in a savings account with the said bank;
- 5.19 generally to conduct, regulate and manage the affairs of the Association, to carry out the objectives and to do all things necessary and incidental thereto, and at all times use its discretion within the perimeters of this Constitution and in the best interest of the Association.

\* The provisions of 5.12 and 5.13 hereof shall be subject to approval by at least 75% (seventy five percent) of the vote of Members (present or represented by proxy) in good standing at a Special General Meeting.

## 6. **SECURITY**

- 6.1 The Association shall, taking cognisance of its objectives and powers as it moreover appears from the provisions of Clause 4.5 read in conjunction with 5.11, administer the security service provided to its members and other ratepayers and residents of Kosmos via *inter alia* the Kosmos Security Gate. This administrative service provided by the Association shall include:
- 6.1.1 Administration and liaison with the security provider at the Kosmos Security Gate;
- 6.1.2 Maintenance of the security gate;
- 6.1.3 Deal with other security-related issues as may be required from time to time;

- 6.2 The monthly security fees which are payable by the parties as contemplated in clause 6.1 for the service thus provided shall be recovered by the Association from such parties and be paid to the security company approved by its members at an Annual General Meeting or Special General Meeting.
- 6.3 The fees levied and received by the Association in accordance with the provisions of clause 6.2 may only be applied to the payment of the said security service and security-related issues as contemplated in 6.1.1, 6.1.2 and 6.1.3.

## **7. MANAGEMENT OF THE ASSOCIATION**

- 7.1 The day to day affairs of the Association shall be managed by the Management Committee consisting of a minimum of 5 (five) and a maximum of 11 (eleven) paid-up Members in good standing elected at the Annual General Meeting.
- 7.2 The Management Committee shall elect a chairman and vice-chairman who shall be 2 (two) of the elected Members of the Management Committee, at its 1<sup>st</sup> (first) meeting after the Annual General Meeting.
- 7.3 Any casual vacancy on the Management Committee shall be filled by the Management Committee until the next Annual General Meeting, provided such appointee shall have no voting rights on matters decided upon by the Management Committee.
- 7.4 The Management Committee may appoint standing or adhoc sub-committees from outside its own membership to assist it with any matters falling within its purview, provided such sub-committees shall have no voting rights whatsoever pertaining to issues which may affect the association.
- 7.5 The Management Committee may co-opt any person or persons, provided such co-opted member shall have no voting rights on matters decided upon by the said Management Committee.
- 7.6 Decisions of any Sub-Committee must be submitted to the Management Committee for ratification [a quorum for all sub-Committees shall consist of half of the number of Members of the Sub-Committee plus 1 (one) of the Sub-Committee].



- 7.7 No Members of the Management Committee or of the Association shall receive any compensation for their activities relating to the management of the Association, but may be reimbursed for any substantiated expenses incurred in the execution of their duties as Members of the Management Committee provided prior written approval of expenses to be incurred has been obtained from the chairman of the Management Committee.
- 7.8 The Management Committee shall meet at the discretion of the chairman, but shall endeavour to meet once per month and not less than 10 (ten) times in any financial year.
- 7.9 If any Committee Member is absent from 3 (three) consecutive committee meetings without reasons satisfactory to the remaining committee members, his/her seat may be declared vacant by the Committee concerned.
- 7.10 Management Committee shall maintain a list of its Members and office bearers which shall include their addresses and contact details.
- 7.11 All decisions of the Management Committee shall be based on consensus except for disputed issues which will be decided by majority vote of the Members of the Management Committee.

## **8 MEMBERSHIP**

- 8.1 Membership shall be granted to any *bona fide* Ratepayer and Resident of the Township of Kosmos who shall have applied in writing and submitted the annual membership fee with his/her application.
- 8.2 Each member of the Association shall be bound by the provisions of this Constitution with effect from the date of admission of the said member.
- 8.3 A member's membership to the Association shall cease if:
- 8.3.1 he/she is no longer a Ratepayer or Resident of the Township of Kosmos; and
- 8.3.2 he/she fails to pay his/her membership fees within a period of 3 (three) months of annual membership fees falling due; or

8.3.3 he/she submits a letter of resignation to the Association.

8.4 Membership fees paid by any member who elects to resign from the Association shall not be refundable.

## **9 MEMBERSHIP FEES**

9.1. An annual membership fee shall be payable by all Members of the Association.

9.2 The said fees will be revised annually at the last Committee meeting prior to the Annual General Meeting and approved or amended at the said Annual General Meeting.

9.3 Members of the Association shall pay their subscription fees within 3 (three) months of the end of the financial year of the Association. A member shall however not be eligible to vote at any meeting of the Association if his subscription fee is not fully paid.

## **10 QUORUM**

### **10.1 Management Committee Meetings**

10.1.1 The quorum for Management Committee meetings shall be 50% (fifty percent) plus 1 (one) of its Members with a minimum of five people personally present at the time decisions and/or voting takes place.

10.1.1 If a quorum is not present at the meeting as contemplated in the preceding clause, the meeting shall be postponed *sine die*.

### **10.2 Annual General Meeting and other General Meetings including adjourned General Meetings**

10.2.1 The quorum for any Annual General Meeting or other general meeting which may include Special General Meetings of the Association shall not be fewer than 15% (fifteen percent) of the total members of the Association or 20 (twenty) Members in good standing, whichever is the greater, (present or represented by proxy) at the time the meeting commences.

10.2.2 If within a half an hour of the commencement of a meeting as contemplated herein a quorum is not present, the meeting shall be adjourned to such time and place as the chairperson of the meeting shall appoint, being not later than 14 (fourteen) days after the adjourned meeting. The Members present at the adjourned meeting shall form a quorum.

11 **MEETINGS OF MEMBERS**

11.1. **Annual General Meeting**

11.1.1 The Association shall hold an Annual General Meeting of its Members not later than 3 (three) months after the end of each financial year of the Association, at such place and time as the Management Committee shall from time to time determine.

11.1.2 The following business shall be transacted at the Annual General Meeting:

11.1.2.1 the minutes of the Annual General Meeting and of any Special General Meeting(s) shall be approved by the Management Committee at its 1<sup>st</sup> (first) subsequent meeting and shall be ratified at the next Annual General Meeting;

11.1.2.2 the chairman of the Management Committee shall render a report on all activities of the Association during the preceding year;

11.1.2.3 a statement of income and expenditure for the previous financial year shall be submitted by the treasurer of the Association for approval by the Members;

11.1.2.4 2 (two) independent scrutinizers shall be appointed by the chairman of the Management Committee;

11.1.2.5 nomination and election of a *de novo* Management Committee for the ensuing year;

11.1.2.6 the approval or amendment of the membership fees for the ensuing year;

11.1.2.7 such other matters of which due notice shall have been given shall be considered by the Members;

11.1.2.8 at the discretion of the chairman of the Annual General Meeting, matters of a general nature may be raised from the floor and discussed by the Members present; and

11.1.2.9 the Management Committee for the ensuing year shall be announced.

11.2 **Special General Meeting**

11.2.1 A Special General Meeting shall be called by the chairman of the Management Committee if a written request is received and signed by at least 10 (ten) Members in good standing of the Association, stating the matters to be dealt with at such meeting is submitted to the said chairman. The said meeting shall be held within a period of 21 (twenty-one) days after the receipt of the written request, failing which the Members calling such meeting shall be authorised to and on behalf of the chairman to call the meeting.

11.2.2 In addition thereto, the chairman may at his/her sole discretion convene a Special General Meeting.

11.2.3 The purpose of the Special General Meeting as contemplated herein will be set out in the notice giving full details of the resolution(s) which are to be considered by the Members of the Association.

### 11.3 Notice

11.3.1 14 (fourteen) days' notice of all general meetings shall be given by public notice within the Township of Kosmos.

11.3.2 The notices of general meetings (Annual General Meetings and all other meetings) shall set out the day, hour and venue of the proposed meeting.

11.3.3 Such notices shall be placed in a prominent position at the Kosmos Security Gate, on the Association's notice board at the post boxes, the library, on the Association's website and any other notice board approved by the Management Committee. Apart from the herein aforementioned notice, same will be sent to each Member by either post, e-mail or delivered by hand (where possible).

11.3.4 As aforesaid, all notices will be dispatched 14 (fourteen) days prior to the date of the scheduled meeting.

### 11.4 Chairman of meetings

The chairman of the Management Committee shall preside at every meeting of the Association provided that if he/she is unable to do so or is not present at the time appointed for the holding of such meeting, the vice-chairman or, failing him/her, a member of the Management Committee shall preside as a chairman of the meeting.

### 11.5 Voting

11.5.1 At any general meeting (Annual General Meeting or other Special General Meeting) each member in good standing and who has paid his/her membership fees shall have 1 (one) vote and if he has joined as a family, his spouse shall have an additional vote. However the maximum votes per property shall remain 2 (two) votes.

11.5.2 In the event of an equality of votes, the chairman of the meeting shall have a second and casting vote.

11.5.3 Voting shall be by the show of hands, however a ballot may be called by any member prior to the voting taking place.

11.5.4 A proxy does not have to be a member, however may only vote if the member who he/she represents is in good standing and has paid the membership fees as contemplated in this Constitution.

#### 11.6 Minutes

11.6.1 The Management Committee shall ensure proper minutes are kept of the proceedings of all Committee meetings, Annual General Meetings and other general meetings. Such minutes shall upon signature by the chairman of the Management Committee, be conclusive evidence of the facts stated therein.

11.6.2 All minutes whether of the Management Committee or otherwise shall be open for inspection by any Members in good standing and on written request to the secretary and/or chairman of the Association.

### **12 LIMITATION OF RIGHTS AND OBLIGATIONS**

12.1 Membership of the Association shall not give to any member any proprietary right, title or claim to any interest in the assets of the Association.

12.2 Furthermore, the Members shall not be liable to meet the debts, engagements or liabilities of the Association and their liability shall be limited solely to the amounts due by them in respect of their membership fees payable in accordance with the provisions of this Constitution.

12.3 The Members of the Management Committee, any other officers and office bearers for the time being of the Association, and any and every one of them and every one of their heirs, executors and administrators shall be indemnified and held harmless out of the assets, funds and property of the Association, from and against all actions, costs, charges, losses, damages and

expenses which they or any of them, their heirs, executors or administrators shall or may incur or sustain by and by reason of any act done, concurred in or committed in or about the execution of their duties, or supposed duty in their respective offices, except such, if any, as they shall incur or sustain by or through their own wilful neglect or default respectively, and none of them shall be answerable for the acts or defaults of the others or others of them or for any bankers or other persons with whom any monies or effects belonging to the Association may be lodged or deposited for safe custody or for the insufficiency or deficiency of any security upon which any monies of or belonging to the Association shall be placed out or invested or for any loss, or losses, misfortune or damage which may be sustained in the execution of the respective offices or in relation thereto, except if same shall happen by or through their own wilful neglect or dishonesty respectively.

### **13 UTILISATION OF PROPERTY AND INCOME OF THE ASSOCIATION**

Any property or income of the Association shall be utilised solely for the furtherance of the aims and objectives of the Association.

### **14 FINANCE**

- 14.1 The Association may accept and utilise donations made to it for general or specific purposes, however solely in the furtherance of the aims and objectives of the Association.
- 14.2 The Association may raise funds for specific projects which will be determined by the Management Committee.
- 14.3 All monies and/or funds received by the Association shall be deposited in such banking institution as may be decided upon by the Management Committee.
- 14.4 All withdrawals from such account must be authorised and/or ratified by the Management Committee, and where internet banking is utilised, each transaction shall be printed out and signed by either the chairman or vice-chairman and the treasurer of the Association.
- 14.5 Where conventional banking is utilised, each withdrawal and/or cheque authorisation form shall be signed by either the chairman or the vice chairman and the treasurer of the Association.

14.6 The financial year of the Association shall end on 31 December of each consecutive year.

14.7 An account of income and expenditure for the preceding financial year shall be prepared by the treasurer on behalf of the Management Committee and be presented at every Annual General Meeting for approval by the Members of the said Association.

## **15 AMENDMENT TO THE CONSTITUTION**

15.1 This Constitution shall not in any way be rescinded, amended, altered or added to, except by resolution passed at an Annual General Meeting or Special General Meeting, notice of which in terms of this Constitution shall have been delivered to Members by either post, e-mail or delivered by hand (where possible) at least 14 (fourteen) days prior to the meeting, as well as being posted on the notice board of the Association for at least 14 (fourteen) days before such meeting, stating the intention to deal with and specify the nature of the rescission, alteration or amendment. Such resolution shall only be deemed to be passed if agreed to by not less than 75% (seventy five percent) of the Members (in good standing) present or represented by a proxy and voting at an Annual General Meeting or Special General Meeting.

15.2 All amendments, alterations, additions to and deletions from this Constitution shall, unless therein otherwise provided, be and become effective from the date of the passing thereof. A certificate under the hand of the chairman of the Association certifying the Constitution, as amended, or setting forth the amendments, alterations, additions and deletions therein shall be final and conclusive evidence thereof for all parties.

15.3 The adoption of the Constitution, as amended, shall be without prejudice to the validity of any act done under the Constitution therefore in force or existing agreements concluded with the Members.

## **16 TRANSPARENCY**

16.1 The Management Committee shall strive at all times to conduct its activities in a transparent manner for and on behalf of the Association.

16.2 Any Member of the Association shall be entitled to attend committee meetings, provided the chairman of the Association shall have been advised in advance of such attendance. Should the Management Committee unanimously determine that the presence of visitor(s) during a specific discussion is undesirable due to a conflict of interest and/or a requirement for confidentiality, the chairman of the Association may request that the visitor(s) to recuse himself / themselves during such discussion.

16.3 A Member of the Association may request readily available information from the chairman or secretary of the Association, such information to be provided within 30 (thirty) days of receipt of a written request.

## **17 DISSOLUTION OF THE ASSOCIATION**

The Association may be dissolved or wound-up by a resolution of not less than 75% (seventy five percent) of the Members in good standing present at a Special General Meeting provided that no less than 14 (fourteen) days' notice shall have been given, setting out the business of the meeting and at least 75% (seventy five percent) of all Members eligible to vote being present or by proxy.

## **18 MOTION OF NO CONFIDENCE**

18.1 If Members of the Association and not less than 20 (twenty), have reason to believe that the Management Committee or a member of the Management Committee is acting unconstitutionally, the said Members may propose a motion of no confidence in the Management Committee.

18.2 The Management Committee will consider the matter and respond to the motion within 14 (fourteen) days from receipt thereof. Subject to the satisfaction of the Members calling for the proposed motion, the Members may decide to proceed with a motion of no confidence.

18.3 The Management Committee shall immediately give notice of a general meeting as prescribed in this Constitution, failing which the members as contemplated in clause 18.1 will be authorised to call such a meeting.

18.4 The meeting shall be conducted by a neutral chairperson who shall be a member and appointed to the satisfaction of both parties, prior to the meeting.



- 18.5 The motion of no confidence shall be the main order of business, with each party being given equal opportunity to state their respective viewpoints.
- 18.6 A decision as to whether the motion of no confidence should carry, will be based on a majority vote by the Members in good standing present, and shall receive not less than 20 (twenty) votes in favour. The said vote shall be cast by way of a ballot.
- 18.7 The outcome of the voting shall determine the necessity to reinstate the existing Management Committee or to call for nominations for a new Management Committee.
- 18.8 If a call for nominations for a new Management Committee is made, notice of a Special General Meeting shall be given by the chairman or failing him, any of the members calling the motion of no confidence in accordance with provisions of this constitution, and at which juncture a new Management Committee shall be elected.

**19 INTERPRETATION**

The Management Committee shall be entitled to interpret any aspects of the Constitution which are not clear, provided that such interpretation shall be put to the Association in general meeting for incorporation in the Constitution at the first available opportunity.

**20 ADOPTION OF THE CONSTITUTION**

This Constitution was adopted and accepted by the Members of the Association at a General Meeting held on \_\_\_\_\_

DATED AND SIGNED INTO EFFECT BY THE INCUMBENT CHAIRMAN OF THE ASSOCIATION.

\_\_\_\_\_  
CHAIRMAN

\_\_\_\_\_  
DATE