FRANSMANSHOEK

EIENAARSVERENIGING OWNERS ASSOCIATION

FRANSMANSHOEK OWNERS ASSOCIATION – CONSTITUTION

May 2007

1 THE NAME:

1.1 The NAME of the Association is: FRANSMANSHOEK OWNERS ASSOCIATION.

1.2 The Association shall be a LEGAL ENTITY and will remain in existence despite any changes in membership. No Member will be entitled to any right in any asset owned by the Association during its existence or upon dissolution of the Association.

2 OBJECTIVES:

2.1 The principal objective of the Association shall be:

2.1.1 to regulate and control the development of the Fransmanshoek peninsula in order to promote the conservation, rehabilitation and protection of the peninsula's natural environment, including the fauna and flora and biosphere, by applying sound nature conservation practices while accommodating the legitimate development aspirations of property owners on the peninsula. This objective requires close cooperation with the Fransmanshoek Conservancy and Cape Nature.

2.1.2 in this context it is recognized that the following factors will materially enhance the value of properties on the peninsula, both in ecological and financial terms:

2.1.2.1 control of alien vegetation;

2.1.2.2 restoration of the indigenous costal fynbos vegetation;

2.1.2.3 low environmental impact development, including:

2.1.2.3.1 reasonably low density development having regard to the legitimate aspirations of Members;

2.1.2.3.2 minimal ecological impact of houses;

2.1.2.3.3 ecologically sensitive placement of houses;

2.1.2.3.4 minimum "footprint" for access roads;

2.1.2.3.5 prohibition of any non-endemic plants;

2.1.2.3.6 construction of plank-walkways where necessary;

2.1.2.3.7 the adoption of an aesthetic code and architectural guidelines for housing in order to ensure a reasonably uniform appearance and height;

2.2 The ancillary objectives of the Association shall be:

2.2.1 to protect the interests of the property owners on the Fransmanshoek peninsula;

2.2.2 to coordinate and implement the necessary security arrangements to protect the properties of the Members and their persons on the peninsula;

2.2.3 to liaise with the relevant municipal and regional authorities on behalf of the Members ;

2.2.4 to do anything which may be necessary to achieve the abovementioned objectives.

3 MEMBERS:

3.1 The Members of the Association consist of the registered owners of properties which form part of peninsula. If a company, trust or other legal person becomes a registered owner of property situated on the peninsula, such company, trust or legal person is entitled become a Member of the Association and will be entitled to nominate one representative shareholder, trustee or director to any meeting, with the right of substitution, provided that prior notice of such nomination is given to the Management Committee. In the event that a property should be owned by more than one natural person, the owners of such property shall be entitled to joint but not individual membership of the Association and shall be entitled further to nominate one of their number to any meeting, with the right of substitution, provided that prior notice of such nomination is given to the Management Committee. The shareholders, members, directors and/or trustees of any entity member are personally responsible for the conduct of any legal entity and its representative.

4 MANAGEMENT COMMITTEE

4.1 The Management Committee of the Association will consist of a Chairman, a Secretary and two additional Members appointed at the Annual General Meeting of the Association; provided that the Members present at an Annual General Meeting may decide to appoint more than two additional Members.

4.2 The Management Committee is authorized to fill temporary vacancies as it deems fit or to appoint other Members as additional ad hoc Members of the Committee.

4.3 The interpretation by the Management Committee of any provision contained in the Constitution shall be final and binding upon all members, except that such a decision shall be subject to an appeal by an aggrieved member to a Special General Meeting as provided for in Clause 6 of this Constitution. The resolution passed at such a meeting shall be binding upon Members and the Association.

5 POWERS OF THE MANAGEMENT COMMITTEE

5.1 In order to realize the objects for which the Association is created, the Management Committee shall, without prejudice to any other powers conferred upon it in terms of this Constitution, and in addition to the powers vested in it by law, have the power:

5.1.1 to enact and enforce the letter and spirit of this Constitution, as well as carry out the decisions of the General Meetings as taken from time;

5.1.2 to invest funds with a financial institution as defined in Section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990) or in securities listed on a stock exchange as defined in Section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985);

5.1.3 to administer all such accounts and investments by the signature of any 2 (Two) of the Committee Members so authorized;

5.1.4 to grant receipts and discharges for any and all sums collected, received or recovered;

5.1.5 to pay all necessary fees and charges in connection with the preparation and registration of this Constitution;

5.1.6 to pay all necessary fees or charges in regard to the management, administration and control of the funds of the Association;

5.1.7 to employ and pay agents and advisors for any purposes related to the administration of the Association;

5.1.8 to institute and defend legal proceedings in the name of the Association or to proceed to arbitration in respect of any matter or dispute as may be determined by the Committee and to sign all deeds, powers of attorneys and other documents which may be necessary for such purposes;

5.1.9 to negotiate loans in favour of the Association with or without interest, with or without security and on such terms and conditions as are agreed with the lender;

5.1.10 to make use of the services of professional advisors and tradesmen for the affairs of the Association and to pay for such services from the funds of the Association and such powers shall extend to the payment of professional services rendered by any Member in a professional capacity on a fair and reasonable basis;

5.1.11 to accept donations or bequests on behalf of the Association from anybody subject to the terms and conditions of this Constitution and subject to the terms and conditions attached to such donations and/or bequests;

5.1.12 where investments are made in any shares, stocks, debentures and securities including any Unit Association Scheme whose Articles of Association or Regulations prohibit the registration of such investments in the name of the Association, then in that event the investments may be held by the Members in their personal names as nominees on behalf of the Association or in a close corporation, company or trust;

5.1.13 generally to manage the assets and funds of the Association;

5.1.14 to determine all questions and matters of doubt which may arise in the course of their management, administration, realization, liquidation, partition or winding up of the Association's assets;

5.1.15 to have any secretarial and audit services which it considers necessary for the administration of the Association carried out at the cost of the Association;

5.1.16 to accept and acquire for the benefit of the Association any gifts, bequests or payments from any person, firm, company or association that may be given, bequeathed or paid to the Association as an addition or with the intention to add to the funds. Any additional benefits thus acquired shall be deemed to form part of the Association's funds to be administered and dealt with subject to the terms of this Constitution;

5.1.17 to hold the whole or any part of the Association's assets in the name of the Association or in the names of individual Members of the Management Committee or in the names of any other persons nominated by the Committee for that purpose, provided that such individuals shall at all times hold such assets strictly for the benefit of the Association, separate from their personal estates and pursuant only to the prior approval of a properly convened General Meeting;

5.1.18 to execute all documents required for any purpose in terms of the objects, powers, duties and authorities under the Constitution;

5.1.19 Unless expressly agreed otherwise by the Members, any banking account shall be capable of being operated by 2 (two) Committee Members, duly authorized in respect of any transactions affecting the Association's banking account, provided that such authority was given to such Members by a resolution properly passed by the Members and which authority shall be capable of being terminated or varied if so required at any time.

5.1.20 Notwithstanding any of the powers set out in this clause 5, 75%

(seventy five percent) of the funds received by the Association by way of donation which qualify for a deduction, will be distributed (or an obligation will be incurred to so distribute) within twelve months from the financial year end during which such donations were received.

5.2 The Management Committee shall not have the power to conduct or engage in speculative transactions, dividend stripping activities or any matters which are prohibited in terms of the Fundraising Act, 1978, Income Tax Act or the Non-Profit Organizations Act of 1997.

5.3 Without derogating from the generality of the aforegoing, the Management Committee shall not engage in any competition, contest, game, scheme, arrangement or system in connection with which any prize may be won, nor cause same to be conducted by or on behalf of the Association, unless an authority in terms of any applicable legislation has been obtained beforehand.

5.4 All contracts signed by the Management Committee (except normal correspondence) shall be signed by two members of the Management Committee.

6 RESTRICTION ON POWERS

6.1 The Members are prohibited from distributing any of the funds of the Association to any person (other than in the course of undertaking any public benefit activity) and are required to utilize the funds solely for the objects for which the Association has been established.

6.2 The Association will not carry on any business undertaking or trading activity unless specifically permitted in terms of Section 30(3)(b)(iv) of the Income Tax Act;

7 MEETINGS

7.1 ANNUAL GENERAL MEETINGS of Members will be held once a year after 30 (thirty) days written notice has been given to Members by the Management Committee.

7.2 SPECIAL GENERAL MEETINGS - Any Member is entitled to convene a Special General Meeting, provided that written notice is given to all other Members by registered post 30 (thirty) days in advance, that reasons for the meeting are given, that such notice of meeting is supported by at least two other members and a convenient place for the meeting is provided within a 50 (fifty) kilometer radius of the Fransmanshoek Peninsula.

7.3 MANAGEMENT COMMITTEE MEETINGS will be held when and if necessary, but on not less than 3 (three) occasions per year.

8 QUORUMS

8.1 A quorum at an Annual General Meeting will be constituted by the Members present at that meeting;

8.2 Three members of the Management Committee will be a quorum at all Management Committee Meetings;

8.3 51% (fifty one percent) of Members will constitute a quorum at a Special General Meeting.

9 VOTING

Each Member has one vote at any meeting for each property owned by such member, provided that the contributions of the Member in terms of this Constitution are paid up to date.

10 FINANCIAL STATEMENTS

10.1 The Management Committee must prepare an annual budget and present this to

the Members for approval at the Annual General Meeting of the Association.

10.2 Proper accounting records must be kept in respect to all financial transactions of the Association and proper financial statements must be prepared in accordance with GAAP, which statements may be subject to audit at the discretion of the members as directed by them at a General Meeting.

10.3 Financial statements will at all reasonable times be made available for inspection by Members.

11 FINANCIAL YEAR

The financial year of the Association will commence on the first day of March of every year and terminate at the end of February of the following year.

12 REMUNERATION AND FEES

12.1 Any Member engaged in any professional business shall be entitled to charge for such professional services rendered to the Association at its behest, at the rate to which the Member (or the firm with which he is associated) would have been entitled in the ordinary course of its professional business, and being the fair and reasonable remuneration for such services under the circumstances.

12.2 The remuneration of Committee members who render services outside the scope of their ordinary duties as members of the Management Committee shall be payable in such manner as the Management Committee may from time to time determine.

12.3 No remuneration shall be paid to any employee, office bearer, Member or other person which is excessive, having regard to what is generally accepted as reasonable in the public benefit sector, provided such remuneration will not economically benefit any person in a manner which is not consistent with the Association's objectives generally acceptable in the public benefit sector.

13 MEMBER'S CONTRIBUTIONS

13.1 Each member is liable for payment of a contribution towards the activities of the Association. Such contributions shall be determined from time to time by the Management Committee and shall be calculated equally in respect of each property owned by any Member.

13.2 The contribution as levied shall be implemented immediately but be subject to confirmation by the first subsequent Annual General Meeting.

13.3 Additional contributions may be levied from time to time. Such EXTRAORDINARY LEVIES shall be determined by the Management Committee and Members will be notified thereof by registered post. Members who disagree with the imposition of such levies may call a Special General Meeting within thirty (30) days to discuss the matter and the decision taken at such meeting will be final and binding on all Members.

14 DISTRIBUTION OF PROFITS OR GAINS

Profit or gain which may accrue from the management of the Association or the conduct of its business may be distributed to any individual. Such profit or gain may be used solely for investment or in support of the objectives of the Association as stipulated in this Constitution.

15 BANKING ACCOUNT

A banking account will be opened in the name of the Association at such bank or financial institution as the Management Committee may decide.

16 RESIDENTIAL DWELLINGS

Building plans of all buildings, including alterations to existing buildings, on properties on the peninsula must be submitted to the Association for approval before building operations may commence. Approval shall remain in the discretion of the Association which shall not be unreasonably withheld subject to:

16.1 the size, the aesthetic, visual and environmental impact of the building;

16.2 the quality of the proposed construction;

16.3 the inputs of Members;

16.4 compliance with aesthetic rules and architectural guidelines regarding acceptable designs, situation of buildings, and the environmental impact to be drawn by the Association and amended from time to time. The basic appearance of houses must be aligned to the style of the "Punt Huisie", situated at the tip of the peninsula on that portion of land owned by the Eden District Council.

The general guidelines include:

16.4.1 The density of houses may not exceed one dwelling per acre.

16.4.2 Houses shall be grouped into clusters, ensuring that ecologically sensitive areas are left untouched and that the impact of access roads is minimized.

16.4.3 Roofs of houses shall be gabled.

16.4.4 Materials utilized in the construction of roofs should preferably be thatch or slate. Roofs shall be pitched with an angle of 30 to 45 degrees. Irrespective of the material used, the colour of roofs shall be slate grey.

16.4.5 Walls shall be stone-clad or painted in a stone-colour to blend in with the surroundings.

16.4.6 All fittings and fascias shall be painted in a colour to blend in with the surroundings.

16.4.7 No A-frame or prefabricated houses are allowed.

16.5 The Association must be informed of the planned building operations and may object to the erection of structures which do not comply with the criteria set out above and impose any other conditions in respect of such proposed building operations as it may deem appropriate.

16.6 Building plans must be submitted to the Association for approval before any construction commences.

16.7 All building activities must be conducted in such a way as to minimize the impact on the surrounding environment.

16.8 All residential units must be erected in such a way as to minimize the impact on the surrounding environment. This includes the construction of access roads, walkways, service provision etc. The creation of gardens and the planting of any non-endemic plants will not be permissible.

17 SUBDIVISION

Copies of applications for the subdivision of properties must be submitted to the Association before or simultaneously with such application to the relevant local, municipal or provincial authorities.

18 TERMINATION OF MEMBERSHIP

18.1 Membership may be terminated after a unanimous vote, taken at a properly convened meeting of the Management Committee, to the effect that the Member contravened the Association's rules and objectives, provided the Member is afforded a reasonable opportunity of establishing the complaint against it and

presenting a response thereto to that Committee.

18.2 Misconduct shall include any failure to comply with obligations imposed by this Constitution.

18.3 Membership terminates automatically upon transfer of a Member's property into the name of the new owner. Such new owner shall upon taking transfer of the property or acquiring beneficial control of or an interest in the property *ipso facto* be bound by the provisions of this Constitution and enjoy membership of the Association as stipulated in this Constitution. It shall be the duty of the disposing Member to inform the acquiring Member of its obligations in terms of this Constitution and to provide the acquiring member with a copy of the most recent version thereof.

19 CONSEQUENCES OF TERMINATION OF MEMBERSHIP

If a member is suspended or its membership is terminated for whatever reason, it shall automatically forfeit all rights of membership and shall not be entitled to the refund of any fees whatsoever already paid by and shall remain liable for payment of outstanding fees levied prior to the suspension, expulsion or termination of its membership.

20 RIGHTS OF APPEAL

Any member aggrieved by the termination of its membership or by another decision taken by the Association may call a Special General Meeting and the resolution taken at such meeting shall be binding upon the Member and the Association.

21 AMENDMENT OF THE CONSTITUTION

21.1 This Constitution may be amended at a General Meeting of which proper notice has been given and at which the amendment is adopted by a two-third (2/3rd) majority of the Members present.

21.2 A copy of all amendments to the Constitution will be submitted to the Commissioner for the South African Revenue Service.

22 UNDERTAKINGS BY MEMBERS

Every Member undertakes on behalf of itself, its family and invitees, its directors, shareholders, members and trustees, that it shall:

22.1 not hunt or capture any bird or animal on its property;

22.2 not introduce or cultivate any flora on any parts of its property (including lawns) except endemic flora, without the prior written consent of the Association;

22.3 not damage or destroy any indigenous fauna or flora on its property, which prohibition includes the picking of flowers, the removal of plants, trees or shrubs from the soil and the collection of stones, rocks and archeological material without the prior written consent of the Association;

22.4 prevent veld fires and assist in the fighting of veld fires on its property and on other properties within the Fransmanshoek peninsula, wherever called upon to do so;

22.5 not make fires other than in areas specifically provided therefore;

22.6 not exceed a speed of 40 km/h when traveling in any vehicle on land within the Fransmanshoek peninsula;

22.7 not introduce motorcycles or other motorized recreational vehicles (passenger vehicles excepted) onto its property without the prior written consent of the Association;

22.8 not drive in prohibited areas and at all times to drive only on clearly defined roads;

22.9 not fire or discharge any firearm or weapon of whatsoever description within the Fransmanshoek peninsula (included target shooting) unless required so for the protection of person or property;

22.10 at all times use any musical instrument, radio, television or sound equipment in such a way that it cannot be heard outside the boundaries of its property;

22.11 ensure that its behavior and the behavior of all persons on its property does not cause a nuisance to other persons. Any breach of this provision by any third party on the property of a Member shall be deemed to be a breach by that Member.

23 DOMICILIA

23.1 Each Member shall, when joining the Association, furnish the Management Committee with particulars of its physical address as well as its postal addresses. These addresses will be regarded as the domicilium citandi et executandi of the Member for all purposes envisaged in this Constitution. Any Member may amend its address by means of 14 (fourteen) days prior written notice to the Management Committee.

23.2 The domicilium citandi et executandi of the Association shall be the physical- and postal address which the Management Committee may elect from time to time and which will appear on the correspondence of the Management Association.

23.3 Any notice or other correspondence sent by pre-paid registered post to a Member or to the Association at its address chosen in terms hereof, shall be deemed to have reached the address and its contents to have come to the addressee's notice on the fifth day after being posted, unless the contrary is be proven.

24 NO PERSONAL LIABILITY

No member of the Management Committee shall be personally liable for any damages, losses, expenses, claims and/or costs by reason of any act or omission by him or her in the discharge of his or her duties unless such damages, losses, expenses, claims and/or costs are caused by mala fide or grossly negligent act or omission of such person and will be indemnified out of the funds of the Association against all liability incurred by him or her as such, whether civil or criminal.

25 DISSOLUTION

25.1 The Association may be dissolved at a General Meeting or at a Special General Meeting specially convened for this purpose provided that such decision is unanimous.

25.2 No member will be entitled to share in any of the assets of the Association on its dissolution, which assets or the proceeds of the sale thereof shall be donated to a similar charitable institution, which has been approved in terms of Section 30 of the Income Tax Act, or institution, board or body which is exempt from the payment of income tax in terms of section 10 (1)(A)(i) of the said Act and which has as its sole or principal object the carrying on of any public benefit activity; or any department of state or administration in the national or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b) of the said Act.