

Particulars of Application to reregister as an Incorporated Society

**TERRACE DOWNS RESORT OWNERS' SOCIETY INCORPORATED**

**(50169892) (NZBN: 9429051535438)**

Filing Date	07-Aug-2025 12:15:41
The number of members is more than 10 according to section 8(1) of Incorporated Societies Act 2022. Previous Value	Yes
Incorporated Society Status	Registered
Date of Incorporation	14-Aug-2023
Date of Reregistration Previous Value	07-Aug-2025
Incorporated Societies Act Previous Value	2022

Proposed Constitution	3990135.v17 - Constitution (clean 6 November).docx.pdf	Created
10-Jul-2025 20:44:29		

Signatory Details

Name	Angus McKenzie
Designation	Officer
Date	07-Aug-2025

Registered Office Address

Start Date	14-Aug-2023
Registered Office Address	C/- Thompson Wentworth Property Management Limited, Unit 4, 105 Gasson Street, Christchurch, 8011, New Zealand

**Officer 1**

		Created
Type	Society Officer	
Name	John BROPHY	
Start Date	03-May-2025	

**Officer 2**

		Created
Type	Society Officer	
Name	Teresa CRAWFORD	
Start Date	03-May-2025	

**Officer 3**

		Created
Type	Society Officer	
Name	Murray DAVISON	
Start Date	03-May-2025	

**Officer 4**

		Created
Type	Society Officer	
Name	Maurice ENG	
Start Date	03-May-2025	

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**Officer 5**

		<i>Created</i>
<b>Type</b>	Society Officer	
<b>Name</b>	Paul GRAVE	
<b>Start Date</b>	03-May-2025	

**Officer 6**

		<i>Created</i>
<b>Type</b>	Society Officer	
<b>Name</b>	Robert KOLLER	
<b>Start Date</b>	03-May-2025	

**Officer 7**

<b>Type</b>	Society Officer
<b>Name</b>	Angus MCKENZIE
<b>Start Date</b>	14-Aug-2023

**Officer 8**

		<i>Created</i>
<b>Type</b>	Society Officer	

<b>Name</b>	Benjamin VAN DER GRIEND
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<b>Start Date</b>	03-May-2025
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**Submitted By**

Angus C L MCKENZIE

17 Augusta Street, Redcliffs, Christchurch, 8081, New Zealand

**Constitution**

[3990135.v17 - Constitution \(clean 6 November\).docx.pdf](#)

## CONSTITUTION OF TERRACE DOWNS RESORT OWNERS' SOCIETY INCORPORATED

### 1. Definitions and Interpretation

1.1 In this Constitution the following words have the following meanings:

- (a) **Act** means, subject to clause 1.2(d) below, the Incorporated Societies Act 2022;
- (b) **Annual General Meeting** means the annual general meeting of the Society;
- (c) **Annual Levy** means the annual levy payable by an Owner Member to the Society in accordance with clause 8.5 below and amended from time to time in accordance with clause 8.6 below;
- (d) **Body Corporate** means each of Body Corporate 323820, Body Corporate 336323, and Body Corporate 349497;
- (e) **Chairperson** means the chairperson of the Society;
- (f) **Chalet Properties** means the twenty six (26) (as at the date of this Constitution) fee simple titles situated within the Resort with a residential dwelling on the land, and commonly referred to as "chalets". For the avoidance of doubt, once a residential dwelling has been built on a Vacant Chalet Property, that property will then be defined as a Chalet Property;
- (g) **Cost Sharing Agreement** means the cost sharing agreement entered into between the Society and the Resort Owner and includes:
  - (i) any variation of that agreement; and
  - (ii) any replacement cost sharing agreement entered into between the Society and the Resort Owner from time to time;
- (h) **Committee** means the governing body of the Society;
- (i) **Common Property** means any common property owned by a Body Corporate;
- (j) **General Meeting** means either the Annual General Meeting or a Special Meeting;
- (k) **Majority Resolution** means a resolution which is signed or assented to by more than half of those Members entitled to vote and voting on the question;
- (l) **Member** means a member of the Society;
- (m) **Objects** means the objects of the Society which are outlined in clause 3.1 below and will include any variation to those objects from time to time;
- (n) **Officer** means a member of the Committee;
- (o) **Owner** means the registered proprietor of a Residential Property;
- (p) **Owner Member** means either:
  - (i) a single Member that owns a Chalet Property, a Vacant Property or a Unit Title Property; or
  - (ii) a group of Members who together own a single Chalet Property, a Vacant Property, or a Unit Title Property.

- (q) **Owner Member Category** means the three different types of properties owned by an Owner Member (being a Unit Title Property, a Chalet Property, or a Vacant Chalet Property);
- (r) **Residential Property** means a residential property within the Resort being any of the:
  - (i) twelve (12) unit titles which form part of Body Corporate 323820;
  - (ii) nineteen (19) unit titles which form part of Body Corporate 336323;
  - (iii) thirty (30) unit titles which form part of Body Corporate 349497; and
  - (iv) sixty eight (68) fee simple titles which comprise both the Chalet Properties and the Vacant Chalet Properties;
- (s) **Resort** means the resort currently known as Fable Terrace Downs Resort and Hotel Operations located at 623 Coleridge Road, Windwhistle, Selwyn 7572, Canterbury which contains the Resort Land, the Residential Properties and any other land or infrastructure which forms part of that resort;
- (t) **Resort Land** means all of the land other than the Residential Properties which is owned by the Resort Owner and which is situated within the Resort;
- (u) **Resort Infrastructure** means the following infrastructure within the Resort:
  - (i) roading,
  - (ii) stormwater,
  - (iii) potable water supply and distribution; and
  - (iv) sewerage distribution and treatment systems;
- (v) **Resort Owner** means, as at the date of this Constitution, PHC Terrace Downs Resort Limited and includes any subsequent owner of the Resort Land;
- (w) **Secretary** means the secretary of the Society;
- (x) **Service Fee** means the fee payable by the Society to the Resort Owner in accordance with the Cost Sharing Agreement;
- (y) **Society** means Terrace Downs Resort Owners' Society Incorporated;
- (z) **Special Meeting** means a meeting called in accordance with clause 14.2 below;
- (aa) **Special Resolution** means a resolution that is approved by a majority of seventy five percent (75%) of the votes of those Members entitled to vote and voting on the question;
- (bb) **Treasurer** means the treasurer of the Society;
- (cc) **Unit Title Properties** means the following unit titles which have a residential dwelling on the land:
  - (i) twelve (12) unit titles within Body Corporate 323820;
  - (ii) sixteen (16) unit titles within Body Corporate 336323; and

- (iii) twenty four (24) unit titles within Body Corporate 349497;
- (dd) **Vacant Chalet Properties** means the forty two (42) (as at the date of this Constitution) fee simple titles which are vacant section sites at the Resort. For the avoidance of doubt, once a residential dwelling has been built on a Vacant Chalet Property, that property will then be defined as a Chalet Property; and
- (ee) **Working Day** has the same meaning as in the Property Law Act 2007.

## 1.2 Interpretation

- (a) The singular includes the plural and vice versa.
- (b) Headings are for ease of reference only and shall not be deemed to form any part of the context or to affect the interpretation of this Constitution.
- (c) Where there is more than one Member comprising an Owner Member, those Members' liability will be joint and several.
- (d) References to any statute or statutory provision will be deemed to be references also to any corresponding amended or substituted provisions.
- (e) The schedules to this Constitution and the provisions and conditions contained in such schedules and appendices shall have the same effect as if set out in the body of this Constitution.

## PART ONE – THE SOCIETY

### 2. Name

- 2.1 The name of the Society is Terrace Downs Resort Owners' Society Incorporated.

### 3. Objects

- 3.1 The Society is formed to promote the following Objects for the benefit of the Members:
  - (a) to enter into and abide by the terms of the Cost Sharing Agreement and to ensure that the Resort Owner complies with the terms of the Cost Sharing Agreement;
  - (b) to levy the Members in order to pay the Resort Owner in accordance with the Cost Sharing Agreement;
  - (c) to ensure that the Resort Infrastructure is maintained to a good standard, which will be achieved by the Society's entry into the Cost Sharing Agreement;
  - (d) to facilitate the maintenance, repair and replacement of the Resort Infrastructure by the Resort Owner;
  - (e) to facilitate the delivery of the Resort Infrastructure by the Resort Owner; and
  - (f) do any act or thing incidental or conducive to the attainment of any of the above Objects.

3.2 Each of the Objects, except where otherwise expressed or implied, will be an independent main Object and will in no way be limited or restricted by reference to or inference from any other Object or the name of the Society.

3.3 Despite any other provision of this Constitution, the Objects must not include:

- (a) the carrying on of any trading activities;
- (b) the carrying on of any business or profit;
- (c) anything which is unlawful; or
- (d) anything which is for the sole benefit of any Member.

#### **4. Powers**

4.1 Except as restricted by this Constitution, the Society has the right to carry on or undertake any activity, do any act or enter any transaction required to further or promote the Objects (including the right and power to borrow money).

4.2 Despite any other provision in this Constitution, the Society must not do anything:

- (a) which does not further the Objects; or
- (b) for the personal or individual financial gain of any Member (except as provided under clause 4.3 below).

4.3 The Society may provide financial benefits to a Member or an Officer, or any associated person but only on arm's length terms and any payments made in respect of such transactions must be limited to:

- (a) a fair and reasonable reward for services performed;
- (b) reimbursement of expenses properly incurred;
- (c) usual professional, business or trade charges; and/or
- (d) interest at no more than the current commercial rates.

#### **5. Society Obligations**

5.1 The Society will take all reasonable steps to require the Resort Owner to comply with the terms of the Cost Sharing Agreement.

5.2 The Society will keep and maintain any insurance that the Society determines is necessary to be held by the Society.

5.3 The Society will take all reasonable steps to ensure that each of its Members complies with this Constitution.

5.4 The Society will take all reasonable steps to collect the levies from the Members.

5.5 The Society will take all reasonable steps to procure all Owners to become Members.

5.6 The Society must provide copies of the Constitution and the Cost Sharing Agreement to any Member on request.



- 5.7 The Society will maintain a register of Members. The register of Members will be in the form the Society considers appropriate from time to time. The Society must update its register of Members as soon as practicable after becoming aware of changes to the information recorded on the register.

## **PART TWO – THE MEMBERS**

### **6. Membership**

- 6.1 Only Owners can be Members.
- 6.2 Every Member must remain a Member until they cease to be a Member in accordance with clause 6.3 below.
- 6.3 A Member shall be deemed to have resigned from the Society from the time that Member ceases to be an Owner. Resignation will not negate any obligation or liability arising before the Member's resignation.
- 6.4 Every Owner that applies to be a Member must complete an application form provided by the Secretary and supply such information as may be reasonably required by the Secretary. By submitting the application form to the Committee, the Owner is consenting to being a Member.
- 6.5 Membership applications must be approved by the Committee. The Committee has the discretion whether or not to admit an applicant to membership and must advise the applicant of its decision within a reasonable time of the application being provided to the Secretary. An Owner will be a Member from the later of:
- (a) the date on which the Committee approves the Owner as a Member; and
  - (b) the date on which the Owner consents to being a Member; and
  - (c) the date on which the Owner becomes the registered proprietor of a Residential Property.
- 6.6 Each Owner Member has one vote. Where an Owner Member is made up of more than one Member (i.e. where a Chalet Property, a Vacant Property or a Unit Title Property is owned by more than one Member):
- (a) those Members will be deemed to be one Member for voting purposes; and
  - (b) those Members must nominate a person who may vote on behalf of that Owner Member ("Nominee"). Once nominated, the Nominee will be deemed to have authority to act on behalf of that Owner Member on anything relating to the Society, and will be deemed to continue to have authority until such time as the Society receives a notice from the Nominee that a new person has been nominated to vote on behalf of that Owner Member together with that new person's contact details.

- (c) If no person is nominated in accordance with clause 6.6(b), then the first named Member on the title to that Owner Member's Residential Property will be entitled to vote on behalf of that Owner Member.
- 6.7 Immediately upon becoming a Member, each Member must provide the Society with:
  - (a) its contact details;
  - (b) details of all of the Owners in respect of that Member's Residential Property; and
  - (c) any other information required by the Society,so the Society can maintain a register of Members.
- 6.8 Any Member that is not a natural person will provide the Secretary with the name and contact details of the natural person acting as that Member's agent. That agent will be deemed to have authority to act on behalf of that Member on anything relating to the Society (including having the right to vote, subject to the terms of this Constitution), and will be deemed to continue to have authority until such time as the Society receives a notice from that Member:
  - (a) notifying that the agent is no longer acting for that Member; and
  - (b) advising the Society of the contact details of that Member's new agent.Subject to the terms of this Constitution, an agent under this clause 6.8 may hold any Officer position including an Officer position pursuant to clause 10.4 below.
- 6.9 Unless otherwise required by law, where a notice is required to be served on a Member by the Society, the Society will be deemed to have discharged its obligation to notify the Member if the notice has been provided in any of the following manners:
  - (a) by email to the latest email address notified by that Member to the Society (including the email address of the Member's agent referred to in clause 6.8 above);
  - (b) by registered post to the latest postal address notified by that Member to the Society (including the email address of the Member's agent referred to in clause 6.8 above);
  - (c) handed to, and accepted by that Member (or their agent referred to in clause 6.8 above) in person; or
  - (d) it is otherwise received in writing by that Member (or their agent referred to in clause 6.8 above).
- 6.10 If any Member enters into an agreement to sell or otherwise to transfer their Residential Property to another person, then that Member:
  - (a) must include a provision in the agreement which requires the purchaser or transferee to become a Member immediately upon that person becoming the registered owner of the Residential Property;
  - (b) prior to settlement being completed under that agreement, deliver a notice of sale to the Secretary in the form attached as Schedule A; and

- (c) must, unless otherwise agreed with the Society, and prior to transferring their Residential Property, register a covenant in gross for the benefit of the Society on the title to that Member's Residential Property. The covenant in gross:
  - (i) must be in a form approved by the Society (acting reasonably); and
  - (ii) will require the current owner and all future owners of that Residential Property to be a Member of the Society while they are the owner of that Residential Property.

## **7. Grant of Reasonable Access to the Property**

- 7.1 Each Member must grant the Society, the Resort Owner and the Resort Owner's employees and contractors' reasonable access to the external areas of that Member's Residential Properties to the extent reasonably required for the Resort Owner to carry out the property services in accordance with the Cost Sharing Agreement.
- 7.2 Each Member that is part of a Body Corporate must ensure that the Body Corporate grants the Society, the Resort Owner and the Resort Owner's employees and contractors' reasonable access to the Common Property to the extent reasonably required for the Resort Owner to carry out the property services in accordance with the Cost Sharing Agreement.

## **8. Levies**

- 8.1 The Society must only levy its Members in accordance with this clause 8. The Members will pay the levies as outlined in this clause 8.
- 8.2 The Society will levy:
  - (a) an Annual Levy (set in accordance with clauses 8.5 and 8.6 below) to allow the Society to pay the Service Fee together with any other costs that the Society is required to pay the Resort Owner in accordance with the Cost Sharing Agreement. For the avoidance of doubt, the Service Fee will vary from time to time in accordance with the Cost Sharing Agreement and otherwise as agreed between the Society and the Resort Owner; and
  - (b) any other levy (set in accordance with clause 8.7 below) to allow the Society to pay any other costs of carrying out the Objects (including, but not limited to legal costs, expert determination costs, and other advisor's costs).
- 8.3 The Society will only levy each Owner Member (and not each individual Member).
- 8.4 For the purposes of setting levies, the Society may levy different amounts from Owner Members based on which Owner Member Category they form part of.
- 8.5 Within two (2) weeks after the Owner Members have been notified that the Society has been registered, each Owner Member will pay an Annual Levy in respect of the 1 April 2023 – 31 March 2024 period to the Society as follows:
  - (a) each Owner Member that owns a Unit Title Property will pay \$1,948.54 for each Unit Title Property that the Owner Member owns;
  - (b) each Owner Member that owns a Chalet Property will pay \$1,961.77 for each Chalet Property that the Owner Member owns; and

- (c) each Owner Member that owns a Vacant Chalet Property will pay \$838.47 for each Vacant Chalet Property that the Owner Member owns.
- 8.6 On or around 1 April of each year, and as soon as the Service Fee for the relevant 1 April to 31 March period has been agreed (if relevant), the Committee will notify the Members of the Service Fee for that 1 April – 31 March period.
- (a) If the Service Fee has not changed from the Service Fee paid for the immediately preceding 1 April – 31 March period, then the Annual Levy will be the same amount as the Annual Levy for the immediately preceding 1 April – 31 March period and the Committee will notify the Members of this fact. Each Owner Member must then pay to the Society the Annual Levy which applies to that Owner Member in full within two (2) weeks of that notice.
  - (b) If the Service Fee has changed from the immediately preceding 1 April – 31 March period, then within two (2) weeks after the Members have been notified of the amended Service Fee, the Committee will meet to determine the proportion of the Service Fee that is to be allocated to the Owner Members within each Owner Member Category (“New Allocation”), which will determine the Annual Levy payable by each Owner Member. In determining the New Allocation, the Committee will have regard to:
    - (i) the allocation of the Service Fee to each Owner Member as at the date of this Constitution which is based on the Owner Member Category that each Owner Member is part of, as outlined under Schedule B;
    - (ii) the methodology used to calculate the initial allocation of the Annual Levy as outlined under Schedule B;
    - (iii) any Vacant Chalet Properties which have subsequently become Chalet Properties; and
    - (iv) anything else the Committee considers relevant.

A unanimous resolution of the Committee is required under this clause 8.6(b) to adopt a New Allocation.
  - (c) If the Committee cannot agree on the New Allocation within two (2) weeks of the Committee meeting under clause 8.6(b) above, then it will appoint an independent expert to determine the New Allocation. If the Committee cannot agree on an independent expert, then one will be appointed by Thompson Wentworth or the property manager for the Resort at that time. The expert’s costs will be met by the Society. In determining the New Allocation, the expert will have regard to the matters outlined in clause 8.6(b)(i) – (iv) above.
  - (d) Once the New Allocation has been agreed or determined under clause 8.6(b) or (c) above, then the Committee will immediately notify the Members of the amount of Annual Levy payable by the Owner Members within each of the Owner Member Categories (based on the New Allocation) in relation to the relevant 1 April – 31 March period. Each Owner Member must then pay their Annual Levy to the Society in full within two (2) weeks of that notice.

- 8.7 The Committee may otherwise, by resolution, impose a levy on the Owner Members to cover the costs of carrying out the Objects.
- 8.8 For the avoidance of doubt, an Owner Member will pay any levy payable under this clause 8 in respect of each Residential Property that the Owner Member owns.

## **9. Breach by Members**

- 9.1 Where any money owing to the Society by a Member is unpaid for ten (10) Working Days after the date the money was due to be paid, then the Society may do any or all of the following:
- (a) charge interest on the unpaid amount at fourteen percent (14%) per annum (or any other default rate the Society may set from time to time by giving notice to the Members), calculated on a daily basis from the date the unpaid amount was due until the date the unpaid amount is paid in full;
  - (b) issue legal proceedings against the Member to recover the unpaid amount;
  - (c) suspend the voting rights of the Member until such time the unpaid amount has been paid in full; and
  - (d) give the Resort Owner authority to pursue, directly from a defaulting Member, any unpaid Annual Levies together with any default interest payable in relation to those unpaid Annual Levies.
- 9.2 The Committee may use its full discretion in the application of clause 9.1 above. Any decision not to invoke any of its rights under clause 9.1 above does not constitute a precedent for any future application or non-application of the same.
- 9.3 Each Member acknowledges that:
- (a) it is not a breach of the Cost Sharing Agreement (and therefore not a breach of the Society's obligations under this Constitution) for the Resort Owner to suspend any property services to a Member that has not paid any part of their Annual Levies(including any default interest payable); and
  - (b) under the Cost Sharing Agreement, the Resort Owner must resume the suspended property services once the defaulting Member has paid any unpaid part of their Annual Levies (including any default interest payable).

## **PART THREE – OFFICERS AND THE COMMITTEE**

### **10. Appointment of Committee**

- 10.1 The Society delegates to the Committee all the powers necessary for managing, directing and supervising the management, operation, and affairs of the Society, subject to the terms of the Constitution.
- 10.2 Subject to the terms of this Constitution, the Committee may exercise all the Society's powers other than those required by statute or by the Constitution to be exercised by the Society in a General Meeting.

10.3 Subject to clause 10.4 below, the Committee will consist of a minimum of five (5) Officers, and a maximum of nine (9) Officers. The Committee will comprise:

- (a) the Chairperson;
- (b) the Secretary;
- (c) the Treasurer; and
- (d) at least two (2) other Members.

10.4 The Committee must include:

- (a) at least one (1) Member who is an owner of a Residential Property which is part of the twelve (12) unit titles which form part of Body Corporate 323820;
- (b) at least one (1) Member who is an owner of a Residential Property which is part of the nineteen (19) unit titles which form part of Body Corporate 336323;
- (c) at least one (1) Member who is an owner of a Residential Property which is part of the thirty (30) unit titles which form part of Body Corporate 349497;
- (d) at least one (1) Member who is an owner of a Chalet Property;
- (e) at least one (1) Member who is an owner of a Vacant Chalet Property; and
- (f) one (1) person to be appointed by the Resort Owner, but only during those times when the Resort Owner is the registered proprietor of at least one (1) Residential Property. This subclause 10.4(f) applies despite clauses 10.6 and 10.9.

Each of the Officers to be appointed under clauses 10.4(a) – (e) above must be a Member that is not the Resort Owner, except where that is not possible due to the Resort Owner owning all of the Residential Properties in one or more of the property categories described in clauses 10.4(a) – (e) above.

10.5 All Officers must be Members except the Secretary, the Treasurer and the Resort Owner's appointee under clause 10.4(f) (if any). The Secretary and the Treasurer do not need to be Members and may be the same person. The Resort Owner's appointee under clause 10.4(f) (if any) does not need to be a Member.

10.6 The Committee will be elected annually as follows:

- (a) written nominations for appointments as an Officer, accompanied by the written consent of each nominee, must be sent to the Secretary not less than ten (10) Working Days before the date of the Annual General Meeting;
- (b) not less than five (5) Working Days before the date of the Annual General Meeting, the Secretary must post or email to all Members a voting paper listing all Officer nominees and such information (not exceeding one side of an A4 sheet of paper) as may be supplied to the Secretary by or on behalf of each nominee in support of their nomination;
- (c) if there are insufficient valid nominations received under clause 10.6(a) above for each of the positions listed in clause 10.3 above, or to satisfy clause 10.4 above, further nominations may be received from the floor at the Annual General Meeting;

- (d) votes must be cast in such manner as the Chairperson determines;
  - (e) two Members (who are not nominees) designated by the Chairperson must act as scrutineers for the counting of the votes and destruction of any voting papers; and
  - (f) in the event of any vote being tied, the tie must be resolved by the other Members of the incoming Committee.
- 10.7 To qualify for appointment as an Officer, a nominee must satisfy the qualifications for appointment as an officer of a Society as set out in the Act.
- 10.8 If, between Annual General Meetings, a vacancy arises in an Officer position, or if the Committee fails to meet the requirements of clauses 10.3 and 10.4 above that vacancy or those vacancies must be filled by the Committee.
- 10.9 The Officers and the Committee appointed at each Annual General Meeting (or appointed subsequently pursuant to clause 10.8 above):
- (a) will hold office until the end of the first Annual General Meeting after their appointment; and
  - (b) they may seek re-appointment at that Annual General Meeting. For the avoidance of doubt, there are no limits on the number of times an Officer may be re-elected as an Officer.
- 10.10 Subject to clause 4.3 above, Officers may be paid such remuneration as the Committee may from time to time determine.
- 10.11 Any Officer may be removed as an Officer by a Special Resolution.
- 10.12 A person ceases to be an Officer if that person:
- (a) resigns by giving notice of resignation to the Secretary. The notice of resignation will take effect when it is received by the Secretary or at any later time specified in the notice;
  - (b) is removed from office in accordance with clause 10.11 above;
  - (c) becomes disqualified from being an Officer under the Act;
  - (d) dies; or
  - (e) otherwise vacates office in accordance with this Constitution.
- 10.13 Each Officer must, within one (1) calendar month of submitting a resignation or ceasing to hold office, deliver to that Officer's successor or the Secretary, all books, papers and other property of the Society possessed by such former Officer.
- 10.14 Despite vacating office as an Officer, a person who has held office as an Officer remains liable for acts and omissions and decisions made while that person was an Officer.

## **11. Officer Responsibilities**

- 11.1 The Chairperson is responsible for generally overseeing and directing the affairs and business of the Society.
- 11.2 The Secretary is responsible for:

- (a) recording the minutes of all General Meetings and Committee meetings, and all such minutes when confirmed by the next such meeting and signed by the Chairperson will be prima facie evidence that that meeting was duly called and will be deemed to be a true and correct record of what occurred at that meeting;
- (b) holding the Society's records, documents, and books;
- (c) keeping the Society's register of Members up to date in accordance with clause 5.7 above;
- (d) maintaining an interests register for the Society;
- (e) dealing with and answering correspondence and performing such other duties as directed by the Committee; and
- (f) being the Society's contact person unless an alternative contact person is appointed by the Committee.

**11.3 The Treasurer is responsible for:**

- (a) keeping such books of account as may be necessary to provide a true record of the Society's financial position, and to a standard required by law;
- (b) reporting on the Society's financial position at each Committee meeting; and
- (c) presenting an annual statement of accounts (income and expenditure account and balance sheet) to the Annual General Meeting together with a budget for the next financial year.

**11.4 An Officer who is interested in a matter relating to the Society (as defined in section 62 of the Act) ("Interested Officer") must, as soon as practicable after the Officer becomes aware that they are interested in a matter, disclose details of the nature and extent of the interest (including any monetary value of the interest if it can be quantified):**

- (a) to the Committee; and
- (b) in the Society's interests register.

**11.5 Subject to complying with any conditions prescribed by regulations made under the Act, an Interested Officer may vote, and take part in a decision of the Committee relating to the matter in which the Interested Officer has an interest.**

**12. Committee Proceedings**

**12.1 Other than as prescribed by statute or this Constitution, the Committee may regulate its proceedings as it thinks fit.**

**12.2 All Committee meetings shall be chaired by the Chairperson and in the Chairperson's absence, by another Officer elected by the Committee for that meeting.**

**12.3 The Committee may co-opt any person to the Committee for a specific purpose, or for a limited period, or generally until the next Annual General Meeting.**

**12.4 The quorum for Committee meetings is a majority of the Officers. Only Officers who are present in person or by telephone or video call may be counted in the quorum and entitled to vote at a meeting of the Committee.**



- 12.5 The Committee may act by:
- (a) a written resolution (which may be in physical or electronic form) signed by all of the Officers; or
  - (b) a resolution approved by a majority of the Officers present at a Committee meeting.
- 12.6 The Committee may from time to time make regulations for the conduct and control of the Society's activities, but those regulations must not be inconsistent with this Constitution or the Act. This Constitution, and such regulations, bylaws and policies, must be available at all reasonable times for inspection by the Members, and copies must be provided (at cost, if required by the Committee) to any Member on request.
- 12.7 The Committee will collect the levies from the Members and, subject to clause 9 above, undertake enforcement procedures where levies are unpaid, or where a Member has breached a Member's obligation under this Constitution.
- 12.8 Officers:
- (a) may receive such remuneration as may be set by resolution of a General Meeting, subject to clause 4.3 above; and
  - (b) are entitled to be reimbursed by the Society for any reasonable actual expenses incurred by them on behalf of the Society as approved by resolution of the Committee.
- 12.9 Subject to the Act, this Constitution and the resolutions of General Meetings, the decisions of the Committee on the interpretation of this Constitution and all matters dealt with by the Committee in accordance with this Constitution shall be final and binding on all Members.
- 12.10 The Committee must maintain a register in which Officer's interests are recorded.
- 13. Indemnity**
- 13.1 No Officer will be liable for the acts or defaults of any other Officer or any loss caused by those acts or defaults, unless such liability or loss is caused by their own dishonesty, wilful misconduct or gross negligence.
- 13.2 The Society indemnifies each Officer against any liability or loss suffered by them as a result of their proper performance of their functions and duties, other than as a result of their dishonesty, wilful misconduct or gross negligence.

## **PART FOUR – OPERATION OF THE SOCIETY**

### **14. General Meetings**

- 14.1 The Society must hold its Annual General Meeting:
- (a) not later than six (6) months after the end of the Society's financial year; and
  - (b) not later than fifteen (15) months after the previous Annual General Meeting.
- 14.2 A Special Meeting of the Members entitled to vote on an issue:
- (a) may be called at any time by the Committee; and

- (b) must be called by the Committee if the Secretary receives a written request signed by at least twenty percent (20%) of the Owner Members entitled to vote.
- 14.3 The Secretary must give all Members at least twenty (20) Working Days' written notice of the intention to hold a General Meeting. That notice must confirm the date of the General Meeting.
- 14.4 Any Member wishing to give notice of any motion for consideration at a General Meeting must forward written notice of the motion to the Secretary no later than fifteen (15) Working Days prior to the date of the General Meeting. The Committee may consider all such notices of motion and provide recommendations to the Members in respect of those notices.
- 14.5 No later than ten (10) Working Days prior to the date of the General Meeting, the Committee must send out the order of business for that General Meeting, which will include:
  - (a) the time and location of the General Meeting;
  - (b) all of the business to be conducted at the meeting;
  - (c) provide notice of any matters to be decided at the meeting by Majority Resolution or Special Resolution and the Committee's recommendations; and
  - (d) the manner in which a Member can attend a General Meeting and, in respect of an Owner Member, vote by electronic means.
- 14.6 If the General Meeting to be held is an Annual General Meeting, the order of business provided under clause 14.5 above must also include:
  - (a) an annual report from the Committee reporting on the operations and affairs of the Society during the most recently completed accounting period;
  - (b) a copy of the most recent financial statements for the Society for the relevant period;
  - (c) a list of the nominees and information about those nominees for Committee appointments;
  - (d) notice of proposed changes to levies for the Members (if any); and
  - (e) the Committee's proposed budget for the next year.
- 14.7 General Meetings may be attended by all Members, but only one Member representing each Owner Member may vote as set out in clause 6.6 above. Any proxy for an Owner Member is entitled to attend and vote on behalf of an Owner Member as set out in this Constitution.
- 14.8 The quorum for General Meetings is fifty percent (50%) of the Owner Members who are entitled to vote being present in person, by electronic means, or by proxy. Except as otherwise provided in this Constitution, no business may be transacted at a General Meeting unless a quorum is present at the time.
- 14.9 A proxy must be appointed by notice in writing signed by the Owner Member, and the notice must state whether the appointment is for a particular General Meeting, or a

specified term (not exceeding twelve (12) months). No proxy is valid in relation to a General Meeting unless a copy of the notice of appointment is received by the Committee as least two (2) Working Days prior to the relevant General Meeting.

- 14.10 Members who are not entitled to vote may still attend General Meetings.
- 14.11 Any matter to be decided at a General Meeting will be decided by a Majority Resolution unless this Constitution provides for a Special Resolution. The Chairperson may determine whether a resolution has been passed by show of hands, verbal acknowledgement or by ballot, and in each case, each Owner Member entitled to vote is entitled to one vote.
- 14.12 If any Member demands a secret ballot before a vote has begun, then the vote must be by secret ballot.
- 14.13 A resolution passed by the required majority at any General Meeting binds all Members, irrespective of whether they voted or whether they were present at the General Meeting where the resolution was adopted.
- 14.14 The Secretary must keep minutes of each General Meeting. If the Secretary is not present at a General Meeting, the Chairperson must appoint another Committee member to keep minutes of the meeting.

## **15. Written Resolution in lieu of General Meeting**

- 15.1 A written resolution is as valid as if it had been passed at a General Meeting if it is approved by no less than seventy five percent (75%) of the Owner Members entitled to vote.
- 15.2 If the Society proposes to pass a written resolution in lieu of a General Meeting, then the Committee will send to each Owner Member's email address, or postal address:
  - (a) the proposed resolution, which is dated with the date on which the proposed resolution is first sent to each Owner Member ("Circulation Date"); and
  - (b) a statement which records the date on which the proposed resolution will lapse (which must be a date which is no later than three (3) months after the Circulation Date) ("Resolution Due Date").

The proposed resolution must be sent, as far as is reasonably practicable, on the Circulation Date.

- 15.3 A written resolution may consist of one or more documents in similar form (including letters, electronic mail, or other similar means of communication) each approved by or on behalf of one or more of the Owner Members who are entitled to vote. For that purpose, an Owner Member may give their approval by:
  - (a) signing the resolution by the Resolution Due Date; or
  - (b) giving their approval to the resolution by email or any other electronic means approved by the Committee by the Resolution Due Date.

## **16. Finances**

- 16.1 The Society must maintain a bank account or accounts in the name of the Society. All withdrawals, and other electronic transactions must be approved (or signed, as the case may be) by the Treasurer and one other Officer.

- 16.2 All money received on account of the Society must be banked within five (5) Working Days of receipt.
- 16.3 All accounts paid or for payment must be submitted to the Treasurer who must then present the accounts to the Committee for approval of payment.
- 16.4 The Society's financial year commences on 1 April and ends on 31 March in the following year.
- 16.5 Within three (3) months after the end of each financial year, the Committee must, unless agreed otherwise by Special Resolution, submit the Society's financial statements to a chartered accountant for review.
- 16.6 The funds and property of the Society must be controlled, invested, and disposed of by the Committee subject to this Constitution, and be devoted solely to the promotion of the Objects.

## **17. Alteration of Constitution**

- 17.1 This Constitution may be amended or replaced by a Special Resolution. No amendments may be made which would disqualify the Society from maintaining its registration as a society under the Act.

## **18. Winding up**

- 18.1 The Society may be put into liquidation if the Society passes a Special Resolution appointing a liquidator. If the Society passes that Special Resolution, it may nominate a not-for-profit entity to distribute its surplus assets to upon the liquidation being completed.
- 18.2 If the Society is placed into liquidation, its surplus assets, after payment of all debts, costs and liabilities, must be disposed of to:
- (a) any not-for-profit entity nominated under clause 18.1 above; or
  - (b) if no entity was nominated, then a not-for profit entity which, in the Committee's sole discretion, has similar objects to the Objects of this Society.

## **19. Registered Office**

- 19.1 The Registered Office of the Society shall be at such place as the Committee determines from time to time.

## **20. Execution of Documents**

- 20.1 The Society will have a common seal which must be retained by the Secretary.
- 20.2 Documents must be executed on behalf of the Society under a resolution of the Committee:
- (a) in the case of a Deed, by affixing the Common Seal witnessed by any two Officers authorised by a resolution of the Committee; or
  - (b) in the case of any other document:
    - (i) by any two Officers; or
    - (ii) any other person who has been authorised by a resolution of the Committee to execute that document.

## **21. Dispute Resolution**

21.1 If any dispute, difference or question arises between the Society and the Members:

- (a) as to the interpretation or construction of the Constitution;
- (b) concerning anything contained or arising out of the Constitution;
- (c) as to the rights, liabilities or duties of the Society, the Committee or the Members;

then any party involved with the dispute may make a complaint to the Committee and the procedures contained in Schedule C, will apply to the resolution of the dispute.

21.2 The Committee will be responsible for managing the dispute resolution process provided that:

- (a) if the complaint relates to one or more Officers, that Officer or those Officers must be excluded from the Committee's management of the dispute resolution process and decision making;
- (b) if the complaint is made by one or more Officers, that Officer or those Officers must be excluded from the Committee's management of the dispute resolution process and decision making; and
- (c) if the Committee is unable to proceed because it will not have a quorum of Officers to conduct the dispute resolution process as a consequence of clause 21.2 (a) or (b) above, the Committee must appoint an individual who is not a Member to manage the dispute resolution process and make a decision about the complaint.

21.3 After completing the dispute resolution processes provided for in clause 21.2 above, the Committee or the independent person appointed pursuant to clause 21.2(c) above, ("Decision Maker") may:

- (a) make a finding considered by the Decision Maker to be fair and consistent with the evidence provided by the dispute resolution process; and
- (b) in the case of a complaint against an Officer, remove that Officer from their role as an Officer.

## Schedule A

### NOTICE OF SALE

Where the owner of a section, chalet or body corporate villa at Terrace Downs Resort transfers his or her unit to any other person, until the Terrace Downs Resort Owners' Society is notified in writing of the transfer, --

- (a) that owner of the section, chalet or body corporate villa remains liable to the Society for all contributions levied by the Society under clause 8 of the Society's Constitution for his or her section, chalet or body corporate villa:
- (b) The transferee is only entitled to exercise the voting rights for the section, chalet or body corporate villa at a general meeting of the Society with the consent of the other Members of the Society who are present at the meeting.

This means that the vendor or his/her solicitor must advise the Owners' Society in writing of the transfer of this title to his/her unit, and the name and contact details for the new owner.

Therefore, please complete the new owner details below, and return this form URGENTLY to the Owners' Society Secretary.

### BODY CORPORATE

[insert Section, Chalet or BC Villa no. and or address]

SETTLEMENT DATE: ...../...../.....

STREET AND OR BC VILLA UNIT NO: .....

FULL NAME(S)/COMPANY NAME(S)/TRUST NAME & TRUSTEES

.....

POSTAL ADDRESS.....

PHONE.....

MOBILE.....

EMAIL.....

AGENT (IF APPOINTED).....

PHONE.....

EMAIL.....

SIGNED.....

DATE..... NAME.....

## Schedule B

### CURRENT ALLOCATION OF THE SERVICE FEE ACROSS OWNER MEMBERS WITHIN EACH OWNER MEMBER CATEGORY

Property Service Categories	Each Vacant Chalet Property	Chalet Property	Unit Title Property
Security	\$0.00	\$165.38	\$165.38
Property Maintenance	\$0.00	\$555.77	\$555.77
Account Administration	\$162.50	\$162.50	\$162.50
Water Connection	\$87.40	\$174.81	\$174.81
Water Maintenance	\$33.33	\$33.33	\$33.33
Emergency Water	\$0.00	\$192.31	\$192.31
Sanitary Sewer	\$32.91	\$126.53	\$116.40
Roading / Path Maintenance	\$58.33	\$58.33	\$58.33
Gardening	\$240.00	\$240.00	\$240.00
Sinking Fund	\$224.00	\$252.81	\$249.71
<b>Annual Levy for each Owner Member</b>	<b>\$838.47</b>	<b>\$1,961.77</b>	<b>\$1,948.54</b>
<b>Total Number of Properties</b>	<b>42</b>	<b>26</b>	<b>52</b>
<b>Total amount of Annual Levy received by the Society for each Owner Member Category</b>	<b>\$35,215.74</b>	<b>\$51,006.02</b>	<b>\$101,324.08</b>

Total Amount of Annual Levy received by the Society: \$187,545.84

Initial Service Fee payable by the Society to the Resort Owner: \$187,545.00

## **Schedule C**

### **DISPUTE RESOLUTION PROCEDURE**

#### **1. How complaint is made**

- 1.1 A Member or an Officer may make a complaint by giving to the Committee a notice in writing that:
- (a) states that the Member or Officer is starting a procedure for resolving a dispute in accordance with this Constitution; and
  - (b) sets out the allegation to which the dispute relates and whom the allegation is against; and
  - (c) sets out any other information reasonably required by the Society.
- 1.2 The Society may make a complaint involving an allegation against a Member or an Officer by giving to the Member or Officer a notice in writing that:
- (a) states that the Society is starting a procedure for resolving a dispute in accordance with this Constitution; and
  - (b) sets out the allegation to which the dispute relates.
- 1.3 The information given under clause 1.1(b) or 1.2(b) above must be enough to ensure that a person against whom an allegation is made is fairly advised of the allegation concerning them, with sufficient details given to enable them to prepare a response.
- 1.4 A complaint may be made in any other reasonable manner permitted by this Constitution.

#### **2. Person who makes complaint has right to be heard**

- 2.1 A Member or an Officer who makes a complaint has a right to be heard before the complaint is resolved or any outcome is determined.
- 2.2 If the Society makes a complaint:
- (a) the Society has a right to be heard before the complaint is resolved or any outcome is determined; and
  - (b) an Officer may exercise that right on behalf of the Society.
- 2.3 Without limiting the manner in which the Member, Officer, or Society may be given the right to be heard, they must be taken to have been given the right if:
- (a) they have a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
  - (b) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
  - (c) an oral hearing (if any) is held before the decision maker; and
  - (d) the Member's, Officer's, or Society's written statement or submissions (if any) are considered by the decision maker.



### **3. Person who is subject of complaint has right to be heard**

3.1 This clause applies if a complaint involves an allegation that a Member, an Officer, or the Society ("Respondent"):

- (a) has engaged in misconduct; or
- (b) has breached, or is likely to breach, a duty under this Constitution or bylaws or the Act; or
- (c) has damaged the rights or interests of a member or the rights or interests of Members generally.

3.2 The Respondent has a right to be heard before the complaint is resolved or any outcome is determined.

3.3 If the Respondent is the Society, an Officer may exercise the right on behalf of the Society.

3.4 Without limiting the manner in which a Respondent may be given a right to be heard, a Respondent must be taken to have been given the right if:

- (a) the Respondent is fairly advised of all allegations concerning the Respondent, with sufficient details and time given to enable the Respondent to prepare a response; and
- (b) the Respondent has a reasonable opportunity to be heard in writing or at an oral hearing (if one is held); and
- (c) an oral hearing is held if the decision maker considers that an oral hearing is needed to ensure an adequate hearing; and
- (d) an oral hearing (if any) is held before the decision maker; and
- (e) the Respondent's written statement or submissions (if any) are considered by the decision maker.

### **4. Investigating and determining dispute**

4.1 The Society must, as soon as is reasonably practicable after receiving or becoming aware of a complaint made in accordance with this Constitution, ensure that the dispute is investigated and determined.

4.2 Disputes must be dealt with under this Constitution in a fair, efficient, and effective manner.

### **5. Society may decide not to proceed further with complaint**

5.1 Despite clause 4 of this Schedule C, the Society may decide not to proceed further with a complaint if:

- (a) the complaint is trivial; or
- (b) the complaint does not appear to disclose or involve any allegation of the following kind:
  - (i) that a Member or an Officer has engaged in material misconduct; or

- (ii) that a Member, an Officer, or the Society has materially breached, or is likely to materially breach, a duty under this Constitution or bylaws or the Act; or
  - (iii) that a Member's rights or interests or Members' rights or interests generally have been materially damaged;
- (c) the complaint appears to be without foundation or there is no apparent evidence to support it; or
- (d) the person who makes the complaint has an insignificant interest in the matter; or
- (e) the conduct, incident, event, or issue giving rise to the complaint has already been investigated and dealt with under this Constitution; or
- (f) there has been an undue delay in making the complaint.

## **6. Society may refer complaint**

### **6.1 The Society may refer a complaint to:**

- (a) a subcommittee or an external person to investigate and report; or
- (b) a subcommittee, an arbitral tribunal, or an external person to investigate and make a decision.

### **6.2 The Society may, with the consent of all parties to a complaint, refer the complaint to any type of consensual dispute resolution (for example, mediation, facilitation, or a tikanga-based practice).**

## **7. Decision makers**

### **7.1 A person may not act as a decision maker in relation to a complaint if 2 or more Members of the Committee consider that there are reasonable grounds to believe that the person may not be:**

- (a) impartial; or
- (b) able to consider the matter without a predetermined view.