

POPIA ADDENDUM TO MANAGEMENT AGREEMENT

Entered into by and between:

_____ **HOME OWNERS ASSOCIATION**

REG. NO. _____ / _____ / _____

("the HOA")

AND

_____ (**REG/CK NO:** ____/____/____) T/A _____

("the Managing Agent")

1. RECORDAL

- 1.1 The HOA and the Managing Agent have entered into a written Management Agreement (the Management Agreement).
- 1.2 The HOA and the Managing Agent need to abide by the terms of the Protection of Personal Information Act No. 4 of 2013 (POPIA).
- 1.3 The POPIA refers to various offences in regard to non-compliance and imposes various fines and/or terms of imprisonment.

2. APPOINTMENT - PROCESSING OF PERSONAL INFORMATION

- 2.1 The Managing Agent is appointed by the HOA to oversee and ensure the HOA's compliance with the POPIA, to process personal information of data subjects for the HOA and to provide the notifications to data subjects on behalf of the HOA as required by the POPIA.
 - 2.1.1 **'Data subject'** means the person to whom the personal information relates being the owners, tenants, employees and directors.

3. SECTION 20 OF THE POPIA

- 3.1 The HOA, in terms of section 20 of the POPIA, authorises the Managing Agent to process personal information on behalf of the HOA.
 - 3.1.1 **'Personal information'** is information relating to a person including but not limited to an ID number, email address, physical address, telephone number, biometric information, and private correspondence sent by that person.

3.2 The Managing Agent, in terms of section 20 of the POPIA, must treat the personal information which comes to its knowledge as confidential and must not disclose it unless required to do so by law or in the proper performance of their duties.

3.2.1 'Law' means, including but not limited to the Companies Act 71 of 2008 and the Community Schemes Ombud Service Act No. 9 of 2011.

4. SECTION 21 OF THE POPIA

4.1 The HOA must, in terms of section 21 of the POPIA, ensure that the Managing Agent in relation to the personal information establishes and maintains the security measures set out in section 19 of the POPIA.

SECTION 19 OF THE POPIA

1. The HOA must secure the integrity and confidentiality of personal information in its possession or under its control by taking appropriate, reasonable technical and organisational measures to prevent-
 - (a) loss of, damage to or unauthorised destruction of personal information; and
 - (b) unlawful access to or processing of personal information.
2. In order to give effect to subsection (1), the HOA must take reasonable measures to-
 - (a) Identify all reasonably foreseeable internal and external risks to personal information in its possession or under its control;
 - (b) Establish and maintain appropriate safeguards against the risks identified;
 - (c) Regularly verify that the safeguards are effectively implemented; and
 - (d) Ensure that the safeguards are continually updated in response to new risks or deficiencies in previously implemented safeguards.
3. The HOA must have due regard to generally accepted information security practices and procedures which may apply to it generally or be required in terms of specific industry or professional rules and regulations.

4.2 The Managing Agent must, in terms of section 21 of the POPIA, notify the HOA immediately where there are reasonable grounds to believe that the personal information of a data subject has been accessed or acquired by any unauthorised person.

5. RESTRICTIONS AND LIMITATIONS

- 5.1 The Managing Agent must only process the personal information as allowed for and in the framework of the POPIA.

6. THIRD PARTIES (SECTION 20 OF THE POPIA)

- 6.1 The Managing Agent must not share the personal information with third parties unless permitted to by the POPIA and consented to in writing by the HOA.
- 6.2 The Managing Agent must not appoint third parties to have access to or process the personal information unless permitted to do so by the POPIA and consented to in writing by the HOA.

7. REMUNERATION

- 7.1 The HOA agrees to pay the Managing Agent an additional fee per unit for the Managing Agent to oversee and ensure the HOA's compliance with the POPIA. The fee is set out in Annexure "B1" hereto. This fee will increase by 10% (ten percent) on the 1st of January of each year following signature of this Addendum.
- 7.2 The Managing Agent will be remunerated monthly in advance for the fee set out in Annexure "B1".

8. LIABILITY

- 8.1 The Managing Agent shall only be liable for damages suffered by the HOA if caused by the Managing Agent's gross negligence and or intentional breach of the POPIA.

9. GENERAL

- 9.1 The Management Agreement and this Addendum shall be the whole agreement between the parties and no variations shall be of any force or effect unless reduced to writing and signed by both parties. No variation or consensual cancellation shall arise via an exchange of "data" by means of "electronic signature" and/or "advanced electronic signature" as set out in the Electronic Communications and Transactions Act 25 of 2002 as amended, or otherwise through electronic and/or written signed correspondence.

THUS DONE AND SIGNED AT _____ ON THIS THE ___ DAY OF _____ 20____.

RESOLUTION OF THE DIRECTORS TO ENTER INTO THIS AGREEMENT IS ATTACHED MARKED "A"

WITNESS

DIRECTOR SIGNATURE

DIRECTOR NAME

WITNESS

DIRECTOR SIGNATURE

DIRECTOR NAME

THUS DONE AND SIGNED AT _____ ON THIS THE ___ DAY OF _____ 20____.

WITNESS

MANAGING AGENT

WITNESS



ANNEXURE "A" – DIRECTOR'S RESOLUTION

HOME OWNERS ASSOCIATION OF: _____

REG. NO. ____ / ____ / ____

PASSED AT A MEETING OF DIRECTORS AT _____ ON THIS DAY OF _____ 2020.

Wherefore it is hereby resolved by the undersigned Directors, who agree to the resolutions by their signature hereunder, that:

1. The Home Owners Association enter into a Protection of Personal Information Act (POPIA) Addendum with its Managing Agent.
2. Any 2 (Two) Directors may sign the POPIA Addendum on behalf of the Home Owners Association.

DIRECTOR
Print name:

DIRECTOR
Print name:

DIRECTOR
Print name:

DIRECTOR
Print name:

DIRECTOR
Print name:

DIRECTOR
Print name:

DIRECTOR
Print name:

DIRECTOR
Print name:

*MAJORITY OF THE DIRECTORS TO SIGN THIS RESOLUTION



ANNEXURE “B1” – FEES

FEES:

- **POPIA Compliance** – fee per unit/stand per month RXXX (plus VAT) – minimum monthly fee of RXXX (plus VAT) for the Scheme.