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# CONSTITUTION OF THE MALAGAS RATEPAYERS' AND RESIDENTS' ASSOCIATION

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(ORIGINALLY APPROVED IN 2007, AMENDED ON 3<sup>RD</sup> APRIL 2021, ON 29 DECEMBER 2023 AND NOW REPLACED ON 6 FEBRUARY 2025)

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## 1. NAME

The name of the Association shall be the “**Malagas Ratepayers’ and Residents’ Association**”. (MRRA or Association).

## 2. AREA

2.1. The Area for the Association is defined as the geographical area bordered by the Breede River on the East and the Potberg Nature Reserve on the West. Starting from erf 2, Malagas, and including all properties up to the boundary of Infanta and is situated in Ward 3 of the Swellendam Municipality.

2.2. Infanta in the east of Ward 3 has an existing Rate Payers Association (RPA) called the Infanta Ratepayers and Residents Association (IRRA).

2.3. The MRRA and IRRA areas also fall under the Overberg District Municipality (ODM), the overarching municipal authority for Swellendam Municipality.

## 3. POSTAL AND COMMUNICATION ADDRESS

3.1. The postal address of the Association shall be the residence of the Chairman or at any other place that the Executive Committee (EC) may designate.

3.2. The electronic communication address for the Association is [chairman@malgas.org.co.za](mailto:chairman@malgas.org.co.za)

## 4. LEGAL IDENTITY & PERSONA

The Association is an “universitas personarum”, an independent legal persona or entity, distinct from the individuals who compose it, having capacity of acquiring rights of property, of incurring obligations and of suing or being sued in its own name and having perpetual

succession and neither members nor the Executive Committee shall be answerable for the debts or engagements of the Association.

## 5. OBJECTIVES AND ACTIVITIES

The objectives and activities of the Association for the benefit of the members and potential members shall be:

- 5.1. To always uphold the Constitution of South Africa.
- 5.2. To promote and safeguard the interests of the ratepayers and residents of the Area, in a true spirit of unity.
- 5.3. To preserve the environment, and the beauty and character of the Area.
- 5.4. To co-operate with and serve as a means of communication to all levels of government.
- 5.5. To give effect to these objectives in implementing the wishes of its members.
- 5.6. Strictly non-political and non-commercial and its elected or co-opted management and/or officers are pledged to always adhere strictly to this credo.
- 5.7. To keep a watching brief over Municipal and District policies and affairs and to evaluate them according to the highest principles of good local government.
- 5.8. To promote and ensure interaction with the greater community of the Area and of Ward 3 and especially all sectors of the community within Ward 3 arising out of macro socio economic and environmental issues, and to facilitate this objective by seeking corporate and associate membership of other organisations with common objectives.

- 5.9. To voluntarily assist for the public benefit of the community of ratepayers and residents in the Area, and if needed in the rest of Ward 3, with designated community services, directly through the Association or indirectly through supporting volunteers, including members, donating to and or investing in a formal body with similar objectives financially and in kind, including:
- 5.9.1. With the Fire-fighting services assistance as an ‘initial first response” inter alia by providing mobile Fire Fighting Units, ancillary equipment and other items;
  - 5.9.2. With other disaster management, such as floods, road accidents, security, CCTV, communication, and similar services, and
  - 5.9.3. provided that neither the Association, nor any of its officers, employees or agents or nominees to a formal body, shall incur any liability in the consequence of the provision of such assistance or the lack thereof, as specifically set out in clause 5.9.
- 5.10. Engaging in the conservation, rehabilitation and protection of the natural environment of the Area, including flora, fauna and the biosphere.
- 5.11. The promotion of, and education and training programs relating to, environmental awareness, greening, clean-up and sustainable development projects in and for the benefit of the Area.
- 5.12. Community development in the Area for poor and needy persons and anti-poverty initiatives, including:
- 5.12.1. The promotion of community-based projects relating to self-help, empowerment, capacity building, skills development and anti-poverty;

- 5.12.2. The provision of training, support and assistance to such community-based projects; and
- 5.12.3. The provision of training, support and assistance to emerging micro enterprises in the Area to improve capacity to start and manage businesses, which may include the granting of loans on such conditions as may be prescribed by the Minister of Finance by way of regulation.
- 5.13. Provided that neither the Association, nor any of its officers, employees or agents or nominees to a formal body, shall incur any liability in the consequence of the provision of such assistance or the lack thereof as set out in this clause 5.
- 5.14. Solely to further the objectives and activities of the Association, to incorporate South African registered trusts and companies, under the direct control of the Association and or the Executive Committee.
- 5.15. To carry out all related and ancillary activities which may be necessary for the promotion and achievement of the objects and activities listed above.

## 6. **MEMBERSHIP**

- 6.1. Membership of the Association shall be open to registered property owners and/or residents over the age of eighteen years, in the Area and any other persons who may be approved by the Executive Committee.
- 6.1.1. A property owner in the Area is defined as the registered natural person ratepayer or if not a natural person, the natural person nominee duly nominated and authorised in writing.
- 6.1.2. A resident is defined as the representative natural person of a bona fide household of residents leasing property in the Area, duly nominated, and

authorised in writing by the household. Household to also include the spouse or partner of a property owner in the Area,

- 6.2. A Member may only exercise membership rights, including voting, if their membership is fully paid up, within the month prior to a general meeting.
- 6.3. A Member must have submitted the duly completed Association membership forms to the Secretary and have approval from the Executive Committee for valid membership.

## 7. **MANAGEMENT**

- 7.1. The affairs of the Association will be managed by an Executive Committee consisting of not less than four and not more than seven members, who shall have been elected at a General Meeting or co-opted in terms of clause 7.5.
- 7.2. Any serving Executive Committee member shall be eligible for re-election, and does not require re-nomination, providing that willingness to stand for re-election is confirmed in writing.
- 7.3. All elected Executive Committee members shall serve for a one-year term defined as the period from election until the forthcoming AGM.
- 7.4. The Executive Committee shall elect from its members a Chairperson and a Vice-Chairperson, who shall be ipso facto Chairperson and Vice-Chairperson of the Association. The positions of Chairperson and Vice-Chairperson shall not be held for longer than a period of five (5) years in any continuous period.
- 7.5. The Executive Committee via co-option may fill any Executive Committee member vacancy arising through resignation or other cause. The co-opted member will have full voting rights (as opposed to members co-opted as in clause 9.4). Co-opted

members will stand down immediately prior to an AGM and may be available for election as committee members.

- 7.6. The Executive Committee shall appoint a Secretary and a Treasurer, which positions may be combined, who shall hold office until the next AGM.
- 7.7. The Executive Committee may determine whether an honorarium should be paid to any person acting as Secretary and/or Treasurer from time to time.
- 7.8. The Secretary and/or Treasurer will have no voting power unless they are persons who are elected or co-opted members of the Executive Committee in terms of clause 7.5.
- 7.9. The Executive Committee shall be required to maintain minutes of all meetings, secretarial, accounting and membership records for the Association.

## 8. **POWERS OF THE EXECUTIVE COMMITTEE**

The Executive Committee may perform such acts as are necessary to accomplish the objectives expressed or implied in Clause 5 and which may be legally accomplished by an *universitas personarum*. Without in any way limiting the generality of the foregoing, such powers shall include but not be limited to the following:

- 8.1. The operation of banking accounts with a registered South African banking institution with all powers required by such operations.
- 8.2. The investment and re-investment of monies of the Association into a registered South African banking institution, where not immediately required, in such a manner as may from time to time be determined.

- 8.3. The making of, entering into, and carrying out of contracts or agreements for any of the purposes of the Association.
- 8.4. The employment and payment of agents, servants, and any other parties.
- 8.5. The right to sue and to defend actions in the name of the Association and to appoint legal representatives for this purpose.
- 8.6. The levying of a subscription payable by members as provided in clause 16 hereof.
- 8.7. The appointment of any sub-committee, if deemed to be in the interests of the Association, and granting such powers to it as may be considered necessary, noting that the subcommittee powers and members must comply with the requirements of the Association's Constitution. All decisions by a sub-committee, outside the powers granted, must be ratified by the Executive Committee before implementation.

## 9. EXECUTIVE COMMITTEE MEETINGS

- 9.1. The quorum for an Executive Committee meeting shall be half of the members of the full Executive Committee plus one ignoring halves. (e.g. 7 members on the Executive Committee would make a quorum of 4) but not less than 3 and shall be deemed to include any or all voting committee members participating in a meeting in person or in a virtual meeting. Should a member leave the meeting, thus resulting in a quorum not being maintained, no further decisions can be made. Discussions may continue and be minuted, but resolutions can only be approved when a quorum is re-established in the general meeting or at a postponed meeting.
- 9.2. The first meeting of the newly elected Executive Committee shall take place not more than fourteen calendar days after the AGM or SGM, at which meeting the new Chairman, Vice-Chairman, Treasurer and Secretary of the Executive Committee will

be elected. The members shall, within fourteen calendar days of the first Executive Committee meeting, after election at the AGM, be advised of the new Executive Committee and who has been elected to fill the posts of Chairperson, Vice Chairperson, Treasurer and Secretary, including being informed of the annual subscription amount advised at the AGM.

- 9.3. Fourteen calendar days' notice of Executive Committee meetings shall be given to all Executive Committee members unless all Executive Committee members agree otherwise in writing.
- 9.4. In addition to its powers of co-option to fill temporary vacancies as contemplated by clause 7.4, the Executive Committee may, at its discretion, co-opt one or more persons as non-voting members of the Committee in the light of their expertise in certain matters of concern to the Committee, for a term of office as determined by the Executive Committee.
- 9.5. Special General Meetings (SGM) may be called by the Chairperson or, in absentia, the Vice-Chairperson or by requisition of four members of the Executive Committee.
- 9.6. Executive Committee meetings should be held on a regular basis, at least in each calendar quarter. Any members of the Executive Committee failing to attend three consecutive meetings shall forfeit his/her office unless the Executive Committee at its discretion decides to condone such repeated non-attendance.
- 9.7. The Treasurer is to report on the financial affairs of the Association at the Executive Committee meetings, including expenditure incurred for noting and future expenditure and income.
- 9.8. The Treasurer must annually prepare Annual Financial Statements to be approved by the Executive Committee, duly signed by the Chairman and Treasurer, and

reviewed by a suitably qualified independent professional appointed by the Executive Committee, who could be a Chartered Accountant (SA) or Registered Auditor, The Executive Committee will decide and confirm the reviewer's remuneration.

- 9.9. Resolutions shall be carried by a simple majority of full voting members of the Executive Committee present or deemed to be present at a Committee Meeting.
- 9.10. A resolution, outside of a normal Executive Committee meeting, by all Executive Committee members, in writing and signed by all, will be valid and carried out.
- 9.11. The Chairman may, in the event of any matter requiring immediate action by the Executive Committee, contact all the members of the Executive Committee telephonically or by text message for a decision to be made complying with clause 9.9 above. The decision must be ratified and recorded at the next Executive Committee meeting.
- 9.12. The Association is pledged to be non-political and non-commercial, thus any Executive Committee member, having any financial, political, or business interest in any matter under discussion, must declare such interest and recuse him/herself from such discussions and any vote thereon.
- 9.13. No person holding political office or being a member or employee of the local authority shall be eligible to act on the Executive Committee but may attend meetings if invited in an advisory non-voting capacity.
- 9.14. No Executive Committee member shall be liable to the Association or to any member thereof, or to any other person whomsoever for any act or omission by him/herself, by the Association or by its servants or agents, unless personally implicated by gross negligence or dishonesty. An Executive Committee member shall be indemnified by the Association against any loss or damage suffered by him/her in consequence of

any purported liability, provided that such member has, upon the basis of information known to him/her, or which should reasonably have been known to him/her, acted in good faith and without gross negligence.

## 10. TERMINATION OF MEMBERSHIP

10.1. The Executive Committee may terminate the membership of any person who is no longer qualified to be a member of the Association or whose subscription is more than three calendar months in arrears. The Executive Committee may on good cause or breach of the Constitution by a member, terminate the membership provided that such member may, within four weeks of this action, note an appeal against such decisions, which shall be considered at the next General Meeting of members or at a Special General Meeting convened for this purpose.

10.2. An Executive Committee member shall cease to hold office if the member:

10.2.1. By notice in writing to the Executive Committee, resigns office.

10.2.2. Is found by a competent court to be incapable of managing their affairs.

10.2.3. Surrenders their estate as insolvent or their estate is sequestered or is deceased.

10.2.4. Is convicted of any criminal offence which involves dishonesty.

10.2.5. Is legally prevented from holding office as a director, trustee or similar:

10.2.6. Is removed, without being required to provide reasons, by unanimous decision of the Executive Committee, excluding the Executive Committee member being removed from office.

## 11. GENERAL MEETINGS

- 11.1. The Annual General Meeting (AGM) of members of the Association shall be held at the time and place fixed by the Executive Committee, within three calendar months after the end of the Association's Financial Year, ending 30 November.
- 11.2. The Annual Financial Statements, reviewed by a suitably qualified independent professional appointed by the Executive Committee, who could be a Chartered Accountant (SA) or Registered Auditor, being a financial report, balance sheet and revenue and expenditure statement for the period ending 30 November of each year, shall be submitted at every AGM.
- 11.3. A minimum of fourteen calendar days' notice shall be given to members for all General Meetings.
- 11.4. The Executive Committee Chairperson, or failing him, the Executive Committee Vice Chairperson or failing him, a Chairperson appointed by the majority present, shall be the Chairperson of a General Meeting.
- 11.5. General Meetings may include members present, or by proxy represented by a member in good standing and by members attending by a Virtual Meeting electronic communication, if indicated in the notice of the meeting.
- 11.6. A quorum for all General meetings shall be 15 members present in person, by proxy or by attendance electronically in a form determined by the Chairman or failing him the Executive Committee. If there is no quorum, the meeting shall be adjourned to a time and place which the Chairperson of the meeting shall determine, to be notified to all members as contemplated by clause 11.3. The members present at the postponed AGM or SGM, shall be deemed to be the quorum. Should a member leave the general meeting thus resulting in not maintaining a quorum, no further decisions

can be made. Discussions may continue and resolutions may only be approved when a quorum is re-established later in the general meeting or at a postponed meeting.

11.7. Special General Meetings (SGM) of members may be called by the Executive Committee as per clause 9.5 or when requested in writing by not less than twelve members in good standing. The notice calling such a meeting shall set out in full the names of the members calling the meeting and the business to be transacted and only such business may be transacted at the meeting.

11.8. Voting at all General Meetings of members may be held by either a show of hands or by the secret completion of voting papers, should this be ordered by the Chairperson or requested by six or more members present and in either case a majority vote shall prevail.

11.9. When voting for the election of members of the Executive Committee, each member in good standing may vote for any number of candidates up to a maximum of seven candidates.

11.10. Nominations for candidates for election to the Executive Committee must be submitted in writing or by email, one working day before the AGM.

## **12. CASTING VOTE**

If votes cast at any meeting of members and those held by the Executive Committee, are equal, the Chairperson shall have a casting as well as a deliberative vote.

## **13. MEMBERS VOTING RIGHTS**

13.1. Only a member who is fully paid up one working day prior to a General Meeting and is qualified to be a member of the Association, shall be entitled to one vote at any General Meeting of the Association.

13.2. A member of the Association shall be entitled to appoint a proxy, being a member in good standing, to speak and vote on his or her behalf at any General Meeting. The proxy appointment must be in writing, signed by the member and delivered to the Secretary not less than one working day prior to the scheduled meeting. Each member present, including the Chairperson, is only allowed to represent three proxies. The proxy should be limited to a specific vote, in respect of each resolution set out in the meeting agenda, circulated for the specific General Meeting.

#### 14. **VIRTUAL MEETINGS**

Virtual meetings may be held by online electronic communications, as to be set out in the notice of the meeting, or by previous arrangements.

#### 15. **FINANCE**

15.1. All funds due to the Association shall be deposited to the credit of the Association with a registered South African banking institution.

15.2. All payments, including electronic payments, drawn on the account of the Association shall be signed and or formally approved by any of two Executive Committee members who shall be nominated by the Executive Committee.

15.3. The Treasurer has the right to conduct financial transfers or payments via electronic banking within limits to be determined by the Executive Committee.

15.4. At every Executive Committee meeting, the Treasurer is to report on the finances of the Association, including expenditure, arrear members subscriptions, commitments and sources of income, and the Executive Committee is to note and approve.

## 16. FUNDING

16.1. The Association, by resolution of the Executive Committee, shall be empowered to raise funds from members by way of subscriptions and/or other methods, to enable and conduct the affairs of the Association on a competent and sound financial basis.

16.2. Annual subscriptions shall be decided by the Executive Committee. The Treasurer must advise the subscription amount for the forthcoming year at the AGM.

## 17. AMENDMENTS TO THE CONSTITUTION

17.1. Any alterations, additions, or amendments to this Constitution must be passed by a two-thirds majority vote of those members present at an Annual or Special General Meeting of the Association.

17.2. Members and or the Executive Committee are to propose alterations, additions, or amendments as changes to the Constitution, in writing to the Chairman or Secretary..

Members are to be advised by notice for an Annual or Special General Meeting called inter alia for the purpose in clause 17.1 of the proposed alterations, additions, or amendments.

## 18. TERMINATION OF THE ASSOCIATION

- 18.1. The Association shall be wound up upon the passing of a vote conducted in secret by the casting of written voting papers to that effect of not less than two-thirds of the members present at a Special General Meeting called to decide specifically the termination of the Association.
- 18.2. In the event of such a dissolution, all funds and property, after the settlement of or having made provision for the paying of liabilities belonging to the Association, or held in trust on its behalf, shall forthwith be transferred by authority of the Special General Meeting to an Association or amenity catering for the benefit of the Ratepayers and/or Residents of the Area and/or the rest of Ward 3 of Swellendam Municipality.