

## Direction for Association Constitution

### Issued in accordance with Law No. (27) of 2007 Concerning Ownership of Jointly Owned Properties in the Emirate of Dubai

#### Part 1 Definitions and General Provisions

1. In this Constitution –

- (a) the terms and expressions defined in Article (2) of the Law shall have the same meanings in this Constitution as those assigned to them in that Article; and
- (b) unless the context otherwise dictates, the following words and expressions shall have the following meanings in this Constitution –

**Annual Service Charge** means a charge imposed on an Owner in accordance with Clause 62 of this Constitution;

**Assets** means movable or immovable property, other than real property which is owned by the Owners Association;

**Association Manager** means the person appointed as Association Manager in accordance with Clause 40 of this Constitution;

**Association Managers' Code of Conduct** means the code of conduct for Association Managers stated in Schedule 2 of this Constitution;

**Board** means the board constituted in accordance with Clause 7 of this Constitution;

**Code of Conduct** means the code of conduct for Board members stated in Schedule 1 of this Constitution;

**Building**, for insurance purposes, includes any building that:

- (a) entirely comprises Common Areas; or
- (b) comprises a Unit and Common Areas,  
but does not include, in the case of (b):
  - (c) temporary wall, floor and ceiling;
  - (d) fixtures removable by a lessee at the end of a lease;
  - (e) mobile or fixed air conditioning units servicing a particular Unit;
  - (f) curtains, blinds or other external window coverings; or
  - (g) mobile dishwashers, cloths dryers or other electrical or gas appliances not wired or plumbed in;

**Community Rules** means the rules set out in the Jointly Owned Property Declaration;

**Day** means a day ascertained with reference to the Gregorian calendar;

**Entitlement** means, in relation to a Unit or an Owner, the number allocated to the Unit in the Jointly Owned Property Declaration that represents the shares of ownership in the Jointly Owned Property of that Unit or Owner;

**General Assembly** means an assembly of the Owners of Units convened and held in accordance with this Constitution and the Regulations;

**Interested Person** means –

- (a) an Owner or Occupier of a Unit;
- (b) a person holding a registered mortgage over a Unit;
- (c) a person who is in an advanced stage of negotiations for purchase of a Unit;
- (d) a person who has entered into an agreement to purchase a Unit and that agreement is still current;
- (e) if the Unit is in a development that was part of a master development, the master developer of that master development;

**Law** means Law No. (27) of 2007 Concerning Ownership of Jointly Owned Properties in the Emirate of Dubai;

**Owner** means –

- (a) in the case of Jointly Owned Property that is freehold – the person shown as the owner of the Unit on the Register;
- (b) in the case of Jointly Owned Property that is leasehold – the person shown as the head lessee of the Unit on the Register;
- (c) in the case of Jointly Owned Property that is the subject of usufruct rights – the person shown on the Register as the holder of the usufruct right over the Unit,

and includes the Master Developer and any Sub-Developer of the Jointly Owned Property in respect of unsold Units owned by them;

**Register** means the register kept by the Department in which ownership, real estate rights and other information relating to Units and Jointly Owned Property is recorded;

**Regulations** mean regulations, by-laws, decisions or directions issued in accordance with the Law;

**RERA:** The Real Estate Regulatory Agency

**Service Charge** means an Annual Service Charge or a Special Service Charge;

**Simple Resolution** means a resolution of a General Assembly passed in accordance with clause 35 of this Constitution;

**Special Resolution** means a resolution of a General Assembly proposed as such and passed in accordance with clause 36 of this Constitution;

**Special Service Charge** means a charge imposed on an Owner in accordance with Clause 69;

**Supply Agreement** means an agreement for a term of at least one year for the supply of goods or services, including Utility Services, to the Owners Association either directly or through a Building Management Statement.

**Utility Charge** means a fee or charge for the supply of a Utility Service;

**Utility Service** means any of the following services:

- (a) water reticulation or supply, including potable, treated, heated and chilled water;
- (b) gas reticulation or supply;
- (c) electricity supply;
- (d) air conditioning;
- (e) telephone;
- (f) computer, data or television;
- (g) a sewer system;
- (h) drainage;
- (i) a system for the removal or disposal of waste;
- (j) a system for the delivery of mail, parcels or goods; and
- (k) any other system or service designed to enhance the utilities of Units or Common Areas.

2. The Owners Association shall be known as “Owners Association – [*name of building or community*] No [*number allocated by the Department*].

3. This Constitution:

- (a) applies to all Owners Associations in the Emirate;
- (b) shall not be capable of amendment by an Owners Association; and
- (c) shall bind the Owners Association and Owners, as well as Occupiers and persons having an interest in rem in a Unit (to the extent that this Constitution applies to such Occupiers and persons), as if all those persons had entered into mutual covenants to perform its terms.

## **Part 2**

### **Functions and Powers of the Owners Association**

4. The functions of the Owners Association are –

- (a) to supervise, manage and control the Common Areas and Assets for the collective benefit of Owners and in ways that promote positive environmental outcomes;
- (b) to ensure that the building or community, including the Common Areas, are maintained in good conditions;
- (c) to integrate waste management, energy and water efficiency policies into the Association's strategy regarding the Common Areas and Assets;

- (d) to properly repair, maintain, renew and replace the Common Areas and Assets;
  - (e) to evenly and fairly enforce the Jointly Owned Property Declaration, including Community Rules, and any Building Management Statement in respect of the Jointly Owned Property;
  - (f) to promote harmony and a sense of belonging among Owners and Occupiers of Units;
  - (g) to obtain and maintain any license it requires by law;
  - (h) to maintain records and produce statements and other documents as required by this Constitution or the Department;
  - (i) to otherwise comply with all laws, decrees, regulations, by-laws, policies and directions by which it is bound.
5. The powers of the Owners Association include the power to:
- (a) enter into the utility supply and service agreement;
  - (b) remedy defective building work in relation to Common Areas;
  - (c) carry out work required by law or this Constitution where the Owner has failed, after reasonable written notice, to carry out that work in accordance with his obligations;
  - (d) to recover from the Owner of a Unit the costs of carrying out work under sub-clause 5(c);
  - (e) to enter a Unit upon reasonable written notice to the Owner or Occupier, or without notice in an emergency, to inspect or effect repairs to Common Areas or carry out work under sub-clause 5(c);
  - (f) own movable assets;
  - (g) sue and take action to enforce monetary claims in its own name;
  - (h) effect insurances required by this Constitution;
  - (i) to invest surplus funds in any manner approved by the RERA;
  - (j) do anything else for the purpose of carrying out its duties and functions under the law or this constitution.
6. Without prejudice to the provision of Article 9 of the Law, the interest in the Common Areas is owned by the Owners of the Units in common in proportion to their respective Entitlements and is not held by the Owners Association.

### **Part 3**

#### **Owners Association Board**

7. The Owners Association shall have a board comprised of not less than 5 nor more than 7 members and 3 reserve members which is responsible for the conduct of the affairs of the Owners Association, subject only to the limits imposed by this Constitution or a resolution of the General Assembly.
8. The Board shall be made up of Owners, or their duly authorized representatives, elected at each annual General Assembly of the Owners Association. No Owner,

including a Master Developer and a Sub-Developer shall be represented on the Board by more than one member.

9. Board members shall not be paid for their services.
10. Association Board members shall be registered with and approved by RERA through the electronic system approved by the Department.
11. RERA may refuse to register or approve any Board member.
12. The Board shall be responsible for:
  - (a) ensuring that the Owners Association carries out its functions under the law and this Constitution;
  - (b) setting, in conjunction with the Association Manager, the strategic direction of the Owners Association; and
  - (c) monitoring and directing the performance of the Association Manager.
13. The Board shall meet regularly or as frequently as is necessary and half of its members, rounded up to the nearest whole number, shall comprise a quorum for meetings.
14. The Board shall decide all matters by majority vote.
15. At least 14 days notice in writing of a proposed Board meeting must be given by the Association Manager, or in his absence, by the Chairman, to members of the Board.

The notice must include a detailed agenda for the meeting. The notice may be shortened or dispensed with if all members of the Board agree in writing.
16. The Board shall at its first meeting after its election appoint a Chairman. The Chairman and the members shall communicate and liaise with the Association Manager.
17. The Board shall determine its own rules and procedures provided those rules and procedures are:
  - (a) not inconsistent with this Constitution, the law or any Directions issued by RERA;
  - (b) set out in writing in Arabic with official translation into English or other languages as required, and notified to Owners; and
  - (c) not to be cancelled by a Simple Resolution.
18. The Board may meet wholly or partly by electronic means.
19. Board members must observe the Code of Conduct. If a Board member observes the Code of Conduct, then he shall not be liable as a consequence of his actions or failures as a Board member.

## **Part 4**

### **General Assembly**

20. The General Assembly shall consist of all Owners and shall held its meetings annually during the period commencing 3 months after the date of the end of the financial year of the Owners Association and does not exceed 6 months after that date.

21. At least 21 days notice in writing of a proposed Annual General Assembly must be given by the Association Manager to all Owners and the notice must:

- (a) contain a detailed agenda, including:
  - (i) an item for confirmation of the minutes of the previous General Assembly;
  - (ii) an item for adoption of the annual report of the Board;
  - (iii) an item for adoption of the annual report of the Association Manager;
  - (iv) an item for acceptance of the annual financial statements;
  - (v) an item for the appointment of an auditor for the next financial year;
  - (vi) an item for adoption of the budget for the next financial year and approval of the Annual Service Charge proposed in that budget;
  - (vii) an item for the election of the Board;
  - (viii) items required by the Board;
  - (ix) an item requested by an Owner (in writing) to be included on the agenda; and
  - (x) an item of any motions proposed to be passed by the assembly as special resolutions; and
- (b) the notice to be accompanied by the following:
  - (i) a copy of the minutes to be confirmed;
  - (ii) a copy of the annual report of the Board;
  - (iii) a copy of the annual report of the Association Manager;
  - (iv) a copy of the annual financial statements;
  - (v) a copy of the proposed budget, including proposed Service Charges, with a copy of a document explaining the service;
  - (vi) a copy of any other documents reasonably required for the assembly to consider the various agenda items; and
  - (vii) a proxy form.

22. The following rules apply to the convening and holding of the first Annual General Assembly (“**Assembly**”) of the Owners Association:

- (a) the Assembly must be held within 3 months after the constitution of the Owners Association;
- (b) if at the time the Assembly is held –
  - (i) 50% or more of the Units are owned by persons other than the Developer of the building or community, the Developer shall have his normal voting rights; or
  - (ii) less than 50% of the Units are owned by persons other than the Developer, the Developer’s voting rights shall be reduced to what they would be if the Developer only owned 50% of the Units;
- (c) the Developer of the building or community shall be responsible for convening the Assembly and ensuring that it is held;

- (d) if the Developer of the building or community refuses or fails to convene the Assembly, then it may be convened by any 3 Owners acting collectively and the costs of convening and holding it shall be paid by the Owners Association and are recoverable from the Developer who refused or failed to act.
23. (a) Extraordinary General Assemblies may be convened by the Association Manager at the direction of the Board
- (b) An Extraordinary General Assembly must be convened by the Association Manager upon receipt of a petition from Owners of not less than 25% of the Units.
24. At least 21 days notice in writing of a proposed Extraordinary General Assembly must be given by the Association Manager to all Owners and the notice must:
- (a) include a detailed agenda, including:
    - (i) an item for confirmation of the minutes of the previous General Assembly;
    - (ii) any item requested in the petition (if any) for the meeting;
    - (iii) items required by the Board;
    - (iv) an item requested by an Owner (in writing) to be included on the agenda; and
    - (v) the wording of any motions proposed to be passed by the General Assembly as special resolutions; and
  - (b) be accompanied by the following:
    - (i) a copy of the minutes to be confirmed;
    - (ii) a copy of any other documents reasonably required for the General Assembly to consider the various agenda items; and
    - (iii) a proxy form.
25. A notice of a General Assembly may be accompanied by a voting paper in the form approved by RERA on which an Owner may cast a written vote on the motions appearing on that paper. If a voting paper accompanies a notice of a general assembly, then that voting paper must contain all the motions to be considered at the General Assembly.
26. A notice of a General Assembly that is accompanied by a voting paper may also be accompanied by a link to a web site that accesses an electronic voting system approved by RERA and an Owner may cast a vote on the motions on that voting paper using the electronic voting system.



## **Part 5**

### **Voting at a General Assembly**

27. Each Owner shall have one vote in respect of each Unit they own.
28. Where a Unit is owned by more than one person:
- (a) if a voting paper accompanied the notice of General Assembly, they may vote using the voting paper signed by all of them;
  - (b) if both a voting paper and a link to a web based electronic voting system accompanied the notice of General Assembly, they may register to vote and then vote using the electronic voting system; or
  - (c) they shall decide amongst themselves who shall exercise their vote and such vote must be exercised by proxy.
29. Where a Unit is owned by a company:
- (a) if a voting paper accompanied the notice of General Assembly, the company may vote by completing and signing the voting paper under its seal or stamp;
  - (b) if both a voting paper and a link to a web based electronic voting system accompanied the notice of General Assembly, the company may register to vote, provided voting is made by the duly authorized person using the electronic voting system; or
  - (c) the vote must be exercised by a proxy appointed by the company.
30. Where an Owner is deceased the vote may be exercised in the normal way by their legal representative, provided such legal representative has the required legal documents to prove his capacity as such.
31. A proxy must be in the form approved by the RERA, properly completed and received by the Owners Association 24 hours before the scheduled time of commencement of the General Assembly.
32. A proxy expires 1 years after the date on which it was given.
33. No one person may exercise multiple proxy votes where the number of Units represented by the proxies is greater in number than 10% of the total number of Units in the Jointly Owned Property.
34. If Service Charges are owing and overdue with respect to a Unit, no vote may be cast in respect of that Unit at a General Assembly.
35. Voting on motions at a General Assembly, other than motions for a special resolution, shall be decided by simple majority of those present and entitled to vote and voting on a show of hands. However, any Owner (including a proxy) may, before or after a vote is taken, request a poll, in which event the motion shall be decided by simple majority of the value of all the votes cast on the motion. The value of a vote is equivalent to the Entitlement of the Unit.
36. For a motion for a special resolution at a General Assembly to be approved it must be passed by Owners holding together two-thirds of all Entitlements in the Jointly Owned Property.



37. If an Owner has voted on a motion using:
- (a) a voting paper in the approved form, completed and submitted in accordance with the instructions on that form; or
  - (b) an electronic voting system in accordance with the instructions for use of that system,
- then that vote shall be counted, on both a show of hands or a poll, as if it had been cast in person at the meeting.
38. Except for the request to pass a special resolution, a quorum for deciding a motion at a General Assembly shall be made up by Owners present personally, by voting paper, by electronic vote or by proxy whose Entitlements together comprise 15% of the total number of Entitlements in the Jointly Owned Property Declaration. If a quorum for a motion is not present within half an hour of the scheduled commencement time of the General Assembly, then the relevant motion or the General Assembly, as the case may be, shall stand adjourned until the same time and place 7 days later. Those persons present personally by voting paper, by electronic vote or by proxy at the adjourned General Assembly shall constitute a quorum for that motion or General Assembly and no further notice of the adjournment need be given.
39. RERA may approve other ways in which a General Assembly may meet.

## **Part 6**

### **Association Manager**

40. The General Assembly shall appoint an Association Manager, who:
- (a) may be –
    - (i) an Owner who is a natural person engaged in a voluntary capacity; or;
    - (ii) a company licensed and registered by RERA and engaged professionally on a contract; and
  - (b) must, in either case, meet such licensing or registration conditions as set out by RERA.
41. The Association Manager shall be responsible for:
- (a) working with the Board to develop strategies for management of the Common Areas, including the creation of a sense of community within the building or community;
  - (b) implementing strategies, programmes and plans set by the Board;
  - (c) negotiating, supervising and recommending the entry into contracts, including Supply Agreements such as but not limited to (security, cleaning, maintenance of Common Areas, and landscaping) on behalf of the Owners Association, and presenting recommendations to the Owners Association;
  - (d) supervising the performance of contractors and suppliers to the Owners Association;
  - (e) supervising defect repairs and warranty claims in relation to the Common Areas;
  - (f) preparing annual budgets (based on information provided by contractors and suppliers to the Owners Association);

- (g) issuing service charge notices and collecting service charge payments for the Owners Association in the account specified for that purpose;
  - (h) for every and all technical and management matter and financial report related to common area services. To submit reports on a regular basis to the board and General Assembly related to the previously mentioned issues.
  - (i) communicating and considering the complaints and requests of Owners in relation to Common Areas and dealing with the same;
  - (j) coordinating insurances and dealing with insurance claims in relation to Common Areas;
  - (k) coordinating and attending Board meetings, Board committee meetings and meetings of the General Assembly of Owners;
  - (l) preparing minutes of meetings of the Board, Board committees and the General Assembly;
  - (m) responsibility for Owner Association correspondence and electronic communications;
  - (n) keeping the books and records required to be kept by law;
  - (o) Attending to day to day operational matters on behalf of the Owners Association.
  - (p) Follow up on behalf of the Owner's Association for all the legal matters related to any dealings, transactions and contracting.
  - (q) Implementing the decisions of the General Assembly.
  - (r) Representing the Owner's Association in meetings with the governmental and semi governmental entities.
42. The Association Manager shall be responsible before the Association in the event of any errors or negligence by him, and the Owners Association may claim indemnity for the damages resulting therefrom.
43. The Association Manager shall be appointed pursuant to a Simple Resolution and delegated by written instrument or contract.
44. The appointment and delegation of an Association Manager may only be terminated or varied by a Simple Resolution by the General Assembly.
45. The Association Manager must not be appointed for more than a 3 year term, but may be reappointed at the end of that term or any renewed term.
46. The Association Manager must observe the Association Manager's Code of Conduct as set out by the General Assembly and approved by RERA.

## **Part 7**

### **Supply Agreements**

47. The Owners Association must enter into a Supply Agreement with supply companies and entities which are licensed in the Emirate of Dubai.
48. The Association Manager may not delegate his powers and responsibilities to another party.
49. A Supply Agreement must be in writing and authorized by a Simple Resolution of the General Assembly.
50. A Supply Agreement must not have a term exceeding 3 years.
51. Agreements must be made in the name of the Owners Association, and they shall be executed directly with the Chairman and one Board member through the Association Manager.

## **Part 8**

### **Finances**

52. As soon as practical after its constitution the Owners Association must establish two funds –
  - (a) a general fund; and
  - (b) a reserve fund.
53. Income into the general fund shall comprise –
  - (a) Service Charges imposed on Owners for that fund;
  - (b) Utility Charges imposed on Owners for a Utility Service consumed outside their Units;
  - (c) penalties for non-payment of those Service Charges or Utility Charges;
  - (d) investment income related to that fund, including without limitation (proceeds from utilization of Common Areas for commercial advertising or leasing);
  - (e) donations to that fund;
  - (f) proceeds of insurance claims; and
  - (g) any other income that is not properly payable into the reserve fund.
54. Income into the reserve fund shall comprise –
  - (a) Service Charges levied on owners for that fund;
  - (b) penalties for non payment of those Service Charges;
  - (c) investment income related to that fund, which should be compliant with Islamic Shariaa; and
  - (d) donations to that fund.

55. Expenditure from the general fund shall comprise –
- (a) costs of maintaining the Common Areas and Assets;
  - (b) Utility Charges (including Utility Charges that are to be re-charged to Unit Owners);
  - (c) charges payable under a Building Management Statement;
  - (d) charges payable to a Master Developer or Sub-Developer;
  - (e) insurance premiums;
  - (f) costs (including capital costs) of reinstating the Building or Common Areas following receipt of the proceeds of an insurance claim;
  - (g) costs (including capital costs) of repairing or replacing an Asset following receipt of the proceeds of an insurance claim; and
  - (h) other expenditure of a recurrent nature.
56. Expenditure from the reserve fund shall comprise expenditure of a capital or non-recurrent nature and other expenditure that should reasonably be met from capital.
57. Moneys in the reserve fund must not be used to pay for expenses that are intended to be met from the general fund and moneys in the general fund must not be used to pay for expenses that are intended to be met from the reserve fund.
58. Moneys in the general fund and reserve fund must be kept in a bank account in the name of the Owners Association with a bank or other financial institution approved by RERA, which shall decide the conditions and requirements for the operation of the account.
59. The general fund and the reserve fund must be accounted for and reported on separately, although the moneys to the credit of each fund may be kept in the same bank account.
60. The financial year of the Owners Association shall be the year commencing on the date of its establishment and ends in 31<sup>st</sup> December of the same year, provided the new financial year for the Association on the first of January and expires on 31 December of each year. RERA may approve another date on which the financial year for the Owners Association commences.
61. Each Owner shall pay his contribution to the Service Charge. Such contribution shall be determined pro rata to the Owner's share of the Common Areas.
62. The Association Manager must prepare and the Board must approve a budget for each financial year and submit that budget, including full details of the proposed Annual Service Charge, for the approval of the annual General Assembly. The budget for the general fund must be for a one year period, while the budget for the reserve fund must be based on a study of the costs of renewing and replacing the Common Areas and Assets over a minimum 10 year period. Such study must be carried out in accordance with any directions issued by the Department.
63. The Annual Service Charge is payable every three months, unless the Owner of the Unit decides to pay the Service Charge annually. .
64. Once the budgets and Annual Service Charge have been approved by the annual General Assembly (with or without amendment) the Association Manager must raise the Annual Service Charge by serving written notice in the name of the Association on each Owner showing:
- (a) the name of the Owner;

- (b) the Unit to which the charge relates;
  - (c) details of the total Annual Service Charge approved by the Owners Association to each of the general fund and reserve fund;
  - (d) the proportion of the total Annual Service Charge payable by the Owner in respect of each of the general fund and reserve fund;
  - (e) if the Annual Service Charge is payable by installments, particulars of each installment;
  - (f) the amount of any arrears, including penalties applied in respect of those arrears;
  - (g) the date by which the Annual Service Charge, or installments, are payable; and
  - (h) the amount of any discount that will be allowed if the Annual Service Charge, or installments, are paid by the due date.
65. Utility Charges, including without limitation (water, air conditioning, gas, electricity, telecommunications and sewerage) shall be determined as follows:
- (a) if the Utility Charge relates solely to Common Areas, it must be budgeted for payment from the General Fund and paid from that fund;
  - (b) if the Utility Charge relates solely to Units, it must be re-charged against the Owners of the Units to which it relates in the proportions calculated in accordance with the Department's Directions.
  - (c) RERA may enforce the Owners Association to install separate meters for all Units and Common Areas for all Utility Service providers.
  - (d) RERA may enforce the Utility Service suppliers to separate the utility fees of the Common Areas from the fee for the Unit Owners. The Utility Service providers shall be required to submit separate invoices directly to the Unit Owners and to the Owners Association for the Common Property; or
  - (e) if the Utility Charge relates partly to Common Areas and partly to Units –
    - (i) the Owners Association must, acting reasonably, determine the amount that should be apportioned against usage occasioned by the Common Areas ("**Common Area Proportion**");
    - (ii) the Common Area Proportion must be budgeted for payment from the General Fund and paid from that fund; and
    - (iii) the balance of the Utility Charge, after deduction of the Common Area Proportion, must be charged to the Owners of the Units to which it relates in the proportions calculated in accordance with the Department's Directions.
66. If an invoice for a Utility Charge payable by a Unit Owner is included on the written notice raising the Annual Service Charge, or an installment of an Annual Service Charge, then the amount of the Utility Charge must be shown separately on the notice.
67. If an Owners fails to pay a Service Charge or a Utility Charge when it becomes due and payable, then the Owners Association may give such Owner a notice of no more than one month to pay, and may impose a penalty for non-payment calculated on a daily basis at the rate of 12% per annum.

68. The Owners Association may also claim from an Owner any costs incurred by it to recover outstanding Service Charges or Utility Charges.
69. The Board may, if circumstances require between two annual General Assembly meetings, impose a Special Service Charge on Owners to cover any expenditure not included in the budget and not reasonably anticipated at the time the budget was approved. Such Special Service Charge must not exceed 15% of the Annual Service Charge last collected to the relevant fund. The Special Service Charge shall be collected in the same way an Annual Service Charge is collected.
70. If any moneys are owing to the Owners Association in relation to Service Charges at the time the Owner disposes of his Unit, whether by sale or other disposals transferring or restricting ownership, such Owner shall be liable for those moneys up to the date of such disposal, and the new Owner shall be liable for those Service Charges as of the date on which such disposal is registered in his name with the Department, unless the parties agree otherwise.
71. An Owner cannot avoid liability for payment of a validly made Service Charge, or any item covered by a validly made Service Charge, for any reason, including without limitation:
  - (a) the non-use of the Common Areas;
  - (b) the non-use of their Unit; or
  - (c) any failure or delay on the part of the Owners Association to repair or maintain the Common Areas.

## **Part 9**

### **Insurances**

72. The Owners Association must insure in its own name –
  - (a) the Building, under a comprehensive insurance policy against damage or destruction by explosion, fire, lightning, storm, tempest and water for:
    - (i) its full replacement value (as ascertained at least once every 3 years by a professional valuer); and
    - (ii) the costs incidental to its replacement or reinstatement, including the cost of removal of debris and professional fees on re-building, so that the Building is reinstated to the condition it was in when new;
  - (b) its Assets that are capable of being insured;
  - (c) against liability for damage to property or bodily injury to any person however arising in relation to the Common Areas;
  - (d) against any risk specified in a direction of the Department; and
  - (e) against any other risk that it considers should be covered by insurance.
73. The cost of insurances shall be apportioned among the Owners of the Units by means of the Annual Service Charge.
74. If the way in which a Unit is being used by an Owner or Occupier has the effect of increasing the premium payable by the Owners Association, then the Owners

Association may recover as a debt the amount of increased premium from the Owner concerned.

75. An Owner shall be entitled to the benefit of any insurance cover on the Building in respect of any part of his Unit included in that cover, less any excess payable under the policy, and the Owners Association must do everything necessary to deliver that benefit.
76. The proceeds of any insurance claim, whether made for the benefit of the Owners Association or an individual owner, must be applied towards the reinstatement of the damage that resulted in the claim.
77. An Owner or Occupier shall be responsible for insuring their own property or interests to the extent that they are not covered by any insurance affected by the Owners Association.

## **Part 10**

### **Records**

78. The Owners Association must keep the following records:
  - (a) a minute book for meetings of the Board;
  - (b) a minute book for the General Assembly;
  - (c) a file for official Government communications;
  - (d) a file containing current copies of –
    - (i) this Constitution;
    - (ii) the Jointly Owned Property Declaration;
    - (iii) the Community Rules;
    - (iv) insurance policies;
    - (v) the last annual report of the Board;
    - (vi) the last annual report of the Association Manager; and
    - (vii) the last annual financial statements;
  - (e) a file for copies of documents relating to Board meetings and General Assemblies, other than documents required to be kept elsewhere;
  - (f) a file for other communications;
  - (g) a register of Owners and Occupiers;
  - (h) a register of contracts and agreements;
  - (i) a register of the annual budget;
  - (j) a register of Assets;



- (k) books of financial account; and
  - (l) other records specified by the Department.
79. The Owners Association's records may be kept in paper or electronic form in any way specified by the Department.
80. The Owners Association's records, whether in paper or electronic form, are the property of the Owners Association and must be surrendered to it by the Association Manager or other officer upon request.
81. Minutes, registers and copies of registered documents must be kept indefinitely. All other records must be kept for at least 7 years.
82. Upon sale of a Unit the Owner selling must give written note of change of ownership, countersigned by the purchaser or the purchaser's agent, to the Owners Association stating:
- (a) Unit number and address;
  - (b) name of the Owner selling;
  - (c) new contact address for the Owner selling;
  - (d) name of the purchaser;
  - (e) registered address of the purchaser;
  - (f) a mobile telephone contact number for the purchaser; and
  - (g) registered facsimile number or registered e-mail address of the purchaser.
83. Upon lease, sub-lease, or grant of further usufruct rights, in relation to a Unit, the Owner of the Unit must give written notice of the dealing to the Owners Association, countersigned by the other party to the dealing or their agent, stating:
- (a) the Unit number and address;
  - (b) name of the Owner;
  - (c) nature of the dealing;
  - (d) new registered address of the Owner (if it changes);
  - (e) name of the other party to the dealing;
  - (f) registered address of the other party to the dealing;
  - (g) a mobile telephone contact number of the other party to the dealing;
  - (h) registered facsimile number or registered e-mail address of the other party to the dealing; and
  - (i) details (including registered facsimile number or registered e-mail address) of any registered broker who will be managing the Unit for the Owner.
84. A Unit Owner may, upon payment of the specified fee, apply to the Association to inspect its records. Non-Owners may also inspect the records of the Association after obtaining a prior consent from RERA.

## **Part 11**

### **Community Rules**

85. The Community Rules applying to the Owners Association are those in the Jointly Owned Property Declaration as amended in accordance with this Constitution and the law.
86. The Community Rules may be amended by Simple Resolution of the General Assembly, provided such amendment is registered in the Register. An amendment to the Community Rules must not be in conflict with the Law, any other law, this Constitution or any direction of RERA.
87. The Community Rules must be observed by all Owners and Occupiers, who must also ensure that their guests and visitors observe them.

## **Part 12**

### **Disputes**

88. If a dispute arises the parties must endeavour to resolve the dispute by referring it to mediation or conciliation. This may be conducted by the Owners Association, if it is not a party to the dispute, or any other person agreed by the parties to the dispute. Each party to the dispute shall bear their own costs of the mediation or conciliation but the costs of the mediator or conciliator shall be borne by the parties equally.
89. If a dispute is not resolved by mediation or conciliation the parties to the dispute may agree to refer the dispute to private arbitration. The terms of such referral must be agreed by the parties or, in the absence of agreement, any terms specified by RERA will apply.
90. If the parties cannot agree on referring the dispute to private arbitration, then either party to the dispute may make application for resolution of the dispute under the dispute resolution process established to resolve disputes relating to Jointly Owned Property.

## **Part 13**

### **General Rules**

91. The Owners Association shall have a stamp which it must use to validate all formal written documents. The stamp must be kept securely by the Association Manager and can only be applied with the approval of the Board. The affixing of the stamp must be witnessed by the Association Manager and a member of the Board or by two members of the Board.
92. The Department may specify the means by which the Owners Association may validate electronic documents and communications.
93. Any notice required by this Constitution to be given by the Owners Association or any other person may be given in paper or electronic form to a registered address or registered facsimile number or registered e-mail address. If given in paper form it must be posted by pre-paid mail or delivered to a registered address. If given by facsimile it is deemed to have been given upon production of a successful transmission report. If given by e-mail it is deemed to have been given 24 hours after

the time recorded as the sent time, unless notification of non-delivery was received within those 24 hours.

94. Records must be kept by the Owners Association of when notices were given, as well as facsimile transmission reports and e-mail non-delivery notifications.
95. A notice can be served on the Owners Association in paper or electronic form. If given in paper from it must be posted by pre-paid mail or delivered to its official address as recorded in the Register. If given by facsimile it must be sent to its official facsimile number as recorded in the Register and is deemed to have been given upon production of a successful transmission report. If given by e-mail it must be sent to its official e-mail address as recorded in the Register and is deemed to have been given 24 hours after the time recorded as the sent time, unless notification of non-delivery was received within those 24 hours.
96. The onus is on the person giving the notice to the Owners Association to prove that it was received.
97. If the Owners Association is a member of another Owners Association in relation to Jointly Owned Property (“**Higher Association**”), then the Board may appoint a person to represent the Owners Association in relation to the Higher Association and that person shall have the right to vote at a General Assembly of the Higher Association personally, by proxy, by voting paper or electronically. The Owners Association may replace that person from time to time but it must notify the Higher Association of any change.
98. An Owner must not lodge, or allow another person to lodge, with the Department a transfer of their Unit without first obtaining from the Owners Association a certificate confirming that there are no service charges or other moneys owing to the Owners Association in respect of the Unit the subject of the transfer.
99. RERA may approve forms for use by the Owners Association and give directions regarding the interpretation or application of any provision of this Constitution.

**This Direction is effective from on 13<sup>th</sup> of April 2010 in the emirate of Dubai**

## Schedule 1

(Code of Conduct for Board Members)

1. A Board member must be committed to understanding the role of the Owners Association and the rules by which it operates.
2. A Board member must act honestly and fairly in performing their duties and must not unfairly or unreasonably disclose information held by the Owners Association, including information about the Owner or Occupier of a Unit, unless authorized or required by law to do so.
3. A Board member must act in the best interests of all Owners. All Board members should not approve contracts with any entity providing goods and services to the property which the Board member owns, partly owns or is employed by.
4. A Board member must not –
  - (a) cause a nuisance on the Common Areas; or
  - (b) otherwise behave in any way that unreasonably affects a person's lawful use and enjoyment of a Unit or the Common Areas.
5. If a conflict of interest or potential conflict of interest arises at any time, then a Board member must before any debate or vote is taken on the matter to which the conflict relates:
  - (a) disclose that conflict to the Board; and
  - (b) abide by the decision of the Board as to whether they are to be permitted to participate in any debate or vote in respect of the matter.

## Schedule 2

(Code of Conduct for Association Managers)

1. An Association Manager must have a sound working knowledge of and must comply with the Law, this Constitution and the Regulations, Directions and instructions under the Law.
2. An Association Manager must –
  - (a) act honestly, fairly and professionally; and
  - (b) exercise reasonable skill, care and diligence,in performing their functions.
3. An Association Manager must not unfairly or unreasonably disclose information held by the Owners Association, including information about the Owner or Occupier of a Unit, unless authorized or required by law to do so.
4. Unless it is unlawful to do so, an Association Manager must at all times act in the best interests of the Owners Association and, without limitation, must not favour the interests of a developer or contractor over the interests of the Owners Association.
5. An Association Manager must not engage in:
  - (a) fraudulent or misleading conduct; or
  - (b) unconscionable conduct,In performing their functions.
6. An Association Manager must not do anything that would have the effect of placing their interests in conflict with the interests of the Owners Association.
7. An Association Manager must disclose all relationships in writing to the Owners Association regarding any actual, potential or perceived conflict of interest between the Association Manager and any other supplier of goods or services to the Owners Association. The Association Manager shall take all necessary steps to avoid any favoritism or impropriety during the selection process and negotiation of any contracts with suppliers.
8. An Association Manager must not disclose any confidential information (such as Owners' details, Property's details, matters regarding the Owners' Association) to a third party, without the consent and written approval from the Owners' Association, with exception of any requirement by Law.
9. An Association Manager must take reasonable steps to ensure that goods and services procured by an Owners Association are procured at the most competitive prices reasonably obtainable.
10. An Association Manager must take reasonable steps to ensure that his employees observe this Code of Conduct.