

## **STANDARD CONDITIONS FOR IMPLEMENTATION OF A FRACTIONAL OWNERSHIP SCHEME AT ZIMBALI**

In terms of an Extraordinary General Meeting of Members held on 23 August 2006 relating to the grant of the Association's consent in terms of the restrictive covenant contained in some of the title deeds for properties at Zimbali, the following resolution was passed, namely :

*"It was resolved that the meeting affirms the power of the Board of Directors to grant the consent required in terms of the restrictive covenant in the title deeds referred to above; provided that the scheme proposed by the Applicant complies with the conditions relating to fractional ownership formulated by the Board of Directors and provided that any material amendment to the conditions may only be effected with the approval of the members in a General Meeting. A proposed amendment will be deemed to be material if any one Director of the Board contends that it is"*

### **A BACKGROUND**

1. This document sets out the minimum requirements for the obtaining of the consent of ZEMA, as provided for in the title deeds of some of the properties at Zimbali, for the setting-up, approval and implementation of a fractional ownership scheme, a timeshare scheme or any similar schemes for such properties within the Zimbali Estate development.

### **B. FORMAL REQUIREMENTS**

2. All applications must be submitted on an application form approved by ZEMA from time to time, and must be signed by the applicant, or its duly authorised representative.
3. The applicant must, together with its application, submit :-
  - a. proof that it is a fully paid-up member of the Vacation Ownership Association of South Africa (VOASA);

- b. a copy of the proposed fractional ownership scheme rules for approval by ZEMA;
- c. an application fee in the sum of R50 000.00 (excluding VAT);
- d. a copy of its agreement with a reputable management company (approved by ZEMA) in terms of which the management company undertakes to manage the fractional ownership scheme on an ongoing basis;
- e. a written undertaking that the fractional ownership scheme will, at all times, be managed by a reputable management company (approved by ZEMA);
- f. proof that each of the members of the fractional ownership scheme have, or will, irrevocably bind themselves (in their personal capacities) to the conditions contained herein and to ZEMA's standard membership criteria.

C. LEGAL STRUCTURE

- 4. The complete legal basis and structure in terms of which the fractional ownership scheme will be implemented must be clearly disclosed in the applicant's papers.
- 5. The rules of the fractional ownership scheme shall in all respects be subject to and governed by the Articles of Association of ZEMA (and in particular in terms of compliance with all legal requirements, occupancy levels, safety, security, environmental practises, the Estate's Code of Conduct, rules and general behavioural patterns)
- 6. Ordinary levies and voting rights in respect of any property in terms of which a fractional ownership scheme has been approved and implemented shall, for the purposes of determining the ordinary levy payable and the voting rights attaching thereto, be deemed to have only one owner.
- 7. No legal structure which aims to, has the effect of, or might be used in circumventing the provisions of clause 11 hereunder shall be permitted. Thus no splitting, dividing,

separating, fragmentation or fractionalisation of any fractional ownership share will be permitted.

8. The maximum number of fractional ownership shares in the proposed structure must be disclosed and may not be increased without the prior written approval of ZEMA.
9. No application may propose the implementation of a fractional ownership scheme in respect of more than one property or unit.
10. The applicant will be required to provide proof of compliance with the advertising and other marketing requirements set out in the Property Time-sharing Control Act, 1983. All advertising material shall, before dissemination thereof, require the prior written approval of ZEMA and in particular, advertising material must conform to the Zimbali branding standards.

D GENERAL CONDITIONS

11. The applicant shall be required to comply with international best practices in respect of fractional ownership of immovable property. In this regard it is recorded that only a maximum of 13 fractional owners and/or users per single residential unit will be considered for approval. For clarity it is recorded that all entities (other than natural persons) shall be required to nominate a single individual as the appointed representative of such entity and that person shall, for all purposes contemplated herein, be deemed to be the fractional owner himself/herself.
12. The usage of the property in terms of the fractional ownership rules must be limited to the period allocation per fractional owner. Estate access discs will be pre-programmed to control access to the property accordingly.
13. The owner(s) of a unit subject to a fractional ownership scheme [hereinafter referred to as a unit owner] shall pay a fractional ownership administration fee (currently R465,00) per calendar month per unit determined by ZEMA from time to time. The fractional ownership administration fee shall be equivalent to the rental application fee determined by ZEMA from time to time in terms of the STANDARD CONDITIONS

FOR LEASING PROPERTY ON THE ZIMBALI COASTAL RESORT. A “unit owner” means the owner of a unit in the Zimbali Estate. A “unit” means in relation to the Zimbali Estate a sectional title unit under the provisions of the Sectional Titles Act, or that portion of immovable property in respect of which a holder of a shareblock is granted the exclusive use as contemplated under the Shareblocks Controls Act or a subdivision capable of individual ownership as the case may be. It is recorded that where a subdivision is developed in terms of a sectional title scheme, the single unit constituted by the subdivision will convert into a number of separate units represented by each sectional title unit created on the said subdivision.

14. No existing or new property may apply for any design or building concessions that are in contravention of ZEMA’s official Architectural and Landscaping rules and guidelines or with the Articles of Association. All properties must comply with such regulations without exception.
15. All such applications must comply with the relevant municipality by – laws regarding the use of the property.
16. Levy stabilisation fund contributions – any change of ownership (e.g sale of fractional ownership share) will require the new owner to contribute pro-rata to the Levy Stabilisation Fund. By way of example if an individual fractional owner (who owns a 1/13 share in a property) sells his or her fractional ownership share to another individual, the new owner (i.e. the purchaser) shall be required to make a payment to the Levy Stabilisation Fund - which payment shall be equal to 1/13 of the amount which would have become payable if the whole property was transferred to a single new owner.
17. The unit owner will be required to agree to abide by any additional requirements that may be prescribed by the Zimbali Country Club Board of Governors, including the rules relating to the payment of debentures. Unit owners shall, by no later than 31 October each year, submit in writing to the Zimbali Country Club Board of Governors their nominated representative who shall be a natural person for the following year who shall be entitled to composite membership of the Club for that year and the remaining fractional owners shall be treated as visitors. Unit owners shall comply

with the visitor rules and regulations as determined by the Zimbali Country Club from time to time.

18. Fractional Owners and their immediate family, [namely spouses and children] (persons who have a right of use of a unit in a fractional ownership scheme) and unit owners may allow non-owner use of their unit provided that they comply with the STANDARD CONDITIONS FOR LEASING PROPERTY ON THE ZIMBALI COASTAL RESORT and shall be required to pay the rental application fee prescribed by ZEMA from time to time as stipulated in the Conditions. This rental application fee shall be paid in addition to the administration levy referred to D.13. "Non-owner use" means the grant by a fractional owner to another person the right of use of a unit in a fractional ownership scheme and "fractional ownership scheme" means any arrangement approved by ZEMA in terms of which a fractional owner has rights of use of the unit. Use by a spouse or child of a fractional owner, or their guests, shall be deemed not to be non-owner use provided that, in respect of a guest, the guest resides in the unit at the same time as the fractional owner, or his spouse or child as the case may be.