



# GROENLAND

## WATERGEBRUIKERSVERENIGING WATER USER ASSOCIATION

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### CONSTITUTION OF THE GROENLAND WATER USER ASSOCIATION

#### 1. Name of the Association

The name of the Association is the Groenland Water User Association (hereafter referred to as “the Association”).

#### 2. Application of the National Water Act of 1998 to the Constitution

This constitution is subject to the provisions of the National Water Act 1998 (Act 36 of 1998), hereafter referred to as “the Act” and in particular Chapter 8 thereof as well as Schedule 4 to the Act, as amended from time to time by the Minister of Water Affairs and Forestry, hereafter referred to as “the Minister”, and which appears as Annexure 4 to the Constitution.

#### 3. Objectives and area of operation of the Association

3.1 The *objectives* of the Association are within its area of operation:

- 3.1.1 To control, manage and maintain the raw water out of the waterworks known as the Eikenhof Dam and the water distribution network, and also to protect the water resources out of which the members of the Association have water use entitlements in terms of Section 22(1) of the Act.
- 3.1.2 To make raw water available by means of waterworks under control of the Association, to persons entitled to such water in terms of Section 22(1) of the Act with minimum disturbance to the natural environment.
- 3.1.3 In general see to it that persons use water in accordance with the water use authorization in terms of Section 22(1) of the Act.
- 3.1.4 To inspect and monitor any other waterworks and water use, to see to it that the water use takes place according to the Act.
- 3.1.5 In drought periods or expected drought periods and harmful irrigation periods, or in case of a breakage in the distribution network/s, for a specific period temporarily reduce and/or partially or totally restrict the amount of water a person is entitled to according to Section 22(1) of the Act.

3.2 The *area of operation* of the Association:

- 3.2.1 The area of operation of the Association is situated in the Breede River Water Management Area No. 18 in the Western Cape. The water resources under control of the Association falls within the catchment area of the Palmiet River, and includes all its tributaries from where it originates in the Hottentots Holland Mountains (north/north west), The Kogel Mountains (west/south west) and the Groenland Mountains (east until the confluence with the Krom River and Palmiet River).
- 3.2.2 The operational area also includes other properties which have been included in the operational area with the approval of the Minister, as well as all properties in respect of which water use rights form water resources and water works under the control of the Association have been granted by the Responsible Authority after establishment of the Association..
- 3.2.3 The area also includes any area or any other water resource not included in the abovementioned area, but which are was put under the management of the Association by a Responsible Authority in order to exercise functions on behalf of the Responsible Authority.
- 3.2.4 The area of operation of the Association includes all properties where any person according to Section 22(1) of the Act has a water use entitlement within the one (1) Sub-district and four (4) Sub-areas.
- 3.2.4.1 **Sub-district 1**: The catchment area of the Palmiet River with its tributaries, where it originates in the Hottentots Holland Mountains (north-west), including the Eikenhof Dam and the water distribution network of the Association out of the Dam.
- 3.2.4.2 **Sub-area 1**: The catchment area of the tributaries of the Palmiet River, that originates in the Hottentots Holland Mountains (north) and the Groenland Mountains (north-east), up and until and including the Nuweberg Dam.
- 3.2.4.3 **Sub-area 2** : The catchment area of the tributaries of the Palmiet River, that originates in the Hottentots Holland Mountains (north), and the Kogel Mountains (west), and the Groenland Mountains (north-east), including the headstream, downstream of the Eikenhof Dam until the storage works Applethwaite Lake. The sub-are excludes the government schemes Kogelberg and Rockview Dams.
- 3.2.4.4 **Sub-area 3**: The whole catchment area of the Krom River and Solva River with all its tributaries, until the confluence of the Palmiet River and Krom River.
- 3.2.4.5 **Sub-area 4**: The catchment area of the Palmiet River and Klein Palmiet River with all of their tributaries, that originates in the Kogel Mountains (west), including the headstream downstream of the government scheme (Kogelberg Dam), including Arieskraal Dam and Klein Palmiet Dam until the confluence of the Palmiet River and Krom River.
- 3.2.5 With reference to abovementioned sub-district and sub-areas of the area of operation, the various powers and functions of the Association per sub-area:
- 3.2.5.1 **Sub-district 1**: Area of operation with full powers and functions by virtue of paragraph 3.1 and all sub-paragraphs as mentioned above, as well as set out in Annexure 5 to this Constitution.

- 3.2.5.2 **Sub-area 1:** Area of operation with only powers and functions by virtue of paragraphs 3.1.2, 3.1.3 and 3.1.4.
- 3.2.5.3 **Sub-area 2:** Area of operation with only powers and functions by virtue of paragraphs 3.1.3 and 3.1.4 as mentioned above.
- 3.2.5.4 **Sub-area 3:** Area of operation with only powers and functions by virtue of paragraphs 3.1.3 and 3.1.4 as mentioned above.
- 3.2.5.5 **Sub-area 4:** Area of operation with only powers and functions by virtue of paragraphs 3.1.2, 3.1.3 and 3.1.4 as mentioned above.

#### **4. The Principal Functions of the Association**

The main activities to be undertaken, controlled and enforced by the Association in its operating area are –

- 4.1 To prevent water from any water resource and/or waterworks being wasted.
- 4.2 To protect water resources and/or waterworks.
- 4.3 To prevent any unlawful water use.
- 4.4 To remove or arrange to remove any obstruction unlawfully placed in watercourse and/or waterworks.
- 4.5 The prevention of any unlawful act, likely to reduce the quality of water in any water resource of waterworks
- 4.6 To exercise general supervision over water resources or waterworks.
- 4.7 To regulate the flow of any water course or the flow of water in a waterworks by;
  - 4.7.1 Cleaning the waterworks and or channel;
  - 4.7.2 Reducing the risk of damage to the land in event of floods;
  - 4.7.3 Changing a watercourse back to its previous course, where it has been altered through natural causes.
- 4.8 To investigate and record the following:
  - 4.8.1 The quantity of water at different levels of flow in a watercourse and or waterworks;
  - 4.8.2 The times when; and
  - 4.8.3 The places where water may be used by persons entitled to use water from the water resources and/or waterworks.
- 4.9 To construct, purchase or otherwise acquire, control, operate and maintain waterworks considered to be necessary for:
  - 4.9.1 Draining land; and
  - 4.9.2 Supplying of raw water to land for irrigation and other purposes provided that the necessary purification thereof is not the responsibility of the Association.
- 4.10 To suspend or reduce the distribution of water from a waterworks and or water resource under its control in so far it is needed for the execution of any of the functions or for reasons required for the proper operation and protection of the waterworks or resource.

- 4.11 To supervise and regulate the distribution and use of water from a water resource or waterworks according to the relevant water use entitlements to install and maintain approved devices, or require members to install and maintain such devices at their own expense for –
  - 4.11.1 Measuring and dividing;
  - 4.11.2 Controlling the diversion, transportation, storage and use of the water; or
  - 4.11.3 Take all necessary and reasonable steps to enforce such regulation.
- 4.12 To assist members with registration of water entitlements as may be required in terms of the Act.
- 4.13 To assist its members with any licence applications in terms of Section 25(1) and 40 on further and new water user rights by virtue of the Act as required.

## **5. Ancillary Functions of the Association**

- 5.1 The Association may perform other functions than its Principal functions, only if these are not likely –
  - 5.1.1 to limit the Association’s capacity to perform its Principal Functions, or
  - 5.1.2 to be to the financial prejudicial of itself or its members
- 5.2 Other functions of the Association may include –
  - 5.2.1 providing management services, training and other support services to –
    - (a) Water services institutions; and
    - (b) Rural communities.
  - 5.2.2 Providing catchment management services to and on behalf of the Responsible Authorities
  - 5.2.3 The execution of such functions and duties as may be imposed on, or delegated to the Association in terms of the Act.

## **6. Founding members**

- 6.1 The founding members of the Association are set out in Annexure 2 of this constitution and are the present members of the Groenland Irrigation Board who have been authorized by the proposed participants to act on their behalf in establishing the Association.
- 6.2 The founding members will, for the purposes of arranging the first election of members of the Management Committee of the Association, be considered to be the Management Committee of the Association, with powers and duties limited to arranging the election in accordance with this constitution.

## **7. Membership of the Association**

- 7.1 Any person who in terms of Section 22(1) of the Act, excluding sub-section 22(1)(a)(i) thereof has an entitlement to use water and who may exercise the right from waterworks and/or sources under the control of the Association, may become a member of the Association.
- 7.2 The first members of the Association are:

- 7.2.1 The current members of the Groenland Irrigation Board, whose names appear in Annexure 3 to this Constitution, and who are the persons who during the consultation process, indicated their willingness to become members of the Association, and who have an entitlement to use water and who exercise the right from waterworks and/or water sources under the control of the Association.
- 7.2.2 Any person who in terms of Section 22(1) of the Act, but excluding subsection 22(1)(a)(i) thereof, has an entitlement to use water from the water works and/or water resources placed under the control of the Association.
- 7.3 Application for new membership of the Association must be addressed to the Management Committee, which must consider and approve the application during a meeting of the Committee, unless there is good reason to refuse the application.
- 7.4 The Association must allow a person to become a member of the Association if so ordered by the Minister.
- 7.5 A member may only resign as a member of the Association with the approval of the Management Committee, which may not unreasonably withhold its approval.
- 7.6 Membership of the Association will cease when a member's water entitlement expires.
- 7.7 The termination of a member's membership of the Association does not automatically negate his responsibility for any outstanding monies payable to the Association or any portion of capital, loans and other costs with regard to the Association's infrastructure allocated to the member before or on the day of which his membership is terminated. The relevant obligations will cease only once the member involved, has met his/her liabilities to the Association in full or alternatively provided security to the satisfaction of the Management Committee that his/her responsibilities will be met.
- 7.8 Rates or charges assessed by the Association, and interest which may be payable thereon shall be a charge upon the land in respect of which they have been assessed. Any person who becomes the owner of any such land shall be liable for rates or charges which remain unpaid at the time when he/she becomes the owner, and for any interest thereon which may then be payable or which may thereafter become payable.
- 7.9 A member who wants to transfer or terminate any of his/her entitlements to the use of water must in writing notify the Management Committee of his/her intention. The Management Committee must provide the member with a written recommendation of approval or disapproval for the transfer or termination of his/her entitlements to the use of water, for the submission to the Responsible Authority for the transfer or termination of such entitlements.
- 7.10 All successors in right and title of the water entitlements of members of the Association will also automatically become members of the Association.
- 7.11 Other members of the Association which do not form part of the members referred to in paragraphs 7.1. to 7.10:
- 7.11.1 Commercial BEE farmers

#### 7.11.2 Individual water users / Social justice

Both these groups must nominate two persons to represent these groups as members.

### **8. Register of Members**

All members must supply their addresses from time to time to the person acting as secretary to the Association, who must keep and maintain a register of names and addresses of members.

### **9. Rights of members**

- 9.1 Membership of the Association does not give any member a right to money, property or assets to the Association, but only gives members the privileges of membership, subject to such charges and reasonable restrictions as are imposed by the Management Committee from time to time.
- 9.2 A member of the Association is bound by the Constitution and rules of the Association which are then in force or as they are amended from time to time.

### **10. Liability of Members and Servitude**

- 10.1 The financial liability of members is limited to the amount of unpaid charges and interest thereof owing by them to the Association, but with due regard to the provisions of Section 60 of the Act in connection with outstanding charges in respect of land.
- 10.2 Where any waterworks of the Association encroaches upon the property of any member, the Association will enjoy all servitude water rights necessary for the proper exercising of the Association's functions and the provisions of the Act, and specifically Sections 126, 127 and 128 thereof, will apply.

### **11. Qualification for Membership and the Management Committee**

Any member of the Association qualifies to be elected to the Management committee, subject to disqualification contemplate in Schedule 4 of the Act and provided that the member is more not than one hundred and eight (180) days in arrears with charges (including interest) due to the Association.

Should the operating area of the Association be divided into sub-areas, a member will be qualified to be elected to the Management Committee of the sub-area where that member is resident or where water use entitlement is exercised by him or her.

### **12. Nomination and election of members of the Management Committee**

Any person whose name is on the voters list of the Association and who is not more than 180 (one hundred and eighty days) in arrears with charges (including interest) due to the Association, may nominate candidates for election as members of a Management Committee and may vote at an election of members of a Management Committee. A person listed on a voters list prepared for a sub-area of the Association's area of operation, will only be entitled to nominate candidates and to vote only in elections for that sub-area.

### **13. Membership of the Management Committee**

- 13.1 The Management Committee of the Association will consist of 20 members –

13.1.1	Sub-district 1	5
13.1.2	Sub-area 1	1
13.1.3	Sub-area 2	1
13.1.4	Sub-area 3	1
13.1.5	Sub-area 4	1
13.1.6	Municipalities:	
	• Theewaterskloof	1
	• Overstrand	1
	• City of Cape Town	1
13.1.7	Local Industries	1
13.1.8	National Industries	1
13.1.9	Individual Users/Social Justice	2
13.1.10	Commercial BEE Farmers	2
13.1.11	Public Environmental Organizations	1
13.1.12	Recreational Users	<u>1</u>
		20

- 13.1.1 Five (5) persons, whose names appear on the voters list, elected by members of **Sub-district 1**.
- 13.1.2 One (1) person, whose name appears on the voters list, elected by members of **Sub-area 1**.
- 13.1.3 One (1) person, whose name appears on the voters list, elected by members of **Sub-area 2**.
- 13.1.4 One (1) person, whose name appears on the voters list, elected by members of **Sub-area 3**.
- 13.1.5 One (1) person, whose name appears on the voters list, elected by members of **Sub-area 4**.
- 13.1.6 Three (3) persons (1 each) nominated by **Municipalities** (Theewaterskloof, Overstrand and City of Cape Town) who have an interest in the use of water out of the water resources and/or works under the authority of the Association.
- 13.1.7 One (1) person nominated by **Local Industries** and one (1) person nominated by **National Industries** who have an interest in the use of water out of the water resources and/or works under the authority of the Association.
- 13.1.8 Two (2) persons nominated by **Individual Users** of water who are not, by virtue of Item 7 of the Constitution members of the Association but who reside or work in the area of operation of the Association.
- 13.1.9 Two (2) persons nominated by **Commercial BEE Farmers**, who have an interest in or who will in the foreseeable future obtain further interest in water provided by the Association. The term “commercial BEE farmer” refers to a person :
- coming from a previously disadvantaged community, and
  - Who will use the water to farm on small or large scale.
- 13.1.10 One (1) person nominated by Public Institutions involve with **Nature Conservation** in the area.
- 13.1.11 One (1) person nominated by organized bodies that use the surface of the water for **Recreational Water Users**.
- 13.1.12 Any person regarded by the Responsible Authority as a full member or/if delegated member of the Association, with the understanding that the Management Committee can burden the elected members with specific

operation aspects associated with abstracting water within the area of operation of that specific sub-area, and for that purpose to function as a Management Committee for that sub-area, with the understanding that they have the power to co-opt any nominated member of the Management Committee if it effects their interest.

- 13.2 Nomination of members to the management committee
  - 13.2.1 Nomination in terms of item 13.1.8 shall only take place if and when such categories of persons exist.
  - 13.2.2 The nominations referred to in items 13.1.6 to 13.1.11 can be preceded by internal elections should this be preferred by the stakeholder group.
- 13.3 The elected members are elected for a fixed term of three (3) years, subject to disqualifications in terms of item 11 of the Constitution, with the understanding that at the first election of members of the Management Committee the terms of service is determined by means of ballot –
  - 13.3.1 One-third of the members elected who stand highest on the poll will hold office for a period of three years.
  - 13.3.2 One-third of the members elected who stand next highest on the poll will hold office for a period of two years; and
  - 13.3.3 The remaining members elected will hold office for a period of one year.
- 13.4 The term of service of a nominated member will be for a period of one year, subject to nominations for further terms of one year each limited to a maximum of three consecutive years.
- 13.5 If a vacancy occurs on the Management Committee, the vacancy must be filled according to this item, provided that the member must be elected or where applicable nominated for a period equal to the remainder of the period for which the member who has vacated the office would otherwise have continued in office.
- 13.6 At least **14** days notice of an election must be given to all members of the Association.
- 13.7 For any election of members to serve on the Management Committee, a member must vote for only as many candidates as there are vacancies. The member concerned can vote in person or can give his vote by proxy to a person who has a right to vote. The document used for granting the proxy will be prescribed and drawn up by the Management Committee who will at its own discretion lay down any further rules regarding the procedures that must be followed when voting by proxy and the number of proxy votes that a person can hold.
- 13.8 If the following occur at any election after the first election of members of the Management Committee –
  - 13.8.1 Two or more candidates receive an equal number of votes, the elected member will be nominated by means of ballot under supervision of the electoral officer.
  - 13.8.2 No voting be required due to the number of nominations not exceeding the number of members to be elected, the respective terms of service of the relevant members will be determined by means of ballot under supervision of the electoral officer.



- 13.9 Should more people be nominated in a category than there are vacancies in that category on the Management Committee than should be filled by nomination, the nominated member will be assigned by means of ballot under supervision of the electoral officer or in his/her absence the chief executive officer.
- 13.10 The Association endorses the requirements stipulated in Section 2 of the Act with relation to the ensuring of relevant representation of communities, races and genders and undertake to ensure the promotion of the implementation thereof to the extent that the Association is practically able to do so.
- 13.11 Should after an election or nomination process the composition of the Management Committee referred to in item 13.1 result in no representation for a particular gender and race on a Committee, the Chairperson must request all members of the Association and the interest groups concerned to nominate within **14** (fourteen) days after notice, persons of that gender or race who have agreed thereto and who need not be members of the Association or water users to serve on the Management Committee, provided they have an interest in water use in the area. The Chairperson must after expiry of the nomination period select, by lot, one of the nominees for a term of one year as a member of the Management Committee.
- 13.12 All members of the Management Committee will be able to participate fully in decisions concerning water management matters and the financing thereof. Only members who have an interest in specific waterworks will be able to participate and vote for decisions involving that specific waterworks. The chairperson of the Management Committee will decide whether a member has a voting right in a specific matter.

#### **14. Appointment of Chairperson and Vice-chairperson**

- 14.1 After the election of the Management Committee, the members of that Committee must elect a Chairperson and Deputy Chairperson from amongst their members. The Management Committee may appoint any person to chair the proceedings for this purpose.
- 14.2 The Chairperson and Deputy Chairperson of the Management Committee will be elected to hold office for a period of twelve months from the date of election and may be re-elected.
- 14.3 When the period of office of an office-bearer expires, that person will remain in office until the next meeting of the Management Committee, provided that he/she is still a member of the Association.
- 14.4 A new Chairperson and Deputy Chairperson of the Management Committee will be elected annually for the Management. Should any of these offices be vacated before the term expires, the vacancy must be filled immediately according to the procedure set out in this item.

#### **15. Voter's Roll**

- 15.1 The founding members of the Association must select a person to prepare a voters list for the election of members of the Management Committee. The voters list must indicate the following –

- 15.1.1 The names of all the members included in Annexure 3 of this Constitution and, where appropriate, the name of the member's accredited representative.
- 15.1.2 Particulars of each members entitlement of water use, and
- 15.1.3 The number of votes a member is entitled to.
- 15.2 If the operating area of the Association is subdivided into sub-districts, the voters list must also be subdivided and the information referred to in item 15.1 must be shown under the respective sub-districts.
- 15.3 The number of votes is calculated on the basis of one vote for every 30 000 m<sup>3</sup> water or part of it, which may be irrigated on the strength of the member's user rights, no member will be allowed more than ten votes.
- 15.4 Nominated members will each have only one vote.
- 15.5 If the entitlement to use water is not in the name of a natural person, the holder must nominate an accredited representative, whose name must appear on the Voter List and who may exercise the vote.
- 15.6 If the water entitlements are in the name of two or more persons, they must designate one of their members to represent them and that person's name must appear on the Voters List and he/she may exercise the vote.
- 15.7 The Voters List must annually be revised by the Management Committee and also whenever there is an amendment to the Associations area of operation.

## **16. Appointment of employees**

- 16.1 The Management Committee may employ such persons, as it considers necessary to perform the Association's functions in terms of this Constitution.
- 16.2 The appointment of employees or any change in their conditions of service must be approved by resolution of the Management Committee.
- 16.3 All employees of the Association will remain in office despite any change in the composition and membership of the Management Committee.
- 16.4 The Water User Association is willing to redress past imbalances in relation to water allocations as envisaged in die National Water Act, 1998
- 16.5 The Water User Association is committed to comply with, amongst others, the following relevant employment legislation (or amendments, where applicable):
  - (a) Employment Equity Act, 1998 (Act 55 of 1998)
  - (b) Basic Conditions of Employment Act, 1997 (Act 75 of 1997)
  - (c) Labour Relations Act, 1995 (Act 66 of 1995)
  - (d) Skills Development Act, 1998 (Act 97 of 1998)
  - (e) Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)
- 16.6 The Water User Association is willing to redress past imbalances by reducing inequities in relation to water allocations in terms of section 25(1) of the National Water Act, 1998.

## **17. Raising of Loans**

- 17.1 The Management Committee may raise by way of loans, including bank overdrafts, any funds required by it for the purpose of carrying out any of its functions under this Constitution or Act.
- 17.2 Whenever the Management Committee proposes to raise a loan, written notice must be given of its intention setting out details of the proposal. The notice must be given to every member of the Association no less than 21 days before the date of the meeting.
- 17.3 No loan may be raised without a majority vote of the Management Committee, passed at a meeting which not less than two-thirds of the members of the Management Committee are present.

## **18. Charges and Recovery of Charges**

- 18.1 For the purpose of defraying any expenditure that the Management Committee has lawfully incurred or may lawfully incur in carrying out its functions and duties, it may annually assess charges on members according to the pricing policy for water use set by the Minister. The charges must take into consideration the budget prepared by the Management Committee of any sub-area to cover the operational maintenance and betterment requirements in respect of water resources and waterworks managed and controlled by the Committee.
- 18.2 The Management Committee may recover the charges assessed from either –
  - 18.2.1 The owner of the land concerned, or
  - 18.2.2 Any person to who water is supplied on the land.
- 18.3 Whenever the Management Committee has assessed a charge, it must prepare an assessment roll setting forth –
  - 18.3.1 The name of each member liable to pay charges;
  - 18.3.2 A description of the piece of land, which may be a specially demarcated area, in respect of which the charge is assessed;
  - 18.3.3 The quantity of water or abstraction time period to which the member is entitled;
  - 18.3.4 The amount of the charge assessed;
  - 18.3.5 The date or dates on which the payment is due and the amount payable on each date; and
  - 18.3.6 The rate of interest payable on non-payment and the effective date of interest.
- 18.4 A copy of the assessment-roll must lie open in the office of the Association at all reasonable times for inspection by any member of the Association.
- 18.5 If, after proper notice, any charge, including interest, due to the Association, is outstanding for more than 90 days, the Management Committee may, in addition to the powers accorded to it by Section 59(3) of the Act, without further notice to the member, collect the amount due by issuing summons in a Magistrate's court with jurisdiction in the area, regardless of the amount involved, in which event the member will be responsible for all collection and legal costs, inclusive of attorney and client costs.

## **19. Annual Report**

The Management Committee must as soon as possible, **but not later than within 6 months** after the end of the Association's financial year convene a general meeting of members and must at the meeting –

- 19.1 Table an audited financial statement of the Association's accounts for the preceding year, including full particulars of any remuneration paid by the Association to members of the Management Committee and employees of the Association, and
- 19.2 Give an account to the members of its activities during the year.

## **20. Liquidation**

- 20.1 The Association may be dissolved by a resolution passed at a Special General Meeting held for that purpose, provided that –
  - 20.1.1 The resolution is passed by a two thirds majority of the members present and entitled to vote at the meeting.
  - 20.1.2 The resolution is confirmed at further Special General Meeting, held no less than four week after the preceding Special General Meeting, by a majority vote of members present at the meeting and entitled to vote thereon.
- 20.2 A meeting passing a resolution as referred to in sub-section 20.1.1 of this Constitution, may also pass resolutions by a majority vote for –
  - 20.2.1 The appointment of a liquidator; and
  - 20.2.2 The disposal of surplus funds and assets of the Association after liquidation and after payment of all debts and obligations of the Association, provided that any surplus assets may only be transferred to an Association or Institution with objects similar to those of the Association or to the Minister.

## **21. Amendments of the Constitution**

- 21.1 This constitution may only be amended by members of the Association with the approval of the Minister, if –
  - 21.1.1 A Special General Meeting of members of the Association convened for this purpose, votes in favour of such amendment. Providing that a majority of at least two thirds of the members present at the meeting and which represent not less than 50% of the members if the Association in accordance with its latest voters list is obtained.
  - 21.1.2 The notice to members contains the verbatim proposed amendment and has been forwarded to members at least 21 days prior to the date of the meeting.
- 21.2 Only amendments to the proposed amendment of which written notice has been given are discussed and voted on at such a Special General Meeting.

## **22. Preference of Constitution**

The provisions of the Afrikaans version of the Association's Constitution will have preference over the provisions of the English version thereof.

## **Annexures to the Constitution**

Annexure 1	Plan of Operational Area
Annexure 2	List of Founding Members of the Association
Annexure 3	List of Sub-areas with first members of the Association
Annexure 4	Schedule 4
Annexure 5	Powers and Functions of Sub-district 1 (as per Resolution 17 approved at a Special General Meeting on 31 May 2011)

# **ANNEXURE 5 to the Constitution of the GWUA**

**(Slegs in Engels beskikbaar)**

## **Further Powers and Functions of Sub-District**

- 1.1 That a standing committee be appointed in respect of Sub-District 1 in accordance with and subject to the provisions of Section 19 of Schedule 4 to the National Water Act No 36/1998 ("the Sub-District 1 Standing Committee").
- 1.2 The members of the Sub-District 1 Standing Committee shall be the members elected to representing Sub-District 1 from time to time on the GWUA Management Committee.
- 1.3 The Sub-District 1 Standing Committee shall have full decision making powers (to the exclusion of the Management Committee of GWUA, unless the contrary is specifically stated below) on the matters referred to below without the obligation to seek prior approval of or refer such decisions back to the Management Committee of GWUA for ratification:
  - 1.3.1 to manage and control the financial affairs of Sub-District 1 to the extent same only relates to, or impacts on, Sub-District 1 in addition to the power to manage and control the water works referred to in paragraph 3.1 of GWUA's Constitution, including but not limited to:-
    - 1.3.1.1 assessing charges on Sub-District 1 members only in accordance with the pricing policy for water use set by the Minister to defraying any expenditure that the Sub-District 1 Standing Committee has lawfully incurred or may lawfully incur in carrying on its functions and duties in respect of Sub-District 1;
    - 1.3.1.2 establishing a reserve fund as deemed necessary by the Sub-District 1 Standing Committee to cover foreseen and unforeseen costs relating to the operation, management, repair, maintenance and betterment requirements of water resources and water works situated within Sub-District 1 or serving Sub-District 1 members only;
  - 1.3.2 to determine the timing and extent of maintenance, repairs and betterment to be effected to the water works situated within Sub-District 1 (including the costs involved) or serving Sub-District 1 members only, subject thereto that the expenses or liability to be incurred does not exceed the funds available from time to time in the reserve fund designated for the sole benefit of Sub-District 1, which amount shall be calculated as follows:
    - 1.3.2.1 Approximately R 5 million being that portion of the reserve fund which formerly formed part of the assets of the former Groenland Irrigation Board and which has been transferred to GWUA by operation of Law in terms of Section 98(7) of the National Water Act No 36/1998 on 10 June 2005, plus all interest earned on such amount since 10 June 2005, which amount shall be finally determined by the auditors in the preparation of the Annual Financial Statements as at 30 June 2011; plus
    - 1.3.2.2 all future reserves established from charges assessed and imposed on Sub-District 1 members only as from 1 July 2011 to provide for the costs of operation, maintenance, repair and betterment of the water works situated in Sub-District 1 or serving Sub-District 1 members only plus all interest earned thereon;

- 1.3.3 to take such action as the Sub-District 1 Standing Committee deems necessary in order to collect any charge from the Sub-District 1 members, including but not limited to, taking legal action or the discontinuing of the water supply to Sub-District 1 members as provided for in GWUA's Constitution and the National Water Act No 36/1998, provided that the Management Committee shall not be excluded from taking such steps as it may deem necessary to collect charges from Sub-District 1 members, and provided further that the Sub-District 1 Standing Committee shall not be obliged to exercise any of the powers given in this paragraph;
  - 1.3.4 to deal with the stock on hand (same being stock that can only be used for maintenance and repairs of the water works situated in Sub-District 1) on 1 July 2011;
  - 1.3.5 to appoint temporary committees as envisaged in and subject to the provisions of Section 19 of Schedule 4 to the National Water Act No 36/1998, as the Sub-District 1 Standing Committee sees fit from amongst its members or other persons, to remove any person appointed to such committee and to determine the terms of reference of such committee, provided that all decisions taken by such temporary committees must be referred back to the Sub-District 1 Standing Committee for ratification;
  - 1.3.6 to deal with the reserve funds designated for the benefit of Sub-District 1 in a manner as the Sub-District 1 Standing Committee deems necessary, including but not limited to, opening bank- and/or investment accounts in respect of such reserve funds and to deplete such reserve funds having due regard to business risks and policies;
  - 1.3.7 to consider and approve the temporary transfer of water use rights between Sub-District 1 members as contemplated in Section 25 of the National Water Act No 36/1998;
  - 1.3.8 to make recommendations in respect of the permanent transfer of water use rights to the extent same involves properties situated within Sub-District 1;
  - 1.3.9 to make such rules the Sub-District 1 Standing Committee deems necessary in respect of Sub-District 1, to regulate its operations and affairs, the use of water within Sub-District 1 and the extraction of water from waterworks under its management and control.
- 2 All charges assessed or imposed by the Sub-District 1 Standing Committee shall be in addition to any (general) charges assessed and imposed by GWUA on all its members.
  - 3 The costs relating to the operation, maintenance, repairs and betterment of water works situated within Sub-District 1 or serving Sub-District 1 members only shall be that of the Sub-District 1 members only, and the remainder of GWUA's members shall not bear any liability in this regard. Sub-District 1 members shall likewise not be liable to contribute to any costs relating to the operation, maintenance, repairs and betterment of water works not situated within Sub-District 1 or not serving Sub-District 1 members.
  - 4 In the event of the Sub-District 1 Standing Committee wishing to incur expenses or liabilities in excess of the amount referred to in 1.3.2 such decision shall be referred back to Management Committee of GWUA for ratification.
  - 5 Matters referred to in paragraph **Error! Reference source not found.** to 4 above, including this paragraph 5 may only be amended by a resolution of the Management Committee of GWUA to the extent the said Management Committee's resolution has been

approved by a special meeting of the Sub-District 1 members at which special meeting at least 50% of all Sub-District 1 members are present in person or proxy and of which at least 75% voted in favour of the said resolution.

- 6 Sub-District 1 further propose that the Management Committee's resolution in respect of the matters referred to above also be referred to a special meeting of all GWUA's members for consideration and approval.





**MINISTER  
WATER AND ENVIRONMENTAL AFFAIRS  
REPUBLIC OF SOUTH AFRICA**

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**Ref: 7/18/145/10**

**BY FAX: 086-637-5654**

Mr D Moore  
Chairperson  
Groenland Water User Association  
Posbus / P O Box 313  
**GRABOUW**  
7160

Dear Mr Moore

**GROENLAND WATER USER ASSOCIATION: AMENDMENTS TO THE CONSTITUTION**

The Department of Water Affairs has received the request for the amendments of the constitution from the Groenland Water User Association.

You requested to include the sub-district and sub-areas in your area of operation in that result the sub-district 1 is approved with powers to impose charges and to regulate its own financial affairs within its area of operation by item 19 of schedule 4.

You also requested the amendments on the English and Afrikaans constitution since they contain contradictions

I wish to inform you that the Department of Water Affairs has approved the above corresponding amendments of the constitution.

Yours sincerely

**MRS B E E MOLEWA, MP  
MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS**

DATE: 2013.04.20

received 11/10/2013