REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION FOR A NON-PROFIT COMPANY WITH MEMBERS

of

NGWENYA RIVER ESTATE HOME OWNERS ASSOCIATION NPC

REGISTRATION NO.: 2010/022908/08

This Memorandum of Incorporation was adopted by a Members' Special Resolution passed on 28 September 2016. This Memorandum of Incorporation takes effect (in terms of section 16(9)(b)(i) of the Companies Act, 71 of 2008 on the date of Filing hereof at the Companies and Intellectual Properties Commission in terms of the Companies Act.

INDEX

1. **INTERPRETATION**

In this Memorandum of Incorporation, -

1.1. words that are defined in the Companies Act but not expressly defined in this MOI will bear the same meaning in this MOI as in the Companies Act. For ease of reading, such terms have been capitalised in this MOI;

1.2. unless the context otherwise requires –

1.2.1. "**Address**" shall include an Electronic Address, business, residential or postal or any other address furnished by the Member to the Company;

1.2.2. "**Alienate**" means to alienate any individual Erf and/or a Unit within the Development or part thereof or undivided share therein including by way of sale, exchange deed, donation, intestacy, will, cession, assignment, court order or insolvency, irrespective of whether such alienation shall have a corresponding meaning;

1.2.3. "**Brits Town Planning Scheme**" means the Brits Town Planning Scheme 1 of 1958 as amended;

1.2.4. "**Common Development Property**" means the land situated within the Development which, on proclamation of the townships in the Development, is not an Erf zoned for residential purposes but includes any roads or other portions that vest in the Company;

1.2.5. "**Companies Act**" means the Companies Act, No 71 of 2008;

1.2.6. "**Company**" means Ngwenya River Estate Home Owners Association NPC (Registration No. 2010/022908/08);

1.2.7. "**Council**" means the Madibeng Local Municipality;

1.2.8. "**Deliver**" means deliver in the manner in which the Company is entitled to give notice or deliver documents in accordance with clause 35 of this MOI and the Companies Act, and shall, where permitted by the Companies Act, include delivery of an abridged document together with instructions as to how the recipient may obtain an unabridged version of such document;

1.2.9. "**Developer**" means Ngwenya River Estate (Proprietary) Limited (Registration No. 2004/001484/07) and its successor-in-title;

1.2.10. "**Development**" means the townships proclaimed or to be proclaimed by the Developer known as Brits Extension 156, Brits Extension 157, Brits Extension 158, Brits Extension 159, Brits Extension 116 and Brits Extension 133, or such other names and/or numbers as may officially be allocated to the aforesaid townships, as well as any other residential proclaimed township with registerable Erven, that the Developer, in its sole discretion, in terms of clause 38, may elect to add to the Development, provided that such additional township is adjacent to any one or more of the aforesaid townships;

1.2.11. "**Development Period**" means the period commencing on 23 November 2010 and enduring until –

1.2.11.1. the date on which the Developer has sold and transferred all the Erven and/or properties forming part of the Development to third parties; or

1.2.11.2. 31 December 2030; or

1.2.11.3. such earlier date than either or both of the aforementioned dates, being the date of a written notice to the Company by the Developer of its decision (taken in its sole discretion) that the Development Period is terminated;

1.2.12. "**Electronic Address**" means in regard to any Electronic Communication, any email address or other electronic address furnished to the Company by the Member;

1.2.13. "**Environmental Management Plan**" means the environmental management plan developed for the estate pursuant to clause 4.2.2;

1.2.14. "**Erf**" means, as the case may be a –

1.2.14.1. SpecRes (1) Erf; and/or

1.2.14.2. SpecRes (2) Erf; and/or

1.2.14.3. GenRes Erf (m/Ha),

in a township within the Development, lawfully registered or capable of being lawfully registered in the name of any person and "**Erven**" means more than one Erf;

1.2.15. "**Estate**" means Ngwenya River Estate, which comprises the proclaimed and the townships still to be proclaimed in the Development as at the date of Filing of this MOI;

1.2.16. "**GenRes (m/Ha) Erf**" means an Erf in a township in the Development of which the use zone in terms of the Brits Town Planning Scheme is "General Residential" with a density of twenty or more dwelling units per hectare;

1.2.17. "**Governance Rules**" means rules relating to the governance of the Company, as contemplated in sections 15(3) to (5) of the Companies Act and clause 15 of this MOI;

1.2.18. "**Ineligible**" or "**Disqualified**" means ineligible or disqualified as stipulated in sections 69(7) and (8) of the Companies Act read with Regulation 39(3) promulgated in terms of the Companies Act which shall apply not only to Directors and Alternate Directors, but also to members of the Board and statutory committees and Prescribed Officers of the Company;

1.2.19. "**Levy(ies)**" means the annual, monthly or additional fee(s) payable by Members, consisting of Levy Unit Contributions as set out in clause 8.7;

1.2.20. "**Levy Unit**" means a unit to be allocated to each Owner in respect of each Erf for purposes of determining the Levy Unit Contribution to be made by each Owner per Erf, as set out in clause 8.3;

1.2.21. "**Levy Unit Contribution(s)**" means the contributions to be made by each Member for every Levy Unit allocated to the Member as determined by the Directors in terms of clause 8.7;

1.2.22. "**Managing Agent**" means any Person or body appointed by the Company as an independent contractor to undertake any of the management and other functions of the Company in terms of clause 32 of this MOI;

1.2.23. "**Member**" means a Person who holds membership in, and specified rights in respect of the Company in accordance with clause 7;

1.2.24. "**Members' Meeting**", with respect to any particular matter concerning the Company, means a meeting of the Members entitled to Exercise Voting Rights thereat;

1.2.25. "**Membership Register**" means the register of Members required to be kept in terms of section 24(4) of the Companies Act;

1.2.26. "**MOI**" means this Memorandum of Incorporation;

1.2.27. "**Owner**" means a registered owner of an Erf and/or a Unit;

1.2.28. "**Present at a Meeting**" or "**Present at the Meeting**", depending on the context, means to be present in person, or able to participate in the meeting in question by Electronic Communication, or to be represented by a proxy who is present in person or able to participate in the meeting in question by Electronic Communication;

1.2.29. "**Regulations**" means regulations published pursuant to the Companies Act;

1.2.30. "**Round Robin Resolution**" means a resolution passed other than at a –

1.2.30.1. Members' Meeting, which complies with Section 60 of the Companies Act;

1.2.30.2. meeting of Directors, which complies with section 74 of the Companies Act;

1.2.31. "**Rules**" means the rules which are binding on all members, including Architectural and Building Guidelines and Estate Rules and Regulations, as contemplated in clause 16;

1.2.32. "**SpecRes (1) Erf**" means an Erf in a township in the Development of which the use zone in terms of the Brits Town Planning Scheme is "Special Residential" with a density of one dwelling-house per Erf;

1.2.33. "**SpecRes (2) Erf**" means an Erf in a township in the Development of which the use zone in terms of the Brits Town Planning Scheme is "Special Residential" with a density of two dwelling-houses per Erf (one dwelling-house per 500 $m^{2)}$;

1.2.34. "**Unit**" means a unit, any exclusive use area associated with a unit and the unit's undivided share in the common property of a sectional title scheme registered on a GenRes (m/Ha) Erf and/or a SpecRes (2) Erf, if any;

1.2.35. "**Writing**" or "**Written**" includes Electronic Communication but, as regards any Member entitled to vote, only to the extent that such Member has notified the Company of an Electronic Address;

1.3. references to Members represented by proxy shall include Members entitled to vote represented by an agent appointed under a general or special power of attorney;

1.4. references to Members entitled to vote Present at a Meeting or acting in person shall include Juristic Persons represented by duly authorised representatives or acting in the manner prescribed in the Companies Act;

1.5. all references to "section/s" in this MOI refer to the sections of the Companies Act unless the context indicates otherwise;

1.6. references to any legislation is to that piece of legislation as at the date of Filing of this MOI and as amended, re-enacted or replaced from time to time and includes any subordinate legislation made from time to time under such legislation. Any reference to a particular section in a piece of legislation is to that section as at the date of Filing of this MOI, and as amended or re-enacted from time to time and/or an equivalent measure in a piece of legislation, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this MOI are changed, the relevant provision of this MOI shall be read also as if it had been amended as necessary, without the necessity for an actual amendment;

1.7. the headings are for reference purposes only and shall not affect the interpretation of this MOI;

1.8. words –

1.8.1. in the singular number shall include the plural number, and words in the plural number shall include the singular number;

1.8.2. importing the masculine gender shall include the female gender; and *vice versa*, and

1.8.3. importing Persons shall include created entities (corporate or not);

1.9. if any term is defined within the context of any particular clause in the MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision;

1.10. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI.

2. CALCULATION OF BUSINESS DAYS

When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by –

2.1. excluding the day on which the first such event occurs;

2.2. including the day on or by which the second event is to occur; and

2.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 2.1 and 2.2 respectively.

3. **NON-PROFIT COMPANY**

The Company is a Non-Profit Company with Members as it is -

3.1. incorporated for a public benefit or other object as required by item 1(1) of Schedule 1 to the Companies Act;

3.2. consistent with the principles set out in items 1(2) to 1(9) of Schedule 1 to the Companies Act; and

3.3. prohibited from directly or indirectly distributing any of its funds to any Person (otherwise than in the course of carrying out its stated objects and to the extent permitted by Item 1(3) of Schedule 1 to the Companies Act) and is required to solely utilise its funds for the purpose that it has been established.

4. **OBJECTS OF THE COMPANY**

4.1. The main objects of the Company shall be –

4.1.1. to set up and manage a home owners' association for the Estate and provide all services related thereto, excluding external services and bulk services as contemplated in clause 6.1;

4.1.2. to ensure the sourcing and provision of services envisaged in clause 6.1 for the benefit of Members and to enter into service provider agreements to secure those services where necessary;

4.1.3. to promote, advance and protect the overall interests of the Development as one estate, as set out in clause 6, within an access controlled environment and with access across and over the Estate, as the Company may from time to time decide;

4.1.4. to integrate sound environmental practices of the Development and to ensure there are no fences, barriers or other restrictions between different sectors in the Estate, other than those required for the efficient operation of the Estate or that are required to ensure the safety and security of the Estate or its Members;

4.1.5. to promote, advance and protect the communal and group interests of the Members in a coordinated and integrated manner to benefit from the Estate;

4.1.6. to act as an umbrella body for the representation, promotion and advancement of the communal interests of Members, and to integrate those interests as far as possible with practical measures that will enhance the quality of life of Members in the Development and the Estate generally;

4.1.7. to establish a structure to promote voluntary self-regulation of the activities of the Members in the context of developing, maintaining and enforcing sustainable use and development practices in relation to the land situated in the Estate in accordance with applicable legislation and policy;

4.1.8. to own, operate and maintain all Common Development Property, including, but not limited to, of access roads, storm water drainage, sewerage facilities, water and electricity supply and related functions in the Development; and

4.1.1. to contribute financially to the common benefits and objectives of the Company and the Estate.

4.2. The ancillary objects of the Company shall be –

4.2.1. to promote and conserve the flora in the Development and promote the Estate as an indigenous Estate;

4.2.2. to develop and implement an Environmental Management Plan for the Development based on universal principles of sound, integrated environmental management;

4.2.3. to promote, support or oppose legislation or other official or unofficial measures affecting the Development or the Estate as a whole, and if necessary, represent the Members in dealings with government departments, other authorities and the public generally in regard to any matter which may be in the interests of the Members;

4.2.4. to negotiate and conclude agreements with landowners of properties adjacent or in close proximity to the Development for the purposes of achieving the main and/or any ancillary object of the Company;

4.2.5. to ensure compliance by Members with the conditions of establishment of any township in the Development, with particular reference to the conditions dealing with aesthetics, design and improvements to be constructed on any Erf in the

Development, Rules and such other guidelines, building restrictions and requirements, and where necessary, to ensure that the local or any other competent authority enforces any relevant conditions of establishment of a township in the Development;

4.2.6. to exercise the rights created and still to be created over Erven in the Development and to formulate the Rules and bylaws for the control (without limitation) of buildings, walling, fencing, exterior lighting, signage, aesthetic planning and landscaping of the Development having regard to the interests of the Estate and to ensure compliance with any such Rules and bylaws by Members;

4.2.7. to formulate and implement best practice strategies for the Estate as a whole relating to access control, use of river frontage areas, vegetation, continuity, parking, signage and advertising and exterior finishing, as detailed by professional advisers engaged by the Company from time to time;

4.2.8. to implement and ensure compliance by Members of a co-ordinated landscaping plan for the Estate, as approved by the Developer and to create such Rules and bylaws as may be necessary in order to ensure compliance by Members with the provisions thereof;

4.2.9. to ensure that all Members maintain their Erven in a clean and tidy condition and adhere to the specifications imposed by the professional advisers appointed by the Developer from time to time, relating to the landscaping and ecological planning of the Erven. In the event of any Member failing to adhere to the specifications for maintenance of his Erf and/or a Unit, the Directors shall be entitled, but not obliged, to perform the necessary acts and services and recover from such Member the cost thereof;

4.2.10. to undertake the maintenance of road verges and areas of Erven situated within building line reserves and where required by Members, to maintain the vegetation of any individual Erf against payment by the Member to the Company of an appropriate fee;

4.2.11. to create, maintain and administer the general security arrangements of the Estate, with particular reference to controlling access, and the nature and type of security to be provided from time to time;

4.2.12. to consent or object (on behalf of the Members as a whole) to the proposed subdivision / rezoning of any Erf situated in the Development, and to stipulate

the landscaping and aesthetic conditions which shall apply prior to such rezoning or subdivision being approved; and

4.2.13. to do or carry out anything else that is in keeping with the Company's main objects, as set out in clause 4.1, for the general benefit of Members.

5. **CONDITIONS**

5.1. The Company –

5.1.1. shall not carry on any business other that a business which is directly connected with its main objects as set out in clause 4.1;

5.1.2. must apply all of its assets, income and property, howsoever and whenever derived, and direct the whole of its activities, to advance its stated objects, as set out in clause 4.1, and not for the specific benefit of an individual Member or minority group; and

5.1.3. subject to clause 5.1.1, may -

5.1.3.1. acquire and hold securities issued by a profit company; or

5.1.3.2. directly or indirectly, alone or with any other Person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.

5.2. The Company shall not accept a donation that is revocable at the insistence of the donor, other than due to a Material failure to conform to the designated purpose and conditions of such donation, including any misrepresentation regarding the tax deductibility thereof, provided that a donor may not impose conditions which could enable such donor or any connected Person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

5.3. The Company must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of whether and how the income or asset was derived, to any Person who is or was an Incorporator of the Company, who is a Member or Director of the Company, or Person who is entitled to nominate or appoint a Director to the Board of the Company in terms of clause 22.2 except -

5.3.1. as reasonable -

5.3.1.1. remuneration for goods delivered or services rendered to, or at the direction of, the Company; or

5.3.1.2. payment of, or reimbursement for, expenses incurred to advance a stated object of the Company;

5.3.2. as a payment of an amount due and payable by the Company in terms of a *bona fide* agreement between the Company and that Person or another; or

5.3.3. as a payment in respect of any rights of that Person, to the extent that such rights are administered by the Company in order to advance a stated object of the Company; or

5.3.4. in respect of any legal obligation binding on the Company,

subject always to the requirement that any such distribution must not directly or indirectly promote the economic self-interest of any fiduciary or employee of the Company.

5.4. Upon its winding-up, deregistration or dissolution, the assets of the Company remaining after the satisfaction of all its liabilities shall be given or transferred to some other Non-Profit Company/s or institution/s or association/s having objects similar to the Company's main object, as contemplated in clause 4, to be determined by the Members on or before the time of the Company's dissolution, or failing such determination, by the Court.

6. THE ESTATE

6.1. All external services and bulk services to the Estate are to be provided by the Council. The supply of internal services in the Estate, including, but not limited to, water, electricity and sewerage supply, will be the responsibility of the Company. The Company will, where needs be, source any additional services, as agreed with or required by the Members, from time to time, from the providers thereof for the benefit of the Members. Services may be provided to properties in the Estate by agreement with the Company, in exchange for agreed additional Levies.

6.2. Amenities in the Estate are for the use of all the Members, lawful occupants and visitors, subject to such conditions of use and Rules and regulations that may be established by the Company from time to time. Such amenities are to be managed by the Directors or, when appointed, the Managing Agent.

6.3. The Estate will at all times be managed by the Managing Agent.

7. MEMBERSHIP

7.1. Subject to the provisions of clause 7.3, membership of the Company shall be limited to the Developer and to any Person who is, in terms of the Deeds Registries Act, reflected

in the records of the Deeds Office concerned as the registered Owner of any Erf and/or a Unit in the Development.

7.2. The Developer shall remain a Member until such time as it is no longer the registered Owner of any Erf and/or a Unit or any township still to be proclaimed in the Development or expiry or termination of the Development Period, whichever takes place last.

7.3. Where any Erf and/or a Unit is owned by more than 1 (one) Person, all the registered Owners of that Erf and/or a Unit shall together be deemed to be one Member and have the rights in terms of the MOI and obligations of 1 (one) Member towards the Company, provided, however, that all co-owners of an Erf and/or a Unit shall be jointly and severally liable for the due performance of any obligation to the Company in respect of any liability arising from that Erf and/or a Unit for its Owner(s),

7.4. When a Person becomes an Owner, he shall, subject to clause 7.3, become a Member of the Company.

7.5. A Member shall not Alienate or otherwise part with occupation of his Erf and/or a Unit, whether temporarily or otherwise, unless he has agreed in Writing with the proposed occupier of such Erf and/or a Unit as a *stipulatio alteri* in favour of the Company, that such occupier shall be bound by all the terms and conditions of this MOI.

7.6. The rights and obligations of a Member shall not be transferable and every Member shall –

7.6.1. further the Objects and interests of the Company to the best of his ability;

7.6.2. observe all Rules and relevant Governance Rules made by the Company or the Board;

7.6.3. sign all documents and do all things necessary in order to implement the spirit and intent of this MOI and the objects of the Company as set out in clause 4;

7.6.4. not cede or assign his rights and obligations in terms of this MOI to any Person other than as security to the mortgagee of the Member's Erf and/or a Unit.

8. LEVIES

8.1. The Directors shall from time to time determine the annual Levies payable by Members, for the purpose of meeting all the expenses which the Company has incurred, or to which the Directors reasonably anticipate the Company will incur in the attainment of its objects, as set out in clause 4, or the pursuit of its business. Such expenses are to be paid to enable the Estate as a whole to be maintained. In addition, such common expenses

shall include, but not be limited to, access roads, general security of the Estate, staff salaries and benefits, an office and the areas used by the Company, servants' quarters (if any), sewerage plants (if any), general water and electricity use, and common communication.

8.2. The Directors shall also recover through monthly Levies or direct charges, the cost of any metered services that are provided to a Member, including, but not limited to, water and electricity services, where such charges are not paid directly by the Member to the Council.

8.3. In respect of each Erf owned by a Member and where the Erf is a consolidation of two or more Erven, in respect of each component part of the consolidated Erf the following Levy Units are allocated:

8.3.1. The registered Owner(s) of a SpecRes (1) Erf shall be allocated 1 (one) Levy Unit per month;

8.3.2. The registered Owner(s) of a SpecRes (2) Erf shall, irrespective whether the SpecRes (2) Erf has 1 (one) or more registered Owners, be allocated X_1 Levy Units per month calculated as follows:

GR^{area} = The area in square metres of a GenRes (m/Ha) Erf; and

$SR1^{area}$ = The sum of the total area in square metres of the SpecRes (1) Erven in the Development; and

$SR1^{no.}$ = The number of SpecRes (1) Erven in the Development;

As at the Filing Date the value of ($SR1^{area}/SR1^{no.}$) in the above formula is 976.94 as reflected in Annexure "A2" annexed hereto.

8.3.3. The registered Owner(s) of a GenRes (m/Ha) Erf shall, irrespective of whether a sectional title scheme has been registered on the GenRes (m/Ha) Erf or not, be allocated X_2 number of Levy Units per month calculated as follows:

$X_2 = GR^{area}(SR1^{area}/SR1^{no.})$ where -

GR^{area}, $SR1^{area}$ and $SR1^{no.}$ shall have the same meaning as ascribed thereto in clause 8.3.2; and

8.3.4. Owners of Units in a sectional title scheme established on a GenRes (m/Ha) Erf and/or a SpecRes (2) Erf shall not be allocated any Levy Units, but the Body Corporate of the sectional title scheme, despite it not being a Member, shall be allocated the relevant number of Levy Units determined by application of the

formula in clause 8.3.3 for the GenRes (m/Ha) Erf on which the scheme is established in lieu of the Owners of Units of that scheme.

8.4. The Developer shall be allocated Levy Units as follows:

8.4.1. The same number of Levy Units shall be allocated to the Developer in terms of clause 8.3 per Erf registered in the Developer's name as to any other Owner of an Erf;

8.4.2. in respect of the Brits Extensions 158, 159 and 133 townships included in the Development, notwithstanding the fact that these townships are yet to be proclaimed as townships as at the Filing date and for as long as they are not proclaimed, the same number of Levy Units shall be allocated to the Developer as to Owners of Erven in accordance with clause 8.3 for all the erven in these townships according to their zoning as set out in Annexure "A_1" and Annexure "A_2" annexed hereto;

8.4.3. in respect of Brits Extension 116 township included in the Development but, as at the Filing date located outside the boundary wall and totally undeveloped with no services rendered by the HOA, no Levy Units shall be allocated to the Developer for as long as it remains outside the boundary wall of the Estate and no services are rendered to the extension.

8.5. For the avoidance of doubt, it is recorded that –

8.5.1. the Developer accepts the allocation of Levy Units in respect of those erven in Brits Extension 133 township which are located on land owned by, but which erven are not registered in the name of either the Developer or the Madibeng local authority pending proclamation of the extension; and

8.5.2. the Developer shall, as soon as an application for the proclamation of the township is submitted to the local authority accept the allocation of Levy Units in respect of erven in Extension 116 in accordance with clause 8.3 according to the zoning of the erven as set out in the layout plan of the proposed township included in the application; and

8.5.3. the moment that any of townships referred to in clauses 8.4.2 to 8.4.3 are proclaimed as townships, then allocation of Levy Units to the Owners of Erven in that township shall be done in accordance with clause 8.3 for each Erf, according to its zoning as finally approved by the local authority. The Directors are irrevocably authorised by the Members to file an amendment to this MOI in

respect of Annexures “A1” and “A2” to reflect the final erf sizes and zoning of such erven as well as the amendment to the allocated Levy Units to such erven.

8.6. The Directors shall not less than 30 (thirty) days prior to the end of each financial year, or so soon thereafter as is reasonably possible, prepare and serve upon every Member at the Address chosen by him, an estimate, in reasonable detail, of –

8.6.1. the amount which shall be required by the Company to meet the expenses during the following financial year; and

8.6.2. the amount of the estimated deficiency, if any, as may result from the operations of the preceding year; and

8.6.3. the estimate of an amount, if any, to be held in reserve for the next financial year to meet anticipated expenditure of the Company not of an annual nature or to cover unforeseen contingencies.

(the aggregate of the amounts stated in clauses 8.6.1 to 8.6.3 shall hereinafter be referred to as the “**Annual Budget Amount**”).

8.7. The Directors shall divide the total Annual Budget Amount by the total number of Levy Units allocated to Members in terms of clause 8.6 for the ensuing financial year to determine the amount per Levy Unit to be contributed by each Member (“**Levy Unit Contribution**”) for the ensuing financial year.

8.8. A Member shall be liable for the aggregate Levy Unit Contributions linked to the number of Levy Units allocated to that Member per Erf as determined by the Directors in terms of clauses 8.7 and, if applicable, 8.10 from time to time.

8.9. Each notice to each Member in terms of clause 8.6, shall specify the total Levy Unit Contributions, calculated in terms of clause 8.7 payable by that Member towards the expense and reserve fund referred to in clause 8.6.

8.10. The Directors may from time to time impose special Levies upon the Members in respect of all such expenses as are mentioned in clause 8.1 and 8.2 which are not included in any estimate made in terms of clause 8.6, and may in imposing such Levies determine the terms of payment thereof.

8.11. Every annual Levy shall be payable in equal monthly instalments, due in advance, on the first day of each and every month of each financial year.

8.12. In the event of the Directors for any reason whatsoever failing to prepare and serve the estimate referred to in clause 8.6 timeously, every Member shall until service of such

estimate as aforesaid, continue to pay the monthly Levy previously imposed, and shall after such service pay such monthly Levy as may be specified in the notice referred to in clause 8.6.

8.13. The Directors shall be empowered in addition to such other rights as the Company may have in law against its Members, to determine the rate of interest from time to time chargeable upon arrear Levies, provided that such rate of interest shall not exceed the rate laid down in terms of the National Credit Act, No. 34 of 2005.

8.14. Any amount due by a Member by way of Levy and interest shall be a debt due by him to the Company. Notwithstanding that a Member ceases to be to be a Member, the Company shall have the right to recover arrear Levies and interest from him. No Levies or interest paid by a Member shall under any circumstances be repayable by the Company upon his ceasing to be a Member. Further, a Member on ceasing to be a Member shall have no claims whatsoever on any other monies held by the Company, whether obtained by way of a sale of Company assets or otherwise. A Member's successor in title to an Erf shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that Erf, to pay the Levy and interest thereon attributable to that Erf.

8.15. A Member shall be liable for and pay all legal costs, including costs as between attorney and client and collection commission, expenses and charges incurred by the Company in obtaining the recovery of arrear Levies or any other arrear amounts due and owing by such Member to the Company.

8.16. No Member shall be entitled to any of the privileges of membership unless and until he shall have paid every Levy and interest thereon, and any other sum, if any, including interest thereon, which may be due and payable by that Member to the Company, from whatsoever cause arising.

8.17. No Erf and/or Unit shall be capable of being transferred without a certificate first being obtained from the Company (or in the case of a Unit from the Body Corporate of its sectional title scheme) confirming that all the Levies and any other sum owing, including, in both instances, interest thereon, have been paid up to and including the date of registration of transfer of such Erf and/or a Unit.

8.18. Should any Member be a Juristic Person, any change in ownership of such Juristic Person, shall be notified in Writing to the Company within 21 (twenty-one) days of such change of ownership.

8.19. Every Erf has to be improved by the practical completion of –

8.19.1. a residential dwelling-house (as defined in the Brits Town Planning Scheme) thereon in respect of SpecRes (1) and SpecRes (2) Erven; and

8.19.2. a residential building (as defined in the Brits Town Planning Scheme) in respect of a GenRes (m/Ha) Erf,

and in respect of which an occupancy certificate by the Council has been issued, within 3 (three) years of the date of transfer of that Erf from the Developer to the first Owner of an Erf, failing which the Owner thereof, from time to time, shall be liable to pay an additional Levy as determined by the Company in an amount not less than double that paid by a Member with a similarly zone Erf who is not in breach of the provisions of this clause 8.19.

9. MEMBERSHIP REGISTER

9.1. The Company must maintain at its Registered Office a Membership Register in accordance with the provisions of section 24(4) of the Companies Act.

9.2. The Company shall cause the Membership Register to reflect –

9.2.1. the names and identity numbers, passport numbers or company registration numbers of the Members;

9.2.2. each Member’s business, residential or postal Address;

9.2.3. each Member's Electronic Address/es, where these have been furnished;

9.2.4. the date on which the Person became a Member of the Company and if applicable, the date on which such Member ceased to be a Member of the Company; and

9.2.5. any other information prescribed in terms of the Companies Act from time to time.

10. TERMINATION OF MEMBERSHIP

10.1. Subject to the provisions of clause 11, a Member shall *ipso facto* cease to be a Member of the company –

10.1.1. in the case of a natural person, if such –

10.1.1.1. Member dies; or

10.1.1.2. Member becomes mentally incapacitated or of unsound mind; or

10.1.1.3. Member's estate is surrendered or sequestrated, whether voluntarily or compulsorily; or

10.1.1.4. Member commits any act of insolvency; or

10.1.1.5. Member ceases to be an Owner of any Erf and//or a Unit;

10.1.2. in the case of a Member which is not a natural person (other than the Developer), if such Member –

10.1.2.1. is liquidated or wound up whether provisionally or finally and whether compulsorily or voluntarily or commences business rescue proceedings; or

10.1.2.2. commits any act of insolvency; or

10.1.2.3. ceases to be an Owner of any Erf and/or a Unit.

10.1.3. In the case of the Developer, when its membership terminates in terms of clause 7.2.

10.2. A Member may not resign as a Member of the Company for as long as it is the Owner of an Erf and/or a Unit in the Estate.

11. **TRANSMISSION OF MEMBERSHIP**

Subject to the laws relating to transfer tax upon or in respect of the estates of deceased Persons and the administration of the estates of insolvent and deceased Persons and Persons under disability –

11.1. the trustee of an insolvent Member;

11.2. the liquidator of a Member that is a corporate entity or Juristic Person;

11.3. the business rescue practitioner of company subject to supervision in business rescue proceedings;

11.4. the tutor or curator of a Member under disability;

11.5. the executor or administrator of the estate of a deceased Member; or

11.6. any other Person becoming entitled to an Erf and/or a Unit owned by a Member by any lawful means,

shall, upon production of such evidence as may be required by the Directors, have the right to Exercise the same rights and other advantages to which he would be entitled, and be bound by the

same obligations, if he was the Owner of the Erf and/or a Unit registered in the name of the Member concerned.

12. **ALIENATION OF LAND**

12.1. A Member shall not in any manner Alienate or transfer an Erf and/or a Unit or any undivided share therein or any portion thereof without the prior Written consent of the Board. The Board is obliged to give its consent provided that –

12.1.1. the proposed transferee consents and agrees in such a manner as the Company may require to become and remain a Member of the Company for the duration of his ownership of the Erf and/or Unit and has agreed to be bound by this MOI and the Rules;

12.1.2. a clearance certificate has been issued by the Company to the effect that all monies due to the Company by the transferring Member have been paid, or that provision has been made to the satisfaction of the Company for the payment thereof; and

12.1.3. the Company has certified that the Member is not in breach of any provision of this MOI or the Rules.

12.2. The registration of transfer of that Erf and/or Unit in the name of the transferee shall *ipso facto* constitute the transferee as a Member of the Company.

12.3. The provisions of clause 12.1 shall apply *mutatis mutandis* to any Alienation of an undivided share of the Erf and/or Unit.

12.4. No Member shall let or otherwise part with the occupation of his Erf and/or Unit whether temporarily or otherwise unless the proposed occupier has agreed to be bound by this MOI and the Rules.

12.5. The Directors in issuing the certificate referred to in clause 12.1.2 shall be entitled to charge a reasonable fee therefor, to be determined by the Directors from time to time, subject to review by the Members of Company at a Members' Meeting.

12.6. The provisions of clause 12.1 shall be registered as a condition of title of each Members' Erf's and or Unit's title deed/s.

13. **POWERS AND CAPACITY OF THE COMPANY**

13.1. The Company has the powers and capacity of an Individual save to the extent set out in the Companies Act (including as set out in Items 1(3) and 1(4) of Schedule 1) and the Regulations, and this clause 12 as well as the limitations in clause 5.

13.2. To the extent that the Companies Act requires a Non-Profit Company to be expressly authorised by its MOI to do anything, the Company is, by this provision, conferred with the requisite authority to do so, subject to any limitations set out in this MOI.

13.3. The Company shall not –

13.3.1. carry on any profit-making activities; or

13.3.2. participate in any business, profession or occupation carried on by any of its Members; or

13.3.3. provide any financial assistance, premises, continuous services, or facilities to its Members for the purpose of carrying on any business, profession or occupation by them; or

13.3.4. have the power to distribute *in specie* or in kind any of its assets among its Members, Directors, Incorporators or Members entitled to nominate Directors in terms of clause 22.2;

13.4. In addition, the Company shall have the following specific powers –

13.4.1. the power to purchase or acquire in any way plant, machinery, land, buildings, agencies, shares debentures and every other kind or description of moveable and immovable property, provided the Company does not thereby carry on any business other than the business which is directly connected with its main objects, as set out in clause 4;

13.4.2. the power to invest money in any registered financial institution as defined in section 1 of the Financial Institutions (Protection of Funds) Act, No. 28 of 2001, and in Securities listed on a licensed exchange as defined in the Security Services Act, No. 36 of 2004;

13.4.3. the power to form and to have an interest in any company or companies or associations having the same or similar objects to the Company, for the purpose of acquiring the undertaking or all or any of the assets or liabilities of that company or companies or associations or for any other purpose which may seem, directly or indirectly, calculated to benefit the company, and to transfer to

any such company or companies or associations the undertaking or all of the assets and liabilities of the company;

13.4.4. the power to amalgamate with other companies having the same or similar objects to those of the Company as set out in clause 4;

13.4.5. the power to take part in any management, supervision and control of the business or operations of any other company or business having the same or similar objects as the Company and to enter into partnerships having the same or similar objects as the Company;

13.4.6. the power to remunerate any Person or Persons in cash for services rendered in its formation or in the development of its business, or in terms of Item 1(3) of Schedule 1 to the Companies Act;

13.4.7. the power to make donations only to organisations having the same or similar objects to that of the Company;

13.4.8. the power to undertake and execute any trust having the same or similar objects as the Company;

13.4.9. the power to act as principals, agents, contractors or trustees to any Non-Profit Company, association or institution having the same or similar objects as the Company;

13.4.10. the power to pay gratuities and pensions and establish pension schemes in respect of its *bona fide* employees.

14. AMENDMENTS TO THE MOI

Subject to the provisions of the Companies Act, save for –

14.1. correcting errors substantiated as such from objective evidence or which are self-evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects) in the MOI, which the Board is empowered to do; and

14.2. amendments of the MOI effected in compliance with a court order in the manner contemplated in section 16(1)(a), read with section 16(4) of the Companies Act,

all other amendments of the MOI shall be effected in accordance with section 16(1) of the Companies Act. The Board shall publish a copy of any such correction effected by the Board on the Company's web site, if any.

15. **GOVERNANCE RULES**

15.1. The Board shall have the capacity to make, amend or repeal any Governance Rules.

15.2. Unless the amendment is one to correct self-evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects), the Board shall publish a copy of any Governance Rules which it may make for the Company or which it may amend by giving notice thereof in Writing to the Members or by such other method of publication as the Board may determine.

16. **RULES**

16.1. In addition to Governance Rules contemplated in clause 15.1, the Company may make Rules and regulations from time to time, which shall be binding on the Members.

16.2. The following Rules apply to all Members of Erven and may only be amended or repealed as set out in clause 16.4 -

"(i) an owner of the Erf may not alienate or transfer an Erf or any portion thereof or any undivided share therein without the prior written consent of the Ngwenya River Estate Home Owners Association (the "Association") and in compliance with the provisions of Article 29 of the Articles of Association of the Association;

(ii) an owner of an Erf will not vote for or propose any motion or resolution in terms of which the Association is wound up or dissolved; and

(iii) notwithstanding the provisions of any other law, no farther subdivision in respect of any of the Erven shall be allowed."

16.3. The following Rules apply to all Members of Units and may only be amended or repealed as set out in clause 16.4 -

"(i) an owner of the Unit may not alienate or transfer the Unit, its associated exclusive use areas and undivided share in the common property of the scheme or any portion thereof or any undivided share therein without the prior written consent of the Ngwenya River Estate Home Owners Association (the "Association") and in compliance with the provisions of Article 29 of the Memorandum of Incorporation of the Association;

(ii) an owner of the Unit will not vote for or propose any motion or resolution in terms of which the Association is wound up or dissolved; and

(iii) notwithstanding the provisions of any other law, no farther subdivision in respect of any of the Units shall be allowed."

16.4. In addition, the Rules referred to in clauses 16.2 and 16.3 *(i)* and *(iii)* respectively above shall be registered against the title deed of each Erf and/or Unit, as the case may be.

16.5. The Rules set out in clauses 16.2, 16.3 and 16.4 above may not be amended, added to, substituted or repealed, save and unless such amendments have been approved by a resolution passed by at least 100% (one hundred percent) of Members Present at Meeting.

Architectural and Building Guidelines

16.6. The Developer shall compile architectural and aesthetics guidelines for all building activities in the various sectors of the Development ("**Architectural and Building Guidelines**"), and thereafter the Architectural & Aesthetics Committee appointed pursuant to clause 28.7 hereof may from time to time amend these guidelines and Rules. For the sake of clarity, different sectors of the Estate may have different themes in respect of which different Architectural and Building Guidelines will be applicable. Such guidelines and Rules are in relation to:

16.6.1. the standards and guidelines for the minimum floor area, and the architectural design of all buildings and outbuildings, structures of any nature and all additions and alterations to any such buildings, outbuildings or structures erected or to be erected in the Development, and in particular to control the design of the exterior of such buildings, outbuildings, or structures and the materials and colours used on such exteriors to ensure an attractive, aesthetically pleasing character to all the buildings in the Development and the Estate as a whole;

16.6.2. the siting of all buildings, outbuildings, fences or walls, structures of any nature and of any additions and alterations thereto;

16.6.3. the standards and guidelines for the design of all site works, buildings, structures, fences and/or walls, installations, projections and parking areas on the Erven and the Development;

16.6.4. the standards and guidelines for the design and layout of all parking areas and areas to be landscaped and laid out as garden areas to ensure an attractive, aesthetically pleasing character to the Development and the Estate as a whole;

16.6.5. the use, maintenance, repair and replacement of any common property which vests in or is controlled by the Company and of any services, connections and equipment under or over such Common Development Property;

16.6.6. the Architectural and Building Guidelines may only be amended if approved by an Ordinary Resolution of the Members.

16.7. The Architectural and Building Guidelines will be retained in the records of the Company.

Estate Rules and Regulations

16.8. Subject to any restriction imposed or directions given at a Members' Meeting, the Directors may from time to time make general Rules for the effective and harmonious management of the Estate and specific Rules that relate to a particular sector of the Estate ("**Estate Rules and Regulations**") in regard to:

16.8.1. the storage of any material upon any Erf and/or a Unit, including the right to require any material stored otherwise than inside any building to be effectively screened and to prohibit the storage of materials on any portion of any Erf and/or a Unit used for parking or garden purposes;

16.8.2. the screening of loading and unloading areas, backyard areas, refuse collection areas and storage areas and structures including the design, materials and construction of screen walls or other screening devices;

16.8.3. the materials, equipment (including electrical fixtures and fittings) and furniture fixtures to be used in the layout and construction of any garden or landscaped area, any parking area, any loading or unloading area, any driveway and any pathway upon the Erf a Unit;

16.8.4. the preservation of the environment including the right to control the removal of indigenous trees and shrubs, and to require the cultivation of indigenous trees and other indigenous vegetation;

16.8.5. the right to prohibit, restrict or control the keeping of any animal which they regard as dangerous or a nuisance or will have a detrimental effect on flora;

16.8.6. the placing or fixing or ornamentation or embellishments upon the outside of buildings including the power to remove such objects;

16.8.7. the conduct of persons on the Estate and in particular along the river frontage areas for fishing, boating and the prevention of swimming in the river;

16.8.8. the conduct of any Persons within the Development for the prevention of nuisance of any nature to any Member;

16.8.9. the right to determine and control all security measures in the Development, not limited to but with very specific consideration to the requirements in the Environmental Management Plan;

16.8.10. the right to determine access to and egress from the Development and to and from the Erven or any other area in the Estate, not limited to but with specific consideration to the requirements in the Environmental Management Plan;

16.8.11. for the furtherance and promotion of any of the objects (and ancillary objects) of the Company, as set out in clause 4, and/or for the better management of the affairs of the Company and/or for the advancement of the interests of the Members and/or tenants in the Development; and

16.8.12. for the provision of amenities and services to the Members either communally or individually and the levying of a reasonable charge in respect of the provision thereof.

16.9. The Estate Rules and Regulations will be retained in the records of the Company.

Enforcement of Rules

16.10. For the enforcement of any of the Rules, the Directors may –

16.10.1. give notice to the Member concerned requiring him to remedy such breach within such reasonable period as the Directors may determine;

16.10.2. take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the Member may be guilty, and debit the cost of so doing to the Member concerned, which amount shall be deemed to be a debt owing by the Member concerned to the Company;

16.10.3. impose a system of fines or other penalties. The amounts of such fines shall be reviewed and confirmed at each Annual Members' Meeting;

16.10.4. take such other action including proceedings in Court, as they may deem fit.

16.11. In the event of any breach of the Rules by a Member or his staff, invitees, guests or tenant, such breach shall be deemed to have been committed by the Member himself. In addition to the foregoing, the Directors may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.

16.12. In the event of any Member disputing the fact that he has committed a breach of any of the Rules, a committee of 3 (three) Directors appointed by the Chairman for the purpose shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that natural justice should be observed) as the Chairman may direct.

16.13. Any fine imposed upon any Member shall be deemed to be a debt due by the Member to the Company and shall be recoverable by ordinary civil legal process.

16.14. Notwithstanding anything to the contrary herein contained, the Board may in the name of the Company enforce the provisions of any Rules by civil application or action in a Court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.

17. FINANCIAL YEAR

The financial year end of the Company is 31 December.

18. ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

18.1. The Company shall maintain the necessary Accounting Records which shall be accessible at its Registered Office.

18.2. The Company must maintain adequate records of all revenue received from Levies and donations or grants (if any), or in terms of any funding contracts or arrangements with any party or Person for a period of at least 7 (seven) years or such other period as may be required in law.

18.3. The Company shall prepare its Financial Statements in accordance with the International Financial Reporting Standards or, if it qualifies, in accordance with the International Financial Reporting Standards for Small and Medium Enterprises, as adopted by the International Accounting Standards Board or its successor body, or, if it qualifies in terms of the Regulations, in accordance with the South African Statements of Generally Accepted Accounting Practice as adopted from time to time by the Accounting Practices Board or its successor body, or, if it qualifies in terms of the Regulations, in accordance with such standard as it shall determine, and the Board shall, from time to time, have the Company's annual Financial Statements audited.

18.4. The Directors shall from time to time determine at what times and places (save in the case of Accounting Records which shall be accessible from the Registered Office) and under what conditions, subject to the requirements of the Regulations, the Members are entitled to inspect and take copies of –

18.4.1. the MOI;

18.4.2. amendments to the MOI;

18.4.3. records in respect of Directors;

18.4.4. Accounting Records required to be maintained by the Company;

18.4.5. reports to annual Members' Meetings;

18.4.6. annual Financial Statements;

18.4.7. notices and minutes of Members' Meetings;

18.4.8. communications generally to Members;

18.4.9. the Membership Register;

18.4.10. Governance Rules, if any; and

18.4.11. any Rules.

18.5. Apart from the Members, no other Person shall be entitled to inspect any of the documents of the Company (other than the Membership Register) unless expressly authorised by the Directors.

18.6. The Company shall notify the Members of the publication of any annual Financial Statements of the Company, setting out the steps required to obtain a copy of those Financial Statements. If a Member demands a copy of the annual Financial Statements, the Company shall make same available to such Member free of charge.

19. **AUDITOR**

19.1. The Company shall appoint an Auditor at its annual Members' Meeting provided that if an annual Members' Meeting does not appoint or reappoint an Auditor, the Directors must fill the vacancy in the office in terms of the procedure contemplated in section 91 of the Companies Act within 40 (forty) Business Days after the date of such Members' Meeting. A retiring Auditor may be automatically re-appointed at an annual Members' Meeting without any resolution being passed, unless –

19.1.1. the retiring Auditor is –

19.1.1.1. no longer qualified for appointment;

19.1.1.2. no longer willing to accept the appointment, and has so notified the Company; or

19.1.1.3. required to cease serving as Auditor, in terms of section 92 of the Companies Act;

19.1.2. the Company has notice of an intended resolution to appoint some other Person or Persons in place of the retiring Auditor.

19.2. Any firm of auditors appointed by the Company as the Auditor shall ensure that the Individual responsible for performing the Audit must comply with the requirements of section 90(2) of the Companies Act, provided that –

19.2.1. the same Individual may not serve as the Auditor or designated Auditor for more than 5 (five) consecutive financial years;

19.2.2. if an Individual has served as the Auditor or designated Auditor for 2 (two) or more consecutive financial years and then ceases to be the Auditor or designated Auditor, the Individual may not be appointed again as the Auditor or designated Auditor until after the expiry of at least 2 (two) further financial years.

19.3. The Auditor –

19.3.1. has the right of access at all times to the Accounting Records and all books and documents of the Company, and is entitled to require from the Directors or Prescribed Officers any information and explanations necessary for the performance of the Auditor's duties;

19.3.2. if the Company is a Holding Company, has the right of access to all current and former Financial Statements of any Subsidiary and is entitled to require from the Directors or Prescribed Officers of the Company or Subsidiary any information and explanations in connection with any such statements and in connection with the Accounting Records, books and documents of the Subsidiary as necessary for the performance of the Auditor's duties;

19.3.3. is entitled to –

19.3.3.1. attend any Members' Meeting;

19.3.3.2. receive all notices of and other communications relating to any Members' Meeting; and

19.3.3.3. be heard at any Members' Meeting on any part of the business of the meeting that concerns the Auditor's duties or functions;

19.3.4. may not perform any services for the Company that would place the Auditor in a conflict of interest as prescribed or determined by the Independent Regulatory Board for Auditors in terms of section 44(6) of the Auditing Profession Act.

19.4. If a vacancy arises in the office of Auditor, the Board –

19.4.1. must appoint a new Auditor within 40 (forty) Business Days, if there was only 1 (one) incumbent Auditor; and

19.4.2. may appoint a new Auditor at any time, if there was more than 1 (one) incumbent, but while any such vacancy continues, the surviving or continuing Auditor may act as Auditor of the Company.

If, by comparison with the membership of a firm at the time of its latest appointment, less than ½ (one half) of the members remain after a change in the composition of the members, that change constitutes the resignation of the firm as Auditor of the Company, giving rise to a vacancy.

20. MEMBERS' MEETINGS AND ROUND ROBIN RESOLUTIONS

20.1. The Company shall convene an annual Members' Meeting once in every calendar year, provided that no more than 15 (fifteen) months shall lapse between the date of one annual Members' Meeting and that of the next, and that an annual Members' Meeting shall be held within 9 (nine) months of the financial year end of the Company, or within an extended time allowed by the Companies Tribunal, on good cause shown.

20.2. The Company shall, as determined by the Board, either –

20.2.1. hold a Members' Meeting in order to consider one or more resolutions; or

20.2.2. as regards such resolution/s that could be voted on at a Members' Meeting, other than an annual Members' Meeting, instead require them to be dealt with by Round Robin Resolution contemplated in clause 1.2.30.1.

20.3. Within 10 (ten) Business Days or such other period as allowed in terms of the Companies Act, after a Round Robin Resolution is adopted, the Company must Deliver a statement describing the results of the vote, consent process, or election to every Member who was entitled to vote on or consent to the Round Robin Resolution.

20.4. A Company must hold a Members' Meeting or put the proposed resolution by way of a Round Robin Resolution contemplated in clause 1.2.30.1 at any time that the Board is required by the Companies Act or the MOI to refer a matter to Members entitled to vote for a decision.

20.5. Each resolution shall be expressed with sufficient clarity and specificity and accompanied by sufficient information / explanatory material to enable a Person who is entitled to vote on the resolution to determine whether to participate in the Members' Meeting, if

applicable, and to seek to influence the outcome of the vote on the resolution. Once a resolution has been approved, it may not be challenged or impugned on the ground that it did not comply with the foregoing.

20.6. The Board or Members holding not less than 50% (fifty per cent) of the Voting Rights may, whenever she/he/it thinks fit, convene a Members' Meeting or put the proposed resolution by way of a Round Robin Resolution contemplated in clause 1.2.30.1. A Members' Meeting must be convened or the Board must put the proposed resolution by way of a Round Robin Resolution contemplated in clause 1.2.30.1 if one or more Written and signed demands for such a Members' Meeting or Round Robin Resolution is/are delivered to the Company, and —

20.6.1. each such demand describes the specific purpose for which the Members' Meeting is proposed; and

20.6.2. in aggregate, demands for substantially the same purpose are made and signed by the Members at the earliest time specified in any of those demands, of at least 10% (ten per cent) of the Voting Rights entitled to be Exercised in relation to the matter proposed to be considered at the Members' Meeting.

20.7. Round Robin Resolutions contemplated in clause 1.2.30.1 will be passed if signed by Persons entitled to Exercise sufficient Voting Rights for it to have been adopted as an Ordinary or Special Resolution, as the case may be, at a properly constituted Members' Meeting.

20.8. Every Members' Meeting shall be held where the Board determines from time to time. The authority of the Company to conduct a Members' Meeting entirely by Electronic Communication, or to provide for participation in a Members' Meeting by Electronic Communication so long as the Electronic Communication employed ordinarily enables all Persons participating in that Members' Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Members' Meeting, as set out in section 63(2) of the Companies Act, is not limited or restricted.

20.9. A Members' Meeting shall be called by at least 15 (fifteen) Business Days' notice Delivered by the Company (and for this purpose clause 35.3 shall not apply) to all Members entitled to vote or otherwise entitled to receive notice.

20.10. The Company may call a Members' Meeting with less notice than required by clause 20.9, but such a Members' Meeting may proceed only if Persons who are entitled to Exercise at least 90% (ninety percent) of the Voting Rights in respect of any item on the meeting agenda -

20.10.1. is Present at the Meeting; and

20.10.2. votes to waive the required minimum notice of the Members' Meeting.

20.11. A Member entitled to vote, who is Present at a Meeting –

20.11.1. is regarded as having received or waived notice of the Members' Meeting if at least the required minimum notice was given;

20.11.2. has a right to —

20.11.2.1. allege a Material defect in the form of notice for a particular item on the agenda for the Members' Meeting; and

20.11.2.2. participate in the determination of whether to waive the requirements for notice, if at least the required minimum notice was given, or to ratify a defective notice; and

20.11.3. except to the extent set out in clause 20.11.2 is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Members' Meeting.

20.12. A notice of a Members' Meeting must be in Writing, in plain language and must include -

20.12.1. the date, time and place for the Members' Meeting, and the Record Date for determining the Members entitled to Exercise Voting Rights at the Members' Meeting;

20.12.2. the general purpose of the Members' Meeting, and any specific purpose contemplated in clause 20.1, if applicable;

20.12.3. in the case of the annual Members' Meeting a summarised form of the Financial Statements to be presented and directions for obtaining a copy of the complete annual Financial Statements for the preceding financial year;

20.12.4. a copy of any proposed resolution of which the Company has received notice in terms of section 61(3) of the Companies Act, and which is to be considered at the Members' Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;

20.12.5. a reasonably prominent statement that -

20.12.5.1. a Member entitled to attend and vote at the Members' Meeting shall be entitled to appoint a proxy to attend, participate in, speak and

vote at the Members' Meeting in the place of the Member entitled to vote or give or withhold Written consent on behalf of the Member entitled to vote to a decision by Round Robin Resolution contemplated in clause 1.2.30.1;

20.12.5.2. a proxy need not be a Member;

20.12.5.3. a Member entitled to vote may appoint more than 1 (one) proxy to Exercise Voting Rights held by that Member entitled to vote in respect of any Members' Meeting;

20.12.5.4. the proxy may not delegate the authority granted to her/him/it as proxy;

20.12.5.5. participants in a Members' Meeting are required to furnish satisfactory identification in terms of section 63(1) of the Companies Act in order to reasonably satisfy the Person presiding at the Members' Meeting that the right of that Person to participate and vote either as a Member or as a proxy, has been reasonably verified;

20.12.5.6. of the availability of that participation in the Members' Meeting by Electronic Communication, and provide any necessary information to enable Members entitled to vote or their proxies to access the available medium or means of Electronic Communication and advise that access to the medium or means of Electronic Communication is at the expense of the Member entitled to vote or proxy, except to the extent that the Company determines otherwise.

20.13. A Members' Meeting may proceed notwithstanding a Material defect in the giving of the notice, subject to clause 20.14, only if every Person who is entitled to Exercise Voting Rights in respect of each item on the agenda of the Members' Meeting is Present at the Meeting and votes to approve the ratification of the defective notice.

20.14. If a Material defect in the form or manner of giving notice of a Members' Meeting relates only to one or more particular matters on the agenda for the Members' Meeting -

20.14.1. any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and

20.14.2. the Members' Meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified.

20.15. An immaterial defect in the form or manner of Delivering notice of a Members' Meeting, or an accidental or inadvertent failure in the Delivery of the notice to any particular Member to whom it was addressed if the Company elects to do so, does not invalidate any action taken at the Members' Meeting.

20.16. Business may be transacted at any Members' Meeting only while a quorum is present.

20.17. The quorum necessary for a Members' Meeting to begin, or for a matter to begin to be considered thereat, is –

20.17.1. during the Development Period, the Developer plus sufficient Persons that are Members (excluding the Developer), Present at the Meeting, entitled to Exercise, in aggregate, more than 25% (twenty-five percent) of all the Voting Rights that are entitled to be Exercised in respect of at least one matter to be decided at the Members' Meeting; or

20.17.2. after the Development Period, sufficient Persons that are Members, Present at the Meeting, entitled to Exercise, in aggregate, more than 10% (ten percent) of all the Voting Rights that are entitled to be Exercised in respect of at least one matter to be decided at the Members' Meeting, provided that at least 3 (three) Members must be Present at the Meeting.

20.18. If within 30 (thirty) minutes from the time appointed for the Members' Meeting to commence, a quorum is not present, the Members' Meeting shall be postponed, without motion, vote or further notice, subject to clause 20.21, for 1 (one) week to the same day in the next week or, if that day be a public holiday, to the next succeeding day which is not a public holiday, and if at such adjourned Members' Meeting a quorum is not Present within 30 (thirty) minutes from the time appointed for the Members' Meeting then, the Person/s entitled to vote and Present at the Meeting shall be deemed to be the requisite quorum.

20.19. A Members Meeting, or the consideration of any matter being debated at the Members Meeting, may be adjourned from time to time without further notice on a motion supported by Persons entitled to Exercise, in aggregate, a majority of the Voting Rights —

20.19.1. held by all of the Persons who are Present at the Meeting at the time; and

20.19.2. that are entitled to be Exercised on at least one matter remaining on the agenda of the Members Meeting, or on the matter under debate, as the case may be.

Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to Members), as decided at the Members Meeting.

20.20. A Members' Meeting may not be adjourned beyond the earlier of -

20.20.1. a date that is 120 (one hundred and twenty) Business Days after the Record Date; or

20.20.2. a date that is 60 (sixty) Business Days after the date on which the adjournment occurred.

20.21. No further notice is required to be Delivered by the Company of a Members' Meeting postponed or adjourned as contemplated in clause 20.18, unless the location for the Members' Meeting is different from -

20.21.1. the location of the postponed or adjourned Members' Meeting; or

20.21.2. a location announced at the time of adjournment, in the case of an adjourned Members' Meeting.

20.22. The chairperson of the Board, elected in accordance with clause 30.6, shall preside as chairperson at every Members' Meeting. If there is no such chairperson, or if at any Members' Meeting she/he is not present within 10 (ten) minutes after the time appointed for holding the Members' Meeting or is unwilling to act as chairperson, the Persons entitled to vote which are Present at the Meeting shall select a Director Present at the Meeting, or if no Director be present at the Members Meeting, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is Present at the Meeting to be chairperson of the Members' Meeting.

20.23. Subject to the provisions of this MOI, no Person other than a duly registered Member or co-opted Member who has paid every Levy and other sum, if any, including interest if applicable, which is due and payable to the Company in respect of or arising out of his membership of the Company and who is not under suspension, shall be entitled to be Present at a Meeting and Exercise Voting Rights on any question at any Members' Meeting.

20.24. At any Members' Meeting a resolution put to the vote shall be decided by way of a poll.

20.25. In respect of each poll –

20.25.1. the poll shall be taken in such a manner and at such time as the Chairman of the meeting shall direct;

20.25.2. the chairperson of the meeting shall be entitled to appoint scrutineers; and

20.25.3. the result of a poll shall be deemed to be the resolution of the Members' Meeting on any question on which the poll is taken.

20.26. On a poll, every Member Present at the Meeting shall be entitled to 1 (one) vote for each Erf and/or Unit registered in such Member's name, save that, during the Development Period, the Developer shall have 1 (one) more vote than all the Members Present at the Meeting.

20.27. An objection to the admissibility of a vote on a poll shall be raised at the Members' Meeting at which that poll is to take place. The objection shall be determined by the chairperson of that Members' Meeting, and his decision thereon shall be final and binding. Accordingly, any vote not disallowed at the meeting shall be valid for all purposes.

20.28. In the case of an Erf and/or a Unit in the Development being registered in the name of more than one Person, a body corporate (other than a juristic person), or a share block company, then all such co-owners shall jointly have 1 (one) vote.

20.29. In the case of an equality of votes, the chairperson of the Members' Meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

20.30. Every resolution of Members is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of more than 50% (fifty per cent) of the Voting Rights Exercised on the resolution. A Special Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of at least 75% (seventy-five per cent) of the Voting Rights Exercised on the resolution.

20.31. No form appointing a proxy shall be valid after the expiration of 6 (six) months from the date when it was signed unless the proxy form itself provides for a longer or shorter duration but it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in Writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company. The appointment is suspended at any time and to the extent that the Member entitled to vote chooses to act directly and in person in the Exercise of any rights as a Member entitled to vote.

20.32. The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be delivered to the Company up to immediately prior to the Members' Meeting, before the proxy Exercises any rights of the Member entitled to vote at a Members' Meeting.

20.33. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, provided that no intimation in Writing of such death, insanity or revocation as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Members' Meeting or adjourned Members' Meeting at which the instrument of proxy is used.

20.34. Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form. The Company shall supply a generally standard form of proxy upon request by a Member entitled to vote.

20.35. If a proxy form is received duly signed but with no indication as to how the Person named therein should vote on any issue, the proxy may vote or abstain from voting as she/he/it sees fit unless the proxy form indicates otherwise.

21. RECORD DATE

21.1. If the Board determines the Record Date, it may not be earlier than the date on which the Record Date is determined or more than 10 (ten) Business Days before the date on which the event or action, for which the Record Date is being set, is scheduled to occur.

21.2. If, at any time, the Board fails to determine a Record Date, the Record Date for the relevant matter is –

21.2.1. in the case of a Members' Meeting, the latest date by which the Company is required to Deliver to Members entitled to vote, notice of that Members' Meeting; or

21.2.2. the date of the action or event, in any other case.

21.3. The Company must publish a notice of a Record Date for any matter by –

21.3.1. Delivering a copy to each Member (and clause 35.3 shall not apply); and

21.3.2. posting a conspicuous copy of the notice –

21.3.2.1. at its principal office;

21.3.2.2. on its web-site, if it has one.

22. APPOINTMENT OF DIRECTORS AND ALTERNATE DIRECTORS AND VACANCIES

22.1. The minimum number of Directors shall be 3 (three) and there shall not be more than 7 (seven) Directors. Not more than 3 (three) Directors may be a Related or Inter-Related Person in relation to the other Directors. Any failure by the Company at any time to have the minimum number of Directors does not limit or negate the authority of the Board or invalidate anything done by the Board or the Company.

22.2. Subject to the provisions of clause 22.3, each of the Directors shall be elected (which in the case of a vacancy arising shall take place at Members' Meeting or by Round Robin Resolution contemplated in clause 1.2.30.1, held or taken within 6 (six) months of the vacancy arising), in accordance with clause 22.5, to serve for an indefinite term as a Director or Alternate Director, subject to the provisions of the Companies Act pertaining to the cessation of office of Director or Alternate Director.

22.3. During the Development Period, the Developer shall be entitled to appoint the majority of Directors and shall have the right to remove and replace any of the Developer's appointed Directors on Written notice to the Company, while the balance of the Directors shall be nominated by the Board and elected in accordance with clause 22.5 as aforesaid. On the expiry of the Development Period, any Director appointed by the Developer shall continue to serve as a Director as if she/he was elected in terms of clause 22.5 and shall be subject to the provisions of clause 23.

22.4. Notwithstanding the provision of clause 22.2, the Developer may, at any stage during the Development Period elect not to Exercise the Developer's right to appoint the majority of Directors, provided that such election by the Developer will not be deemed to be a waiver of the Developer's right and will not in any way prevent the Developer at any time thereafter to re-instate and implement the Developer's right to appoint the majority of Directors.

22.5. In any election of Directors, the election is to be conducted in a series of votes of those entitled to Exercise Voting Rights regarding such election, each of which is on the candidacy of a single individual (nominated by the Board) to fill a single vacancy.

22.6. A Director shall be entitled to appoint any person as an Alternate Director to himself/herself, subject to the approval of the Board.

22.7. An Alternate Director shall serve in the place of 1 (one) or more Director/s named in the resolution appointing her/him during the Director’s/s’ absence or inability to act as Director. If a person is an Alternate Director to more than 1 (one) Director or if an

Alternate Director is also a Director, she/he shall have a separate vote, on behalf of each Director she/he is representing in addition to her/his own vote, if any.

22.8. Other than the requirement that Directors shall be natural persons, there are no general qualifications prescribed by the Company for a Person to serve as a Director or an Alternate Director in addition to the requirements of the Companies Act.

22.9. No person shall be appointed as a Director or Alternate Director, if she/he is Ineligible or Disqualified and any such election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be appointed as a Director or Alternate Director nor act as a Director or Alternate Director. A Person placed under probation by a court must not serve as a Director or an Alternate Director unless the order of court so permits.

22.10. No appointment of a Director shall take effect until she/he has delivered to the Company a Written consent to serve.

22.11. Any vacancy occurring on the Board may be filled Board, but the Individual so appointed shall cease to hold office at the termination of the first Members' Meeting to be held after the appointment of such Individual as a Director, unless she/he is elected at such Members Meeting or by Round Robin Resolution contemplated in clause 1.2.30.1.

22.12. The continuing Directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to this MOI as a quorum, the continuing Directors or Director may act only for the purpose of summoning a Members' Meeting.

22.13. If there is no Director able and willing to act, then any Member may convene a Members' Meeting for the purpose of appointing Directors.

23. CESSATION OF OFFICE AS DIRECTOR AND ROTATION OF DIRECTORS

23.1. Save for any Director or Alternate Director that ceases to hold office in terms of clause 23.2 and in respect of those Directors appointed by the Developer in terms of clause 22.3, each Director shall continue to hold office from the date of his appointment until the annual Members' Meeting next following his appointment, at which Members' Meeting each Director shall be deemed to have retired from office but shall be eligible for re-election to the Board at such Members' Meeting.

23.2. A Director or Alternate Director shall cease to hold office as such –

23.2.1. immediately when she/he becomes Ineligible or Disqualified or the Board resolves to remove her/him on such basis, and in the latter case the Director /

Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period she/he shall be suspended);

23.2.2. when she/he dies;

23.2.3. when she/he resigns by Written notice to the Company;

23.2.4. if there are more than 3 (three) Directors in office and if the Board determines that she/he has become incapacitated to the extent that such Director is unable to perform the functions of a Director, and is unlikely to regain that capacity within a reasonable time, and the Director / Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period she/he shall be suspended);

23.2.5. if she/he is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a Director of the Company;

23.2.6. if she/he is removed by Ordinary Resolution;

23.2.7. if there are more than 3 (three) Directors in office and if she/he is removed by resolution of the Board for being negligent or derelict in performing the functions of a Director, and the Director / Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period she/he shall be suspended);

23.2.8. she/he files a petition for the surrender of her/his estate or an application for an administration order, or if she/he commits an act of insolvency as defined in the insolvency law for the time being in force, or if she/he makes any arrangement or composition with her/his creditors generally;

23.2.9. she/he is otherwise removed in accordance with any provisions of this MOI.

24. DIRECTORS' EXPENSES

24.1. The Directors and Alternate Directors shall not be entitled to any remuneration for their services as Directors.

24.2. The Directors and Alternate Directors may be paid all their reasonable travelling and other expenses, properly and necessarily incurred by them in or about the performance of their duties as Directors including those of attending and travelling to and from

meetings of the Directors or any Board or statutory committee thereof or at any meeting of Members of the Company, as may further be set out in the policies of the Board.

25. **FINANCIAL ASSISTANCE**

The Company may not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to, a Director of the Company or of a Related or Inter-Related company, or to a Person Related to any such Director, other than a transaction if it –

25.1. is in the ordinary course of the Company's business and for fair value;

25.2. constitutes an accountable advance to meet –

25.2.1. legal expenses in relation to a matter concerning the Company; or

25.2.2. anticipated expenses to be incurred by the Person on behalf of the Company;

25.3. is to defray the Person's expenses for removal at the Company's request; or

25.4. is in terms of an employee benefit scheme generally available to all employees or a specific class of employees.

26. **GENERAL POWERS AND DUTIES OF DIRECTORS**

26.1. Subject to the provisions of this MOI, the Directors shall manage and control the business affairs of the Company, and shall have full powers in the management (where such management does not vest in the Managing Agent), and direction of such business and affairs, including the right to appoint and dismiss the Managing Agent, and may exercise all such powers of the Company and perform all such acts on behalf of the Company as are not required, in terms of the Companies Act or this MOI, to be exercised or done by way of a Special Resolution or Ordinary Resolution, subject however to such Rules as may be made by the Company or the Directors pursuant to clause 16, from time to time.

26.2. Save as otherwise provided in this MOI, the Directors shall at all times have the right to engage on behalf of the Company the services of accountants, auditors, attorneys, advocates, architects, engineers, or any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the Directors as on such terms as the Directors may decide, and the Directors may delegate any or all of their powers to the said Managing Agent as they may determine, subject to any restrictions imposed or direction given at any Members' Meeting.

26.3. The Board of Directors shall have the right to co-opt onto the Board any Person or Persons chosen by it which persons need not be Members.

26.4. The Directors shall further have power –

26.4.1. to require the submission for approval of such plans, drawings, specifications and other information as they may deem necessary to ensure compliance by Members with this MOI and the Rules;

26.4.2. to require that any works being constructed within the Development shall be supervised to ensure that the provisions of this MOI and the Rules are complied with and that all work is performed in a proper and workmanlike manner;

26.4.3. within the objects of the Company, as set out in clause 4, and subject to the requirements of the Company, to determine the access to the Development and the Erven in the Development;

26.4.4. to make Rules as provided for in clauses 16.8 and 16.9.

27. BORROWING POWERS

The Directors shall not have the power to borrow money or to mortgage or bind the Company's property or assets or any part thereof.

28. BOARD COMMITTEES

28.1. The Directors may appoint any number of Board committees and delegate to such committees any authority of the Board. All Board committees must be chaired by a Director and shall consist of such number of Board members and Persons who are not Directors, including the Managing Agent, as the Directors deem fit, to attend to the day to day operational issues affecting the Development, which shall include but not be limited to include, but not be limited to, security, landscaping and gardening, finance, and general repairs and maintenance, with such powers as the Directors may from time to time deem necessary provided that the Directors may from time to time vary or revoke such powers.

28.2. No Person shall be appointed as a member of a Board committee, if she/he is Ineligible or Disqualified and any such appointment shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be appointed as a member of a Board committee nor act as such a member. A Person placed under probation by a court must not serve as a member of a Board committee unless the order of court so permits.

28.3. There are no general qualifications prescribed by the Company for a Person to serve as a member of a Board committee in addition to the requirements of the Companies Act.

28.4. A member of a Board committee shall cease to hold office as such immediately when she/he becomes Ineligible or Disqualified in terms of the Companies Act or ceases hold office for any reason set out in clause 23.

28.5. Committees of the Board may consult with or receive advice from any Person.

28.6. Meetings and other proceedings of a committee of the Board consisting of more than 1 (one) member shall be governed by the provisions of this MOI regulating the meetings and proceedings of Directors.

28.7. The Directors shall appoint an Architectural & Aesthetics Committee which shall consist of –

28.7.1. a Director appointed by the Developer, for as long as it remains a Member;

28.7.2. a Director representing the Members, provided that 2 (two) Directors shall be appointed to represent the Members, once the Developer's rights under clause 28.7.1 ends;

28.7.3. the representative of the Managing Agent.

28.8. In the event that a vacancy occurs in the membership of the Architectural & Aesthetics Committee, the remaining members of the committee shall have the right to perform their duties until the vacancy is filled by the Directors in terms of clause 28.7 in the ordinary course and their actions and decisions made shall be of full force and effect despite the vacancy.

28.9. Members of the Architectural & Aesthetic Committee shall not be required to be Members of the Company.

28.10. All plans for buildings, outbuildings, structures, walls, fences, additions, alterations and signage to be submitted in terms of the Architectural and Aesthetics Guidelines to the Architectural & Aesthetic Committee and the Directors shall not sign off any plan unless such plan has first been approved by the Architectural & Aesthetics Committee.

29. PERSONAL FINANCIAL INTERESTS OF DIRECTORS

29.1. Subject to the provisions of the Companies Act, and provided that she/he has disclosed to the Directors the nature and extent of any interest of hers/his, a Director of the Company, notwithstanding her/his office –

29.1.1. may be a party to, or otherwise interested in, any contract, transaction or arrangement with the Company or in which the Company is otherwise interested;

29.1.2. may be a Director or other officer of, or employed by, or a party to any contract, transaction or arrangement with, or otherwise interested in, any body corporate or juristic person promoted by the Company or in which the Company is otherwise interested, provided that a Director may not accept such office or employment, enter into any such contract, transaction or arrangement or take such interest or receive remuneration in relation to any of the foregoing without the prior approval of a disinterested quorum of Directors;

29.1.3. may (or any firm of which she/he is a partner, employee or member may) act in a professional capacity for the Company (other than as Auditor) and be remunerated therefor, provided that any appointment so to act and the remuneration for such appointment shall require the prior approval of a disinterested quorum of Directors; and

29.1.4. shall not, save as otherwise agreed by her/him, be accountable to the Company for any benefit which she/he derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate or for such remuneration and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.

29.2. For the purposes of this clause 29 -

29.2.1. "**Director**" includes an Alternate Director, a Prescribed Officer, and a person who is a member of a statutory committee or a committee of the Board, irrespective of whether or not the Person is also a member of the Board; and

29.2.2. "**Related Person**" also includes any other company of which the Director or a Related Person is also a director, or a close corporation of which the Director or a Related Person is a member.

29.3. The remainder of this clause 29 shall not apply to a Director in respect of a decision that may generally affect –

29.3.1. all of the Directors in their capacity as Directors; or

29.3.2. a class of Persons, despite the fact that the Director is one member of that class of Persons, unless the only members of the class are the Director or Persons Related or Inter-Related to the Director. In such event the Director shall be treated as not having a Personal Financial Interest, unless the class is predominantly made up of Directors and Persons Related or Inter-Related to such Directors and in the circumstances the conflict of the Director requires the provisions of this clause 29 to apply.

29.4. At any time, a Director may disclose any Personal Financial Interest in advance, by delivering to the Board a notice in Writing setting out the nature and extent of that Personal Financial Interest, to be used generally by the Company until changed or withdrawn by further Written notice from that Director.

29.5. If, in the reasonable view of the other non-conflicted Directors, a Director or the Related Person in respect of such Director acts in competition with the Company relating to the matter to be considered at the meeting of the Board, the Director shall only be entitled to such information concerning the matter to be considered at the meeting of the Board as shall be necessary to enable the Director to identify that such Personal Financial Interest exists or continues to exist.

29.6. If a Director has a Personal Financial Interest in respect of a matter to be considered at a meeting of the Board, or Knows that a Related Person has a Personal Financial Interest in the matter, the Director -

29.6.1. must disclose the Personal Financial Interest and its general nature before the matter is considered at the meeting;

29.6.2. must disclose to the meeting any Material information relating to the matter, and Known to the Director;

29.6.3. may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;

29.6.4. if Present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clauses 29.6.2 or 29.6.3;

29.6.5. must not take part in the consideration of the matter, except to the extent contemplated in clauses 29.6.2 or 29.6.3;

29.6.6. while absent from the meeting in terms of this clause 29.6:

29.6.6.1. is to be regarded as being Present at the meeting for the purpose of determining whether sufficient Directors are Present to constitute a quorum; and

29.6.6.2. is not to be regarded as being Present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and

29.6.7. must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board.

29.7. If a Director acquires a Personal Financial Interest in an agreement or other matter in which the Company has a Material interest, or Knows that a Related Person has acquired a Personal Financial Interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the Board, the nature and extent of that Personal Financial Interest, and the Material circumstances relating to the Director or Related Person's acquisition of that Personal Financial Interest.

29.8. A decision by the Board, or a transaction or agreement approved by the Board, is valid despite any Personal Financial Interest of a Director or Person Related to the Director, only if –

29.8.1. it was approved following the disclosure of the Personal Financial Interest in the manner contemplated in this clauses 29; or

29.8.2. despite having been approved without disclosure of that Personal Financial Interest, it has been ratified by an Ordinary Resolution following disclosure of that Personal Financial Interest or has been declared to be valid in terms of section 75(8) of the Companies Act by a court.

30. PROCEEDINGS OF DIRECTORS

30.1. A Director authorised by the Board –

30.1.1. may, at any time, summon a meeting of the Board; and

30.1.2. must call a meeting of the Board if required to do so by at least 2 (two) Directors.

30.2. The Directors may determine what period of notice shall be given of meetings of Directors and may determine the means of giving such notice which may include telephone, telefax or Electronic Communication. It shall be necessary to give notice of a meeting of Directors to all Directors even those for the time being absent from South Africa.

30.3. If all of the Directors –

30.3.1. acknowledge actual receipt of the notice;

30.3.2. are Present at a meeting of the Directors; or

30.3.3. waive notice of the meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

30.4. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

30.5. Unless otherwise resolved by the Directors, all their meetings shall be held in the city or town where the Company's Registered Office is for the time being situated. A meeting of Directors may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of Directors by Electronic Communication so long as the Electronic Communication facility employed ordinarily enables all Persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

30.6. The Directors shall within 14 (fourteen) days after each annual Members' Meeting appoint from their number a chairperson and vice-chairperson, who shall hold their respective offices until the next annual Members' Meeting after the said appointments, provided that the office of the chairperson and vice-chairperson shall *ipso facto* be vacated by a Director holding such office, upon him ceasing to be a Director for any reason. In the event of any vacancy occurring in either of the aforesaid offices at any time, the Board of Directors shall immediately appoint one of their number as a replacement in such office.

30.7. The quorum for a Directors' meeting shall be a majority of the Directors for the time being in office, provided that, during the Development Period, at least 1 (one) Director appointed by the Developer must be present.

30.8. If at any meeting the chairperson, elected in accordance with clause 30.6, is not present within 10 (ten) minutes after the time appointed for holding it, or in the event of his

inability or unwillingness to act, the vice-chairperson shall act in his/her stead, or failing the vice-chairperson, a chairperson appointed at the meeting.

30.9. Subject to clause 30.10, each Director has 1 (one) vote on a matter before the Board and a majority of the votes cast on a resolution is sufficient to approve that resolution.

30.10. During the Development Period, the Directors appointed by the Developer shall, at each meeting of Directors, notwithstanding the number of Directors present, have 1 (one) more vote than all the other Directors present at that meeting.

30.11. In the case of a tied vote the chairperson may not cast a deciding vote, and the matter being voted shall be deemed to have been defeated.

30.12. The Company must keep minutes of the meetings of the Board, and any Board and statutory committees, and include in the minutes –

30.12.1. any declaration given by notice or made by a Director as required by clause 29;

30.12.2. every resolution adopted by the Board.

30.13. Resolutions adopted by the Board –

30.13.1. must be dated and sequentially numbered; and

30.13.2. are effective as of the date of the resolution, unless the resolution states otherwise.

30.14. Any minutes of a meeting, or a resolution, signed by the chair of the meeting, or by the chair of the next meeting of the Board, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be, without the necessity for further proof of the facts stated.

30.15. A Round Robin Resolution of Directors shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted, provided that each Director who is able to receive notice, has received notice of the matter to be decided upon. One or more Alternate Directors shall be entitled to sign a Round Robin Resolution if one or more Directors are not present to sign, and without his/their vote/s the requisite majority cannot be achieved.

31. PRESCRIBED OFFICERS

31.1. No Person who is Ineligible or Disqualified shall perform any function that has been designated by the Minister in terms of section 66(10) of the Companies Act to constitute a

prescribed office. A Person who is Ineligible or Disqualified must not consent to be appointed to an office or undertake any functions which would result in her/him being a Prescribed Officer nor act in such office nor undertake any such functions. A Person placed under probation by a court must not consent to be appointed to an office or undertake any functions which would result in her/him being a Prescribed Officer nor act in such office nor undertake any such functions unless the order of court so permits.

31.2. A Prescribed Officer shall cease to perform any function that has been designated by the Minister in terms of section 66(10) of the Companies Act to constitute a prescribed office immediately when she/he becomes Ineligible or Disqualified in terms of the Companies Act.

32. MANAGING AGENT

The Managing Agent shall be appointed by the Directors.

33. APPOINTMENT OF SECRETARY

The Directors may nominate and approve the appointment of a Company Secretary when required.

34. LOSS OF DOCUMENTS

The Company shall not be responsible for the loss in transmission of any document sent through the post either to the registered address of any Member or to any other Address requested by the Member.

35. NOTICES

35.1. The Company may give notices, documents, records or notices of availability of the foregoing by personal delivery to the Member or by sending them prepaid through the post or by transmitting them by telegram, telex or fax or by Electronic Communication to such Person's last known Address. The Company must give notice of –

35.1.1. any Members' Meeting to every Member of the Company, who has in terms of the Companies Act and this MOI, entitled to receive such notice;

35.1.2. availability of a document, record or statement to the Member.

35.2. Any Member who/which has furnished an Electronic Address to the Company, by doing so –

35.2.1. authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to her/him/it; and

35.2.2. confirms that same can conveniently be printed by the Member within a reasonable time and at a reasonable cost.

35.3. Any notice required to be given by the Company to the Members and not expressly prohibiting the provisions of this clause from applying, shall be sufficiently given (subject to giving a notice of availability in accordance with clause 35.1 or 35.2), if given by posting it on the Company's web site, if any, until at least the date when the event to which the notice refers occurs.

35.4. A Member shall be bound by every notice.

35.5. The Company shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Regulations in respect of which provision is made for deemed delivery, but if the Company does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be Delivered on the day determined in accordance with the Regulations. In any other case, when a given number of days' notice or notice extending over any period is required to be given (which are not Business Days which shall be calculated in accordance with clause 2), the provisions of clause 2 shall also be applied.

35.6. As regards the signature of an Electronic Communication by a Member, it shall be in such form as the Directors may specify to demonstrate that the Electronic Communication is genuine, or failing any such specification by the Directors, it shall be constituted by the Member indicating in the Electronic Communication that it is the Member's intention to use the Electronic Communication as the medium to indicate the Member's approval of the information in, or the Member's signature of the document in or attached to, the Electronic Communication which contains the name of the Member sending it in the body of the Electronic Communication.

36. INDEMNITY

36.1. For the purposes of this clause 36, "**Director**" includes a former Director, an Alternate Director, a Prescribed Officer, a person who is a member of a statutory committee and a committee of the Board, irrespective of whether or not the person is also a member of the Board.

36.2. The Company may -

36.2.1. not directly or indirectly pay any fine that may be imposed on a Director, or on a Director of a Related company, as a consequence of that Director having been convicted of an offence in terms of any national legislation, unless that conviction was based on strict liability;

36.2.2. advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company; and

36.2.3. directly or indirectly indemnify a Director for –

36.2.3.1. any liability, other than in respect of -

36.2.3.1.1. any liability arising in terms of sections 77(3)(a), (b) or (c) of the Companies Act or from wilful misconduct or wilful breach of trust on the part of the Director; or

36.2.3.1.2. any fine contemplated in clause 36.2.1;

36.2.3.2. any expenses contemplated in clause 36.2.2, irrespective of whether it has advanced those expenses, if the proceedings -

36.2.3.2.1. are abandoned or exculpate the Director; or

36.2.3.2.2. arise in respect of any other liability for which the Company may indemnify the Director in terms of clause 36.2.3.1.

36.3. The Company may purchase insurance to protect -

36.3.1. a Director against any liability or expenses for which the Company is permitted to indemnify a Director, as contemplated in clause 36.2.2 or 36.2.3; or

36.3.2. the Company against any contingency including but not limited to -

36.3.2.1. any expenses:

36.3.2.1.1. that the Company is permitted to advance in accordance with clause 36.2.2; or

36.3.2.1.2. for which the Company is permitted to indemnify a Director in accordance with clause 36.2.3.2; or

36.3.2.2. any liability for which the Company is permitted to indemnify a Director in accordance with clause 36.2.3.1.

36.4. The Company is entitled to claim restitution from a Director of the Company and from a Director of a Related company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with section 78 of the Companies Act.

37. FUNDAMENTAL TRANSACTIONS AND CONVERSION

37.1. The Company may not –

37.1.1. amalgamate or merge with, or convert to, a profit company; or

37.1.2. dispose of any part of its assets, undertaking or business to a profit company, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the Company.

37.2. Any proposal to –

37.2.1. dispose of all or the greater part of its assets or undertaking; or

37.2.2. amalgamate or merge with another Non-Profit Company,

must be submitted to the Members for approval, in a manner comparable to that required of profit companies in accordance with sections 112 and 113 of the Companies Act, respectively.

37.3. Sections 115 and 116 of the Companies, read with the changes required by the context, apply with respect to the approval of a proposal contemplated in clause 37.2.

38. DEVELOPER'S RIGHTS

38.1. The Developer shall have the sole and exclusive right, which it may exercise in its sole discretion as and when it so requires, to expand the Estate to and onto adjacent townships included in the definition of the Development, and to erect additional facilities within the Estate provided that any erection of new buildings shall require approval of the Architectural & Aesthetics Committee.

38.2. The cost of any expansion referred to in clause 38.1 above will be borne by the Developer.

38.3. In the event of the Developer expanding, as referred to in clause 38.1, the Members acknowledge that during such expansion they may suffer a certain degree of

inconvenience. Provided the Developer at all times acts reasonably, the Members shall have no right to claim any rebate of Levies during the period in which the said work may be in progress, nor shall the Members have any claim for any damages of whatsoever nature.

38.4. For the purposes of clause 38.3, the Developer shall be entitled at any time –

38.4.1. to erect the building equipment required for the carrying out of that work; and such other equipment or devices as may be required by law or which the Developer's architect considers reasonably necessary for the protection of any person or property against injury arising out of that work; and

38.4.2. to such right of access to the Development as is reasonably necessary for the carrying out of that work, provided that any security arrangements established by the Company are abided by and disrupted to the minimum extent possible.

38.5. In exercising its rights in terms of clauses 38.3 and 38.4, the Developer shall –

38.5.1. not unnecessarily or unreasonably interfere with the beneficial occupation of the Members;

38.5.2. carry out such work as quickly as possible in the circumstances;

38.5.3. not be responsible for any loss or damage to person or property arising out of the execution of that work; and

38.5.4. not be liable to the Members for or in respect of loss of beneficial occupation or otherwise arising out of the execution of that work.

38.6. The rights granted to the Developer in terms of this clause 38 are irrevocable and absolute and may not be amended, limited or removed by the Directors or Members in any way whatsoever.

39. ADDITIONAL SECURITY

In the event of the Company electing to provide a security service and/or other services for Members, all Members shall be obliged to –

39.1. permit the installation of any equipment on the Erven or in the buildings on the Erven for the purpose of such services, as may be determined by the Company from time to time;

39.2. make payment of the charges raised by the Company in respect of such services; and

39.3. abide by such terms and conditions as may be laid down by the Company, from time to time, in respect of such equipment and services.

40. **BOUNDARY WALLS**

Where the boundary of any Member's Erf also constitutes the boundary of the Development, such Member shall be obliged to permit the Company to erect upon such Member's Erf immediately adjacent to such boundary, such walling or other fencing as the Developer and/or the Company or Architectural & Aesthetics Committee may determine. Such Member shall not be entitled to interfere in any manner whatsoever with any such walling or fencing, and shall permit the Company, from time to time, access to such Member's Erf in order to inspect such walling or fencing or security equipment and to effect such repairs and/or maintenance as may be necessary from time to time.

41. **WINDING UP OR DISSOLUTION**

41.1. Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Company, after making provision for the costs of dissolving the Company, the liquidator shall distribute the net value of the Company to any similar non-profit entity, which has as its sole object the carrying on of any common interest activity and which has similar objects to those of the Company.

41.2. The receiver of the Company's net assets in the event of liquidation shall be determined by the Members immediately before the dissolution of the Company or, failing such determination, by court order.

42. **RESOLUTION OF DISPUTES**

42.1. Should any dispute or disagreement as to any matter arising out of this MOI, including, but without detracting from the generality from the foregoing, any question of interpretation or implementation of any provisions hereof, or any decision to be taken by the Directors in the discharge of their functions as such, subsist or arise amongst the Members, such dispute shall be referred to an advocate of not less than 10 (ten) years' standing at the Johannesburg Bar, such person to be appointed by a majority decision of the Directors.

42.2. The advocate appointed in terms of clause 42.1 above shall:

42.2.1. act as an arbitrator in accordance with the provisions of the Arbitration Act, 1975;

42.2.2. have regard to the equities as well as the legalities of the dispute submitted to him.

ANNEXURE "A_1" & "A_2"

ZONING, SIZE AND LEVY UNITS OF ERVEN IN TOWNSHIPS IN THE DEVELOPMENT