

**REPUBLIC OF SOUTH AFRICA
COMPANIES ACT NO 71 OF 2008**

MEMORANDUM OF INCORPORATION

of

THE STEENBERG HOME OWNERS ASSOCIATION NPC

(Registration No 1996/005963/08)

("the Company")

The standard forms of memorandum of incorporation for a non-profit company referred to in regulation 15(1)(c)(ii) of the Companies Act, 2008 shall not apply to the Company.

This memorandum of incorporation is in a form unique to the Company, as contemplated in section 13(1)(a)(ii) of the Companies Act, 2008.

This memorandum of incorporation was adopted by the members of the Company, in accordance with section 16(1) of the Companies Act, 2008.

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INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

In this memorandum of incorporation, unless the context indicates otherwise:

- 1.1 the following words and expressions shall have the following meanings:
- 1.1.1 **“Alienate”** in relation to any Residential Erf, means alienate the whole or any part thereof and includes by way of sale, exchange, donation, deed, intestacy, will, cession, assignment, court order or insolvency or otherwise, irrespective of whether such alienation is subject to a suspensive or resolutive condition, and **“Alienation”** shall have a corresponding meaning;
 - 1.1.2 **“Auditors”** mean the auditors for the time being and from time to time of the Company;
 - 1.1.3 **“Board”** means the board of directors (hereafter referred to as the “Trustees”) of the Company for the time being and from time to time;
 - 1.1.4 **“Business Day”** means any calendar day other than a Saturday, Sunday or an official South African public holiday;
 - 1.1.5 **“Chairperson”** means the chairperson of the Board appointed in terms of paragraph 30.7 below;
 - 1.1.6 **“CIPC”** means the Companies and Intellectual Property Commission established by section 185 of the Companies Act;
 - 1.1.7 **“Club”** means the golf club established on the Estate, the name of which is Steenberg Golf Club;
 - 1.1.8 **“Common Property”** means a part of the Estate which is not subject to an exclusive right of use by a member;
 - 1.1.9 **“Companies Act”** or **“Act”** means the Companies Act No 71 of 2008 and includes the regulations published under that Act, and any amendments to that Act and/or the regulations from time to time;
 - 1.1.10 **“Company”** means The Steenberg Home Owners Association NPC (Registration No 1996/005963/08);
 - 1.1.11 **“Electronic Communication”** has the meaning set out in section 1 of the Electronic Communications and Transactions Act No 25 of 2002;

- 1.1.12 “**Estate**” means Steenberg and High Steenberg;
- 1.1.13 “**Estate Rules**” means the estate rules contemplated in paragraph 15 below;
- 1.1.14 “**Facilities**” means all and any facilities or amenities of whatsoever nature which may be provided for the Estate;
- 1.1.15 “**Financial Year**” means the financial year of the Company which shall run from the first day of September in each year until the last day of August in a subsequent year;
- 1.1.16 “**Golf Course**” means Erven 11193, 11039, 11111, 11072 and 10984, Constantia on which the golf course is developed;
- 1.1.17 “**Governance Rules**” means the governance rules contemplated in paragraph 18 below;
- 1.1.18 “**High Steenberg**” means the High Steenberg Estate, Constantia, as depicted on General Plan S.G. No 413/2001;
- 1.1.19 “**Levy**” means the levy payable by the members of the Company in terms of paragraph 13 below;
- 1.1.20 “**Local Authority**” means the local authority having jurisdiction over the Estate;
- 1.1.21 “**Managing Agent**” means any person or body appointed by the Company as an independent contractor to undertake any of the functions of the Company;
- 1.1.22 “**Member**” means a member of the Company, being a person who holds membership in, and specified rights in respect of, the Company, being the Owner of a Residential Erf in Steenberg or in High Steenberg;
- 1.1.23 “**Members Meeting**” with respect to any particular matter concerning the Company, means a meeting of the Members who are entitled to exercise Voting Rights in relation to that matter;
- 1.1.24 “**Memorandum**” means this memorandum of incorporation and includes any amendments thereto from time to time;
- 1.1.25 “**Ordinary Resolution**” means a resolution adopted with the support of more than 50% of the Voting Rights exercised on the resolution at a Members Meeting, or by Members acting other than at a meeting as contemplated in paragraph 23 below;

- 1.1.26 “**Owner**” means the registered owner from time to time of a Residential Erf;
- 1.1.27 “**Prescribed Officer**” has the meaning assigned to that term in terms of the Companies Act;
- 1.1.28 “**Record Date**” means the record date set in terms of paragraph 22 below
- 1.1.29 “**Residential Erf**” means any erf registered in the deeds office resulting from:
- 1.1.29.1 the subdivision of the Steenberg; or
- 1.1.29.2 the subdivision of High Steenberg;
- which is zoned or designated for a private residence, including any such consolidated erven;
- 1.1.30 “**Services**” means the provision of roads, verges, parking bays, water supply, sewage pipes, electricity cables and all other municipal services within the Common Property or in respect of the Residential Erven;
- 1.1.31 “**Services Agreement**” means the agreement concluded between the Company and the Local Authority relating to the maintenance of the sewerage and water reticulation systems installed on the Estate;
- 1.1.32 “**Special Resolution**”, subject to the proviso to paragraph 28.1 below, means a resolution adopted with the support of at least 75% of the Voting Rights exercised on the resolution:
- 1.1.32.1 at a Members Meeting; or
- 1.1.32.2 by the Members acting other than at a Members Meeting as contemplated in paragraph 23 below;
- 1.1.33 “**Steenberg**” means the Steenberg Estate, Constantia, as depicted on the General Plan S.G. No. 5800/95;
- 1.1.34 “**Trustee**” means a director (as defined in section 1 of the Companies Act) for the time being and from time to time of the Company;
- 1.1.35 “**Voting Rights**” with respect to any matter to be decided by the Company, means the rights of a Member to vote in connection with the matter.

- 1.2 any reference in this Memorandum to a paragraph number means a paragraph bearing that number in this Memorandum.
- 1.3 any words signifying the singular shall include the plural and *vice versa*, and any words signifying one gender include the other genders;
- 1.4 the head notes to the paragraphs to this Memorandum are inserted for reference purposes only and shall not affect the interpretation of any of the provisions to which they relate;
- 1.5 any word or expression, which is defined in the Companies Act and which is not otherwise defined in this Memorandum, shall have the meaning assigned thereto in the Act;
- 1.6 the word "prescribed" means determined, stipulated, required, authorised, permitted or otherwise regulated by a regulation or notice made in terms of the Companies Act;
- 1.7 where consent or approval is required for any act by a Member, such consent or approval shall be in writing and duly signed, shall not be unreasonably withheld, and shall be given prior to the Member taking action;
- 1.8 If a Member consists of more than one person, they shall be jointly and severally liable *in solidum* (for the whole) for all their obligations in terms of this Memorandum;
- 1.9 the provisions of this Memorandum shall be binding upon all Members and, insofar as they may be applicable, to all persons occupying any Residential Erf by, through or under any Member, whatever the nature of such occupation;
- 1.10 if any conflict arises at any time between any of the provisions of this Memorandum and the constitution of High Steenberg Home Owners' Association, then the provisions of this Memorandum shall prevail and shall be appropriately implemented.
- 1.11 the schedule/s attached to this Memorandum shall form an integral part of this Memorandum.

NATURE OF COMPANY AND CONSTITUTION

2. NATURE OF COMPANY

- 2.1 The Company is a pre-existing company (as defined in the Companies Act) which was incorporated and registered as an association in terms of section 21 of the previous Companies Act, 1973 (Act No. 61 of 1973).
- 2.2 In terms of section 8(1) of the Companies Act, the Company now falls within the category of a non-profit company (as defined in the Act).

- 2.3 This Memorandum replaces and supersedes the memorandum and articles of association of the Company applicable immediately prior to the filing of this Memorandum with the CIPC.

3. CONSTITUTION AND GOVERNING PROVISIONS

The Company is constituted in accordance with and governed by -

- 3.1 the unalterable provisions of the Companies Act;
- 3.2 the alterable provisions of the Companies Act, subject to any negation, restriction, limitation, qualification, extension or other alteration that is contemplated in an alterable provision, and has been altered in this Memorandum; and
- 3.3 the further provisions of this Memorandum and the Governance Rules.

4. LIABILITY OF THE MEMBERS

- 4.1 The liability of the Members is limited to the amount referred to in subparagraph 4.2 below.
- 4.2 Each Member undertakes to contribute to the assets of the Company in the event of its being wound up while he, she or it is a Member or within one year afterwards, for payment of the debts and liabilities of the Company contracted before he, she or it ceases to be a Member, and of the costs, charges and expenses of the winding up, and for adjustment of the rights of the contributories among themselves such amount as may be required not exceeding R2.00.

MAIN OBJECT AND BUSINESS

5. MAIN OBJECT

The sole and main object of the Company is to promote and manage the collective interests common to all its Members, being the Owners of Residential Erven on the Estate, including the management of expenditure applicable to the common immovable property of such Members and the collection of Levies for which such Members are liable.

6. MAIN BUSINESS

The main business which the Company is to carry on is, *inter alia*, -

- 6.1 to promote, advance and protect the communal interests of the Owners of Residential Erven on the Estate and in particular, in so promoting such communal interests to ensure acceptable aesthetic, architectural and environmental standards on the Estate and to promote and maintain Facilities available to those Owners;

- 6.2 to acquire and hold by way of lease or ownership or otherwise erven in the Estate as a golf course for the benefit and use of the Owners and visitors to the Estate, to maintain and preserve such area as a golf course, and to establish and maintain a golf club for the benefit of the Owners (whether or not resident on the Estate) and visitors;
- 6.3 to implement and maintain safety and security measures and systems for controlled access to the Estate;
- 6.4 to prescribe measures for the landscaping and development of Residential Erven in the Estate, and for the architectural design and building of improvements to Residential Erven in the Estate so as to ensure a harmonious, and aesthetic development of the Estate; and to prescribe measures for the maintenance of such standards of development;
- 6.5 to register, where necessary, various service servitudes over the Estate in favour of the Local Authority, whether in respect of any separate erven, Common Property or the Golf Course;
- 6.6 to acquire and hold by way of lease or ownership or otherwise erven in the Estate for the purposes of road access to the Estate; to acquire and hold servitudes in favour of the Company for access to the Estate and also for the supply of Services and water to the Estate;
- 6.7 to maintain, keep up and/or repair the Services which shall be the responsibility of the Company, except where otherwise provided in the Services Agreement.

STATUTORY POLICY AND SPECIAL CONDITIONS

7. STATUTORY POLICY

The following unalterable provisions of the Companies Act concerning non-profit companies are applicable to the Company, viz:

- 7.1 The Company -
 - 7.1.1 must apply all of its assets and income, however derived, to advance its stated objects, as set out in this Memorandum; and
 - 7.1.2 subject to paragraph 7.1.1 above, may -
 - 7.1.2.1 acquire and hold securities issued by a profit company; or
 - 7.1.2.2 directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.

- 7.2 The Company must not, directly or indirectly, pay or otherwise distribute, any portion of its income or accumulated funds or transfer any of its assets, regardless of how the income or asset was derived, to any person, including any person who is or was an incorporator of the Company, or who is a Member or Trustee, or person appointing a Trustee, except -
- 7.2.1 as reasonable -
 - 7.2.1.1 remuneration for goods delivered or services rendered to, or at the direction of, the Company; or
 - 7.2.1.2 payment of, or reimbursement for, expenses incurred to advance a stated object of the Company;
 - 7.2.2 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;
 - 7.2.3 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;
 - 7.2.4 in respect of any legal obligation binding on the Company.
- 7.3 Despite any provision in any law or agreement to the contrary, upon the winding-up, deregistration or dissolution of the Company:
- 7.3.1 no past or present Member or Trustee, or person appointing a Trustee, is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied; and
 - 7.3.2 the entire net value, including the remaining assets, of the Company must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic of South Africa, voluntary associations of persons or non-profit trusts -
 - 7.3.2.1 having objects similar to its main object; and
 - 7.3.2.2 as determined -
 - 7.3.2.2.1 in terms of this Memorandum;
 - 7.3.2.2.2 by the Members or the Trustees, at or immediately before the time of its dissolution; or

7.3.2.2.3 by the court, if this Memorandum, or the Members or the Trustees fail to make such a determination.

7.4 Each voting Member of the Company has one vote and the vote of each Member of the Company is of equal value to the vote of each other voting Member on any matter to be determined by vote of the Members, subject to clauses 10.4 and 13.10 below.

7.5 The requirement in section 24(4) of the Companies Act to maintain a securities register must be read as requiring the Company to maintain a membership register.

8. SPECIAL CONDITIONS

The following special conditions apply to the Company:

8.1 The Company shall be entitled to bind Members to contribute by way of Levies toward the funds of the Company and to enforce payment of and collect and receive from Members such Levies.

8.2 The Company shall be entitled to enforce compliance with this Memorandum or the Governance Rules or the Estate Rules in such manner as it may deem fit and in particular by means of a system of fines or such other penalties as it may see fit to prescribe.

MEMBERSHIP OF THE COMPANY

9. MEMBERS OF THE COMPANY

9.1 The Company has Members, who are all in a single class, each of whom shall have one vote for each Residential Erf registered in his, her or its name in any matter to be decided by the Members of the Company, subject to paragraph 27.2.2 below.

9.2 The terms and conditions of membership of the Company are as set out in paragraph 10 below and the other provisions of this Memorandum.

10. TERMS AND CONDITIONS OF MEMBERSHIP

10.1 Membership of the Company shall be limited to all persons who are Owners of a Residential Erf.

10.2 Every Owner of a Residential Erf shall *ipso facto* be and becomes a Member of the Company upon registration of transfer of the Residential Erf into the name of that Owner and shall remain a Member until that Owner ceases to be the registered owner of a Residential Erf.

- 10.3 The Owner of a Residential Erf may not at any time resign as a Member of the Company or terminate his, her or its membership while being the registered owner thereof.
- 10.4 Where a Residential Erf is owned by more than one person, all the registered owners of that Residential Erf shall together be deemed to be one Member of the Company and shall have the rights and obligations of one Member of the Company, subject to the provisions of paragraph 27.2.2 as to Voting Rights.
- 10.5 Where a company, close corporation or trust is the registered Owner of a Residential Erf, it shall be deemed to be one Member of the Company, notwithstanding the number of its shareholders, Members or beneficiaries, and shall have the rights and obligations of one Member of the Company, subject to the provisions of paragraph 27.2.2 as to Voting Rights.

11. TERMINATION OF MEMBERSHIP

- 11.1 When a Member ceases to be a registered owner of a Residential Erf that Member shall *ipso facto* cease to be a Member of the Company.
- 11.2 No Member ceasing to be a Member of the Company for any reason shall (nor shall such Member's executors, curators, directors, liquidators, trustees or other legal representative/s) have any claim upon or interest in or right to the funds or any assets of the Company.

12. ALIENATION OF A RESIDENTIAL ERF

- 12.1 A Member shall not in any manner Alienate any Residential Erf unless -
- 12.1.1 the proposed transferee has irrevocably bound himself, herself or itself in writing to become a Member of the Company and to observe all the provisions of this Memorandum and the Governance Rules and the Estate Rules for as long as the transferee is the registered owner of the Residential Erf;
- 12.1.2 the Company has given its written consent thereto and has issued a written clearance certificate that all amounts owing to the Company by that Member have been paid and that the Member is not in breach of any of the provisions of this Memorandum or the Governance Rules or the Estate Rules; and
- 12.1.3 the proposed transferee acknowledges and agrees in writing that upon the registration of transfer of the Residential Erf into the name of the transferee, he, she or it (as the case may be) shall *ipso facto* become a Member of the Company.

- 12.2 The provisions of paragraph 12.1 shall apply *mutatis mutandis* to any Alienation of an undivided share in a Residential Erf.
- 12.3 This Memorandum shall also bind any person occupying any Residential Erf and no Member shall let or otherwise part with the occupation of any Residential Erf, whether temporarily or otherwise, unless the proposed occupier has agreed in writing to be bound by this Memorandum and the Estate Rules.
- 12.4 Notwithstanding paragraph 12.3 above, the registered owner of a Residential Erf shall always remain bound by this Memorandum and the Estate Rules, and shall be required to ensure compliance therewith by an occupier of that Residential Erf.
- 12.5 Restrictions may be registered against each Residential Erf in order to give effect to the terms of this paragraph 12 and the Members shall be bound by this paragraph 12, regardless as to whether or not such restrictions are registered.
- 12.6 Where a Member is -
- 12.6.1 a company or close corporation and there is directly or indirectly any change in the shareholding or members interests therein; or
- 12.6.2 a trust and there is directly or indirectly any change in the beneficiaries of the trust or their interests therein;
- then and in any such event, the company, close corporation or trust and their respective shareholders, members or beneficiaries, as the case may be, shall not in any way be permitted to or permit such transfer of shareholding, members interest or beneficial interest, as the case may be, to the proposed transferee thereof unless, prior to such transfer, the provisions of paragraph 12.1 above have been complied with *mutatis mutandis*.
- 12.7 Unless the provisions of paragraph 12.1 above are duly complied with and the Trustees are satisfied that such transferee has duly complied with paragraph 12.1 above, the Trustees shall not be obliged to recognise such change of shareholding, members interest or beneficial interest, as the case may be.

13. LEVIES PAYABLE BY MEMBERS

- 13.1 The Board may from time to time, impose Levies upon the Members
- 13.1.1 for the purpose of meeting all the expenses in relation to the Facilities and Services on the Estate; and

- 13.1.2 for the payment of all expenses necessarily or reasonably incurred in connection with the management of the Company and its affairs.
- 13.2 In calculating the amount of the Levies, the Board shall take into account income, if any, earned by the Company.
- 13.3 The Board may from time to time impose special Levies upon the Members in respect of all such expenses as are mentioned in paragraph 13.1 above and the amount of such Levies and the manner of payment thereof by Members shall be at the discretion of the Board.
- 13.4 Any amount due by a Member by way of a Levy shall be a debt due by that Member to the Company. The obligation of a Member to pay a Levy shall cease upon that Member ceasing to be a Member of the Company, without prejudice to the Company's right to recover arrear Levies.
- 13.5 No Levies paid by a Member shall under any circumstances be repayable by the Company upon that Member ceasing to be a Member of the Company.
- 13.6 A Member's successor-in-title to a Residential Erf shall be liable, as from the date upon which he, she or it becomes a Member pursuant to the transfer of that Residential Erf into the name of the successor-in-title, to pay the Levy attributable to that Residential Erf.
- 13.7 No Member shall be entitled to transfer any Residential Erf until the Company has certified in writing that the Member has as at the date of transfer paid all amounts owing by the Member to the Company.
- 13.8 In calculating the Levy payable by each Member, the Board shall so far as reasonably practical apportion those costs relating to the Estate generally to the Owners of all erven equally, on the basis that the liability of the Owners of consolidated erven shall be determined as if the erven had not been consolidated; Provided, however, that the Board may in any case where they consider it equitable so to do, assign to any Member a greater or lesser share of the costs as may be reasonable in the circumstances.
- 13.9 The Board's decision in calculating the Levy shall be final and binding on all Members and shall not be subject to any appeal or review.
- 13.10 No Member shall be entitled to any of the privileges of membership of the Company or the Club, including the exercise of any Voting Rights, unless and until that Member shall have paid every Levy and other sum (if any) which shall be due and payable to the Company in respect of his, her or its membership thereof.

- 13.11 A Member shall be liable for and pay all legal costs, including costs as between attorney and own client, collection commission, expenses and charges incurred by the Company in recovering any arrear Levy or other amounts due and owing to the Company. This includes enforcing compliance with any Governance Rules and/or Estate Rules issued by the Company or the Board from time to time.
- 13.12 The Company may claim from any Member or the estate of any Member any unpaid Levies, interest or other amounts due by that Member to the Company at the time of that Member ceasing to be a Member of the Company.

ENTRENCHED PROVISIONS, ESTATE RULES AND GOLF CLUB

14. ENTRENCHED PROVISIONS

- 14.1 The Company and the Members have a continuing and permanent interest to ensure that certain basic provisions are entrenched in perpetuity to guarantee the success of the Estate.
- 14.2 Accordingly, none of the following provisions of this paragraph 14 may be deleted or varied in any way in terms of paragraph 17 below, without the prior written consent of all the Members:
- 14.2.1 All Members of the Company shall automatically be owner members of the Club ("Owner Members") and for so long as they remain Members shall (subject to the provisions of the Club constitution and paragraph 15.3 below) be entitled to play golf on the Golf Course without the payment of entrance fees or annual subscriptions, and green fees will be levied on them on the most favourable basis then in force.
- 14.2.2 The management and development of the flora on the Estate as well as the establishment of a fire management contingency plan, shall at all times accord with the management plan to be prepared by the developer of the Estate in a form acceptable to the Local Authority.
- 14.2.3 The Company shall, in addition to paragraph 14.2.2 above, be entitled to order the removal of alien vegetation, as well as water absorbing vegetation, from any Residential Erf, and shall be obliged to do so itself on areas that are either Common Property or over which a servitude operates in its favour. No alien vegetation shall be permitted at any time within 50 metres of any stream on the Estate, and the Company shall ensure that this provision is adhered to at all times.

- 14.2.4 The Company may register, where necessary, various service servitudes over the Estate in favour of the Local Authority, whether in respect of any separate erven, the Common Property or the Golf Course.
- 14.2.5 The Company shall at all times be entitled to draw electricity from erven adjacent to sprinkler heads in the road reserve for the purposes of powering the irrigation system for the verges of such road reserve. The cost thereof shall be borne by the Company but recovered as part of the Levy upon Members.

15. ESTATE RULES

- 15.1 Subject to this Memorandum, to any restriction imposed or direction given at a Members Meeting and subject to any condition imposed by the Local Authority in approving the rezoning and subdivision of the Estate, the Board may from time to time make house rules (hereinafter referred to as "Estate Rules") and vary or modify these rules, in regard to -
- 15.1.1 the standards and for the architectural design of all buildings and outbuildings, structures of any nature, swimming pools, tennis courts and all additions and alterations of any such buildings, out-buildings or structures erected or to be erected on the Estate, and in particular to control the design and colour of the exterior of such buildings, out-buildings or structures and the materials to be used on such exteriors to ensure an attractive and aesthetically pleasing character to all buildings on the Estate;
- 15.1.2 the siting of all buildings, out-buildings, structures of any nature, swimming pools, tennis courts, and all additions and alterations to any thereof;
- 15.1.3 the preservation of the natural environment vegetation and fauna on the Estate, including the right to control, and if necessary, order the removal of vegetation, and the right to prohibit and/or control the erection of fences, and walls whether upon or within the boundaries of any erven;
- 15.1.4 the right to prohibit, restrict or control the keeping of any animal which they regard as dangerous or a nuisance;
- 15.1.5 the conduct of any persons on or within the Estate for the prevention of nuisance of any nature to any Member;
- 15.1.6 the use of Services and recreation areas amenities and Facilities, including the right to charge a reasonable fee for the use thereof;

- 15.1.7 the furtherance and promotion of any of the objects of the Company 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 the residents on the Estate;
 - 15.1.8 the maintenance of all buildings, outbuildings, structures, improvements of any nature and landscaping on the Estate;
 - 15.1.9 the control of the number of occupiers permitted on any one Residential Erf;
 - 15.1.10 the purchase by the Company of any Residential Erf should the Owner thereof fail to commence construction of improvements thereto or fail to complete the same within the time limits stipulated by the Company for these purposes, and generally for the determination of the price and conditions upon which such purchase may be made;
 - 15.1.11 the admission of any person onto the Estate and the eviction of any person not entitled to be thereon;
 - 15.1.12 the right to prohibit any Member or any other person from conducting any hotel, guesthouse or bed and breakfast business from any Residential Erf on the Estate;
 - 15.1.13 the right to prohibit any Member or any other person from conducting any business on the Estate which may pose a threat to the security on the Estate or cause a nuisance to neighbouring property owners or in any way infringe upon the exclusivity on the Estate.
- 15.2 Where the Trustees in their sole discretion suspect or have reason to believe that any Member has breached any of the provisions of this Memorandum, the Estate Rules and/or the architectural guidelines, the Trustees and/or their nominee/s shall have the right to inspect any property, dwelling and/or any other structure on any erf after giving the Owner not less than 14 days prior written notice of such inspection.
- 15.3 If, in the opinion of the Board, any Member ("the Offender") breaches or fails to comply with any of the Estate Rules made by the Board in terms of this paragraph 15 or of any of the provisions of this Memorandum generally or the rules of the Club or the constitution of the Club, then and in such event:
- 15.3.1 subject to paragraph 15.3.3 below, the Board shall furnish the Offender with a written notice calling on him, her or it to remedy or rectify such breach or failure within a specified period, which period shall be reasonable in the circumstances;

- 15.3.2 if the breach or failure is not remedied or rectified within the specified period then, subject to paragraph 15.4 below, the Board may impose on the Offender any of the sanctions recorded in paragraph 15.7 below and proceed in terms of paragraph 15.9 below;
 - 15.3.3 if the breach or failure is not capable of being remedied or rectified then, in the event that the Offender does not dispute such breach or failure, the Board may by written notice to the Offender, impose on him any of the sanctions recorded in paragraph 15.7 below.
- 15.4 Subject to the provisions of the Community Schemes Ombud Service Act, 2011 (if applicable), if the Offender disputes that he, she or it has breached or failed to comply with any of the Estate Rules or of any of the provisions of this Memorandum generally or the Rules of the Club or the Constitution of the Club , then:
- 15.4.1 in the case of a notice given in terms of paragraph 15.3.1 above and within the specified period, the Offender shall advise the Board in writing that he, she or it disputes the decision of the Board and give his, her or its reasons for so disputing such decision;
 - 15.4.2 in the case of a notice given in terms of paragraph 15.3.3 above, within 7 days of receipt of such notice the Offender shall advise the Board in writing that he, she or it disputes the decision and give his, her or its reasons for so disputing such decision.
- 15.5 If a dispute is declared pursuant to paragraph 15.4 above, then:
- 15.5.1 a committee of three Members, who are former Trustees, shall be elected by the Trustees to determine the dispute;
 - 15.5.2 reasonable written notice shall be given to the Offender of the time and date on which the dispute shall be determined;
 - 15.5.3 the committee shall determine the manner and procedure according to which the dispute shall be determined, provided that the principle of natural justice shall be observed;
 - 15.5.4 neither the Offender nor the Company shall be entitled to legal representation at the hearing of the dispute;
 - 15.5.5 the decision of the committee shall be final and binding and not subject to any appeal and shall be capable of being made an order of court.
- 15.6 If a dispute is not declared in terms of paragraph 15.4 above, then the sanction imposed by the Board in terms of either paragraph 15.3.2 or paragraph 15.3.3 above, shall immediately come into effect.

- 15.7 The sanctions which may be imposed by the Board or the committee appointed in terms of paragraph 15.5.1 shall be:
- 15.7.1 a penalty of not less than R1000 nor more than R20 000; and/or
 - 15.7.2 at their discretion, suspension for such period as is deemed fit of the Offender's membership of the Club.
- 15.8 The Board may in its discretion from time to time increase the penalty which may be imposed pursuant to paragraph 15.7.1 above.
- 15.9 If the breach is one which is capable of being remedied or rectified and the Member fails to comply with the notice in terms of paragraph 15.3.1 above, then the Company may, in addition to imposing sanctions on the Offender, do all things necessary to remedy or rectify the breach and recover the cost thereof from the Member.
- 15.10 Any fine imposed upon any Member, or amount due by any Member in terms of paragraph 15.9 above, shall be deemed to be a debt due by the Member to the Company and shall be recoverable by ordinary civil process.
- 15.11 The provisions of this paragraph 15, shall at the discretion of the Board:
- 15.11.1 override any conflicting provisions of the Estate Rules, the rules of the Club or the constitution of the Club; and
 - 15.11.2 apply, *mutatis mutandis*, to any procedures taken pursuant to paragraph 33.9 below.
- 15.12 The provisions of this paragraph 15 constitute the irrevocable consent of the parties to any proceedings in terms hereof and none of the parties shall be entitled to withdraw therefrom or claim in any such proceedings that he, she or it is not bound by such provisions.
- 15.13 Notwithstanding the provisions of this paragraph 15:
- 15.13.1 where urgent relief is required, the Company may approach the court of competent jurisdiction for such relief;
 - 15.13.2 the Board shall have the right to impose the sanctions provided for in paragraph 15.7 without following the procedures set out in this paragraph 15 and the Offender may accept any sanctions so imposed, in which event the procedures need not be followed.
- 15.14 Should the Company institute any legal proceedings against any Member or resident on the Estate for the enforcement of any of the rights of the Company or the Board in terms hereof, the Company shall be entitled to recover all legal costs so incurred from the Member or resident concerned,

calculated as between attorney and own client, including tracing fees and collection commission.

- 15.15 In the event of any breach of the Estate Rules by the members of any Member's household or his, her or its guests or lessees, such breach shall be deemed to have been committed by the Member himself, herself or itself, but without prejudice to the foregoing, the Board may take or cause to be taken such steps against the person actually committing the breach as they may in their discretion deem fit.
- 15.16 Notwithstanding anything to the contrary herein contained, the Board may in the name of the Company enforce the provisions of any Estate Rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint attorneys and counsel as they may deem fit.
- 15.17 The Company may at any Members Meeting itself make any Estate Rules in regard to any matter and may also vary or modify any Estate Rules made by it or by the Board from time to time.
- 15.18 All Estate Rules must be reasonable and must apply equally to all Owners of even put to substantially the same use.

16. GOLF CLUB

- 16.1 The Company has established a golf club ("the Club") for the benefit of the Members of the Company and the non-resident members of the Club.
- 16.2 The Club is a separate legal entity from the Company.
- 16.3 The Golf Course and club house thereon shall be made available by the Board to the Club upon such terms as they may decide.
- 16.4 Members of the Company will automatically be Owner Members of the Club for so long as they are Members of the Company. Such Owner Members shall -
 - 16.4.1 not be required to pay entrance fees or annual subscriptions in respect of such membership of the Club;
 - 16.4.2 not be entitled to resign their membership of the Club.
- 16.5 The Board shall, subject to any restriction imposed or direction given at a Members Meeting of the Company, adopt a written constitution for the Club which will include provisions as to -
 - 16.5.1 the objects of the Club;
 - 16.5.2 the number of persons who may become members of the Club;

- 16.5.3 the categories of membership and the voting rights of the members of the Club;
 - 16.5.4 the procedures governing applications for membership of the Club by persons other than Members of the Company;
 - 16.5.5 the fees and subscriptions payable by members of the Club;
 - 16.5.6 the termination or suspension of membership of the Club and the conditions applicable thereto;
 - 16.5.7 the appointment and composition of a Club Management Committee which will manage and control the property and funds of the Club and will control the affairs of the Club which will be managed by the Golf Club Committee referred to in paragraph 16.5.8 below
 - 16.5.8 the appointment and composition of the Golf Club Committee which:
 - 16.5.8.1 will manage the affairs of the Club, subject to the control of the Club Management Committee; and
 - 16.5.8.2 will make recommendations to the Club Management Committee which shall ratify and confirm any decisions arising therefrom;
 - 16.5.9 the powers and duties of the Club Management Committee and the powers and duties of the Golf Club Committee;
 - 16.5.10 the meetings of the Club Management Committee, of the Golf Club Committee and of members of the Club, the frequency thereof and the rules applicable thereto;
 - 16.5.11 the keeping of proper records and books of account of the Club;
 - 16.5.12 the requirements for the provision of liquor or other refreshments on the Club premises;
 - 16.5.13 such other matters as might be necessary for the proper management and operation of the Club.
- 16.6 The Board shall also formulate and publish a set of rules governing the day to day business and operation of the Club, all of which shall be binding upon the members of the Club and their guests.
- 16.7 The Constitution of the Club may be amended by a resolution approved by at least 75% of the total number of votes of the Owner Members of the Club at a Members Meeting called specifically for such purpose.

MEMORANDUM AND GOVERNANCE RULES

17. AMENDMENT OF MEMORANDUM

- 17.1 The provisions of this Memorandum may only be amended, but subject always to paragraph 14.2 above, by Special Resolution, which will require the approval of at least 51% of the total number of votes of all the Members of the Company, given at a Members Meeting called specifically for such purpose.
- 17.2 The notice of such meeting shall, in addition to complying with paragraph 25 below, set out in specific terms the proposed amendment of this Memorandum.
- 17.3 Notwithstanding the provisions of paragraph 17.1 above, the provisions of paragraph 16.7 above may only be amended by Special Resolution, which will require the approval of at least 75% of the total number of votes of the Members of the Company, given at a Members Meeting called specifically for that purpose.
- 17.4 Any amendments to this Memorandum must be submitted to the Commissioner for the South African Revenue Service.

18. GOVERNANCE RULES

- 18.1 In addition to the Estate Rules, the Board may make, amend or repeal any necessary or incidental rules ("the Governance Rules") relating to the governance of the Company in respect of matters that are not addressed in the Companies Act or this Memorandum, by -
- 18.1.1 publishing a copy of the Governance Rules, in any manner required or permitted by this Memorandum, or the Governance Rules; and
- 18.1.2 filing a copy of the Governance Rules with the CIPC in the manner and form, if any, prescribed for that document.
- 18.2 Any Governance Rule contemplated in paragraph 18.1 above -
- 18.2.1 must be consistent with the Companies Act and this Memorandum, and any Governance Rule that is inconsistent with the Act or this Memorandum is void to the extent of the inconsistency;
- 18.2.2 takes effect on a date that is the later of 10 Business Days after the Governance Rule is filed in terms of paragraph 18.1.2 above or the date, if any, specified in the Governance Rule; and

- 18.2.3 is binding -
 - 18.2.3.1 on an interim basis from the time it takes effect until it is put to a vote at the next Members Meeting of the Company; and
 - 18.2.3.2 on a permanent basis only if it has been ratified by an Ordinary Resolution at the meeting contemplated in paragraph 18.2.3.1 above.
- 18.3 If a Governance Rule that has been filed in terms of paragraph 18.1.2 is subsequently -
 - 18.3.1 ratified as contemplated in paragraph 18.2.3 above, the Company must file with the CIPC a notice of ratification within 5 Business Days in the prescribed manner and form; or
 - 18.3.2 not ratified when put to a vote -
 - 18.3.2.1 the Company must file a notice of non-ratification within 5 Business Days after the vote with the CIPC in the prescribed manner and form; and
 - 18.3.2.2 the Board may not make a substantially similar Governance Rule within the ensuing 12 months, unless it has been approved in advance by an Ordinary Resolution.
- 18.4 Any failure to ratify the Governance Rules does not affect the validity of anything done in terms of Governance Rules during the period that they had an interim effect as provided in paragraph 18.2.3.1 above.

19. BINDING NATURE AND OTHER AGREEMENTS

- 19.1 This Memorandum and any Governance Rules or Estate Rules are binding -
 - 19.1.1 between the Company and each Member of the Company;
 - 19.1.2 between or among the Members of the Company;
 - 19.1.3 between the Company and the Club and its members; and
 - 19.1.4 between the Company and each Trustee or Prescribed Officer of the Company, or any other person serving the Company as a member of a committee of the Board, in the exercise of their respective functions within the Company.

- 19.2 The Members of the Company may enter into any agreement with one another concerning any matter relating to the Company, but any such agreement must be consistent with the Companies Act and this Memorandum, and any provision of such an agreement that is inconsistent with the Companies Act or this Memorandum is void to the extent of the inconsistency.

RIGHTS OF MEMBERS

20. MEMBERS' RIGHT TO INFORMATION

- 20.1 Any Member has a right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the following records of the Company -
- 20.1.1 this Memorandum and any amendments to it, and any Governance Rules made by the Company in terms of paragraph 18 above;
 - 20.1.2 the records in respect of the Trustees, as mentioned in section 24 (3) (b) of the Companies Act;
 - 20.1.3 the reports presented at Annual General Meetings and Members Meetings contemplated in paragraph 24.3 below, and annual financial statements, as mentioned in section 24 (3)(c)(i) and (ii) of the Companies Act;
 - 20.1.4 the notices and minutes of Annual General Meetings and Members Meetings contemplated in paragraph 24.3 below, and communications mentioned in section 24(3)(d) and (e), but the reference in section 24(3)(d) to shareholders meetings, and the reference in section 24(3)(e) to communications sent to holders of a company's securities, must be regarded in the case of the Company as referring to a meeting of Members, or communication to Members, respectively; and
 - 20.1.5 the members' register of the Company, as mentioned in section 24(4) of the Companies Act.
- 20.2 In addition to the rights to access information set out in paragraph 20.1 above, a Member of the Company has the further right to inspect the Trustees' minute book in terms of paragraph 34.5 below.

21. MEMBER'S RIGHT TO BE REPRESENTED BY PROXY

- 21.1 Subject to clause 21.3 below, a Member of the Company may appoint any individual, including an individual who is not a Member of the Company, as a proxy to -
- 21.1.1 participate in, and speak and vote at, a Members Meeting on behalf of the Member; or
 - 21.1.2 give or withhold written consent on behalf of the Member to a decision contemplated in [paragraph 23](#) below.
- 21.2 A proxy appointment -
- 21.2.1 must be in writing and substantially in the form set out in Schedule 1 hereto or as near thereto as circumstances permit; and
 - 21.2.2 must be dated and signed by the Member; and
 - 21.2.3 remains valid for -
 - 21.2.3.1 one year after the date on which it was signed; or
 - 21.2.3.2 any longer or shorter period expressly set out in the appointment;unless it is revoked in a manner contemplated in paragraph 21.4.3 below, or expires earlier as contemplated in paragraph 21.8.4 below.
- 21.3 Except to the extent (if any) that this Memorandum provides otherwise -
- 21.3.1 a Member may not appoint two or more persons concurrently as proxies;
 - 21.3.2 a proxy may delegate the proxy's authority to act on behalf of the Member to another person, subject to any restriction set out in the instrument appointing the proxy; and
 - 21.3.3 to be effective at a meeting or adjourned meeting, a proxy together with the original or a notarially certified copy of any power of attorney or other authority under which it is signed must be lodged with the Company at least 24 hours before the commencement of the meeting or adjourned meeting concerned.
- 21.4 Irrespective of the form of instrument used to appoint a proxy -

- 21.4.1 the appointment is suspended at any time and to the extent that the Member chooses to act directly and in person in the exercise of any rights as a Member;
- 21.4.2 the appointment is revocable unless the proxy appointment expressly states otherwise; and
- 21.4.3 if the appointment is revocable, a Member may revoke the proxy appointment by -
 - 21.4.3.1 cancelling it in writing, or making a later inconsistent appointment of a proxy; and
 - 21.4.3.2 delivering a copy of the revocation instrument to the proxy, and to the Company.
- 21.5 The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy's authority to act on behalf of the Member as of the later of -
 - 21.5.1 the date stated in the revocation instrument, if any; or
 - 21.5.2 the date on which the revocation instrument was delivered as required in paragraph 21.4.3.2 above.
- 21.6 If the instrument appointing a proxy or proxies has been delivered to the Company, as long as that appointment remains in effect, any notice that is required by the Companies Act or this Memorandum to be delivered by the Company to the Member must be delivered by the Company to -
 - 21.6.1 the Member; or
 - 21.6.2 the proxy or proxies, if the Member has directed the Company to do so, in writing and paid any reasonable fee charged by the Company for doing so.
- 21.7 A proxy is entitled to exercise, or abstain from exercising, any Voting Right of the Member without direction, or the instrument appointing the proxy, provides otherwise.
- 21.8 If the Company issues an invitation to Members to appoint one or more persons named by the Company as a proxy, or supplies a form of instrument for appointing a proxy -
 - 21.8.1 the invitation must be sent to every Member who is entitled to notice of the meeting at which the proxy is intended to be exercised;

- 21.8.2 the invitation, or form of instrument supplied by the Company for the purpose of appointing a proxy, must -
 - 21.8.2.1 bear a reasonably prominent summary of the rights established by this paragraph 21;
 - 21.8.2.2 contain adequate blank space, immediately preceding the name or names of any person or persons named in it, to enable a Member to write in the name and, if so desired, an alternative name of a proxy chosen by the Member; and
 - 21.8.2.3 provide adequate space for the Member to indicate whether the appointed proxy is to vote in favour of or against any resolution or resolutions to be put at the meeting, or is to abstain from voting;
- 21.8.3 the Company must not require that the proxy appointment be made irrevocable; and
- 21.8.4 the proxy appointment remains valid only until the end of the meeting at which it was intended to be used, subject to paragraph 21.5 above.
- 21.9 Paragraphs 21.8.2 and 21.8.4 do not apply if the Company merely supplies a generally available standard form of proxy appointment on request by a Member.

22. RECORD DATE

- 22.1 The Board may set a Record Date for the purpose of determining which Members are entitled to -
 - 22.1.1 receive notice of a Members Meeting;
 - 22.1.2 participate in and vote at a Members Meeting;
 - 22.1.3 decide any matter by written consent or Electronic Communication, as contemplated in paragraph 23 below.
- 22.2 A Record Date determined by the Board in terms of paragraph 22.1 above -
 - 22.2.1 may not be -
 - 22.2.1.1 earlier than the date on which the Record Date is determined; or

- 22.2.1.2 more than 10 Business Days before the date on which the event or action, for which the Record Date is being set, is scheduled to occur; and
- 22.2.2 must be published to the Members in a manner that satisfies any prescribed requirements.
- 22.3 If the Board does not determine a Record Date for any action or event, the Record Date is -
 - 22.3.1 in the case of a meeting, the latest date by which the Company is required to give Members notice of that meeting; or
 - 22.3.2 the date of the action or event, in any other case,
 unless this Memorandum or the Governance Rules provide otherwise.

MEMBERS MEETINGS

23. MEMBERS ACTING OTHER THAN AT MEETING

- 23.1 A resolution that could be voted on at a Members Meeting may instead be -
 - 23.1.1 submitted for consideration to the Members entitled to exercise Voting Rights in relation to the resolution; and
 - 23.1.2 voted on in writing by Members entitled to exercise Voting Rights in relation to the resolution within 20 Business Days after the resolution was submitted to them.
- 23.2 A resolution contemplated in paragraph 23.1 above -
 - 23.2.1 will have been adopted if it is supported by persons entitled to exercise sufficient Voting Rights for it to have been adopted as an Ordinary Resolution or a Special Resolution, as the case may be, at a properly constituted Members Meeting; and
 - 23.2.2 if adopted, has the same effect as if it had been approved by voting at a Members Meeting.
- 23.3 Within 10 Business Days after adopting a resolution, or conducting an election of Trustees, in terms of this paragraph 23, 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 resolution, or vote in the election of the Trustee, as the case may be.

- 23.4 For greater certainty, any business of the Company that is required by the Companies Act or this Memorandum to be conducted at an Annual General Meeting of the Company may not be conducted in the manner contemplated in this paragraph 23.

24. MEMBERS MEETINGS

- 24.1 The Company must within 6 months after the end of the Financial Year hold a Members Meeting as its Annual General Meeting, in addition to any other Members Meetings during that year, and shall specify the meeting as such in the notices in terms of paragraph 25 below.
- 24.2 Such Annual General Meeting shall be held at such time and place as the Board shall decide from time to time.
- 24.3 All meetings of the Members of the Company, other than Annual General Meetings, shall be called Members Meetings.
- 24.4 The Board or any other person specified in this Memorandum or the Governance Rules may call a Members Meeting at any time.
- 24.5 The Company must hold a Members Meeting -
- 24.5.1 at any time that the Board is required by the Companies Act or this Memorandum to refer a matter to Members for decision;
 - 24.5.2 whenever required in terms of section 70(3) of the Companies Act to fill a vacancy on the Board; and
 - 24.5.3 when otherwise required in terms of paragraphs 24.1 or 24.6, or elsewhere by this Memorandum.
- 24.6 Subject to sections 61(5) and (6) of the Companies Act, the Board, or any other person specified in this Memorandum or the Governance Rules, must call a Members Meeting if one or more written and signed demands for such a meeting are delivered to the Company, and -
- 24.6.1 each such demand describes the specific purpose for which the meeting is proposed; and
 - 24.6.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% of the Voting Rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.
- 24.7 An Annual General Meeting shall deal with and dispose of -
- 24.7.1 all matters prescribed by the Companies Act;

- 24.7.2 the consideration of the annual financial statements of the Company for the previous Financial Year;
- 24.7.3 the election of Trustees;
- 24.7.4 the noting of the Levy for the Financial Year during which the Annual General Meeting takes place;
- 24.7.5 appointment of an auditor for the ensuing Financial Year; and
- 24.7.6 any matters raised by Members, with or without advance notice to the Company.

25. NOTICE OF MEMBERS MEETINGS

- 25.1 The Company must deliver a notice of each Members Meeting in the prescribed manner and form to all of the Members as of the Record Date for the meeting, at least -
 - 25.1.1 21 clear calendar days for an Annual General Meeting and a meeting called for the passing of a Special Resolution; and
 - 25.1.2 14 clear calendar days for any other Members Meeting.
- 25.2 The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company at a Members Meeting, to such persons as are, under this Memorandum, entitled to receive such notices from the Company.
- 25.3 The Company may call a meeting with less notice than required by paragraph 25.1 above, but such a meeting may proceed only if every person who is entitled to exercise Voting Rights in respect of any item on the meeting agenda -
 - 25.3.1 is present at the meeting; and
 - 25.3.2 votes to waive the required minimum notice of the meeting.
- 25.4 A notice of a Members Meeting must be in writing, and must include -
 - 25.4.1 the date, time and place for the meeting, and the Record Date for the meeting;
 - 25.4.2 the general purpose of the meeting, and any specific purpose contemplated in paragraph 24.6 above, if applicable;

- 25.4.3 a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;
- 25.4.4 in the case of an Annual General Meeting -
 - 25.4.4.1 the financial statements to be presented or a summarised form thereof; and
 - 25.4.4.2 directions for obtaining a copy of the complete annual financial statements for the preceding Financial Year; and
- 25.4.5 a reasonably prominent statement that -
 - 25.4.5.1 a Member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, participate in and vote at the meeting in the place of the Member, or two or more proxies if this Memorandum so permits;
 - 25.4.5.2 a proxy need not also be a Member of the Company; and
 - 25.4.5.3 section 63(1) of the Companies Act requires that meeting participants provide satisfactory identification.
- 25.5 If there was a material defect in the giving of the notice of a Members Meeting, the meeting may proceed, subject to paragraph 25.6 below, only if every person who is entitled to exercise Voting Rights in respect of any item on the meeting agenda is present at the meeting and votes to approve the ratification of the defective notice.
- 25.6 If a material defect in the form or manner of giving notice of a meeting relates only to one or more particular matters on the agenda for the meeting -
 - 25.6.1 any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and
 - 25.6.2 the meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of paragraph 25.5 above.
- 25.7 An immaterial defect in the form or manner of giving 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, does not invalidate any action taken at the meeting.

- 25.8 A Member who is present at a meeting either in person or by proxy -
- 25.8.1 is regarded as having received or waived notice of the meeting, if at least the required minimum notice was given; and
- 25.8.2 has a right to -
- 25.8.2.1 allege a material defect in the form of notice for a particular item on the agenda for the meeting; and
- 25.8.2.2 participate in the determination whether to waive the requirements for notice if less than the required minimum notice was given, or to ratify a defective notice; and
- 25.8.3 except to the extent set out in paragraph 25.8.2 above, is regarded as having waived any right based on an actual or alleged defect in the notice of the meeting.

26. CONDUCT OF MEMBERS MEETINGS

- 26.1 Before any person may attend or participate in a Members Meeting -
- 26.1.1 that person must present reasonably satisfactory identification; and
- 26.1.2 the person presiding at the meeting must be reasonably satisfied that the right of that person to participate and vote, either as a Member, or as a proxy for a Member, has been reasonably verified.
- 26.2 If approved by the Members by Special Resolution, the Company may provide for -
- 26.2.1 a Members Meeting to be conducted entirely by Electronic Communication; or
- 26.2.2 one or more Members, or proxies for Members, to participate by Electronic Communication in all or part of a Members Meeting that is being held in person,
- as long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting.
- 26.3 If the Company provides for participation in a meeting by Electronic Communication, as contemplated in paragraph 26.2 above -

26.3.1 the notice of that meeting must inform Members of the availability of that form of participation, and provide any necessary information to enable Members or their proxies to access the available medium or means of Electronic Communication; and

26.3.2 access to the medium or means of Electronic Communication is at the expense of the Member or proxy, except to the extent that the Company determines otherwise.

26.4 The Chairperson, if any, of the Board shall preside as chairperson at every Members Meeting, but if there is no such chairperson, or if at any meeting he or she is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Members present shall elect one of their number to be chairperson.

27. VOTING AT MEMBERS MEETINGS

27.1 Members shall be entitled to vote only on the matters raised at every Members Meeting.

27.2 At every Members Meeting -

27.2.1 each Member, present in person or by proxy and entitled to vote, shall, if voting on a particular matter is by polling, have one vote for each Residential Erf registered in his, her or its name as at the Record Date;

27.2.2 if a Residential Erf is registered in the name of more than one person, then all such co-owners shall jointly have only one vote if voting is by show of hands or by polling.

27.3 No person other than a Member duly registered and who shall have paid every Levy and other sum, if any, which shall be due and payable to the Company in respect of or arising out of his, her or its membership and who is not suspended, shall be entitled to be present or to vote on a question, either personally or by proxy, at any Members Meeting.

27.4 At any Members Meeting, voting may either be by show of hands, or by polling.

27.5 If voting is by show of hands, any person who is present at the meeting, whether as a Member or as proxy for a Member and entitled to exercise Voting Rights has one vote, irrespective of the number of Voting Rights that person would otherwise be entitled to exercise.

27.6 If voting on a particular matter is by polling, any person who is present at the meeting, whether as a Member or as proxy for a Member, has the number of votes determined in accordance with the Voting Rights

associated with each Residential Erf registered in the name of that Member in terms of paragraph 27.2 above.

- 27.7 Despite any provision of this Memorandum or agreement to the contrary, a polled vote must be held on any particular matter to be voted on at a meeting, if a demand for such a vote is made by -
- 27.7.1 at least 5 persons having the right to vote on that matter, either as a Member or a proxy representing a Member; or
- 27.7.2 a person who is, or persons who together are, entitled, as a Member or proxy representing a Member, to exercise at least 10% of the Voting Rights entitled to be voted on that matter.
- 27.8 Resolutions shall be passed by simple majority vote, save with respect to amendments of this Memorandum, as provided for in paragraph 17 above.
- 27.9 If a poll is duly demanded, it shall be taken in such manner as the Chairperson of the meeting may direct either at once or after an interval or adjournment.
- 27.10 If any difficulty or dispute arises regarding the admission or rejection of a vote or regarding any other matter such difficulty or dispute is to be determined by the Chairperson, whether or not scrutineers have been appointed to count the votes, and his decision shall be final and conclusive.
- 27.11 A vote cast under a proxy, power of attorney, or other authority which has been revoked shall nevertheless be valid unless -
- 27.11.1 written notice of the revocation is received by the Company prior to the meeting concerned; or
- 27.11.2 the Chairperson of the meeting agrees to accept written or oral notice of such revocation at the meeting.
- 27.12 No objection shall be raised to the admissibility of any vote, except at the meeting or adjourned meeting, at which the vote objected to, is cast and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairperson of the meeting whose decision shall be final and conclusive.
- 27.13 A declaration made in good faith by the Chairperson of a Members Meeting to the effect that, either on a show of hands or a poll, a resolution has or has not been passed (whether by a simple majority, a specific majority or unanimously) shall be final and conclusive and the resolution shall be deemed to have been so passed or not passed.

- 27.14 Any resolution which could be passed at a Members Meeting (other than a Special Resolution or a resolution to remove a Trustee or auditor) may be passed without a meeting being held if one or more copies of the resolution are signed by all the Members entitled to vote.

28. MEMBERS MEETING QUORUM AND ADJOURNMENT

- 28.1 Subject to paragraphs 28.2 to 28.6 below -

28.1.1 a Members Meeting may not begin until sufficient persons are present or represented by proxy at the meeting to exercise, in aggregate, at least 10% of all of the Voting Rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and

28.1.2 a matter to be decided at the meeting may not begin to be considered unless sufficient persons are present or represented by proxy at the meeting to exercise, in aggregate, at least 10% of all of the Voting Rights that are entitled to be exercised on that matter at the time the matter is called on the agenda:

provided that in regard to a Special Resolution, the required percentage of Voting Rights, contemplated in sub-paragraphs 28.1.1 and 28.1.2 above, shall be 25% (and not 10%), but subject, however, to the provisions of paragraphs 28.3 to 28.6 below which shall apply to an Ordinary Resolution and to a Special Resolution.

- 28.2 Despite the percentage figures set out in paragraph 28.1 above or in any applicable provisions of this Memorandum, a meeting may not begin, or a matter begin to be debated, unless -

28.2.1 at least 3 Members are present at the meeting; and

28.2.2 the requirements of paragraph 28.1 above are satisfied.

- 28.3 If, within 30 minutes after the appointed time for a meeting to begin, the requirements of paragraph 28.1 above, or paragraph 28.2 above, if applicable:

28.3.1 for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for one week;

28.3.2 for consideration of a particular matter to begin have not been satisfied -

28.3.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or

- 28.3.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned for one week, without motion or vote.
- 28.4 The person intended to preside at a meeting that cannot begin due to the operation of paragraph 28.1.1 above, or 28.2 above if applicable, may extend the one-hour limit allowed in paragraph 28.3 for a reasonable period on the grounds that -
- 28.4.1 exceptional circumstances affecting weather, transportation or Electronic Communication have generally impeded or are generally impeding the ability of Members to be present at the meeting; or
- 28.4.2 one or more particular Members, having been delayed, have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the requirements of paragraph 28.1 or 28.2.1 if applicable.
- 28.5 The Company is not required to give further notice of a meeting that is postponed or adjourned in terms of paragraph 28.3 above unless the location for the meeting is different from -
- 28.5.1 the location of the postponed or adjourned meeting; or
- 28.5.2 a location announced at the time of adjournment, in the case of an adjourned meeting.
- 28.6 If, at the time appointed in terms of this paragraph 28 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of paragraph 28.1 above, or paragraph 28.2 above, if applicable, have not been satisfied, the Members present in person or by proxy will be deemed to constitute a quorum.
- 28.7 A Members Meeting, or the consideration of any matter being debated at the meeting, may be adjourned from time to time without further notice, subject to paragraph 28.8 below, on a motion supported by persons entitled to exercise, in aggregate, a majority of the Voting Rights -
- 28.7.1 held by all of the persons who are present or represented by proxy at the meeting at the time; and
- 28.7.2 that are entitled to be exercised on at least one matter remaining on the agenda of the meeting, or on the matter under debate, as the case may be.
- 28.8 An adjournment of a meeting, or of consideration of a matter being debated at the meeting, in terms of paragraph 28.7 above -

- 28.8.1 may be either -
 - 28.8.1.1 to a fixed time and place; or
 - 28.8.1.2 until further notice, as agreed at the meeting; and
- 28.8.2 requires that a further notice be given to Members only if the meeting determined that the adjournment was "until further notice", as contemplated in paragraph 28.8.1.2 above.
- 28.9 A Members Meeting may not be adjourned beyond the earlier of -
 - 28.9.1 the date that is 120 Business Days after the Record Date determined in accordance with paragraph 22 above; or
 - 28.9.2 the date that is 60 Business Days after the date on which the adjournment occurred.

29. MEMBERS RESOLUTIONS

- 29.1 Every resolution of Members is either an Ordinary Resolution or a Special Resolution.
- 29.2 The Board may propose any resolution to be considered by Members, and may determine, whether that resolution will be considered at a meeting, or by vote or written consent in terms of paragraph 23 above.
- 29.3 Any two Members -
 - 29.3.1 may propose a resolution concerning any matter in respect of which they are each entitled to exercise Voting Rights; and
 - 29.3.2 when proposing a resolution, may require that the resolution be submitted to Members for consideration -
 - 29.3.2.1 at a meeting demanded in terms of paragraph 24.6 above;
 - 29.3.2.2 at the next Members Meeting; or
 - 29.3.2.3 by written vote in terms of paragraph 23 above.
- 29.4 A proposed resolution is not subject to the requirements of section 6(4) of the Companies Act, but must be -
 - 29.4.1 expressed with sufficient clarity and specificity; and
 - 29.4.2 accompanied by sufficient information or explanatory "material" (as defined in the Companies Act) to enable a Member who is entitled to vote on the resolution to determine whether to

participate in the meeting and to seek to influence the outcome of the vote on the resolution.

- 29.5 Once a resolution has been approved, it may not be challenged or impugned by any person in any forum on the grounds that it did not satisfy paragraph 29.4 above.
- 29.6 For an Ordinary Resolution to be approved by Members, it must be supported by more than 50% of the Voting Rights exercised on the resolution.
- 29.7 For a Special Resolution to be approved by Members, it must be supported by at least 75% of the Voting Rights exercised on the resolution, subject to the provisos to clauses 17.1 and 28.1 above .

BOARD OF TRUSTEES

30. COMPOSITION OF THE BOARD

- 30.1 Subject to paragraph 30.9 below, there shall be 5 Trustees of the Company.
- 30.2 There shall be no appointed or *ex officio* Trustees of the Company, as contemplated in section 66(4) of the Companies Act, in addition to the Trustees appointed in terms of this paragraph 30.
- 30.3 The Trustees shall be elected from the body of Members of the Company at the Annual General Meeting and shall hold office for a period of 2 years, subject to the provisions of paragraph 31 below.
- 30.4 No person ("the Nominee") may be elected as a Trustee in terms of paragraph 30.3 above, unless a written nomination of the Nominee has been lodged with the Trustees not less 7 days before the Annual General Meeting, which has been signed by a proposer (who shall be a Member of the Company) and on which the Nominee has signed and agreed to his or her nomination.
- 30.5 A Trustee shall be an individual and shall be a Member of the Company or shall have a proprietary interest in a legal entity or a trust being a Member of the Company.
- 30.6 A Trustee, by accepting his or her appointment to his or her election to office, shall be deemed to have agreed to be bound by all the provisions of this Memorandum.
- 30.7 The Trustees shall appoint one of their number to act as Chairperson for such term as they deem fit, but for no longer than such person's tenure as a Trustee provided, however, that any Trustee, who has not served at least one year as a Trustee (whether on a previous occasion or otherwise), shall

not be appointed as Chairperson, unless no other Trustee is willing to be appointed or at that time, there is no Trustee who has served at least one year as a Trustee.

- 30.8 If less than 5 Trustees are elected at the Annual General Meeting, then the Board may appoint or co-opt such number of Members as Trustees as may be required to make up the shortfall.
- 30.9 The Trustees may in their discretion appoint a 6th Trustee (who shall hold office until the next Annual General Meeting) if the Trustees are of the opinion that there is a need for a 6th Trustee and the person to be so appointed has the necessary skills and competence to add value to the Board and will enhance the representivity of the Board.

31. TERM OF OFFICE AND ROTATION OF TRUSTEES

- 31.1 Subject to the provisions of paragraph 31.2 below, the initial term of office of each Trustee shall be two years from the date of his or her appointment to office until the second Annual General Meeting following his or her appointment to office.
- 31.2 At the second Annual General Meeting following his or her appointment as a Trustee, he or she shall be deemed to have retired from office but will be eligible for re-election to the Board at such meeting.
- 31.3 A Trustee shall be deemed to have vacated his or her office as such upon:
- 31.3.1 his or her having become disqualified or ineligible to act as a Trustee in terms of the provisions of the Companies Act;
 - 31.3.2 his or her being removed from office as provided in Section 71 of the Companies Act;
 - 31.3.3 in the event of his or her being a Member of the Company, his or her being disentitled to exercise a vote in terms of paragraph 27.3 above;
 - 31.3.4 his or her estate being sequestrated, whether provisionally or finally;
 - 31.3.5 the commission by him or her of any act of insolvency;
 - 31.3.6 his or her conviction for any offence involving dishonesty;
 - 31.3.7 his or her becoming of unsound mind or being found lunatic;
 - 31.3.8 his or her resigning from such office in writing;

provided that anything done in the capacity of a Trustee in good faith by a person who ceases to be a Trustee, shall be valid until the fact that he is no longer a Trustee has been recorded in the minute book of the Company.

- 31.4 Upon any vacancy occurring in the Trustees prior to the next Annual General Meeting, the vacancy in question shall be filled by a person nominated by those remaining for the time being of the Trustees.

32. TRUSTEES' EXPENSES AND REMUNERATION

- 32.1 Trustees shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as Trustees
- 32.2 Trustees shall be entitled to remuneration in respect of the performance of their duties as determined by the Company at a Members Meeting.

33. AUTHORITY OF THE BOARD

- 33.1 Subject to the provisions of the Companies Act and of this Memorandum -
- 33.1.1 the authority of the Board to manage and direct the business and affairs of the Company, as set out in section 66(1) of the Companies Act, is not limited or restricted;
- 33.1.2 the Trustees shall manage and control the business and affairs of the Company; and
- 33.1.3 the Trustees shall have full powers in the management and direction of such business and affairs, including the right of appointment and dismissal of any Managing Agent; and
- 33.1.4 the Trustees may exercise all such powers of the Company and do all such acts on behalf of the Company as may be exercised and done by the Company and as are not by the Companies Act or by this Memorandum required to be exercised or done by the Company at a Members Meeting;

subject, however, to such rules as may have been made by the Company at a Members Meeting or as may be made by the Trustees from time to time.

- 33.2 Save to the extent (if any) specifically provided in this Memorandum, the Board shall at all times have the right to engage on behalf of the Company the services of accountants, auditors, attorneys, architects, engineers, town planners, managing agents or any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the Trustees on such terms as the Trustees shall decide.
- 33.3 The Board shall further have the power -
- 33.3.1 to require that any construction of any sort on the Estate shall be supervised to ensure that the provisions of this Memorandum and

the Estate Rules are complied with and that all such construction is performed in a proper and workmanlike manner;

- 33.3.2 to issue an architectural and environmental design and maintenance manual or instruction in respect of the Estate, and to ensure that such manual is complied with at all times.
- 33.4 The Board shall have the right to vary, cancel or modify their decisions and resolutions from time to time.
- 33.5 Subject to the provisions of the Companies Act, the Trustees shall be entitled to appoint committees consisting of such number of Members and such outsiders, including a managing agent, as they deem fit and to delegate to such committees such of their functions, powers and duties as they deem fit, with further power to vary or revoke such appointments and delegations as the Trustees may from time to time deem necessary.
- 33.6 The Board shall appoint an architectural review committee to exercise the powers set out in paragraph 33.3 above which may, but shall not necessarily, consist of:
 - 33.6.1 a practising professional architect or town planner duly qualified to practice as such for his own account in the Republic of South Africa;
 - 33.6.2 one Trustee;
 - 33.6.3 such other Members as the Board may determine.
- 33.7 Members of the architectural review committee shall not be required to be Members of the Company.
- 33.8 Except for any buildings, out-buildings, structures, additions or alterations to be erected or effected by the Company or the Club, all plans for buildings, out-buildings, structures, additions and alterations shall be approved by the Trustees, or any person designated by them for the purpose, who shall not approve such plan unless it shall first have been reviewed by the architectural review committee.
- 33.9 Whenever the Board considers that:
 - 33.9.1 the appearance, state or condition of any land or building of a Member is unsightly or untidy; or
 - 33.9.2 the building does not comply with the requirements of the architectural and environmental design and maintenance manual; or

33.9.3 the building or any part thereof is in need of maintenance, repair or repainting;

then and in any such event, the Board may serve notice on that Member to take such steps as may be specified in the notice to eliminate the condition.

33.10 The Company may enter into agreements with any third party for the provision of facilities and services to or for the Members and the Board may levy charges in respect of the provision thereof, or may pass on such costs directly to the Members.

33.11 Any failure by the Company at any time to have the minimum number of directors (who are referred as "Trustees" in this Memorandum) required by Companies Act or this Memorandum, does not limit or negate the authority of the Board, or invalidate anything done by the Board.

34. BOARD MEETINGS

34.1 The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of this Memorandum or the Companies Act.

34.2 The quorum necessary for the holding of all meetings of the Board shall be 3 Trustees present personally. If no quorum is present within 15 minutes after the time for commencement of the meeting, then it shall stand adjourned to a date agreed by the Trustees present at the meeting, and failing an agreed date, for 5 Business Days, or if that is not a Business Day, then to the next Business Day thereafter, and those Trustees present at the adjourned meeting shall constitute a quorum.

34.3 Any resolution of the Trustees shall be carried by a simple majority of all votes cast. In the case of an equality of votes for and against a resolution, the Chairperson of the Trustees shall have a second or casting vote.

34.4 The Trustees shall cause minutes to be kept of every Trustees meeting, which minutes shall, without undue delay after the meeting has closed, be reduced to writing and certified correct by the Chairperson.

34.5 All minutes of Trustees meetings shall after certification, be placed in a Trustees minute book to be kept in accordance with the provisions of the law relating to the keeping of minutes of meetings of directors of companies. The Trustees' minute book shall be open for inspection at all reasonable times by any Trustee, the Auditors, the Members and the Managing Agent.

34.6 A Trustee authorised by the Board -

34.6.1 may call a meeting of the Board at any time; and

- 34.6.2 must call such a meeting if required to do so by at least two Trustees.
- 34.7 Except to the extent that the Companies Act provides otherwise -
- 34.7.1 a meeting of the Board may be conducted by Electronic Communication; or
- 34.7.2 one or more Trustees may participate in a meeting 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.
- 34.8 The Board may determine the form and time for giving notice of its meetings, but such a determination must comply with any requirements set out in this Memorandum, or the Governance Rules and no meeting of the Board may be convened without notice to all of the Trustees, subject to section 73(5) of the Companies Act.
- 34.9 If all of the Trustees acknowledge actual receipt of the notice, or are present at a meeting, or waive notice of the meeting in writing, 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.
- 34.10 A majority of the Trustees must be present at a meeting before a vote may be called at a meeting of the Trustees and each Trustee has one vote on a matter before the Board.
- 34.11 The Trustees may elect a Chairperson of their meetings and determine the period for which he or she is to hold office, but if no such Chairperson is elected, or if at any meeting the Chairperson is not present within 5 minutes after the time appointed for holding the same, the Trustees present may elect one of their number to be Chairperson of the meeting.
- 34.12 The Company must keep minutes of the meetings of the Board, and any of its committees, and include in the minutes any declaration given by notice or made by a Trustee as required by paragraph 36 below and every resolution adopted by the Board.
- 34.13 Resolutions adopted by the Board must be dated and sequentially numbered and are effective as of the date of the resolution, unless the resolution states otherwise.

34.14 Any minutes of a meeting, or a resolution, signed by the Chairperson of the meeting, or by the Chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

34.15 A resolution;

34.15.1 signed by a majority of the Trustees (or their alternates, if applicable) and who are not less than a quorum for a meeting of Trustees; or

34.15.2 signed by a majority of the Trustees in terms of paragraph 35.1 below; and

34.15.3 inserted in the minutes;

shall be as valid and effective as if it had been passed at a meeting of Trustees and that resolution may consist of several documents in the same form, each of which is signed by one or more Trustees (or their alternates, if applicable) and shall be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the date on which it was signed by the last Trustee who signed it.

35. TRUSTEES ACTING OTHER THAN AT MEETING

35.1 A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of a majority of the Trustees, given in person, or by Electronic Communication, provided that each Trustee has received notice of the matter to be decided.

35.2 A decision made in the manner contemplated in 35.1 above is of the same effect as if it had been approved by voting at a meeting of the Board.

36. TRUSTEES' PERSONAL FINANCIAL INTERESTS

36.1 In this paragraph 36 -

36.1.1 "Trustee" includes an alternate Trustee, a Prescribed Officer and a person who is a member of a committee of the Board, irrespective of whether the person is also a member of the Board; and

36.1.2 "Related Person", when used in reference to a Trustee, has the meaning set out in section 1 of the Companies Act, but also includes a second company of which the Trustee or a Related Person is also a Director, or a close corporation of which the Trustee or a Related Person is a member.

- 36.2 At any time, a Trustee 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 interest, to be used generally for the purposes of this section until changed or withdrawn by further written notice from that Trustee.
- 36.3 If a Trustee 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 Trustee -
- 36.3.1 must disclose the interest and its general nature before the matter is considered at the meeting;
 - 36.3.2 must disclose to the meeting any material information relating to the matter, and known to the Trustee;
 - 36.3.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Trustees;
 - 36.3.4 if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in paragraph 36.3.2 or 36.3.3;
 - 36.3.5 must not take part in the consideration of the matter, except to the extent contemplated in paragraph 36.3.2 and 36.3.3;
 - 36.3.6 while absent from the meeting in terms of this subsection -
 - 36.3.6.1 is to be regarded as being present at the meeting for the purpose of determining whether sufficient Trustees are present to constitute the meeting; and
 - 36.3.6.2 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
 - 36.3.7 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.
- 36.4 If a Trustee 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 Trustee must promptly disclose to the Board, the nature and extent of that interest, and the material circumstances relating to the Trustee or Related Person's acquisition of that interest.

- 36.5 A decision by the Board, or a transaction or agreement approved by the Board, or by the Company as contemplated in section 75(3) of the Companies Act is valid despite any personal financial interest of a Trustee or person related to the Trustee, only if -
- 36.5.1 it was approved following disclosure of that interest in the manner contemplated in this paragraph 36; or
 - 36.5.2 despite having been approved without disclosure of that interest, it has subsequently been ratified by an Ordinary Resolution of the Members following disclosure of that interest; or has been declared to be valid by a court in terms of section 75(8) of the Companies Act.

37. INDEMNIFICATION AND TRUSTEES' INSURANCE

- 37.1 In this paragraph 37, "Trustee" includes a former Trustee and an alternate Trustee, and a Prescribed Officer or a person who is a member of a committee of the Board, or of the audit committee of the Company, irrespective of whether or not the person is also a member of the Board.
- 37.2 Subject to paragraphs 37.4 to 37.6 below, any provision of an agreement, this Memorandum or the Governance Rules, or a resolution adopted by the Company, whether express or implied, is void to the extent that it directly or indirectly purports to -
- 37.2.1 relieve a Trustee of a duty contemplated in section 75 or 76 of the Companies Act, or of liability contemplated in section 77 of that Act; or
 - 37.2.2 negate, limit or restrict any legal consequences arising from an act or omission that constitutes wilful misconduct or wilful breach of trust on the part of the Trustee.
- 37.3 The Company may not directly or indirectly pay any fine that may be imposed on a Trustee of the Company, or on a Trustee of a related company, as a consequence of that Trustee having been convicted of an offence, unless the conviction was based on strict liability.
- 37.4 The Company -
- 37.4.1 may advance expenses to a Trustee to defend litigation in any proceedings arising out of the Trustee's service to the Company; and
 - 37.4.2 may directly or indirectly indemnify a Trustee for expenses contemplated in paragraph 37.4.1 above, irrespective of whether it has advanced those expenses, if the proceedings -

- 37.4.2.1 are abandoned or exculpate the Trustee; or
 - 37.4.2.2 arise in respect of any liability for which the Company may indemnify the Trustee, in terms of paragraphs 37.5 and 37.6 below.
- 37.5 The Company may indemnify Trustees in respect of any liability arising other than as contemplated in 37.6 below, including any liabilities *bona fide* incurred by them in their capacities as Trustees, whether defending any proceedings, civil, criminal or otherwise, in which relief is granted to any person/s by a court.
- 37.6 The Company may not indemnify a Trustee in respect of -
 - 37.6.1 any liability arising -
 - 37.6.1.1 in terms of section 77(3)(a), (b) or (c) of the Companies Act; or
 - 37.6.1.2 from wilful misconduct or wilful breach of trust on the part of the Trustee; or
 - 37.6.2 any fine contemplated in paragraph 37.3 above.
- 37.7 The Company may purchase insurance to protect -
 - 37.7.1 a Trustee against any liability or expenses for which the Company is permitted to indemnify a Trustee in accordance with paragraph 37.4 above; or
 - 37.7.2 the Company against any contingency including, but not limited to -
 - 37.7.2.1 any expenses that the Company is permitted to advance in accordance with paragraph 37.4.1 or for which the Company is permitted to indemnify a Trustee in accordance with paragraph 37.4.2; or
 - 37.7.2.2 any liability for which the Company is permitted to indemnify a Trustee in accordance with paragraph 37.4 above.
- 37.8 The Company is entitled to claim restitution from a Trustee of the Company or of a related company for any money paid directly or indirectly by the Company to or on behalf of that Trustee in any manner inconsistent with this paragraph 37.

ACCOUNTABILITY AND BORROWING POWERS

38. AUDITED ANNUAL FINANCIAL STATEMENTS

- 38.1 The Company does not elect, in terms of section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008, except to the extent provided in paragraphs 38.2 and 38.3 below.
- 38.2 The Company is required to appoint an auditor and to have its annual financial statements audited every year, and to be appointed as an auditor of the Company, a person or firm must comply with the provisions of section 90 of the Companies Act.
- 38.3 The Company is required to appoint a finance and audit committee comprising of not less than 3 persons, who need not be Members of the Company and who shall have the right to co-opt other suitable expertise as and when required in appropriate circumstances.

39. BORROWING POWERS

Subject to the approval of the Members by Ordinary Resolution:

- 39.1 the Board may raise or borrow such sums of money without limitation for the purposes of the Company as the Members by Ordinary Resolution may determine;
- 39.2 the Board may secure the payment or repayment of any sums of money borrowed or raised in terms of paragraph 39.1 above or the payment of any debt, liability or obligation whatsoever of the Company or of a third party, in such manner and upon such terms and conditions in all respects as the Members by Ordinary Resolution may determine, and in particular by the execution of bonds or the issue of debentures or debenture stock of the Company charged upon all or any part of the property and rights of the Company, both present and future.

GENERAL PROVISIONS

40. INCOME TAX REQUIREMENTS

- 40.1 The Company has not knowingly been, and shall not knowingly be a party to, has not knowingly permitted or does not and shall not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose was, is or will be the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other Act administered by the Commissioner for the South African Revenue Service.'

- 40.2 Annual income tax returns must be submitted by the Company to the Tax Exemption Unit or any equivalent successor department of the South African Revenue Service.
- 40.3 It is specifically recorded that:
- 40.3.1 The Company is not permitted to distribute its funds to any person other than to a similar association of persons; and
- 40.3.2 On dissolution of the Company the remaining assets must be distributed to a similar association of persons which is also exempt from income tax in terms of Section 10 (1)(e)(i)(cc) of the Act.

41. RISK AND EXCLUSION OF LIABILITY

- 41.1 Any Member or other person using any of the Services or Facilities, or entering upon the Estate, does so entirely at his, her or its own risk.
- 41.2 Neither the Company nor the Board shall be responsible or may be held liable for any loss, damage or injury, including consequential loss:
- 41.2.1 suffered by or caused to any person or property anywhere on or about the Company's property or premises, whether or not such loss, damage or injury is occasioned by any act or omission of the Company or the Board or anyone else for whose actions they or any of them would be liable in law; or
- 41.2.2 by reason of vis major, casus fortuitus, rain or other water, riots, strikes, theft or burglary with or without forcible entry, or by reason of any condition on or of any part of the Company's property; or
- 41.2.3 caused to any premises or building structures, or by any defective facilities of the Company; or
- 41.2.4 caused by any sporting activity carried out on the Estate or elsewhere the Company's premises or by any other cause of whatsoever nature and howsoever arising.

42. DISPUTE RESOLUTION

- 42.1 Subject to paragraphs 15.4 to 15.18 above and the Community Schemes Ombud Service Act, 2011, if any dispute question or difference (hereafter collectively referred to as "the Dispute") arises at any time between the Company and any Member or between any Members out of or in regard to -
- 42.1.1 any matters arising out of this Memorandum; or
- 42.1.2 their rights, duties or obligations in terms of this Memorandum or the Companies Act; or

42.1.3 the interpretation or the rectification of this Memorandum;

then and in any such event, the parties to the Dispute shall use their respective best endeavours to negotiate in good faith with each other and any applicable third party for purposes of reaching a resolution of the Dispute.

42.2 If the Dispute cannot be resolved by negotiation and agreement within such period of 7 Business Days, then the Dispute shall be submitted to and decided by arbitration on notice given by any of the parties to the Dispute to the other of them in terms of this clause 42.

42.3 The arbitration shall be held in Cape Town in accordance with the provisions of the Arbitration Act, No 42 of 1965 (as amended or replaced from time to time) save that:

42.3.1 the arbitration shall be informal and the parties shall be entitled to legal representation;

42.3.2 the arbitrator shall have the absolute discretion to determine the procedure to be adopted:

it being the agreed intention that, if possible, the arbitration shall be held and concluded within 10 Business Days after it has been demanded.

42.4 The arbitrator shall be such person as may be agreed upon in writing between the parties to the Dispute.

42.5 If agreement cannot be reached in writing upon the arbitrator within 5 Business Days after the arbitration has been demanded, then the president or chairman for the time being of the Cape Bar Council or its successor/s shall nominate the arbitrator.

42.6 This paragraph 42 shall constitute irrevocable consent of each Member to the arbitration proceedings, and no Member shall be entitled to withdraw herefrom or to claim at such arbitration proceedings that he, she or it is not bound by this paragraph 42.

42.7 Each Member hereby irrevocably agrees that the decision of the arbitrator in the arbitration proceedings:

42.7.1 shall be final and binding on each of them; and

42.7.2 will be carried into effect and can be made an order of any court to whose jurisdiction the parties are subject.

42.8 The provisions of this paragraph 42 shall not preclude any party to the Dispute from instituting any proceedings in any competent court for any urgent, interim or interlocutory relief, pending the determination of the arbitrator

43. SERVICE OF NOTICES.

- 43.1 Notices may be given by the Company to any Member either personally, or by sending it by post in a prepaid letter addressed to the Member at his, her or its registered address or at the address (if any) within the Republic of South Africa supplied by the Member to the Company for the giving of notices to that Member or by transmitting such notice by e-mail to the e-mail address nominated by the Member.
- 43.2 Notice of every Members Meeting shall be given to every Member of the Company.
- 43.3 No other person shall be entitled to receive a notice of Members Meetings.
- 43.4 Any notice by e-mail shall be deemed to have been received by the Member one business day after dispatch of the e-mail to the Member.
- 43.5 Any notice by post shall be deemed to have been served at the time when the letter containing the same was posted, and in proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.
- 43.6 The signature to any notice given by the Company may be written or printed, or partly written and partly printed.
- 43.7 When a given number of days' notice or notice extending over any other period is required to be given, the days of service shall not be counted in such number of days or period.

Schedule 1 – PROXY FORM

THE STEENBERG HOME OWNERS ASSOCIATION NPC

(Registration No 1996/005963/08)

("the Company")

P R O X Y

I, the undersigned,

of _____

being a member of the Company hereby appoint:

of _____ or failing him,

of _____ as my proxy
to vote for me on my behalf at the members meeting of the Company to be held on
the _____ day of _____ 20 __ and at any adjournment thereof as
follows:

	In Favour or	Against	Abstain
Resolution No			
Resolution No			
Resolution No			

(Indicate instructions to the proxy by way of a cross X in the space provided above).

Unless otherwise instructed, my proxy will vote or abstain as he or she thinks fit.

Signed this _____ day of _____ 20 __

(Note: A member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his or her stead. Such proxy need not be a member of the Company).

SIGNATURE