



Companies and Intellectual  
Property Commission  
a member of the sfi group

Date: 11/06/2014

Our Reference: 110878829  
Box: **161844**  
Sequence: **56**

ANDRE VISSER  
PO BOX 1014  
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0001

**RE: Amendment to Company Information**

**Company Number: 1996/013332/08**

**Company Name: WATERKLOOF BOULEVARD HOME OWNERS ASSOCIATION NPC**

We have received a COR15.2 (Amendment of Memorandum of Incorporation) from you dated 06/05/2014.

The Amendment of Memorandum of Incorporation (1) was accepted and placed on file.

Yours truly

**Commissioner: CIPC**

NNB NNB

**Please Note:**

The attached certificate can be validated on the CIPC web site at [www.cipc.co.za](http://www.cipc.co.za).

The contents of the attached certificate was electronically transmitted to the South African Revenue Services.



The Companies and Intellectual Property Commission  
of South Africa

P.O. BOX 429, PRETORIA, 0001, Republic of South Africa. Docex 256, PRETORIA.

Call Centre Tel 086 100 2472, Website [www.cipc.co.za](http://www.cipc.co.za)



**MEMORANDUM OF INCORPORATION**

**of**

**WATERKLOOF BOULEVARD HOME OWNERS ASSOCIATION  
NPC**

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**MEMORANDUM OF INCORPORATION**  
**OF**  
**WATERKLOOF BOULEVARD HOME OWNERS ASSOCIATION NPC**  
**(“the Company”)**

**PRELIMINARY**

The prescribed standard form MOI (as defined below) for non-profit companies, contained in the Regulations (as defined below), shall not apply to the Company.

**1. INTERPRETATION**

1.1 In this MOI unless the context otherwise indicates:

1.1.1 “**Act**” shall mean the Companies Act, 2008 as amended;

1.1.2 “**AGM**” shall mean the annual general meeting or an extraordinary general meeting of the Company as the case may be;

1.1.3 “**Board**” shall mean the board of Directors of the Company from time to time, as appointed in terms of this MOI;

1.1.4 “**Business Day**” shall mean any day other than a Saturday, Sunday or public holiday in the Republic;

1.1.5 “**Chairman**” shall mean the chairman of the board of Directors of the Company;

1.1.6 “**Company**” shall mean Waterkloof Boulevard Homeowners Association NPC;

- 1.1.7 “**Deeds Registries Act**” shall mean the Deeds Registries Act, 1937;
- 1.1.8 “**Directors**” shall mean the directors of the Company from time to time, as defined in the Act;
- 1.1.9 “**General Meeting**” shall mean a meeting other than the annual general meeting or an extraordinary general meeting of the Company as the case may be;
- 1.1.10 “**Managing agent**” shall mean any person or body appointed by the Company as an independent contractor to undertake any of the functions of the Company;
- 1.1.11 “**Member**” shall mean a member of the Company from time to time;
- 1.1.12 “**MOI**” shall mean this memorandum of incorporation of the Company, including any schedules hereto, as amended from time to time;
- 1.1.13 “**Registered Office**” shall mean the registered office of the Company;
- 1.1.14 “**Regulations**” shall mean the regulations promulgated under the Act for as long as they remain of force and effect;
- 1.1.15 “**Republic**” shall mean the Republic of South Africa; as constituted from time to time;
- 1.1.16 “**Rules**” shall mean rules made by the Board in accordance with the provisions of clause 7.2;
- 1.1.17 “**Scheme**” shall mean the development known as Waterkloof Boulevard which is laid out on erf 1856, Waterkloof Ridge;
- 1.1.18 “**Scheme Rules**” shall mean the rules made by the Board;
- 1.1.19 “**Secretary**” shall mean any person duly appointed from time to time to perform the duties of the secretary of the Company;

- 1.1.20 “**Vice-Chairman**” shall mean the vice-chairman of the Board of Directors; and
- 1.1.21 “**Waterkloof Ridge Nature Valley**” shall mean Waterkloof Ridge Nature Valley NPC (Registration Number: 2012/146608/08), a non-profit private company with limited liability incorporated in accordance with the laws of South Africa.
- 1.2 Words that are defined in the Act and not defined in this MOI shall bear the same meaning in this MOI, as in the Act.
- 1.3 Expressions with reference to writing shall be construed as including reference to printing, lithography, photography, electronic mail and other modes of representing or reproducing words in visible form.
- 1.4 Words importing the singular shall include the plural, words importing the masculine, feminine or neuter shall include the others of such genders, and words importing persons shall include bodies corporate, and *vice versa* in each instance.
- 1.5 In this MOI, clause headings are used for convenience only, and shall not be used in its interpretation.
- 1.6 If any provision in a definition is a substantive provision conferring a right or imposing an obligation on any person, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI.
- 1.7 The use of the word “**including**”, “**includes**” and “**include**”, followed by a specific example/s, shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of that general wording or those specific example/s.
- 1.8 Where any term is defined within a particular clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this MOI, unless the context indicates otherwise.

## **2. CONFLICTS WITH THE MOI**

2.1 If there is a conflict between any provision of this MOI and:

2.1.1 an alterable provision of the Act, the provision of this MOI shall prevail to the extent of the conflict and the extent permitted by the Act;

2.1.2 an unalterable provision of the Act, the unalterable provision of the Act shall prevail to the extent of the conflict.

## **3. INCORPORATION AND NATURE OF THE COMPANY**

3.1 This MOI was adopted by the Members of the Company, in accordance with the provisions of section 16(1)(c)(ii) of the Act.

3.2 The Company is incorporated in accordance with, and governed by:

3.2.1 the unalterable provisions of the Act, that are applicable to non-profit companies;

3.2.2 the alterable provisions of the Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this MOI; and

3.2.3 the provisions of this MOI.

## **4. LEGAL POWERS AND CAPACITY**

4.1 Subject to the provisions of section 19(1)(b)(i) of the Act, the Company has all the legal powers and capacity of an individual except to the extent that the Company as a juristic person, is incapable of exercising any such power, or is incapable of having any such capacity or to the extent that the MOI provides otherwise.

4.2 There is no provision of this MOI which constitutes a restrictive condition as contemplated in section 15(2)(b) of the Act.

## **5. OBJECTS AND POWERS OF THE COMPANY**

5.1 The Company is a non-profit company with Members, with the sole

object to manage the collective interests common to the Members who are landowners or occupants in the Scheme, which includes expenditure applicable to the common property of such Members or occupants in the collection of levies for which such Members are liable.

- 5.2 The objects of the Company are not subject to any restriction, limitation or qualification as contemplated in Section 19(1)(b)(ii) of the Act.

## **6. WINDING UP, DEREGISTRATION OR DISSOLUTION**

Upon its winding-up, deregistration or dissolution, the assets of the Company remaining after the satisfaction of all its liabilities shall be given or transferred to some other non-profit entity, institution or association of persons having objects similar to its objects, to be determined by the Members at or before the time of its dissolution or, failing such determination, by a court of competent jurisdiction.

## **7. MEMORANDUM OF INCORPORATION AND RULES**

- 7.1 Every provision of this MOI is capable of amendment in accordance with the provisions of sections 16, 17 and 152(6)(b) of the Act, and, accordingly, there is no provision of this MOI which may not be amended as contemplated in section 15(2)(b) or 15(2)(c) of the Act.
- 7.2 The Board may, subject to the provisions of section 15(4) of the Act, make, amend or repeal any necessary or incidental Rules relating to the governance of the Company in respect of matters that are not addressed in the Act or this MOI, and the authority of the Board in this regard is not limited or restricted in any manner by this MOI.
- 7.3 The Company shall publish a copy of those Rules and a notice of any alteration to those Rules in accordance with section 17(1) of the Act or in such other manner as may be required by those Rules.
- 7.4 The Company does not elect, in terms of section 34(2) of the Act, to comply voluntarily with the provisions of Chapter 3 of the Act.



## 8. MEMBERSHIP

8.1 Members of the Company may be any person including natural persons, companies or other bodies corporate, or statutory bodies or partnerships or associations of persons or owners in the Scheme.

8.2 The Members are all in a single class, being voting Members.

8.3 The Members of the Company and subscribers to this MOI are:

8.3.1 **[INSERT LIST OF CURRENT OWNERS OF ANY PORTION OF LAND IN THE SCHEME].**

8.4 Membership of the Company shall include any person who, in terms of the Deeds Registries Act, is reflected in the records of the deeds office concerned as being the registered owner of any land in the Scheme.

8.5 *Deleted.*

8.6 When any land in the Scheme is owned by more than 1 (one) person, all the registered owners of that land shall together be deemed to be 1 (one) Member of the Company and have the rights and obligations of 1 (one) Member of the Company; provided however that all co-owners of any such land shall be jointly and severally liable for the due performance of any obligation to the Company.

8.7 When a person becomes the registered owner of any land in the Scheme, he shall *ipso facto* become a Member of the Company, and when he ceases to be the owner of any such land he shall *ipso facto* cease to be a Member of the Company.

8.8 No Member shall let or otherwise part with occupation of any land in the Scheme, whether temporarily or other, unless he has agreed in writing with the proposed occupier of any such land as a *stipulatio alteri* in favour of the Company that such occupier shall be bound by all the terms and conditions of the MOI and the Scheme Rules of the

Company, and such written agreement if lodged with the Company prior to the proposed occupier taking occupation of the land in question.

- 8.9 A registered owner of any land in the Scheme may not resign as a Member of the Company.
- 8.10 If, at any time, every Member is also a Director, the authority of the Members to act without notice or compliance with any other internal formalities, is not limited or restricted by this MOI.
- 8.11 The rights and obligations of a Member shall not be transferable and every Member shall:
- 8.11.1 further, to the best of his ability, the objects and interest of the Company;
  - 8.11.2 observe all rules made by the Company in General Meeting of the Directors;
  - 8.11.3 sign all documents and do all things necessary to enable whatever servitudes may be required for services to be registered whether over or in favour of any other portion in the Scheme and including the provision of security facilities;

Provided that nothing contained in this MOI shall prevent a Member from ceding his rights in terms of the MOI as security to the mortgagee of that member's land.

## **9. MEMBERSHIP OF WATERKLOOF RIDGE NATURE VALLEY**

- 9.1 The Company shall become and remain a member of Waterkloof Ridge Nature Valley as a single member on behalf of all persons who are Members of the Company, whose obligations and entitlement to benefit from such membership shall be regulated in accordance with and subject to this MOI and any applicable Scheme Rules.
- 9.2 The Directors shall, from time to time, make and issue Scheme Rules, in accordance with the provisions of clause 12 of this MOI, to

regulate any benefits and/or obligations which accrue to the Members (in the Directors' sole discretion) in order to maintain the Company's membership in Waterkloof Ridge Nature Valley, as well as any related aspects.

9.3 Any benefit accruing to a Member by virtue of the Company's membership in Waterkloof Ridge Nature Valley shall immediately terminate upon such Members ceasing to be a Member of the Company, however such termination shall not release such Member from any obligations in respect of such benefit, and the provisions of clause 10.3 shall apply to any such obligations.

9.4 The Directors may, from time to time, levy a fee on the Members in respect of any fees, costs or other amounts payable by the Company pursuant to its membership of Waterkloof Ridge Nature Valley. Such fee will be included in any levy calculation in accordance with clause 11 as an expense which the Company has incurred and Members shall be liable for such levy in accordance with the provisions of clause 11.

## 10. CESSATION OF MEMBERSHIP

10.1 Membership of the Company shall terminate:

10.1.1 upon such Member ceasing to hold ownership of any land in the Scheme; and

10.1.2 *deleted;*

10.2 A Member who is an owner of land in the Scheme may not resign as a Member.

10.3 Notwithstanding anything to the contrary contained or implied in this MOI, the cessation of Membership shall in no way release a Member from any obligation undertaken by him prior to the cessation of Membership.

## 11. LEVIES

- 11.1 The Directors may from time to time determine the levies payable by the Member for the purpose of meeting all the expenses which the Company has incurred (including such expenses as incurred in terms of clause 9), or to which the Directors reasonably anticipate the Company will be put in the attainment of its objects or the pursuit of its business, and the Members will be reasonably notified of any levies so determined; provided that the Directors may not increase the levy payable by the Members by 15% (fifteen percent) or more in any given year, without the approval of the Members in General Meeting.
- 11.2 Every levy shall be payable in equal monthly instalments, in advance on the first day of each and every month of each financial year.
- 11.3 The Directors shall, not less than 30 (thirty) days prior to the end of each financial year, or so soon thereafter as is reasonably possible, prepare and serve upon every Member at the address chosen by him an estimate in reasonable detail of the amount which shall be required by the Company to meet the expenses during the following financial year, and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The Directors may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature.
- 11.4 In the event of the Directors for any reason whatsoever failing to prepare and timeously serve the estimate referred to above, every Member shall, until served with such estimate, continue to pay the levy previously imposed and shall, after such service, pay such levy as may be specified in the notice, in the manner specified in the notice.
- 11.5 The Directors shall be empowered, in addition to such other rights as the Company may have in law against its Members, to determine the rate of interest from time to time chargeable upon arrear levies; provided that such rate of interest shall exceed the rate of interest

prescribed from time to time in terms of section 1(2) of the Prescribed Rate of Interest Act, 1975, as amended;

- 11.6 Any amount due by a Member by way of levy and interest shall be a debt due by him to the Company. The obligation of the Member to pay a levy shall cease upon him ceasing to be a Member without prejudice to the Company's right to recover arrear levies and interest. No levies or interest paid by a Member shall under any circumstances be repayable by the company upon his ceasing to be a Member. A Member's successor in title to any land in the Scheme shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that land to pay the levy and interest attributable to that land.
- 11.7 No land in the Scheme shall be capable of being transferred without a certificate first being obtained from the Company confirming that all levies and interest have been paid up and including the date of registration of transfer of such land.
- 11.8 The Directors shall recover all legal costs (including collection commissions and legal costs on an attorney-and-own-client scale and whether or not legal proceedings are instituted by the Company in respect thereof) incurred by the Company in recovering or attempting to recover any levies from Members which are not paid on the due date for payment thereof.

## 12. **SCHEME RULES**

- 12.1 Subject to the provisions of this MOI the Directors shall be vested with the sole power and obligation to make Scheme Rules:
- 12.1.1 providing guidelines for the architectural design of all buildings, outbuildings, structures and improvements on land in the Scheme of any nature;
- 12.1.2 to regulate the aesthetical appearance of all improvements on the land in the Scheme;

- 12.1.3 setting minimum standards to which all improvements on the land in the Scheme must comply with;
- 12.1.4 to regulate the preservation and control of vegetation and improvements on the land in the Scheme;
- 12.1.5 to prohibit, restrict or control the keeping of any animal on the land in the Scheme;
- 12.1.6 to regulate the conduct and activities of all persons on the land in the Scheme including without derogating from the generality of the aforesaid, the conduct of owners, employees, tenants, and invitees;
- 12.1.7 to regulate all sanitary aspects on the land in the Scheme;
- 12.1.8 to regulate access and egress to and from the land in the Scheme and regulate traffic on the land in the Scheme;
- 12.1.9 to preserve the environment, including the right to control vegetation and the right to prohibit and/or control the erection of walls, fences and hedges, whether upon or within the boundaries of any land in the Scheme;
- 12.1.10 to regulate parking of motor vehicles, motorcycles, and other vehicles and all other activities pertaining therewith or thereto on land in the Scheme;
- 12.1.11 to regulate the provision of and charges for entertainment, amenities and facilities on the land in the Scheme;
- 12.1.12 to regulate all security matters on the land in the Scheme;
- 12.1.13 for the furtherance and promotion of any of the objects of the Company and/or for the management of the affairs of the Company and/or for the advancement of the interests of Members and/or occupants of the land in the Scheme;
- 12.1.14 to regulate the maintenance of all buildings, and other

improvements, as well as security systems, and landscaping on land in the Scheme;

12.1.15 permitting the Directors to serve notice on any Member to the effect that the Directors consider, in their sole discretion, the appearance of any land or building owned by the Member as unsightly in appearance or injurious to the amenities of the surrounding area;

12.1.16 to create and enforce a penalty system in order to enforce compliance of all Rules, and other rights of the Company;

12.1.17 as required in terms of the provisions of clause 9.2 to maintain the Company's membership in Waterkloof Ridge Nature Valley, as well as any related aspects.

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

12.3 Notwithstanding anything contained herein to the contrary, the Directors may in the name of the Company enforce the provisions of the Scheme Rules of the Company in any Court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.

12.4 For the enforcement of any of the rules made by the Directors in terms of the above and for the payment of any debt due to the Company, the Directors may:

12.4.1 give notice to any Member or resident concerned requiring him to remedy a breach thereof or to make payment within such reasonable period as the Directors may determine, and/or;

12.4.2 take or cause to be taken such steps as they may consider necessary to remedy the breach of the Scheme Rules of which the Members or resident may be guilty, or recover the debt, and debit the cost of so doing to the Member or resident concerned,

which amount shall be deemed to be a debt owing by the Member or resident concerned to the Company; and/ or

- 12.4.3 impose a system of fines or other penalties, provided that the amounts of such fines shall be reviewed and confirmed at each AGM of the Company; and/ or
- 12.4.4 take such other action, including proceedings in Court, as they may deem fit.
- 12.5 In the event of the Directors instituting legal proceedings against any Member or resident within the Scheme for the enforcement of any of the rights of the Company in terms hereof, the Company shall be entitled to recover, on demand, all legal costs so incurred from the Member or resident concerned, calculated as between attorney and own client.
- 12.6 In the event of any breach of the Scheme Rules by the Members or the Member's household, his guests or lessees, such breach shall be deemed to have been committed by the Member himself, but without prejudice to the foregoing, the Directors may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.
- 12.7 In the event of any Member or resident disputing the fact that he has committed a breach of any of the rules, a committee of 3 (three) Directors appointed by the Chairman for the purpose shall adjudicate upon the issue at such time and in such matter and according to such procedure (provided that natural justice shall be observed) as the Chairman may direct.
- 12.8 Any fine imposed upon any Member or resident shall be deemed to be a debt by the Member or resident to the Company and shall be recoverable by ordinary civil process.
- 12.9 Notwithstanding anything to the herein contained, the Directors may in the name of the Company enforce the provisions of any Scheme Rules by civil application or action in a Court of competent jurisdiction



and for this purpose may appoint such attorneys and counsel as they may deem fit.

- 12.10 The Company may in AGM make any rules which the Directors are empowered to make in terms of the Act or this MOI and may, in General Meeting, vary or modify any rules, whether made by the Company or by the Directors, from time to time.

### **13. DIRECTORS**

- 13.1 The Board shall comprise not less than 3 (three) Directors, or their alternates and not more than 10 (ten) Directors or their alternates.

- 13.2 A Director need not himself be a Member of the Company. A Director however, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of this MOI.

### **14. REMOVAL, ROTATION AND DISQUALIFICATION OF DIRECTORS**

- 14.1 Save as set out in this clause 14 each Director shall continue to hold office from the date of his appointment until the AGM next following his appointment, at which meeting each Director shall be deemed to have retired from office but shall be eligible for re-election to Board at such meeting.

- 14.2 If any Director:

- 14.2.1 ceases to be a Director or become prohibited from being a Director by virtue of any provision of the Act, Regulations, or this MOI;

- 14.2.2 resigns his office by notice in writing to the Company;

- 14.2.3 is removed from office in accordance with the provisions of the Act or the MOI;

- 14.2.4 is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare his interest and the nature thereof in the manner required; or

- 14.2.5 absents himself from meetings for 6 (six) consecutive months without the leave of other Directors, and they resolve that his office shall be vacated, provided that this provision shall not apply to a Director who is represented by an alternate who does not absent himself;
- 14.2.6 is removed by written notice to that effect signed by Members holding, in the aggregate, more than 50% (fifty percent) of the total voting rights, on a poll of all Members who are entitled to vote in a poll regarding the termination of the Director's appointment;

then such Director shall vacate the office of Director.

- 14.3 A Director shall be deemed to have vacated his office in the event of him being a Member of the Company and being disentitled to exercise a vote.
- 14.4 Upon any vacancy occurring in the Board of Directors prior to the next AGM, the vacancy in question shall be fulfilled by a person nominated by the remaining Directors for the time being in office.

## 15. CHAIRMAN AND VICE CHAIRMAN

- 15.1 The Directors shall within 14 (fourteen) days after each AGM appoint from their number a Chairman and Vice-Chairman, who shall hold their said appointments; provided that the office of Chairman or Vice-Chairman shall *ipso facto* be vacated by a Director holding such office upon his ceasing to be a Director for any reason. No one Director shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time, the Board of Directors shall immediately appoint one of their number as a replacement in such office.
- 15.2 The Chairman and Vice-Chairman, who shall at all times be a resident of the Republic, shall be an appointee designated by the Board. If the Chairman or Vice-Chairman is not present or willing to act within 15 (fifteen) minutes of the time appointed for the

commencement of any meeting, the Directors then present shall choose any other of their number to be Chairman or Vice-Chairman of such meeting.

## 16. DIRECTORS EXPENSES

The Directors 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 Directors. Save as aforesaid, the Directors shall not be entitled to any remuneration for the performance of their duties in terms hereof.

## 17. POWERS OF DIRECTORS

17.1 The business and affairs of the Company shall be managed by or under the direction of its Board, which has the authority to exercise all of the powers and perform any of the functions of the Company, except to the extent that the Act or the MOI or the Rules provide otherwise.

17.2 Save as specifically provided herein, the Directors shall at all times have the right to engage, on behalf of the Company, the services of accountants, auditors, attorneys, advocates, architects, engineers, a managing agent or any other professional firm or person or their employees whatsoever for any reasons deemed necessary by the Directors and on such terms as the Directors shall decide, and the Directors may delegate any or all of their powers to the said managing agent as they may determine, subject to any restrictions imposed on direction given at any AGM of the Company.

17.3 The Directors shall further have the power to:

17.3.1 require that any works being constructed within the Scheme shall be supervised to ensure that the provisions of the MOI of the Company and of the Scheme Rules are complied with and that all work is performed in a proper manner; and

17.3.2 issue an architectural and environment design and maintenance

manual in respect of the Scheme.

- 17.4 The Board shall have the right to co-opt onto the Board any persons or persons which person need not be Members of the Company.
- 17.5 The Board shall be entitled to appoint committees consisting of such number of Directors and such outsiders, including the managing agents, as the Board may deem fit and to delegate to such committees such of the Board's function, powers and duties as the Board may deem fit, together with the further power to vary or revoke such appointments and delegations as the Directors from time to time deem necessary.
- 17.6 The Directors may delegate any of their powers to committees consisting of such Directors or other persons as they think fit. Any committee so formed shall, in the exercise of the powers so delegated, conform to any rules that may be imposed on it by the Directors.
- 17.7 The committee may:
- 17.7.1 include persons who are not Directors of the Company, however:
    - 17.7.1.1 any such person must not be ineligible or disqualified to be a director in terms of section 69; and
    - 17.7.1.2 no such person has a vote on a matter to be decided by the committee;
  - 17.7.2 may consult with or receive advice from any person; and
  - 17.7.3 has the full authority of the Board in respect of matter referred to it.
- 17.8 The creation of a committee, delegation of any power to a committee, or action taken by a committee, does not alone satisfy or constitute compliance by a Director with the required duty of a Director to the Company, as set out in section 76.

- 17.9 The Directors may, in their discretion, appoint an architectural review committee in which event such committee shall, at least, consist of:
- 17.9.1 1 (one) Director; and
- 17.9.2 such number of Members as the Directors may determine.
- 17.10 Members of the architectural review committee shall not be required to be Members of the Company.
- 17.11 In the event that an architectural review committee is established, all plans for buildings, outbuildings, structures, addition, alterations and all plans for all works shall be submitted to the architectural review committee and the Company shall not approve the construction of any structure contemplated in clause 27.5 below unless such plan shall first have been approved by the architectural review committee. The Directors may, if they deem fit, delegate to the architectural review committee their powers in terms of clauses 27.3 and 27.5.

## 18. PROCEEDING OF DIRECTORS

- 18.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they deem fit.
- 18.2 Board resolutions, in order to be of force and effect, shall be approved by the majority of Directors present and voting. Each Director shall be entitled to speak at any meeting of the Board and shall have one vote.
- 18.3 The quorum for the holding of any meeting of the Directors shall be 3 (three) Directors present personally. Any resolution passed by the Board shall be carried on a simple majority of all votes cast. Should there be an equality of votes for and against any resolution; the resolution shall be deemed to have been defeated.
- 18.4 Any Director may at any time, and the Secretary upon the requisition of a Director shall, summon a meeting of the Board at the Registered Office on not less than 5 (five) Business Days' written notice to that

effect given to all Directors, unless the Chairman shall, as a matter of urgency, consent to shorter notice being given.

18.5 Meetings of the Board and of all committees of the Board may be held by means of such telephone, electronic or other communication facility as permits all persons participating in the meeting to communicate with each other simultaneously, provided that the meeting shall be properly minuted by the Secretary and a copy of the minutes forwarded to all Directors for formal adoption.

18.6 Except to the extent that the MOI provides otherwise, 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 Directors, given in person, or by electronic communication, provided that each Director has received notice of the matter to be decided.

18.7 A decision made in the manner contemplated in clause 18.5 and 18.6 is of the same effect as if it had been approved by voting at a meeting.

## 19. ANNUAL GENERAL MEETINGS

19.1 The Company shall in each year hold an AGM, provided that not more than 15 (fifteen) months shall lapse between the date of one AGM and that of the next and that an AGM shall be held within 9 (nine) months after the expiration of the financial year of the Company.

19.2 Other meetings of the Company may be held at any time.

19.3 AGMs or other meetings shall be held at such time and place as the Directors shall appoint.

19.4 The provisions of the Act and clauses 21, 22 and 23 below shall apply *mutatis mutandis* to each AGM.

## 20. MEETINGS

20.1 The Company must hold an AGM as provided for in clause 19, but

may hold meetings whenever the need arises for such meeting to be convened as contemplated in this clause .

20.2 The Board or a Member or Members holding at least 20% (twenty percent) of all voting rights, may call a meeting at any time.

20.3 The Board must call a meeting:

20.3.1 at any time that the Board is required by the Act or the MOI to refer a matter to Members for decision;

20.3.2 whenever required in terms of section 70(3) of the Act to fill a vacancy on the Board; and

20.3.3 when otherwise required in terms of section 61(3) of the Act, or in terms of any other provision of this MOI.

20.4 meetings shall be held at such time and place as the Board shall determine.

## 21. NOTICE OF GENERAL MEETINGS

21.1 The Company must deliver a notice of each General Meeting in the prescribed manner and form to all of the Members as of the record date for the General Meeting, at least 10 (ten) Business Days before the General Meeting.

21.2 The Company may call a General Meeting with less notice than required but such General Meeting may proceed only if every Member or other person who are entitled to exercise voting rights in respect of any item on the General Meeting agenda:

21.2.1 is present at the General Meeting; and

21.2.2 votes to waive the required minimum notice of the General Meeting.

21.3 A notice of a General Meeting must be in writing, and must include-

21.3.1 the date, time and place for the General Meeting;

- 21.3.2 the general purpose of the General Meeting, and any specific purpose contemplated in section 61(3)(a) of the Act, if applicable; and
- 21.3.3 a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the General Meeting, and a notice of the percentage of voting rights that will be required for that resolution to be adopted.
- 21.4 A Member entitled to attend and vote at a General Meeting is entitled to appoint a proxy to attend, participate in and vote at the General Meeting in the place of the Member.
- 21.5 The accidental omission to give notice of any meeting to any particular Member or Members shall not invalidate any resolution passed at any such meeting.

## **22. PROCEEDINGS AT GENERAL MEETINGS**

- 22.1 No business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the General Meeting proceeds to business. A quorum shall be constituted if 20 (twenty) percent of the Members entitled to vote are personally present, or by valid proxy, at such General Meeting.
- 22.2 The Chairman of a General Meeting shall be the Chairman appointed in terms of clause 15, who shall preside as Chairman at all General Meetings. If the Chairman is not present within 15 (fifteen) minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the Vice-Chairman shall act in his stead, or failing the Vice-Chairman, a Chairman appointed by the Members present at the meeting.
- 22.3 If within half an hour after the time appointed for the General Meeting, a quorum is not present, the General Meeting, if convened upon the request of Members shall be dissolved. In any other case it shall stand adjourned to such date as the Chairman may decide, provided it shall be within 15 (fifteen) Business Days of, but more



than 5 (five) Business Days after, the original General Meeting, and if at such adjourned General Meeting a quorum is still not present within half an hour after the time appointed for such General Meeting, the Members then present in person or by proxy shall be deemed to constitute a quorum.

22.4 Where a General Meeting has been adjourned as aforesaid, the Company shall, as soon as possible, notify all Members in such manner as the Chairman may decide, of the following matters:

22.4.1 the date, time and place to which the General Meeting has been adjourned;

22.4.2 the matter before the General Meeting when it was adjourned; and

22.4.3 the grounds for the adjournment.

22.5 The Chairman may, with the consent of any General Meeting at which a quorum is present (and shall, if so directed by the Meeting), adjourn the General Meeting from time to time and from place to place, but no business shall be transacted at any adjourned General Meeting other than the business left unfinished at the General Meeting at which the adjournment took place. When a General Meeting is adjourned, the provisions of clause 22.4 shall *mutatis mutandis* apply to such adjournment.

22.6 At any General Meeting, a resolution put to the vote of the General Meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairman and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried unanimously or by a particular majority or negatived, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 22.7 If a poll is duly demanded, it shall be taken in such manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the General Meeting.
- 22.8 In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman shall not have a second or casting vote in addition to the deliberate vote to which he may be entitled as a Member, or as a representative of a Member.
- 22.9 If a poll is demanded it shall be taken at such time as the Chairman directs. The demand for a poll shall not prevent the continuation of a General Meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 22.10 Unless a General Meeting is required to be held in compliance with the provisions of the Act, a resolution signed by or on behalf of 75% (seventy five percent) percent of all Members shall be as valid and effectual as if passed at a duly convened General Meeting.
- 22.11 At all General Meetings, each Member present in person or represented by proxy and if a Member is a body corporate, its representative, shall be entitled to 1 (one) vote which vote may be exercised either on a show of hands or on a poll, however a Member who is the owner of more than one portion of land in the Scheme shall have one vote per portion so owned.
- 22.12 Subject to the provisions of this MOI, no person other than a duly registered Member who has paid every levy and other sum, if any, which is due and payable to the Company in respect of or arising out of his membership and who is not under suspension, shall be entitled to present or vote on any question, either personally or by proxy, at any General Meeting.
- 22.13 A resolution shall not be invalid because a vote which should not have been included has been included has been taken into account unless, in the opinion of the Chairman of that meeting (whose decisions thereon shall be final and binding), the exclusion of that

vote would have altered the result of the voting on that resolution. Conversely a resolution shall not be invalid because a vote which should have been included has not been taken into account unless in the opinion of the Chairman of that meeting (whose decisions thereon shall be final and binding), the inclusion of that vote would have altered the result of the voting on that resolution.

22.14 No resolution at a General Meeting will require a seconder.

### 23. PROXY

23.1 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing. A proxy need not be a Member; provided that the proxy shall be nominated by an authorised representative of a Member. The holder of a general or special power of attorney incorporating the necessary powers contemplated hereunder, shall be entitled to attend and vote at any meetings on behalf of the Member granting such power.

23.2 The Company shall be obliged to give effect to the appointment of a proxy, provided the instrument appointing such proxy, including the power of attorney or other authority, if any, under which it is signed or a duly certified copy thereof, shall have been deposited at the Registered Office not less than 48 (forty-eight) hours before the time for holding such meeting, or any adjournment thereof.

23.3 The instrument appointing a proxy shall be in the following form, or in such other form as may be acceptable to the Chairman of the meeting;

*"I \_\_\_\_\_ being a Member hereby  
appoint:*

*\_\_\_\_\_ of \_\_\_\_\_ or failing  
him/her \_\_\_\_\_ of*

*\_\_\_\_\_ or failing him/her*

*\_\_\_\_\_ of*

\_\_\_\_\_ or failing him/her \_\_\_\_\_  
of \_\_\_\_\_.

as my proxy to attend, vote and speak for me and on my behalf at the AGM/ General Meeting of the Company to be held on the ..... day of..... and at any adjournment thereof as follows:

	In favour of	Against	Abstain from voting
Resolution No: .....			
Resolution No: .....			
Resolution No: .....			

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

Unless otherwise instructed, my proxy may vote as he/she thinks fit.

SIGNED at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_

Signature

(NOTE: A Member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his stead. Such proxy need not also be a Member)."

23.4 A meeting may be conducted entirely by electronic communication, provided that the electronic communication technology employed, enables all persons participating in the meeting to communicate reasonably effectively and concurrently with each other without an intermediary, and provided that:

23.4.1 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

23.4.2 access to the medium or means of electronic communication is at the expense of the Member or proxy.

## 24. **ACCOUNTING RECORDS**

24.1 The Company shall prepare annual financial statements in accordance with the provisions of the Act and the Regulations and shall have those annual financial statements audited.

24.2 The Directors shall ensure that such financial statements fairly present the state of affairs and business of the Company and to explain the transaction and financial position of the trade or business of the Company.

24.3 The Directors shall from time to time and in accordance with the provisions of the Act, cause annual financial statements and group annual financial statements to be prepared and laid before the Members in an AGM.

24.4 A copy of any annual financial statements which are to be laid before the Members at the AGM shall not less than 21 (twenty one) days before the date of the meeting, be sent to every Member and every holder of debentures of the Company and, where required by the Act, to the Registrar. The provisions of this clause 24 shall not require a copy of the said documents to be sent to any person who has not furnished an address to the Company.

- 24.5 The Company shall keep its accounting records at the office or such other place or places as the Directors think fit and shall at all reasonable times be open to inspection by the Directors and by past Directors, but in the case of the latter, only in respect of the period during which they hold office as Directors.
- 24.6 The Directors shall from time to time determine whether, to what extent and at what times and places and under what conditions or regulations the accounting records of the Company, or any of them, may be open for inspection by Members not being Directors and no Member (not being a Director) shall have any right to inspect any accounting record or documents of the Company except as conferred by the Act or except as authorised by the Directors or by the Members in an AGM.
- 24.7 Except as set out in this clause 24 no information rights are established by this MOI in favour of any person in addition to those rights created by section 26 of the Act.

## 25. **NOTICES TO DIRECTORS**

- 25.1 Any notice that is required to be given to Directors may be given in any manner prescribed in the Regulations and that notice shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery.
- 25.2 Each Director shall:
- 25.2.1 notify the Company in writing of a postal address, which address shall be his registered address for the purposes of receiving written notices from the Company by post and, if he has not named such an address, he shall be deemed to have waived his right to be so served with notices; and
- 25.2.2 unless otherwise agreed with the Company, notify in writing to the Company an e-mail address and facsimile number, which address shall be his address for the purposes of receiving notices by way of e-mail or facsimile, respectively.

## 26. NOTICES TO MEMBERS

26.1 Each Member shall:

26.1.1 notify the Company in writing of an address, at which all notices and other communications must be delivered and which address shall be his *domicilium citandi et executandi* (“**Domicilium**”) at which all documents in legal proceedings in connection with his membership in the Company must be served, failing which his address and Domicilium for purposes of receiving such notices and communications and service of legal proceedings, respectively, shall be the address of any property owned by the Member within the Scheme;

26.1.2 notify the Company in writing to an e-mail address and facsimile number, which address shall be his address for the purposes of receiving notices and communications by way of e-mail or facsimile, respectively.

26.2 Any notice or communication required or permitted to be given to a Member pursuant to his membership in the Company shall be valid and effective only if in writing and sent to a Member’s chosen address, telefax number or e-mail address in accordance with the provisions of clause 26.5, provided that documents in legal proceedings in connection with this MOI may only be served at a Party’s Domicilium.

26.3 Any Member may by written notice to the Company, change their chosen address, telefax number or e-mail address to another address, telefax number or e-mail address, provided that:

26.3.1 the change shall become effective on the 10th (tenth) Business Day after the receipt of the notice by the Company; and

26.3.2 any change of a Member’s Domicilium shall only be to an address in the Republic of South Africa, which is not a post office box or *poste restante*.

- 26.4 Any notice to a Member contained in a correctly addressed envelope; and
- 26.4.1 sent by prepaid registered post to it at its chosen address or, if he fails to notify the Company of an address, at the address of any property owned by the Member in the Scheme, as contemplated in clause 26.1; or
- 26.4.2 delivered by hand to a responsible person during ordinary business hours at its chosen address or, if he fails to notify the Company of an address, at the address of any property owned by the Member in the Scheme, as contemplated in clause 26.1;
- shall be deemed to have been received in the case of clause 26.4.1 on the fifth Business Day after posting (unless the contrary is proved) and, in the case of clause 26.4.2 on the day of delivery.
- 26.5 Any notice by telefax or e-mail to a Member at its telefax number or e-mail address shall be deemed, unless the contrary is proved, to have been received on the first Business Day after the date of transmission.
- 26.6 Notwithstanding anything to the contrary contained in this clause 26, a written notice or communication actually received by a Member shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen address, telefax number or e-mail address as set out in clause 26.1.

## 27. GENERAL

- 27.1 No Member of the Company may:
- 27.1.1 erect any precast concrete garden walls on any land within the Scheme;
- 27.1.2 erect any fencing, walling or paving on any land within the Scheme without the prior written approval of the Company, which approval shall not be unreasonably withheld; provided that,



notwithstanding the foregoing, the Directors may withdraw such approval if, in their opinion, such fencing, walling or paving is inconsistent with, or detracts from, the aesthetic appearance of the homes, gardens and appurtenances in the Scheme;

27.1.3 install television or radio aerials or solar heating panels which are exposed to view on any building or structure within the Scheme without the prior written approval of the Company; or

27.1.4 construct within the Scheme any buildings or structures, or effect any additions or alterations to the existing buildings and structures, or build any works of whatsoever nature, including, but without limiting the generality of the foregoing, carports, garages, servant's quarters, storerooms and pergolas, whether of a temporary or permanent nature, without the prior written approval of the Company, which approval shall not be unreasonably withheld; provided that, notwithstanding the foregoing, the Directors may withdraw such approval if, in their opinion, such building, structure, addition, or alteration is not in keeping with the architectural style of any or all of the existing structures and building within the Scheme.

27.2 The Company may require any Member on whose property a house is erected to maintain a sidewalk adjacent to his property and in the event of such Member failing to maintain such sidewalk to the satisfaction of the Company, the Company shall be entitled to take such action as may be necessary for the maintenance of such walkway and to charge such Member concerned.

27.3 The Company may enter into agreements with Members for the provision of amenities and services to the Members and to levy a reasonable charge in respect of the provision thereof.

27.4 Should the Company provide security services and/or other services for Members, all Members shall be obliged to:

- 27.4.1 permit the installation of any equipment in the Scheme for the purposes of such services as may be determined by the Company from time to time;
  - 27.4.2 make payment of charges raised by the Company in respect of such services;
  - 27.4.3 abide by such terms and conditions of the provisions of such services as may be laid down by the Company from time to time.
- 27.5 Where the boundary of a Member's property also constitutes the boundary of the Scheme, such Member shall be obliged to permit the Company to erect upon such Member's property immediately adjacent to such boundary such walling, fencing, barbed wire or other equipment as the Company may determine. Such Member shall not be entitled to interfere in any manner whatsoever with such walling, fencing, barbed wire or equipment, he shall be obliged to erect same within the walling or fencing referred to above and subject to such conditions as the Company may lay down and to permit the Company access to the boundary walling, fencing, barbed wire or equipment concerned.

## 28. INDEMNITY

28.1 Each-

28.1.1 Director, Secretary and other officer of the Company; and

28.1.2 person employed by the Company as its auditor,

28.1.3 shall be indemnified by the Company against any liability incurred by him from time to time in that capacity that is not inconsistent with the provisions of sections 77 and 78 of the Act.

28.2 The Company:

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

- 28.2.2 indemnifies a Director for expenses contemplated, irrespective of whether it has advanced those expenses, if the proceedings:
- 28.2.2.1 are abandoned or exculpate the Director; or
  - 28.2.2.2 arise in respect of any liability for which the Company may indemnify the Director, in terms of sections 78(5) and 78(6) of the Act.
- 28.3 The Company indemnifies a Director in respect of any liability arising other than as contemplated in section 78(6) of the Act.
- 28.4 The Company may obtain insurance to protect:
- 28.4.1 a Director against any liability or expenses for which the Company is permitted to indemnify a Director in accordance with the provisions of section 78 (5) of the Act; or
  - 28.4.2 the Company against any contingency including but not limited to any expenses:
    - 28.4.2.1 that the Company is permitted to advance in accordance with the provisions of section 78(4)(a) of the Act; or
    - 28.4.2.2 for which the Company is permitted to indemnify a Director in accordance with the provisions of section 78(4)(b) of the Act; or
    - 28.4.2.3 any liability for which the Company is permitted to indemnify a Director in accordance with the provisions of section 78(5) of the Act.
- 28.5 The Company shall be entitled to claim restitution from a Director for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with section 78 of the Act.
- 28.6 The Company shall not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to a Director or a Director of a related or inter-related Company, or to a

person related to any such Director unless the transaction:

- 28.6.1 is in the ordinary course of the Company's activities in furtherance of its objects and for fair value;
- 28.6.2 constitutes an advance to meet legal expenses in relation to a matter concerning the Company or to meet anticipated expenses to be incurred by the person on behalf of the Company;
- 28.6.3 is to defray the person's expenses for removal at the Company's request; or
- 28.6.4 is in terms of an employee benefit scheme generally available to all employees or a specific class of employees of the Company.

## 29. FUNDAMENTAL TRANSACTIONS

29.1 The Company shall not:

- 29.1.1 amalgamate or merge with, or convert to, a profit company; or
- 29.1.2 dispose of any part of its assets, undertaking or business to a profit company, other than for fair value.

29.2 The Company shall not be entitled to distribute *in specie* or in kind any of its assets among its Members and may only distribute its funds to some other non-profit entity, institution or association of persons having objects similar to its objects.

## 30. GOVERNING LAW AND JURISDICTION

This MOI shall in all respects be governed by the laws of the Republic of South Africa. The North Gauteng High Court, Pretoria shall have non-exclusive jurisdiction in respect of any dispute or claim arising out of or in connection with this MOI.

## 31. DISPUTE RESOLUTION

31.1 If a dispute between the Directors and/or Members (referred to in this clause 31 as the "**Disputing Parties**", with "**Disputing Party**" being

a reference to any one of them) arises out of or is related to this MOI, including any matter relating to the breach of any of the provisions of this MOI, the Disputing Parties shall meet and negotiate in good faith to attempt to resolve the dispute. If, after 30 (thirty) days from the date upon which the dispute was declared by a Disputing Party by written notice, the dispute is not resolved the matter shall be determined in accordance with the following provisions.

31.2 Save in respect of those provisions of this MOI which provide for their own remedies which would be incompatible with arbitration, or in the Company or any Disputing Party instituting urgent action against the other in any court of competent jurisdiction, any dispute arising from or in connection with this MOI shall be finally resolved by arbitration as follows:

31.3 the arbitrator shall be a practicing attorney or practicing advocate of not less than 15 (fifteen) years standing. The Disputing Party calling the dispute (“**the Referring Party**”) shall nominate in writing, 3 (three) arbitrators of his choice to determine the dispute and shall furnish such nomination to the other Disputing Parties. The other Disputing Parties shall, within 14 (fourteen) days after receipt of the nomination, nominate 1 (one) out of the 3 (three) arbitrators nominated to act as an arbitrator as contemplated in this clause 31. In the event that the other Disputing Parties fail to nominate or fail to agree on the arbitrator to be appointed as contemplated herein, the Referring Party shall, in its sole discretion, be entitled to appoint 1 (one) out of the 3 (three) arbitrators nominated to act as an arbitrator as contemplated herein;

31.3.1 the arbitration shall be held at Pretoria;

31.3.2 the arbitration shall otherwise be held in accordance with the rules of the Arbitration Foundation of South Africa (“AFSA”), or if AFSA shall not be in existence, in accordance with the formalities and procedures settled by the arbitrator, which shall be in an informal and summary manner, that is, it shall not be necessary to observe

or carry out either the usual formalities or procedure or the strict rules of evidence, and the provisions of the Arbitration Act, 1965;

31.3.3 the arbitrator shall be entitled to:

31.3.3.1 investigate or cause to be investigated any matter, fact or thing which he considers necessary or desirable in connection with any matter referred to him for decision;

31.3.3.2 make such award, including an award for specific performance, an interdict, damages or a penalty or the costs of arbitration or otherwise as he in his discretion may deem fit and appropriate; and

31.3.4 the arbitration shall be held as quickly as possible after it is demanded, with a view to it being completed within 30 (thirty) days after it has been so demanded.

31.4 This clause 31 will be severable from the rest of this MOI so that it will operate and continue to operate notwithstanding any actual or alleged voidness, voidability, unenforceability, termination, cancellation, expiry, or accepted repudiation, of this MOI.

31.5 No Disputing Party shall be entitled to withhold performance of any of their obligations in terms of this MOI or the Act pending the settlement of, or decision in, any dispute arising between the Disputing Parties and each Disputing Party shall in such circumstances continue to comply with their obligations in terms of this MOI or the Act.

## 32. **DIVIDENDS**

No dividends shall be paid to Members of the Company