MEMORANDUM OF INCORPORATION

OF

ZULULAMI ESTATE MANAGEMENT ASSOCIATION (RF) NPC

A NON PROFIT COMPANY WITH MEMBERS

REGISTRATION NUMBER: 2017/014553/08

REGISTRATION DATE: 31 JANUARY 2017

This MOI was adopted by Special Resolution passed on the **07th of March 2018** in substitution for the existing memorandum of incorporation of the Company.

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1. INTERPRETATION

1.1 In this MOI, unless the context otherwise requires –

1.1.1 **"the Act"** means the Companies Act 71 of 2008 as amended from time to time;

1.1.2 **"Act 42/1965"** means the Arbitration Act No. 42 of 1965

1.1.3 **"Act 59/1980"** means the Share Blocks Control Act No. 59 of 1980 as amended and any regulations in force thereunder from time to time;

1.1.4 **"Act 75/1983"** means the Property Time Share Control Act No. 75 of 1983 as amended and any regulations in force thereunder from time to time;

1.1.5 **"Act 95/1986"** means the Sectional Titles Act No. 95 of 1986 as amended, and any regulations in force thereunder from time to time;

1.1.6 **"Act 8/2011"** means the Sectional Titles Schemes Management Act No. 8 of 2011 as amended, and any regulations in force thereunder from time to time;

1.1.7 **"Act 9/2011"** means the Community Schemes Ombud Service Act No. 9 of 2011 as amended, and any regulations in force thereunder from time to time;

1.1.8 **"Association"** means the Zululami Estate Management Association (RF) NPC (Registration No. 2017/014553/08);

1.1.9 **"Beneficial Interest"** means, in the event of the Member being:

1.1.9.1 a close corporation, the entire member's interest in the close corporation;

1.1.9.2 a company, all the issued shares in that company; or

1.1.9.3 a trust, the entire beneficial interest in that trust.

1.1.10 **"Board"** means the Board of Directors of the Association for the time being;

1.1.11 **"Body Corporate"** means a body corporate as defined in Section 1 of Act 95/1986 or a Share Block Company as defined in Section 1 of Act 59/1980;

1.1.12 **"Common Areas"** means the common areas within the Estate, which areas shall include, inter alia, open spaces, parks, certain areas of indigenous bush, certain road verges, private roads and public thoroughfares within the Estate;

1.1.13 **"Clubhouse/s"** means the Estate clubhouse/s, private recreational centre/s owned by the Association, to be operated by it or its agents, and intended for the use of and enjoyment by Members and their invitees;

1.1.14 **"Design Review Committee"** means the committee as provided for in Articles 20 and 30 hereof;

1.1.15 **"Developer"** means Collins Residential (Pty) Ltd (Registration No. 2003/019743/07), including its successors and assigns;

1.1.16 **"Design Code"** means the design code, as updated from time to time, of the Association in respect of the Estate, a copy of which is available from the offices of the Association;

1.1.17 **"Development Period"** means the period reckoned from the date of registration of this MOI until the date upon which the Developer gives notice to the Association of the termination of the Development Period;

1.1.18 **"Directors"** means the directors of the Association for the time being;

1.1.19 **"Electronic Communication"** has the meaning set out in Section 1 of the Electronic Communications and Transactions Act, No. 25 of 2002;

1.1.20 **"Environmental Management Plan"** means the construction phase environmental management plan prepared by Sustainable Development Projects CC dated 10 March 2009, as amended from time to time;

1.1.21 **"Erf"** means any freehold subdivision capable of separate ownership in Law, whether such subdivision is improved or not;

1.1.22 **"Estate"** means Zululami Estate comprising erven 489, 516 and 628 Sheffield Beach, together with such additional property as may be incorporated into the Estate by the Developer, as contemplated in Article 36 hereof;

1.1.23 **"Immovable Property"** means an Erf or a Unit in the Estate;

1.1.24 **"Juristic Person"** means a company, close corporation, trust or other legal or juristic person (excluding the body corporate of a sectional title scheme);

1.1.25 **"KwaDukuza Municipality"** means the KwaDukuza Municipality, its successors in title or assigns;

1.1.26 **"Landscape Code"** means the landscape code, as updated from time to time, a copy of which is available from the offices of the Association;

1.1.27 **"Manager"** means the person, corporation or association appointed by the Association, from time to time, to undertake the management of the Estate;

1.1.28 **"Member"** means: -

1.1.28.1 an Owner; and

1.1.28.2 the Developer, during the Development Period (although, it is recorded that, the Developer shall continue to be a Member after the expiry of the Development Period, if the Developer is then an Owner).

1.1.29 **"MOI"** means the Memorandum of Incorporation for the time being of the Association;

1.1.30 **"Office"** means the registered office of the Association for the time being;

1.1.31 **"Owner"** means any owner of Immovable Property or an undivided share in Immovable Property in the Estate;

1.1.32 "**Regulations**" means the regulations published in terms of the Act from time to time;

1.1.33 **"Rules"** mean the rules made by the Board in accordance with the provisions of Article 24 hereof;

1.1.34 **"Scheme"** means the Town Planning Scheme applicable to the Estate, from time to time;

1.1.35 **"Services"** means the bulk services, i.e., water, sewerage, refuse removal, electricity, telecommunications, security and such utilities or services as may be provided by the Association or any other supplier of services to the Estate, from time to time;

1.1.36 **"Unit"** means a sectional title unit under provisions of Act 95/1986 where a sectional title scheme has been established on any Erf.

1.2 In this MOI, unless the context clearly indicates otherwise –

1.2.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;

1.2.2 in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this MOI and –

1.2.2.1 an alterable or elective provision of the Act, the provision of this MOI shall prevail to the extent of the conflict; and

1.2.2.2 an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the conflict unless the MOI imposes on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement, in which event the relevant provision of this MOI shall prevail to the extent of the conflict;

1.2.3 clause headings are for convenience only and are not to be used in its interpretation;

1.2.4 words importing the singular shall include the plural; words importing the masculine, feminine and neuter shall include the others of such genders; and words importing persons shall include Bodies Corporate, and vice versa in each instance;

1.2.5 if the due date for performance of any obligation in terms of this MOI is a day which is not a business day then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the immediately succeeding business day;

1.2.6 any words or expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout the whole of this MOI;

1.2.7 any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form permitted in terms of the Act and/or the Regulations;

1.2.8 any reference to "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic from time to time;

1.2.9 where a particular number of business days is provided for between the happening of one event and another, the number of days must be calculated by excluding the day on which the first event occurs and including the day on which or by which the second event is to occur; and

1.2.10 where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

2. OBJECT

2.1 The object of the company is –

2.1.1 to promote the development and maintenance of Immovable Property within the Estate and to ensure that all such Immovable Property is developed and maintained in such a way as to derive maximum benefit for the Members of the Estate;

2.1.2 to promote, advance and protect the interests, safety and welfare of Members of the Association, including but not limited to: -

2.1.2.1 performing the delegated functions and exercising the delegated powers of the Bodies Corporate (in particular sections 3,4 and 5 of Act 8/2011) as the Association may require be assigned to it by the Bodies Corporate on establishment and from time to time;

2.1.2.2 controlling, managing, operating, repairing and maintaining the Common Areas;

2.1.2.3 controlling the aesthetic appearance of the Estate, including landscaping, buildings and improvements;

2.1.2.4 controlling traffic;

2.1.2.5 implementing security measures for controlled access to the Estate;

2.1.2.6 regulating and/or controlling any conduct on or about the Estate; and

2.1.2.7 the delivery, maintenance and repair of Services and infrastructure within the Estate.

2.1.3 to create an Association amongst Members of the Association which will entitle Members to share in the use of and benefit from the Common Areas and generally to regulate and control access to and use of the Common Areas and to share the costs incurred in connection with the objects described above; and

2.1.4 to maintain and administer all Immovable Property vested in the Association.

2.2 The provisions of this MOI are consistent with the principles set out in item 1(2) to item 1(9) of Schedule 1 of the Act insofar as such principles are applicable to the Association and no amendment of this MOI shall be competent to the extent that it is contrary to or negates any such principles.

3. NON-PROFIT COMPANY PROVISIONS

The Association is a non-profit company, and accordingly the Association –

3.1 must apply all of its assets and income, however derived, to advance its stated objects set out in Article 2;

3.2 must not directly or indirectly, pay any portion of its income or transfer any of its assets, regardless as to how the income or asset was derived, to any person who is or was an incorporator of the Association, or who is a Member or Director, or person appointing a Director of the Association, except –

3.2.1 as reasonable –

3.2.1.1 remuneration for goods delivered or services rendered to, or at the direction of the Association; or

3.2.1.2 payment of, or reimbursement for, expenses incurred to advance a stated object of the Association;

3.2.2 as payment of an amount due and payable by the Association in terms of a *bona fide* agreement between the Association and that person or another;

3.2.3 as payment in respect of any rights of that person, to the extent that such rights are administered by the Association in order to advance a stated object of the Association; or

3.2.4 in respect of any legal obligation binding the Association.

3.3 Despite any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Association –

3.3.1 no past or present Member or Director of the Association, or person appointing a Director of the Association, is entitled to any part of the net value of the Association after its obligations and liabilities have been satisfied; and

3.3.2 the entire net value of the Association must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts –

3.3.2.1 having objects similar to the Association's main object; and

3.3.2.2 as determined –

3.3.2.2.1 in terms of this MOI; or

3.3.2.2.2 by the court, if no such determination is made in this MOI or by the Members or Directors.

4. LIMITATION OF LIABILITY

Subject to the provisions of the Act, no Director shall be liable for any of the liabilities or obligations of the Association which shall happen in the execution of the duties of his office or in relation thereto unless the same occurs as a result of his own dishonesty, gross negligence or default, breach of duty or breach of trust.

5. RESTRICTIVE CONDITIONS

This MOI does contain restrictive conditions applicable to the Association as contemplated in sections 15(2) (b) or (c) of the Act.

6. MEMBERSHIP

6.1 Membership of the Association shall be obligatory for an Owner. **(RF)**

6.2 The Members of the Association shall be the Developer, during the Development Period, and those persons who, from time to time, become a Member in accordance with the provisions of this MOI. This provision may never be altered by the Members. **(RF)**

6.3 No Immovable Property shall be transferred unless it is a condition of such transfer that the transferee, in a manner acceptable to the Association, agrees to become a Member and is admitted as a Member.

6.4 In order to procure compliance with the provisions of this MOI, it shall be registered as a condition of ownership of Immovable Property that no Immovable Property shall be alienated without the prior written consent of the Association first being had and obtained which consent shall be given if the proposed transferee is or will be admitted as a Member of the Association and the transferor has complied with all his obligations to the Association (including but not limited to the payment of any monies due to the Association by such transferor).

6.5 Notwithstanding anything contained herein or elsewhere, the Developer shall not be required to obtain the consent of the Association when transferring any Immovable Property owned by the Developer, nor shall consent be required from the Association to mortgage any Immovable Property simultaneously with the transfer thereof from the Developer.

6.6 For the purposes of this clause "alienate" means to alienate any Immovable Property or part thereof, and in no way detracting from the generality of the aforesaid, includes by way of sale, exchange, donation, deed, intestacy, will, cession, mortgagee, assignment, court order or insolvency, irrespective as to whether such alienation is voluntary or involuntary, and further irrespective as to whether such alienation is subject to a suspensive or resolutive condition.

6.7 In the event of Immovable Property being owned in undivided shares by more than one Owner, such co-Owners shall nominate one of them to be the Member for the purposes of this MOI provided that all joint Owners shall be bound by this MOI as if they were Members. Such nomination shall be made in writing to the Association within 7 (seven) days of such parties becoming Owners.

6.8 The liability of each Member as a Member of the Association, shall be limited to R1,00 (one rand) together with such other amount as may be owing by a Member to the Association, from time to time, from whatever cause arising.

6.9 A Member may not resign as a Member of the Association for so long as he is an Owner of Immovable Property. (RF)

6.10 Members shall all be of a single class, being voting Members, each of whom shall have a vote, the value of which shall be calculated in accordance with the provisions of Article 7.14.1 hereof;

6.11 Subject to the rights of membership as prescribed by the Act, membership of the Association shall confer upon a Member, unless otherwise stipulated, the following rights:

6.11.1 the right to inspect and/or receive copies of the annual financial statements of the Association;

6.11.2 the right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for such copy, the information contained in the records of the Company as listed in Section 26 of the Act, which it is recorded includes the following, namely:

6.11.2.1 the Company's MOI and any amendments to it and any Rules made by the Company;

6.11.2.2 the records in respect of the Company's Directors;

6.11.2.3 the reports to annual meetings and annual financial statements;

6.11.2.4 the notices and minutes of annual meetings and any communications to the Members; and

6.11.2.5 the register of Members.

6.11.3 the right to vote, either personally or by proxy, at all general meetings of the Association in accordance with the provisions of this MOI;

6.11.4 the right to receive notices of, attend and speak at all general meetings of the Association, whether ordinary or extra-ordinary, in accordance with and subject to the provisions of this MOI.

6.12 Should Members holding between them, in aggregate, not less than 10% (ten percent) of the voting rights in the Association, collectively so decide, the right to procure the convening of a general meeting in terms of Section 61 of the Act.

6.13 No Member shall, by reason of membership of the Association, be entitled to share in or receive any profit of the Association.

6.14 Membership of the Association shall cease:

6.14.1 upon an Owner of Immovable Property ceasing to be an Owner;

6.14.2 upon the issue of a final order of sequestration or liquidation of the Member concerned;

6.14.3 upon the death of a Member, or upon the Member being declared insane or incapable of managing his affairs.

6.15 In the event of a Member ceasing to be a Member in terms of Article 6.14.2 or 6.14.3 the legal representative of such Member shall, for all purposes, be recognised and be bound as the Member under this MOI.

6.16 The Association shall maintain at its office, a register of Members as provided in Section 24 of the Act. The register of Members shall be open to inspection as provided in Section 26 of the Act.

7. MEETINGS OF MEMBERS

7.1 The Board, or any prescribed officer of the Association authorized by the Board, is entitled to call a meeting of Members at any time.

7.2 Subject to the provisions of section 60 of the Act dealing with the passing of resolutions of Members otherwise than at a meeting of Members, the Association shall hold a meeting of Members –

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

7.2.2 whenever required in terms of the Act to fill a vacancy on the Board; or

7.2.3 when required in terms of Article 7.3 or by any other provision of this MOI.

7.3 The Board shall call a meeting of Members if demanded to do so by Members in accordance with Article 6.12 and –

7.3.1 each such demand describes the specific purpose for which the meeting is proposed; and

7.3.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, at the earliest time specified in any of those demands, of at least 10% (ten percent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

7.4 Notwithstanding any provision of the Act to the contrary, and in addition to other meetings of the Association that may be convened from time to time, the Association shall convene an annual general meeting of its Members once in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting; provided that such annual general meeting shall be capable of being held by Electronic Communication in accordance with the further provisions of this MOI.

7.5 Each annual general meeting of the Company contemplated in Article 7.4 shall provide for at least the following business to be transacted –

7.5.1 the consideration of the Chairman's report;

7.5.2 the presentation of the audited financial statements for the immediately preceding financial year of the Association;

7.5.3 the election of Directors, to the extent required by the Act or by this MOI;

7.5.4 the appointment of an auditor for the following financial year;

7.5.5 the consideration and approval, with or without amendment of the budget and estimated levies for the current financial year;

7.5.6 any other business on which due notice is given;

7.5.7 any matters raised by the Members, with or without advance notice to the Association.

7.6 Save as otherwise provided herein, the Association is not required to hold any other meetings of Members other than those specifically required by the Act.

7.7 The Board may determine the location of any meeting of Members, provided it takes place within the Sheffield Beach/Salt Rock area, and the authority of the Board and the Association in this regard is not limited or restricted by this MOI.

7.8 The annual general meeting and any meeting called for the passing of a special resolution shall be called by not less than 21 (twenty-one) business days' notice in writing and any other general meeting shall be called by not less than 15 (fifteen)

business days' notice in writing. Provided that a meeting of the Association shall, notwithstanding the fact that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed by all the Members having a right to attend the meeting.

7.9 The quorum requirement for a meeting of Members to begin or for a matter to be considered are as set out in section 64 (1) of the Act without variation and accordingly–

7.9.1 a meeting of Members may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty-five percent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and

7.9.2 a matter to be decided at a meeting of Members may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty-five percent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda;

provided that a meeting may not begin, or begin to be debated unless -

7.9.3 at least 3 (three) Members are present at the meeting; and provided that for the Development Period, 1 (one) of such Members must be the Developer; and

7.9.4 the requirements of Articles 7.9.1 and 7.9.2 are satisfied.

7.10 If within 1/2 (half) an hour after the appointed time for a meeting to begin, the requirements of Article 7.9 –

7.10.1 for that meeting to begin have not been satisfied, the meeting is postponed, without any motion, vote or further notice, for 1 (one) week;

7.10.2 for consideration of a particular matter to begin have not been satisfied –

7.10.2.1 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 any motion or vote; or

7.10.2.2 if there is no other business on the agenda of the meeting, the meeting shall be adjourned, without any motion or vote, for 1 (one) week,

provided that the person intended to chair a meeting that cannot begin due to the operation of clause 7.10 may extend the 1/2 (half) an hour limit allowed in clause 7.10 for a reasonable period on the grounds that –

a. 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

b. 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 Article 7.9.

7.11 The Association shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of Article 7.10 unless the location for the meeting is different from –

7.11.1 the location of the postponed or adjourned meeting; or

7.11.2 the location announced at the time of adjournment, in the case of an adjourned meeting.

7.12 If at the time appointed in terms of Article 7.10 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of Article 7.9.1 and .7.9.2 have not been satisfied, the Members, present in person or by proxy at the further postponed meeting will be deemed to constitute a quorum.

7.13 The chairperson shall preside as chairperson at every meeting of Members.

7.14 If there is no such chairperson, or if at any meeting, he or she is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Directors present shall choose 1 (one) of their number to be chairperson. If no Director is willing to act as chairperson or if no director is present within 15 (fifteen) minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to be chairperson of the meeting.

7.14.1 Subject to the provisions of Article 7.14.2, at any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (at any time before or on the declaration of the result of the show of hands) demanded by the Chairman or by any Member, and unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried (by a particular majority) or rejected, and an entry to that effect in a book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn. If a poll is duly demanded, it shall be taken in such a manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting in which the poll was demanded. Scrutineers shall be elected to determine the result of the poll.

7.14.2 Subject to the provisions of Article 7.14.1, on a show of hands, each Member present at a meeting of the Association, in person or by proxy, shall be entitled to one vote. On a poll, which may be called for by any Member or his proxy or the Chairman of the meeting, each Member or his proxy present at the meeting shall be entitled to one vote for each Immovable Property he owns.

7.14.3 Notwithstanding the aforegoing, during the Development Period, the Developer shall for the purposes of voting on any proposed resolution of the Association

which materially affects the rights of the Developer, be deemed to have the higher of the actual number of votes that then vest in the Developer than the number of votes as are held, in aggregate, by all the other Members present or by proxy at the relevant meeting. (RF)

8. PROXIES

8.1 The instrument appointing a proxy shall be in writing, dated and signed by the Member and shall be in such form as the Board may approve.

8.2 No instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution unless the proxy specifically otherwise provides.

8.3 The instrument appointing a proxy shall be deposited at the office of the Association not less than 48 (forty-eight) hours before the time for the holding of the meeting at which the person named in such instrument purports to attend or vote pursuant thereto or in respect thereof.

8.4 The holder of a power of attorney or other written authority from a Member may, if so authorised thereby, represent such Member at any meeting of the Association and such holder shall deliver the power of attorney or other written authority (if any), or a copy thereof, to the Association at least 48 (forty-eight) hours before the time for the holding of any meeting at which a Member wishes to be represented and/or vote. In default of compliance herewith the instrument shall be treated as invalid for the purpose of attending or voting at that meeting or any adjournment thereof.

8.5 In the event of a Member being a Juristic Person, such Member shall lodge at the offices of the Association, a resolution authorising a particular natural person to represent the Member generally and to exercise the Member's vote on its behalf. Such Resolution shall be lodged at the office of the Association at least 48 (forty-eight) hours before the time for the holding of any meeting at which a Member wishes to be represented and/or vote.

9. MEMBERS' RESOLUTIONS

9.1 For an ordinary resolution to be approved of by Members, it must be supported by more than 50% (fifty percent) of the voting rights exercised on the resolution.

9.2 For a special resolution to be approved of by Members, it must be supported by at least 75% (seventy-five percent) of the voting rights exercised on the resolution.

10. MEMBERS' MEETINGS BY ELECTRONIC COMMUNICATION

The Association may conduct a meeting of Members entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, as set out in section 63 of the Act, and the power of the Association to do so is not limited or restricted by this MOI.

11. MEMBERS ACTING OTHER THAN AT A MEETING

11.1 In accordance with the provisions of section 60 of the Act, a resolution that could be voted on at a Members' meeting (including in respect of the election of Directors) may instead be –

11.1.1 submitted by the Board for consideration to the Members entitled to exercise the voting rights in relation to the resolution; and

11.1.2 voted on in writing by such Members within a period of 20 (twenty) business days after the resolution was submitted to them.

11.2 A resolution contemplated in Article 9 –

11.2.1 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, special resolution, as the case may be, at a properly constituted Members' meeting; and

11.2.2 if adopted, will have the same effect as if it had been approved by voting at a meeting.

11.3 Within 10 (ten) business days after adopting a resolution or conducting an election of Directors in terms of the provisions of this Article 11, the Association shall 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 on the election of a Director, as the case may be.

12. INSPECTION OF MINUTES

The minutes kept of every general meeting and annual general meeting of the Association under Section 24 of the Act, may be inspected and copied as provided in Section 26 of the Act.

13. COMPOSITION OF THE BOARD OF DIRECTORS

13.1 The number of Directors and the election thereof shall be determined from time to time by the Members in general meetings subject to the following provisions:

13.1.1 during the Development Period, there shall be a maximum of 5 (five) Directors and a minimum of 3 (three) Directors, all of whom shall be nominated by the Developer;

13.1.2 after the expiry of the Development Period, there shall be a maximum of 5 (five) Directors and a minimum of 3 (three) Directors;

13.1.3 a retiring Director shall be eligible for re-election;

13.1.4 a nominee of the Developer shall be a director for so long as the Developer does not revoke his appointment.

13.2 Save as is set out in Article 13.3 and Article 18, and save for the Director's nominated by

the Developer in terms of Article 13.1, each Director shall continue to hold such office from the date of his commencement of office until the Annual General Meeting next following his said appointment, at which meeting each Director shall be deemed to have retired from office as such but will be eligible for re-election to the Board at such meeting.

13.3 If, as a result of retirement, resignation or otherwise, the total number of Directors falls below the prescribed number, the Board shall act promptly to bring the number of Directors up to the level as specified in this MOI. If the Director so retiring or resigning was the nominee of the Developer, his successor shall be appointed by the Developer. If the Director so retiring or resigning was the nominee of the Trustees of a Body Corporate, his successor shall be appointed by the Trustees of that Body Corporate. The validity of any resolutions taken or acts performed by the Board during a period when the number falls short of that provided in 13.1 above shall not be prejudiced by such shortfall.

13.4 Any Director, with the exception of a Director appointed by the Developer, may be removed by a majority Board decision, for any reason whatsoever.

13.5 The appointment by the Board of any Director to fill any vacancy for whatever reason shall be made within 45 (forty-five) days of the date upon which such vacancy occurs.

13.6 The Directors shall have the power to co-opt persons for the purposes of assisting the Directors in carrying out any of their functions. Any person so co-opted shall be entitled to attend Board meetings but shall not be a director and shall not be entitled to vote on any matter which comes up for consideration by the Board.

13.7 The Chairman and Deputy Chairman shall be elected by the Board at their first meeting in the financial year, provided that for the Development Period, the Chairman and the Deputy Chairman shall be Directors nominated to the Board by the Developer.

14. ALTERNATE DIRECTORS

14.1 Any Director appointed by the Developer may for any reason, and at or for any time, appoint an alternate.

14.2 Any other Director shall be entitled to appoint any Member of the Association as an alternate Director to act in his place during his absence or inability to act as such; provided that the appointment of any alternate Director shall require the approval of the Board. Upon appointment being made, the alternate Director shall, in all respects, be subject to the terms, qualifcations and conditions existing with reference to the other Directors of the Association.

15. REMUNERATION OF DIRECTORS

15.1 A Director shall not directly or indirectly receive any remuneration for his services as a director of the Association, provided that nothing in this MOI shall prohibit him from reimbursement of any travelling, subsistence and other expenses properly incurred by him in the execution of his duties in or about the business of the Association and which

is authorised or approved by the Board.

15.2 If any Director commits a breach of Article 15.1 he shall forthwith cease to be a Director and shall not be eligible for re-election.

16. POWERS AND DUTIES OF DIRECTORS

16.1 The business of the Association shall be managed by the Board, who may on behalf of the Association pay all expenses incurred in promoting and incorporating the Association and may exercise all such powers of the Association as are not specifically required by the Act, or by this MOI, to be exercised by the Association in general meetings.

16.2 Without in any way affecting the generality of Article 16.1 the Board shall have the power to enter into contracts and agreements with third parties to give proper effect to the provisions of this MOI.

16.3 The Board may, pursuant to their rights, obligations and duties in terms of this MOI and as provided for and contemplated under this MOI, incur such expenditure as is necessary and/or requisite and howsoever arising to enable them to give proper effect to the provisions of this MOI.

16.4 The Board shall fulfill its obligations and duties in terms of Act 9/2011.

16.5 After the termination of the Development Period, the Association in general meetings, shall have the right to limit and restrict the powers of the Board, provided that no resolution of the Association shall invalidate any prior act of the Directors which would otherwise have been valid.

16.6 The Board shall have the power to make Rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Estate, for the purposes of giving proper effect to the provisions of the MOI and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those Members who fail to comply with the provisions of this MOI or the Rules.

17. MINUTES

17.1 The Board shall, as provided for in the Act, cause minutes to be kept:

17.1.1 of all appointments of officers;

17.1.2 of names of Directors present at every meeting of the Association and at every meeting of the Directors; and

17.1.3 of all proceedings at all meetings of the Association and/or the Directors.

17.2 Such minutes, once they are approved as a true record of proceedings, shall be signed by the chairman of the meeting at which the proceedings took place or by the chairman of the following meeting.

18. DISQUALIFICATION OR RESIGNATION OF DIRECTORS

The office of Director shall be vacated if the Director: -

18.1 ceases to be a Director by effluxion of the period of appointment, or becomes prohibited from being a Director by virtue of any provision of the Act or this MOI; or

18.2 resigns his office by notice in writing to the Association and the Registrar; or

18.3 becomes insolvent or assigns his estate for the benefit of or compounds with his creditors; or

18.4 is found to be a lunatic or of unsound mind; or

18.5 is absent for 3 (three) consecutive regular meetings of the Directors without obtaining prior leave of absence from the Board; or

18.6 in the case of a Director appointed by the Developer, on the Developer revoking his appointment; or

18.7 if the Director is otherwise ineligible or disqualified from serving as a Director on the grounds set out in Section 69 of the Act.

19. PROCEEDINGS AT MEETINGS OF DIRECTORS

19.1 The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, but shall meet at least 4 (four) times during a financial year.

19.2 The Directors shall determine the number of days' notice to be given for Directors meetings, and the form of that notice.

19.3 In addition to the provisions of section 73(1) of the Act, the Chairperson and the Secretary, upon the request of a Director, shall at any time be entitled to call a meeting of the Directors.

19.4 The quorum necessary for the transaction of the business of the Directors shall be at least 50% of the total number of Directors, provided that for the Development Period at least one of such Directors must be the nominee of the Developer. (RF)

19.5 If at a meeting neither the chairman nor the deputy chairman is present within 10 (ten) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman for that meeting subject to the provisions of Article 13.7.

19.6 Questions arising at any meeting of the Directors shall be decided by a majority of votes of the Directors, present in person or by an alternate. Each Director shall be entitled to exercise 1 (one) vote. Notwithstanding the aforegoing, during the Development Period, the directors who are nominees of the Developer and are present at such meeting, shall, for the purposes of voting on any proposed resolution of the Board, be deemed, jointly to

hold between them 51% (fifty-one percent) of the votes of Directors present at the meeting.

19.7 All acts done in terms of any resolution passed at any meeting of the Directors or a committee of Directors or by any person acting as a Director, notwithstanding that it be afterwards discovered that there was some defect in their acting as aforesaid or that they or any of them were disqualified so to act, shall be as valid as if any such person acting as Director in a meeting of Directors or a committee of Directors had been duly appointed and had qualified to be a Director.

19.8 A Resolution signed by all of the Directors shall be a valid Resolution notwithstanding that such Resolution may not have been passed at a meeting of the Board.

19.9 A meeting of the Board of Directors may be conducted by Electronic Communication or one or more Directors may participate in a meeting by Electronic Communication, as contemplated, and subject to the provisions of Section 73(3) of the Act.

20. COMMITTEES OF THE BOARD

20.1 The Board may delegate any of their powers to committees consisting of such persons as they think fit, the chairman of which committees may be appointed by the Board. Any committee so formed shall be in an advisory capacity to the Board and shall report to and be responsible to the Board and in the exercise of the powers so delegated, conform to the Rules that may be imposed on it by the Board.

20.2 Should the Board not appoint the chairman of a committee, the members of that committee shall elect a chairman of its meetings. If at any meeting the chairman is not present within 10 (ten) minutes after the time appointed for holding the same, the committee members present may elect one of their number to be chairman for that meeting.

20.3 A committee may meet and adjourn as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes of the committee members present and in the event of an equality of votes the chairman shall have a second or casting vote.

21. DELEGATION OF POWERS OF DIRECTORS

The Board may from time to time entrust to and confer upon the Manager, or any other designated official of the Association or consultant or any other person or firm, for the time being, such of the powers and authorities vested in it as it may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and subject to such terms and conditions and restrictions as it may think expedient, and they may confer such powers and authorities either collaterally or to the exclusion of, or in substitution for, all or any of the powers and authorities of the Directors and may from time to time revoke or vary all or any of such powers and authorities.

22. ASSIGNMENT OF POWERS AND FUNCTIONS

The Association shall carry out all the functions and assume all powers as provided for in Act 8/2011 (and in particular Sections 3,4 and 5 thereof), as the Association may require to be delegated to it by the relevant Body Corporate from time to time, and those functions imposed in terms of Act 59/1980 (and in particular Sections 13, 15 and 19 thereof), as the Association may require to be delegated to it by a share block company from time to time, in relation to any sectional title or share block scheme in the Estate. In addition to the aforegoing any controlling body of any sectional title scheme or share block scheme shall assign such powers and functions to the Association as may be required of it by the Association.

23. LEVY FUND

23.1 The Board shall from time to time, impose levies upon the Members for the purpose of meeting all the expenses which the Association has incurred, or which the Directors reasonably anticipate the Association has incurred, or which the Directors reasonably anticipate the Association will incur, in the furtherance of the Association's objects as stated in Article 2. These levies are in addition to the Body Corporate levies payable by the Owner in respect of the applicable Body Corporate and which are allocated in terms of the participation quota of the section as will be specified on the schedule annexed to the sheets of the applicable sectional plan.

23.2 All levies due by Members shall be payable to the Association immediately same become due and owing without deduction, demand or set-off.

23.3 Notwithstanding anything contained herein or elsewhere, during the Development Period, the Developer alone in its sole and absolute discretion, shall determine what portion of the total expenditure of the Association, if any, is to be paid by the Developer (irrespective of the number or Erven/Units owned by the Developer). (RF)

23.4 Subject to the provisions of Articles 23.3, the Board shall determine the proportions in which Owners shall contribute towards the levy fund in accordance with the following principles, having regard to all circumstances prevailing at the time and to equity:

23.4.1 they shall assign those costs arising directly out of Immovable Property to the Member owning such Immovable Property;

23.4.2 If an Owner:-

23.4.2.1 owns more than one Erf and/or Unit he shall be deemed to be a seperate Owner in respect of each Erf and/or Unit for the purposes of this Article;

23.4.2.2 owns an Erf on which multiple residential units may be erected in terms of the Town Planning Scheme, then in that event the Owner shall, for the purposes of this Article 23, be deemed to be a separate Owner in respect of each Unit he has the right to erect on that Erf, until the end of the financial year within which a sectional title register is opened on such Erf, (if any), from whence the provisions of Article 23.4.2.3 shall apply.

Notwithstanding the aforesaid, the Board on behalf of the Association shall not be obliged to impose levies on each Unit an Owner has the right to erect, or on each potential Unit an Owner has the right to erect in terms of a right to extend the Scheme, but shall, from time to time, be entitled to determine an equitable contribution to be paid by such Owner and the duration of such contribution having regard to the following principles: -

23.4.2.2.1 from the date of transfer of the Erf to the Owner to the date of site handover for the purposes of the commencement of construction, the Owner shall pay one levy for every 2,5 Units that the Owner is entitled erect on the Erf, rounded down. By way of example, should the Owner be entitled to erect 12 Units on the Erf the Owner will be obliged to pay 12÷2.5=4.8 = 4 separate levies;

23.4.2.2.2 from the date of site handover of the Erf for the purposes of commencement of construction, the number of separate levies an Owner shall be obliged to pay shall be equal to the maximum number of Units the Owner is entitled to erect on the Erf;

23.4.2.2.3 once any Unit has been transferred to a third party the number of Units the Owner is entitled to erect shall be reduced by such number and the number of separate levies shall be reduced accordingly,

23.4.2.3 owns the right to extend any sectional title scheme in the Development by the erection of more than one Unit, he shall be deemed to be a separate Owner in respect of each Unit he has the right to extend the scheme by, for the purposes of this Article 23,

23.4.2.4 subject to the provisions of Article 23.3, has not commenced construction and/or completed the erection of his dwelling on his Erf within the time periods stipulated by the Developer, the Board shall be entitled, but not obliged, to require such Owner to pay one and half times the levy in the first instance and double the levy in the second instance, that such Owner would otherwise have paid had the dwelling unit been completed, until such time as the dwelling unit has been commenced/completed,

23.4.3 they may draw distinction between the services rendered by the Association to a particular Body Corporate for a particular Scheme, again taking into account the nature and extent of the services rendered to that Body Corporate and the Owners of Units within that Body Corporate;

23.4.4 where the Owner is the Association no levies shall be payable to the Association in respect of any Common Areas, administrative and communal facilities for the benefit of Owners within the Estate.

23.4.5 all contributions received from Members and the Developer shall forthwith be deposited in a separate account which the Association shall open and keep with a financial institution.

23.5 The monies in the levy fund shall be utilised to defray the expenses referred to in clause 23.1 above.

23.6 Notwithstanding any person ceasing to be a Member, all levies attributable to any period whilst such person was a Member, shall continue to be of full force and effect and recoverable from such person.

23.7 Any amount due by an Owner whether in respect of a levy or any other amount falling due for payment under this MOI, which remains unpaid after the same has fallen due, shall bear interest as from the due date for payment to the date of payment at such rate as may, from time to time, be determined by the Board.

23.8 A Member shall not be entitled to demand repayment of any amount standing to the credit of his levy account.

23.9 The Directors shall, prior to the end of each financial year, prepare an itemised estimate of the anticipated income and expenditure (which may include a reasonable provision for contingencies) of the Association during the ensuing financial year and make a levy upon the Members in such estimated amount.

23.10 The Directors shall, as soon as possible after the imposition of the levy determine the amount payable by each Member and shall forthwith advise each Member in writing of the amount payable.

23.11 Such amount shall be divided into 12 equal instalments, payable monthly by the Members in advance on the first day of each month.

23.12 A Member's successor in title to the Immovable Property shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that portion, to pay the levy and interest thereon attributable to that Immovable Property.

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

23.14 Any amount due by way of a levy, interest thereon and a costs award shall be a debt due by him to the Association.

23.15 No Member shall be entitled to any of the privileges of membership, including the right to vote at or participate in any meeting, unless and until he shall have paid every levy and interest thereon, and any other sum, if any, which may be due and payable by that Member to the Association, from whatsoever cause arising.

23.16 The Directors shall for the period from the date of commencement of business of the Association to the last day of the turnover year of the Association in which such commencement date occurs raise levies in accordance with the principles set out above, *mutatis mutandis*.

23.17 Subject to Article 23.3, the Directors may from time to time make special levies upon the Members or call upon them to make special contributions in respect of all such expenses which are not included in any estimates made in terms of Article 23.9. Such levies and contributions may be payable in one sum or by such instalments and at such time or times as the Directors shall deem fit.

23.18 The Board shall establish a levy stabilization fund and shall determine the contribution payable from time to time for the purposes of meeting extraordinary expenditure and expenditure of a capital nature, to be incurred by the Association in carrying out its main objects under provisions of this MOI. In the event of any Immovable Property being sold, alienated or otherwise disposed of, the new Owner shall be obliged to pay the levy stabilization fund contribution applicable at that time and the ex-Owner shall not be entitled to a refund of the levy stabilization fund contribution paid by him. Further, in the event of a Member being a Juristic Person and the Beneficial Interest in such Juristic Person being alienated or otherwise disposed of, the new holder of such Beneficial Interest shall similarly be obliged to pay the levy stabilization fund contribution applicable at the time, and the ex-holder of such Beneficial Interest shall not be entitled to a refund of any levy stabilization fund contribution paid (notwithstanding the aforesaid, any change in the ownership of any Immovable Property or any change in Beneficial Interest in a Member which is a Juristic Person, which results from an alienation due to succession, whether testate or in intestate, divorce or dissolution of a marriage or union and the property or share therein is acquired by a "spouse" as defined in the Transfer Duty Act No. 40 of 1949; the acquisition of Immovable Property within the Estate by an existing Member of the Association and who is still a Member at the time that application is made to the Association for its consent to transfer of the property being acquired and provided that this exclusion shall not apply to the ownership of more than one property by a Member (i.e. this exclusion shall not apply where additional properties are acquired by a person but rather to a situation where one property is sold in order to acquire another property on the Estate and there is no discontinuation of membership of the Company envisaged); any other transaction which the Members in general meeting in their sole and absolute discretion agree to exempt from the payment of the levy stabilization fund contribution, shall not give rise to an obligation on the part of the Member to make a contribution to the aforesaid levy stabilization fund).

23.19 Although the obligation to pay the aforesaid levy to the Association shall rest with the individual Member it shall, if the Association so chooses, be the responsibility of the Body Corporate of any sectional title scheme laid out on Immovable Property in the Estate, to collect the aforesaid levy, due to the Association, from the Body Corporate's Members, on the Association's behalf, and to pay same over to the Association timeously.

24. RULES

24.1 In no way detracting from the generality of Article 16.6. above, the Board may from time to time make Rules, applicable within the Estate, specifically in regard to:

24.1.1 the preservation of the natural environment,

24.1.2 vegetation and flora and fauna in the Estate (including, but in no way limited to, the use of exotic and indigenous plants),

24.1.3 the right to keep any animal, reptile or bird, (In no way detracting from the generality of the aforesaid, it is recorded that under no circumstances whatsoever shall cats be permitted on the Estate),

24.1.4 the use of the Clubhouse and its amenities and facilities and the right to make a reasonable charge for such use,

24.1.5 the storing of flammable and other harmful substances,

24.1.6 the conduct of any persons within the Estate and the prevention of nuisance of any nature to any owner of immovable property in the Estate,

24.1.7 the imposition of fines and other penalties to be paid by members of the Association and persons accredited to work on the Estate,

24.1.8 the management, administration and control of the Common Areas,

24.1.9 the establishment, installation and maintenance of gardens, both public and private (including the accreditation of landscape architects, landscape contractors and garden maintenance personnel),

24.1.10 the accreditation of estate agents and letting agents (insofar as this does not conflict with the rights of the Seller) in respect of property on the Estate,

24.1.11 the use of roads, pathways and parking areas,

24.1.12 accreditation of contractors and architects for the Estate,

24.1.13 security, and

24.1.14 generally, in regard to any other matter which the Association from time to time considers appropriate.

24.2 All Rules made by the Directors in accordance with the provisions of Article 24.1 shall be reasonable and shall apply equally to all Members.

24.3 It shall be the duty of the Manager, or such other person or body as may be empowered by the Directors, to ensure compliance by the Members with the Rules, and to this end, to issue such notices or do such things as may be necessary or requisite.

24.4 Each Member undertakes to the Association that he/she shall comply with all Rules made in terms of Article 24.1.

24.5 In no way detracting from the generality of any other provision of this MOI, in the event of the Association incurring any expenses and/or legal costs as a result of any breach of this MOI by any Member, the Association shall be entitled to recover all

such expenses and/or legal costs from such Member on an attorney and own client scale in full whether or not legal action is actually instituted.

25. MANAGER

25.1 The Directors may from time to time and shall if required by the Members of the Association in general meeting, appoint in terms of a written contract a Manager to control, manage and administer the Association and to exercise such powers and duties as may be entrusted to the Manager, including the power to collect contributions levied.

25.2 The Directors shall ensure that there is included in the contract of appointment of the Manager a provision to the effect that if he is in breach of any of the provisions of his contract, or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, the Directors may, without notice, cancel such contract of appointment and the Manager shall have no claim whatsoever against the Association or any of the Members as a result of such cancellation.

25.3 The contract with the Manager shall further provide for the appointment to be revoked and the Manager shall cease to hold office if:

25.3.1 where the Manager is a company, an order is made for its provisional or final liquidation; or where the Manager is a natural person, he surrenders his estate as insolvent or his estate is sequestrated; or

25.3.2 the Manager is convicted of an offence involving fraud or dishonesty; or, where the Manager is a company, any of its Directors is convicted of an offence involving fraud or dishonesty; or

25.3.3 a special resolution of the Members of the Association is passed to that effect; provided that in such event the Manager so removed from office shall not be deprived of any right he may have to claim compensation or damages for breach of contract; or

25.3.4 a resolution of the Board of the Association is passed to that effect.

25.4 The Manager shall keep full records of his administration and shall report to the Association on all matters which in his opinion detrimentally affect the value of the Property.

25.5 The Directors shall give reasonable prior notice to the Manager of all meetings of the Directors and the Manager shall be present thereat.

25.6 The Manager shall prepare the minutes of all meetings of the Directors of the Association and circulate same.

25.7 Should a Manager not be appointed in terms of this clause, then all references in the Articles of the Manager shall be deemed to be a reference to the Directors.

25.8 The appointment of a Manager, if any, shall be subject to the prior written approval of the Developer during the Development Period.

26. ACCOUNTING RECORDS

26.1 The Board shall cause such accounting records as are prescribed by the Act to be kept. Accounting records shall be deemed to be proper if they represent fairly the state of affairs and business of the Association and to explain the transactions and financial position of the trade or business of the Association.

26.2 The accounting records shall be kept at the registered office of the Association or at such other place or places as the Board think fit and shall always be open to inspection by the Members.

27. ANNUAL FINANCIAL STATEMENTS

27.1 The Board shall from time to time, in accordance with sections 29 and 30 of Act, cause to be prepared and laid before the Association in general meeting such financial statements, which financial statements may be either audited or subject to independent review, as prescribed by the Act.

27.2 A copy of any annual financial statements shall be laid before the Association in annual general meeting. A copy of the aforesaid financial statements shall, not less than 21 (twenty-one) days before the date of the meeting, be sent to every Member of the Association: provided that this MOI shall not require a copy of those documents to be sent to any person of whose address the Association is not aware.

28. AUDITOR

An auditor shall be appointed in accordance with the Act.

29. NOTICES

29.1 The Association may give notices, documents, records or statements or notices of availability of the aforegoing by personal delivery to Members or by sending them prepaid through the post or by transmitting them by email, telegram, telex or fax.

29.2 The Association shall not be bound to use any method of giving notices, documents, records or statements or notices of availability of the aforegoing, contemplated in the Regulations in respect of which provision is made for deemed delivery, but if the Association does use such a method, the notice, document, record or statement or notice of availability of the aforegoing shall be deemed to be delivered on the day determined in accordance with the Regulations. In any other case, when a given number of days' notice or notice extending over any period is required to be given, the provisions of Article 29.1 shall be applied.

29.3 Each Member of the Association –

29.3.1 shall notify in writing to the Association an address, which address shall be his registered address for the purposes of receiving written notices from the Association; and

29.3.2 may notify in writing to the Association an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication.

29.4 Any Member whose address is an address not within South Africa, and who shall from time to time furnish the Association with an address within South Africa at which notices can be served upon him, shall be entitled to have notices served upon him at such address. Save as determined in this MOI or in the Act, no Member other than a registered Member whose address appears in the register of Members as being in South Africa, shall be entitled to receive any notice from the Association.

29.5 Any Member who has furnished as electronic address to the Association, by doing so:

29.5.1 authorises the Association to use Electronic Communication to give notices, documents, records or statements or notices of availability of the aforegoing to him; and

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

29.6 Any notice required to be given by the Association to Members, and not expressly prohibiting the provisions of this clause from applying, shall be sufficiently given (subject to giving a notice of availability in accordance with clause 29.1 or 29.5), if given by posting it on the Association's website until at least the date when the event to which the notice refers occurs.

30. DESIGN REVIEW COMMITTEE

30.1 The Design Review Committee shall be comprised of 1 (one) professional architect, the Manager (if any) and any other individuals appointed, by the Developer during the Development Period, and thereafter, by the Board

30.2 The Design Review Committee shall act as, *inter alia*, an aesthetics committee with a view to ensuring any development within the Estate is in accordance with the Design and Landscape Codes, the Scheme and with standards and an architectural theme which will enhance the attraction of the Estate as a whole.

30.3 The Board shall ensure that the Design Review Committee carries out all the functions and duties entrusted to it so as to give proper effect to the provisions of the Design and Landscape Codes.

30.4 Any individual appointed to the Design Review Committee by the Developer may, for any reason or for any time, appoint an alternative.

30.5 The Chairman and Deputy Chairman of the Design Review Committee shall be elected by the Committee at their first meeting in the financial year of the Association, provided that, during the Development Period, the Chairman and Deputy Chairman shall be members of the Committee nominated by the Developer.

30.6 A meeting of the Design Review Committee may be called by any Member on 14

(fourteen) days' written notice to the other Members.

31. REPAIR, UPKEEP, ADMINISTRATION AND MANAGEMENT OF THE ESTATE

31.1 Management

For the purposes of the management of the Estate the Bodies Corporate shall be obliged to appoint the same managing agent as that appointed by the Board.

31.2 Landscaping

Save as may otherwise be agreed by the Board, any landscaping of land by a Member shall be undertaken in accordance with the Landscape Code. No Member shall commence landscaping of any land until such time as a landscape plan has been approved by the Design Review Committee in writing. The maintenance of any garden area shall be in accordance with such rules and regulations as the Board may lay down from time to time (including, but in no way limited to, any rules or regulations the Board may lay down, from time to time, in respect of the appointment and accreditation of persons authorised to maintain such garden areas).

31.3 Provision of Services

31.3.1 The Association may, from time to time, contract with suppliers of services to provide services to the Estate. It is recorded that upon completion of the services in each phase the Association shall assume overall responsibility therefor.

31.3.2 The Association binds itself, jointly and severally with the Developer to observe all the obligations of the Developer to Sembcorp Siza Water (RF) Pty Ltd in terms of the Water Engineering Services Agreement applicable to the Estate. (RF)

31.4 Common Areas

31.4.1 Members, their employees and invitees shall be entitled to use the Common Areas, owned or managed by the Association in the Estate, subject to the rules and restrictions as the Board may lay down from time to time, provided that at all times Owners shall have vehicular and pedestrian ingress and egress from their land to a public road, subject to security measures as the Board may implement from time to time.

31.4.2 No resolution for the winding up of the Association shall be passed prior to the rights of vehicular and pedestrian ingress and egress above referred to being secured by way of servitudes registered against the title of the Estate or the transfer of such accesses to a local authority, as public roads.

31.5 Maintenance of Buildings

Save where such work is carried out by the Association or Body Corporate, the exterior of every building shall be maintained and kept in a clean, tidy and neat condition by the Member and no Member shall be entitled to apply paint or any similar material to any

exterior part of his building without the prior written consent of the Design Review Committee which consent shall not unreasonably be withheld. An Owner shall, on receipt of a notice given by the Design Review Committee, undertake such work as may be specified in such notice relative to such Owner's building. Should an Owner fail to carry out any work as required by the Design Review Committee, after the Design Review Committee has given the owner notice, which the Design Review Committee deems reasonable in the circumstances, so to comply, the Board shall be entitled to carry out such work and to recover the reasonable cost thereof from the Member concerned which amount shall be deemed to be part of the levy due by the Member to the Association.

31.6 **Occupation of Buildings**

Occupation and use of a building shall, at all times, be in compliance with the Scheme and this MOI. No Member shall use any building within the Estate or allow any other person to use such building for purposes not permitted by the Scheme or this MOI or the Rules, nor occupy any building not approved of by the Design Review Committee and confirmed in writing by the Design Review Committee as being complete and compliant with its requirements.

31.7 **Services**

Inasmuch as the provision, establishment, maintenance and repair of services may be required to take place in the Estate, Members shall be obliged to accept the laying out and installation of such services across their land, in such places as the Board determines, from time to time. The Board or persons authorised by it, shall be entitled to enter upon such land for the purpose of providing, establishing, maintaining and/or repairing the services, provided that such work shall be carried out with as little inconvenience to the affected party as reasonably possible.

31.8 **Insurance**

Owners are obligated to utilise the insurance company appointed by the Association from time to time. The Owner's policy must include the necessary cover from commencement of build through to occupation, i.e. contractor's all risks, public liability and homeowner's cover. Owners should, at all times, ensure they are satisfied with the value placed upon their house in the insurance schedule. It should be noted that insurance cover for household contents is the responsibility of the owner.

31.9 **Security of the Estate**

The Association shall provide such security in the Estate as it deems appropriate, from time to time. The Association or its persons authorised by it, shall be entitled to enter upon any Immovable Property for the purposes of maintaining the security perimeter fence of the Estate, for the purposes of maintaining any other security apparatus and for the purposes of patrolling the Estate for security purposes.

31.10 **Maintenance of Common Areas and Municipal Services**

31.10.1 The Association shall be responsible for the maintenance, upkeep and repair of the Common Areas. Further, in the event of the Local Authority, or any other provider of services to an area in, or in the vicinity of the Estate, not having the means or being unwilling to maintain or provide the services normally provided by a local authority or, in the event of the Local Authority or any other service provider not maintaining the services normally provided by a local authority to a standard acceptable to the Association, then in that event, the Association may provide and maintain such services (in consultation, where possible, with such Local Authority or other service provider).

31.10.2 It is recorded that the Association will be the holder of a number of servitudinal rights over various immovable properties within the Estate. Although the Board may, from time to time, in its sole discretion and as it deems fit, pass on the benefit of these various servitudinal rights to individual members or service providers, it shall be under no obligation to do so, and shall exercise these rights reasonably as it, in its sole discretion, deems it to be in the best interests of the Association and its members as a whole.

31.11 **Environmental Management Plan**

31.11.1 Notwithstanding anything contained herein or elsewhere, no Immovable Property within the Estate shall be developed or utilized in any manner save in accordance with the Environmental Management Plan.

31.11.2 It is recorded that the management and other obligations undertaken by the Developer in terms of the Environmental Management Plan shall pass to the Association on the expiry of the Development Period.

31.12 **Design and Landscape Codes**

Notwithstanding anything contained herein or elsewhere, no Immovable Property within the Estate shall be developed save in accordance with the provisions of the Design and Landscape Codes.

32. ENFORCEMENT OF OBLIGATIONS OF OWNERS

Should any Member or any lessee of a Member fail to perform any obligation incumbent upon him, if applicable, within the period of any notice given for compliance, the Board shall be entitled, but not obliged, to do such things and incur such expenditure as is, in the opinion of the Board, necessary and/or requisite to procure compliance. The Member shall be obliged to bring to the attention of any tenant of his Immovable Property, the Rules and Regulations of the Association. In addition, a Member shall utilise its best endeavours to ensure that any invitee of the Member who goes upon the Estate complies with the Association's Rules and Regulations.

33. INDEMNIFICATION (RF)

33.1 The Association may –

33.1.1 advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4) of the Act;

33.1.2 indemnify a Director in respect of liability as set out in section 78(5) of the Act; and/or

33.1.3 purchase insurance to protect the Association or a Director as set out in section 78(7) of the Act,

and the power of the Association in this regard is not limited, restricted or extended by this MOI.

34. DETERMINATION OF DISPUTES

34.1 Subject to Articles 23.13 and 23.15 above, in the event of any dispute or difference arising between the Members inter se or between a Member and the Association as to the construction, meaning or interpretation or effect of any of the provisions or as to the rights, obligations or liabilities of the Association or any Member in terms of this MOI, the parties shall forthwith meet to attempt to settle such dispute or difference and failing such settlement within a period of 60 (sixty) days, such dispute or difference shall be submitted to the ombud in accordance with Section 38 of Act 9/2011, where Act 9/2011 is applicable. In all other circumstances the dispute or difference shall be submitted to arbitration in accordance with the provisions set out below.

34.2 Such arbitration shall be held:

34.2.1 at Durban;

34.2.2 under the provisions of Act 42/1965 of the Republic of South Africa as amended from time to time and the Association of Arbitrators Rules for the Conduct of Arbitrations (Latest Edition).

34.3 The arbitrator shall be, if the question in issue is:

34.3.1 primarily an accounting matter, a practising auditor of not less than 10 (ten) years standing appointed by the President for the time being of the Institute of Chartered Accountants;

34.3.2 primarily a legal matter, a practising attorney of not less than 10 (ten) years standing appointed by the President for the time being of the Law Society of Kwa-Zulu Natal at the request of either Party;

34.3.3 any other matter, an independent person agreed upon between the parties and failing agreement as may be appointed by the President for the time being of the said Law Society at the request of either party.

34.4 If agreement cannot be reached within 7 (seven) business days after a dispute has been declared and an arbitration has been demanded, as to whether the question in issue falls under Article 34.3.1, 34.3.2 or 34.3.3 above, then a practising attorney as agreed upon the parties and failing agreement then appointed at the request of either party by the President for the time being of the said Law Society, as soon as possible thereafter, shall determine whether the question in issue falls under Articles 34.3.1, 34.3.2 or 34.3.3 above so that an arbitrator can be appointed in terms of clause 34 and the arbitration can be held and concluded as soon as possible.

34.5 The decision of the aforesaid arbitration proceedings:

34.5.1 shall be binding on the parties thereto;

34.5.2 shall be carried into effect and

34.5.3 may be made an order of court of competent jurisdiction.

35. DEVELOPER'S RIGHTS REGARDING THE ESTATE

35.1 The Developer shall, during the Development Period, be entitled to develop any Immovable Property within the Estate of which it is the owner in conformity with the Scheme, without the approval of the Association.

35.2 In the event of it being necessary for the Developer to rezone any land within the Estate, the Association grants its consent to such application for rezoning provided such application conforms with any Town Planning Scheme in the course of preparation or any other Scheme applicable from time to time. No member shall be entitled to object to any application contemplated by the Developer in terms of this Article, and the member hereby waives such right.

35.3 It is recorded that an Owner may have certain contractual obligations to the Developer in terms of the contract of sale, entered into between the Owner and Developer, in respect of the purchase of Immovable Property. Should there be any conflict between the rights and obligations of the Association, in terms of this MOI, and the rights of the Developer in terms of the aforesaid contract of sale, the provisions of the contract of sale (and the Developer's rights in terms thereof) shall prevail.

35.4 In the event of the Developer disposing of the Remainder of the Development to some third party such third party shall, mutatis mutandis, be deemed to be the Developer under this MOI. The decision of the Board as to what constitutes a disposal of the Remainder of the Estate shall be final and binding on the members.

36. INCORPORATION OF ADDITIONAL LAND (RF)

The Developer may, on notice in writing to the Board, have any land, contiguous and not contiguous to the Estate, incorporated into the Estate. The date of such incorporation of any aforesaid additional property shall be the date on which notice is given by the Developer to the Board. The definition of "Estate" in terms of this MOI

shall be deemed to include such additional property from the date of receipt of the aforesaid notice by the Board.

37. DISCLAIMER OF RESPONSIBILITY (RF)

37.1 The Association shall not be liable for any injury to any person, damage to or loss of any property, to whomsoever it may belong, occurring or suffered, upon the Estate regardless of the cause thereof nor shall the Association be responsible for any theft of property occurring within the Estate. Members shall not, under any circumstances, have any claim or right of action whatsoever against the Association for damages, loss or otherwise, nor be entitled to withhold or defer payment of any amount due by them for any reason whatsoever.

37.2 The Association and/or its agents shall not be liable to any Member or any of the Member's lessees, or their respective employees, agents, servants, invitees or any Member of the public dealing with the Member for any injury or loss or damage of any description which the Member or any such other person aforesaid may suffer or sustain whether directly or indirectly in or about the Estate, regardless of the cause thereof.

37.3 Members hereby indemnify the Association and its employees, servants and agents and lawful invitees and hold them harmless against all claims by any person arising from any injury or loss or damage as contemplated in this clause 37.

38. AMENDMENT TO ARTICLES

38.1 Save for the non-variable clauses as provided for herein, this MOI may only be amended or varied by way of a special resolution of Members, provided that during the Development Period, this MOI shall not be varied or amended without the prior written consent of the Developer. (RF)

38.2 It is recorded that the obligations imposed on the Association and its members in terms of the Environmental Management Plan are statutory and therefore no amendment to same will be permissible. (RF)