St Francis Links
ST FRANCIS BAY • SOUTH AFRICA

Companies and Intellectual Property Commission

Republic of South Africa

Memorandum of Incorporation ("MOI")

of

ST FRANCIS LINKS HOMEOWNERS ASSOCIATION NPC

registration number 2006/017273/08, which is a non-profit company with members and is referred to in this MOI as "the Association".

The long standard form of MOI for a non-profit company with members, Form CoR15.1.E, as amended from time to time, shall not apply to the Association.

This MOI is in a form unique to the Association, as contemplated in section 13(1)(a)(ii) of the Companies Act 71 of 2008, as amended.

Adoption of MOI

This MOI was adopted by special resolution passed on 9 December 2024 and in substitution for the existing memorandum of incorporation of the Association.

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1. ARTICLE 1 – INTERPRETATION

In this MOI –

1.1 headings are for the purposes of convenience and reference only and shall not be used in the interpretation of this MOI;

1.2 unless the context clearly indicates a contrary intention, an expression which denotes -

1.2.1 any gender includes the other genders;

1.2.2 a natural person includes an artificial person and *vice versa*;

1.2.3 the singular includes the plural and *vice versa*;

1.3 the following expressions shall, unless the context clearly indicates a contrary intention, bear the following meanings and related expressions shall bear corresponding meanings –

1.3.1 "**Act**" - the Companies Act 71 of 2008;

1.3.2 "**Association**" – the St Francis Links Homeowners Association NPC, registration number 2006/017273/08;

1.3.3 "**beneficial owner**" – in the case of a member who is not a natural person, the natural person who ultimately owns the member or is able to exercise effective control in respect of that member, as contemplated in the Act, the Trust Property Control Act 57 of 1988 and/or the Financial Intelligence Centre Act 38 of 2001, all as amended by the General Laws Amendment Act 22 of 2022;

1.3.4 "**board**" - the board of directors for the time being and from time to time of the Association;

1.3.5 "**body corporate**" – a body corporate as defined in section 1 of the Sectional Titles Act;

1.3.6 "**CIPC**" – the Companies and Intellectual Property Commission established in terms of section 185 of the Act;

1.3.7 "**chart of authority**" – the chart adopted and amended by the board of the Association from time to time, setting forth the levels of authority to make decisions and delegation of authority by the board of its powers, and likewise applies in respect of Club and the general manager of the Club, a copy of which document can be accessed on www.stfrancislinks.com;

1.3.8 "**the Club**" – the Links Gold Club (RF) Limited, registration number 2006/017924/06;

1.3.9 "**common property**" – the parts of the estate which are not subject to any exclusive use of right by a member, golf course, club facilities, access control, infrastructure for common access, boundary walls on the perimeter of the estate, security and telecommunications infrastructure and any properties within the estate which may be acquired by, rezoned and developed by the Association for common use by the members and "common immovable property" shall be construed as common property which is immovable in nature;

1.3.10 "**company rules**" – the governance rules of the Association as formulated by the board in accordance with section 15(3) of the Companies Act and article 2.6 below, a copy of such rules forming Schedule 1 to this MOI;

1.3.11 "**conduct rules**" – rules to regulate the conduct of members on the estate as contemplated in article 9. A copy of the most current conduct rules can be accessed on www.stfrancislinks.com;

1.3.12 "**CSOS**" - the Community Schemes Ombud Service established in terms of the Community Schemes Ombud Service Act, 9 of 2011;

1.3.13 “**development and architectural controls**” – the design standards of the Association, a copy of which can be accessed on www.stfrancislinks.com and which may be amended by the board from time to time, subject to any such amendment/s being compliant with all requirements imposed by the local authority and in accordance with SPLUMA;

1.3.14 “**directors**” - the directors (and where applicable, alternate directors) for the time being and from time to time of the Association;

1.3.15 “**dispose**” - to sell, alienate, transfer, exchange, make over, give, donate, unbundle, distribute, encumber or otherwise dispose (whether by way of, *inter alia*, a donation, a dividend *in specie* or pursuant to the terms of a will, grant of option or any other transaction which has the same economic effect) and the word “disposal” shall bear a corresponding meaning;

1.3.16 “**electronic communication**” – has the meaning set out in section 1 of the Electronic Communications and Transactions Act, 25 of 2002;

1.3.17 “**entity**” – any natural person, association, business, close corporation, company, concern, enterprise, firm, joint venture, partnership, trust, organ of state and/or other undertaking whether or not having legal personality;

1.3.18 “**estate** – the St Francis Links Estate, including all open spaces and land within the boundaries of the estate;

1.3.19 “**file**” - when used as a verb, to deliver a document to CIPC in the manner and form, if any, prescribed in the Act or the Regulations for that document;

1.3.20 “**general meetings**” or “**meetings of members**” – meetings of the members of the Association as contemplated in article 5.1.2;

1.3.21 “**good standing**” – in relation to a member, means a member who is not in arrears by more than 60 days in respect of any amount due and owing to the Association or the Club;

1.3.22 “**Income Tax Act**” – the Income Tax Act 58 of 1962;

1.3.23 “**land**” – any land in the estate, including any subdivision capable of individual ownership, whether such land is improved or not, and any sectional title scheme under the provisions of the Section Titles Act, if a sectional title scheme has been established on any such land;

1.3.24 “**land design protocol**” – the protocol developed in terms of the Record of Decision, a copy of which can be accessed on www.stfrancislinks.com;

1.3.25 “**levy stabilisation fund**” – the fund contemplated in company rule 1.13, established for purposes of subsidising day-to-day expenditure and/or meeting unforeseen expenditure of the Association in relation to the common immovable property in the estate and which shall be funded by way of the once-off contribution contemplated in article 2.4 and which the Association may and shall only use to defray expenditure in relation to the common immovable property;

1.3.26 “**local authority**” – the local authority having jurisdiction in respect of the land on which the estate is situated, being the Kouga Local Municipality and any successor body to such entity from time to time;

1.3.27 “**member**” – an owner of land in the estate and where the context so requires, will mean the relevant principal member;

1.3.28 “**MOI**” - the memorandum of incorporation of the Association as set out herein, including Schedule 1;

1.3.29 “**open spaces**” – parks, common property, golfing areas and other open spaces in the estate;

1.3.30 "**owner**" – a person who is the registered owner of land or any undivided share in land in the estate;

1.3.31 "**parties**" – collectively, the Association, the members, the directors and the prescribed officers, as contemplated in the Act (if any), of the Association and a reference to "party" shall be deemed to be a reference to any of them as the context may require;

1.3.32 "**POPIA**" - the Protection of Personal Information Act, 4 of 2013;

1.3.33 "**principal member**" – the individual natural person so nominated and appointed by the body corporate after the opening of a sectional title scheme in respect of a piece of land, or by an owner or co-owners in terms of Addendum A to the Sale Agreement, to act for and on behalf of the owner/s in all dealings with the Association and to exercise for and on behalf of such owner/s all rights and obligations of a member in terms of this MOI, including the exercise of voting rights, and which individual the Association will be entitled to deem to be fully mandated to act as if he/she is the member him/herself, until the authorisation is formally withdrawn by written notice to the Association;

1.3.34 "**prime rate**" - the rate of interest publicly quoted by the Association's bankers, from time to time, as being its prime rate of interest (expressed as a nominal annual compounded monthly in arrear rate), calculated on a 365 day a year basis, irrespective of whether or not the year is a leap year and *prima facie* proved, in the event of there being a dispute in relation thereto, by a certificate signed by any manager of the aforesaid bank (whose appointment, qualification or authority need not be proved);

1.3.35 "**public benefit organisation**" - a public benefit organisation as defined in section 30(1) of the Income Tax Act;

1.3.36 "**Record of Decision**" – the environmental authorisation applied for by the developer of the estate as issued by the Department of Economic Affairs, Environment and Tourism dated 30 September 2004 with reference number EC08/1m:2c/87-01;

1.3.37 "**Regulations**" – the Companies Regulations promulgated in terms of the Act, as amended from time to time;

1.3.38 "**RSA**" – Republic of South Africa;

1.3.39 "**Sale Agreement**" – the standard form agreement executed by a purchaser in terms of which such purchaser acquires land in the estate and becomes an owner, including all annexes to such document;

1.3.40 "**Sectional Titles Act**" - Sectional Titles Schemes Management Act, 8 of 2011;

1.3.41 "**services**" – such amenities, security, maintenance of the common property and open spaces and such other utilities or services as may be provided by the Association to owners in respect of the estate from time to time;

1.3.42 "**SPLUMA**" – the Spatial Planning and Land Use Management Act, 16 of 2013;

1.3.43 "**stated objects**" – the objects of the company as set out in article 2.2 and a reference to "stated object" shall be deemed to be a reference to any of them as the context may require;

1.3.44 "**total purchase price**" - for purposes of article 2.4 shall mean the purchase price paid to an owner by a purchaser as consideration for the alienation of property in the estate by the owner and shall, in the case of the alienation of an erf, whether improved or not, be calculated inclusive of the amount of any consideration accruing to the owner in respect of the share/s it holds in the Club;

1.3.45 "**unit**" – immovable property comprised of a unit in any sectional title scheme (as contemplated in the Sectional Titles Act) as may be established in the estate;

1.3.46 "**voting rights**" - in relation to each member, the voting rights exercisable by such member at any relevant date in connection with any relevant matter;

1.4 a reference to a section refers to the corresponding section of the Act;

1.5 words and expressions which are defined and used or have a particular meaning ascribed to them in a particular context in the Act shall, when used in this MOI in a similar context, bear the same meaning unless excluded by the subject or the context, or unless this MOI provides otherwise;

1.6 where any term is defined within the context of a particular article, the term so defined shall, should that term be used elsewhere in this MOI, bear the meaning ascribed to it in that article, unless it is clear from the context that such meaning is to be restricted exclusively to the use of that term within that article;

1.7 any reference to any law, national or provincial legislation, regulation, by-law or other enactment having the force of law (collectively "law") is to such law as at the date on which this MOI is adopted and as amended, re-enacted or substituted from time to time thereafter;

1.8 should any provision contained in a definition be a substantive provision conferring any right or imposing any obligation on any party then, notwithstanding that it is only contained in this interpretation article, effect shall be given to it as if it were a substantive provision in this MOI;

1.9 when any number of days is prescribed, such number shall exclude the first and include the last day unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day;

1.10 the use of a specific example (whether or not after the word "including" or "such as") shall not be construed as limiting the meaning of the general wording preceding it, (*eiusdem generis* rule) and accordingly wherever the words "includes", "such as" or "including" and/or words of a similar nature are used in this MOI, the words "without limitation" shall be deemed to follow them;

1.11 the rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of the agreement (the *contra proferentem* rule) shall not apply;

1.12 all of the schedules, if any, hereto are deemed to be incorporated herein and shall have the same force and effect as if they were contained in the body of this MOI;

1.13 words and/or expressions which have been defined shall bear the same meanings when used in the schedules, if any, hereto;

1.14 a reference to any statutory body or court shall be construed as a reference to that statutory body or court as at the date on which this MOI is adopted and as substituted from time to time thereafter by successor statutory bodies or courts, as the case may be;

1.15 the words "shall", "will" and "must", when used in the context of any obligation or restriction imposed on a party, shall have the same meaning;

1.16 a reference to any legal principle, doctrine or process under South African law shall include a reference to the equivalent or analogous principle, doctrine or process in any other jurisdiction in which the provisions of this MOI may apply or to the laws of which a party may be or become subject;

1.17 a reference to -

1.17.1 "business day" shall be construed as being any day other than a Saturday, Sunday or public holiday in the RSA;

1.17.2 "business hours" shall be construed as being the hours between 07:30 and 16:30 on any business day;

1.17.3 day/s, month/s or year/s shall be construed as day/s, month/s or year/s in the Gregorian calendar;

1.17.4 any written agreement shall be a reference to that agreement as amended, substituted or replaced from time to time in accordance with its terms;

1.18 any communication which is required to be "in writing" shall, to the extent permitted in law, mean legible writing in English and includes, save as otherwise provided in this MOI, a communication which is written or produced by any substitute for writing or which is partly written or partly so produced, and shall include printing, typewriting, lithography, facsimile and electronic mail and any form of electronic communication contemplated in the Electronic Communications and Transactions Act, 25 of 2002;

1.19 no provision shall, unless otherwise provided, constitute a stipulation for the benefit of any person (*stipulatio alteri*);

1.20 should any provision in a definition in this article 1 be a substantive provision conferring any right or imposing any obligation on any person, then notwithstanding that it is only in a definition in this article 1, effect shall be given to it as if it were a substantive provision in this MOI.

2. ARTICLE 2 – INCORPORATION AND NATURE OF ASSOCIATION

2.1 Incorporation

2.1.1 The Association is incorporated, as from the date of incorporation reflected in its registration certificate being 6 June 2006, as a non-profit company with members.

2.1.2 The Association is constituted in terms of section 19(1)(c) in accordance with and governed by –

2.1.2.1 the unalterable provisions of the Act (subject to any higher standards, greater restrictions, longer periods of time or more onerous requirements set out in this MOI in accordance with section 15(2)(a)(iii)); and

2.1.2.2 the alterable provisions of the Act (subject to any negation, restriction, limitation, qualification, extension or other alteration set out in this MOI in accordance with section 15(2)(a)(ii)); and

2.1.2.3 the provisions of this MOI (subject to and in accordance with section 15(2)).

2.2 **Objects and powers of the Association**

2.2.1 In accordance with item 1 of Schedule 1 of the Act, the Association is incorporated as a non-profit company and for a public benefit object related to a communal or group interest with the **principal object of the Association being to manage the estate for the communal benefit of all members,** including the management, development and maintenance of all facilities on the estate and all related or ancillary activities necessary for or incidental to the principal object.

2.2.2 The Association is not subject to any restrictive conditions or prohibitions contemplated in section 15(2)(b) or (c).

2.2.3 The legal powers and capacity of the Association are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii).

2.2.4 The Association has all of the legal powers and capacity of an individual except to the extent that -

2.2.4.1 the Association, as juristic person, is incapable of exercising any such power or having any such capacity; or

2.2.4.2 this MOI provides otherwise.

2.3 **Non-profit company provisions**

2.3.1 The Association is a non-profit company and accordingly the company shall -

2.3.1.1 apply all of its assets and income, however derived, to advance its principal object as stated in article 2.2 and may –

2.3.1.1.1 acquire and hold securities issued by a profit company; or

2.3.1.1.2 directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects;

2.3.1.2 not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless as to how such 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 -

2.3.1.2.1 as reasonable remuneration for goods delivered or services rendered to, or at the direction of, the Association;

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

2.3.1.2.3 as a payment of an amount due and payable by the Association in terms of a *bona fide* agreement or an arm's length commercial transaction between the Association and that person;

2.3.1.2.4 as a 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

2.3.1.2.5 in respect of any legal obligation binding on the Association;

2.3.1.3 not amalgamate or merge with, or convert to, a profit company; and

2.3.1.4 not dispose of any part of its assets, undertaking or business to a profit company, other than for fair value, except to the extent that such disposals of assets occur in the ordinary course of the activities of the Association.

2.4 The Association is empowered to collect levies from its members to enable the Association to pay for expenditure arising from its responsibility to perform its principal object and the ancillary activities necessary for or incidental to the principal object. The Sale Agreement contains a full disclosure of all levies to be imposed upon a member as owner of land in the estate and by becoming a member of the Association, the member shall be bound to make payment of such levies to the Association in terms of this MOI and more specifically in accordance with the company rules. In particular, any person acquiring property in the estate, whether an erf or a unit, shall, upon becoming a member of the Association (or a member of the body corporate in which it acquires a unit, as the case may be) become liable for the payment of the once-off levy stabilisation fund contribution which contribution shall constitute a liability due by the owner, but which shall only be payable by the owner (as seller) when its alienates the erf or unit. Such contribution shall be an amount equal to 1% of the total purchase price received by the owner (as seller) in respect of such sale. Any body corporate which is a member of the Association shall be liable to ensure such levy stabilisation fund contribution is included as a liability in any agreement for the alienation of a unit in the sectional title scheme administered by the body corporate and is duly collected by the body corporate from the selling owner and paid over to the Association.

2.5 **Winding-up or the dissolution of the Association**

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

2.5.1.1 no past or present member, director or person appointing a director of the Association shall be entitled to any part of the net value of the Association after its obligations and liabilities have been satisfied;

2.5.1.2 the entire net value of the Association shall be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the RSA, voluntary associations or non-profit trusts having objects similar to the Association's main object, as determined by the members at or immediately before the time of the Association's dissolution.

2.5.2 Should no such determination be made by the members in terms of article 2.5.1.2, a court of law shall make such determination.

2.6 **Memorandum of Incorporation and company rules**

2.6.1 This MOI may be altered or amended only in the manner set out in sections 16, 17 or 152(6)(b) of the Act.

2.6.2 The board's authority to make, amend or repeal any company rules, as contemplated in section 15(3) to 15(5A) of the Act, is not limited or restricted in any way by this MOI.

2.6.3 The board must publish –

2.6.3.1 any company rules made in terms of section 15(3);

2.6.3.2 any alteration of this MOI or the company rules made in terms of section 17(1), pursuant to correcting a patent error or defect existing on the face of the MOI or company rules, by delivering a notice of the rule/s or alteration to each member and must subsequently file a notice of such rule/s or alteration with CIPC and CSOS (to the extent that the relevant company rule falls within the jurisdiction of CSOS). For the avoidance of doubt, it is noted that the company rules are distinct from the conduct rules which are under the control of the board as contemplated in article 9.

2.6.4 A company rule made, amended, published and filed in accordance with article 2.6.3 not being inconsistent with the Act and this MOI –

2.6.4.1 takes effect on the date being 10 business days from the date of filing thereof or the date specified in the rule, whichever is the later;

2.6.4.2 is binding on an interim basis from the date it takes effect until the date it is put to a vote of the members at the next general meeting of members or by way of a written ordinary resolution of members;

2.6.4.3 is binding on a permanent basis only if it has been ratified by an ordinary resolution of members adopted in accordance with article 2.6.4.2 above.

2.7 **Application of optional provisions of the Act**

2.7.1 The Association is not required, in terms of section 34(2), to comply with the provisions of Chapter 3 (Enhanced Accountability and Transparency) of the Act and elects not to voluntarily so comply unless and until so required in terms of Regulation 28.

2.7.2 As the Association's Public Interest Score will exceed 350 in any financial year –

2.7.2.1 the Association's annual financial statements are required to be audited annually and accordingly the Association is required to appoint an auditor annually at the Association's Annual General

Meeting. Due to the affairs of the Association and the Club being inextricably linked and closely aligned, the audit appointment for the Association and the Club shall be the same entity and such auditor shall audit both the Association and the Club;

2.7.2.2 the Association may be required to appoint a Social and Ethics Committee unless exempted from such requirement in accordance with the Act and Regulations. Due to the affairs of the Association and the Club being inextricably linked and closely aligned, should the appointment of a Social and Ethics Committee be mandatorily required for the Association, any committee so appointed for the Club shall be deemed to be the Social and Ethics Committee for purposes of any such requirement which may be applicable in respect of the Association.

3. ARTICLE 3 – MEMBERS

3.1 Membership of the Association

3.1.1 The Association is a non-profit company with members, as contemplated in item 4 of Schedule 1 of the Act and shall have a single class of members being voting members.

3.1.2 Membership of the Association shall be compulsory for every owner of land in the estate and membership of the Association shall be limited to those persons who are owners.

3.1.3 Membership shall commence upon registration of transfer of land in the name of the transferee i.e. the owner to be and when a member ceases to be an owner, it shall cease to be a member of the Association with effect from the day on which its status as owner ceases which shall be the date of registration of transfer of the land into the name of the transferee. Whilst a person is an owner of land in the estate, that person shall not be entitled to resign as a member of the Association and shall be bound by the terms of this MOI.

3.1.4 Membership of the Association shall furthermore cease upon the issue of a final order of sequestration or liquidation of the member concerned, upon the death of a member or upon a member being declared insane or otherwise incapable of managing his affairs, in which event the person who becomes the legal representative of such member by operation of law shall be recognised and be treated as the member for all intents and purposes under this MOI.

3.1.5 Where any owner of land –

3.1.5.1 consists of more than one person, all the owners of the land as reflected in the deeds office, shall be deemed jointly and severally to be one member of the Association; and

3.1.5.2 is an owner of a unit, the body corporate of that sectional title scheme shall be deemed to be the owner for purposes of this MOI; and

3.1.5.3 is a juristic person,

it shall be obliged to appoint a principal member as contemplated in article 1.3.33.

3.1.6 This MOI does not and shall not restrict nor regulate the membership of the Association in any manner which amounts to unfair discrimination in terms of section 9 of the Constitution of the RSA.

3.1.7 No member shall be entitled to sell or transfer any land in the estate unless –

3.1.7.1 the transferee becomes a member of the Association;

3.1.7.2 such member has obtained the written consent of the Association for the sale or transfer, which consent shall be given provided that –

3.1.7.2.1 such member has paid to the Association all levies, interest levies, penalty levies, debt collection levies and any other amounts of whatsoever nature or howsoever arising which may be owing by such member to the Association;

3.1.7.2.2 the transferee agrees in writing to be bound by the MOI, the company rules and the conduct rules;

3.1.7.2.3 such member has made payment of the contribution to the levy stabilisation fund as it is obligated to do in terms of article 2.4 and the relevant provisions of the Sale Agreement concluded in respect of the sale and transfer of that land; and

3.1.7.2.4 such member is not in default of any of its obligations in terms of this MOI.

3.1.8 In order to procure compliance with the provisions of this MOI, it shall be registered as a condition of ownership of land in the estate whether and erf or a unit in a sectional title scheme on the estate that no land shall be alienated in any way without the written consent of the Association, acting through the board or such person or committee to whom the board may have delegated such authority, first being obtained as contemplated in article 3.1.7.

3.1.9 Membership shall be automatically suspended should a member not be in good standing and such suspension shall remain in place for so long as the member fails to remedy the cause for it not being in good standing. Any member who has been suspended shall for the period of such suspension remain liable for all levies and other payments due to the Association in terms of this MOI, but will not be entitled to vote at any meeting of members, nor to any other benefits of membership.

3.2 Where land is owned in undivided shares by more than one owner, the principal member of such co-owners shall be the member for purposes of this MOI, provided that such co-owners shall each be bound by the MOI, the company rules and the conduct rules as if each of them is a member.

3.3 **Register of members**

3.3.1 The Association shall maintain a register of members in accordance with the provisions of item 1(9) of Schedule 1 of the Act.

3.3.2 Any person who is entitled to have its name entered into the membership register of the Association shall provide to the Association all the information it may require from time to time for purposes of establishing and maintaining the membership register.

3.3.3 The Association shall maintain a register of the beneficial owners of the members reflected in the register of members in order to comply with the Association's obligations in terms of the provisions of the General Laws Amendment Act 22 of 2022. Each member shall accordingly be obliged upon becoming a member of the Association to provide the Association with full details of the beneficial owners of the member and to notify the Association forthwith should any of the beneficial owners change or there be any change in the information pertaining to the beneficial owner which is required to be filed with CIPC by the Association.

4. **ARTICLE 4 - RIGHTS AND OBLIGATIONS OF MEMBERS**

4.1 **Rights**

Membership of the Association confers on each member the following rights –

4.1.1 to access the information as stipulated in section 26(1) of the Act in the manner as stipulated in that section, provided that any such access shall not include access to the contact details of members in respect of which the Association has a legal duty of confidentiality, whether in terms of POPIA or otherwise, and specifically including where members have not consented to disclosure of email addresses or telephone numbers in the register of members;

4.1.2 to receive notices of, attend and speak at all general meetings of the Association in accordance with the provisions of this MOI;

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

4.1.4 subject to the company rules and the conduct rules, to have access to the estate, the common property and the open spaces.

4.2 **Obligations**

4.2.1 Each member shall –

4.2.1.1 pay all levies, special levies, penalty levies, interest levies, fine levies and other levy charges due and payable to the Association as may be stipulated in this MOI and determined by the board from time to time and shall ensure that it remains in good standing at all times;

4.2.1.2 abide by and observe all the requirements and obligations imposed on members in terms of this MOI, the conduct rules, the company rules, the development and architectural controls and the land design protocol.

5. **ARTICLE 5 - MEETINGS OF MEMBERS**

5.1 **Convening and notices of meetings of members**

5.1.1 The Association is not required to hold any general meetings other than those specifically required by the Act or any general meetings which the members determine to hold.

5.1.2 "Annual General Meetings" shall mean those general meetings of members constituted for the purposes contemplated in article 5.1.6 and all other general meetings shall be referred to as special general meetings.

5.1.3 The minimum number of days for the Association to deliver a notice of a members meeting to the members is 15 business days before the date on which the meeting is to begin, as provided for in section 62(1).

5.1.4 The Association may call a meeting of members on shorter notice than required in terms of article 5.1.3, provided that every member entitled to vote in respect of any item on the agenda of the meeting, is present at the meeting and votes to waive the required minimum notice of the meeting.

5.1.5 The Association shall convene by notice an Annual General Meeting once in every calendar year, but no more than 15 months after the date of the previous Annual General Meeting and not later than 6 months after the financial year end of the Company by clearly specifying it as an Annual General Meeting in the notice

5.1.6 The Annual General Meeting shall deal with the presentation of the annual financial statements, the election of directors, the noting of the levies for the next financial year, the appointment of the auditors, and may furthermore deal with any other business laid before it.

5.1.7 The chairperson of the board shall preside as chairperson at every general meeting of the Association. If there is no such chairperson or the chairperson is not present or available, the vice-chairperson shall preside in his stead. Should both the chairperson and the vice-chairperson not be present or available, the members shall elect a member from the members present at the meeting to serve as chairperson of the meeting.

5.1.8 The board has the authority to call a meeting of members at any time in the manner and on the terms prescribed below by this MOI.

5.1.9 The right of members to requisition a meeting, as set out in section 61(3), may be exercised by members holding in the aggregate at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, subject to written, signed demands for a meeting being delivered to the Association; each demand describing the specific purpose for which the meeting is proposed and the demands are for substantially the same purpose.

5.1.10 The board has the authority to determine the location of any members meeting.

5.1.11 The authority of the Association to conduct members meetings entirely by electronic communication, or to provide for participation in a general meeting by electronic communication is not limited or restricted, subject to the provisions of article 5.1.12 below.

5.1.12 If the Association provides for participation in a general meeting by electronic communication –

5.1.12.1 the notice of that meeting must inform members of the availability of that form of participation, and provide any necessary information to enable members to access the available medium or means of electronic communication; and

5.1.12.2 access to the medium or means of electronic communication is at the expense of the member, except to the extent that the Association determines otherwise.

5.1.13 A notice of a general meeting must be in writing, clearly stating the date, time, place, record date and purpose of/matters to be considered at the meeting. Such notice shall be delivered by electronic mail or electronic publication.

5.1.14 A notice of a general meeting must also include a copy of any proposed resolution to be considered at the meeting and contain a reasonably prominent statement of the members' rights with regards to appointing proxies.

5.1.15 An immaterial defect in the notice of a general meeting or any accidental or inadvertent failure or defect in the delivery of the notice to any particular member, does not invalidate any action taken at the meeting.

5.1.16 A member who is present at the meeting, either in person or represented by proxy, is regarded as having received or waived notice of the meeting, if the minimum notice with a meeting was given, and is recorded to have waived any right based on an actual or alleged material defect in the notice of the meeting, unless such member alleges a material defect in the form of notice for a particular item on the agenda and participates in the determination of whether to waive the requirements for notice or to ratify a defective notice.

5.1.17 A general meeting may proceed notwithstanding a material defect in the giving of the notice, subject to article 5.1.18 below, only if every member who is entitled to exercise voting rights in respect of each item on the agenda of such meeting is present and votes to approve the ratification of the defective notice.

5.1.18 If a material defect in the form or manner of giving notice of a general meeting relates only to one or more particular matters on the agenda for the meeting –

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

5.1.18.2 the meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of article 5.1.17 above.

5.2 **Attendance at meetings of members**

5.2.1 Unless otherwise determined in terms of this MOI or the Act, every member shall be entitled to be present at a general meeting or represented by proxy and to participate therein.

5.2.2 In accordance with section 63(1), before any person (whether as member, principal member or proxy) may attend or participate in a general meeting –

5.2.2.1 that person must present reasonably satisfactory identification; and

5.2.2.2 the chairperson or other person presiding over the meeting must be reasonably satisfied that the right of that person to participate and vote, either as a member, principal member or as a proxy, has been reasonably verified.

5.2.3 A member may be represented at a general meeting by the principal member, in the case of a member who is not a natural person, or by an individual acting as proxy of such member.

5.3 **Proxies**

5.3.1 A member may at any time by written proxy appointment, appoint any person, including any person who is not a member of the company, as its proxy to -

5.3.1.1 participate in, speak and vote at, a general meeting on behalf of that member; or

5.3.1.2 give or withhold written consent on behalf of that member to any decision contemplated in article 5.7,

and any such proxy appointment (and any invitation by the Association to appoint a proxy and any form supplied by the Association for the appointment of a proxy) shall be governed by section 58 and this article 5.3.

5.3.2 The board may determine a standard form of proxy appointment and make it available to members on request.

5.3.3 A member may appoint a proxy for each erf of which the member is the owner, but may not appoint more than one proxy for the same erf for a specific general meeting. The provisions of section 58(3) are accordingly altered to the extent that this article 5.3.3 does not permit the appointment of concurrent proxies for the same erf.

5.3.4 An instrument appointing a proxy remains valid for one year from the date when it was signed, unless such instrument specifically provides for a longer or shorter duration and unless made irrevocable, may be revoked at any time.

5.3.5 If a duly executed proxy instrument does not indicate how the proxy should vote on any issue on the agenda of the general meeting, or any motion tabled at the meeting, the proxy may vote or abstain from voting as he sees fit. For avoidance of doubt, a proxy is entitled to exercise, or abstain from exercising, any voting right of the member in his own discretion, except to the extent that the proxy instrument appointing the proxy provides otherwise. A proxy is entitled to vote on the postponement of an agenda item or of the general meeting itself, except to the extent that the proxy instrument appointing the proxy provides otherwise.

5.3.6 A member's proxy does not have authority to delegate the proxy's powers to another person, unless the proxy instrument specifically allows for it, and subject to such delegation of the proxy's powers to another person being reduced to writing and such delegation being delivered to the Association on the same terms as required by article 5.3.7 below.

5.3.7 A member appointing a proxy shall ensure that at any time prior to the proxy exercising any rights of the member appointing such proxy at a general meeting, a duly executed, dated and signed proxy instrument, in a form and manner that complies with the Act or as prescribed by the board, is delivered to the company secretary of the Association or the person presiding as chairperson over the general meeting.

5.3.8 Failure to comply with article 5.3.7 above, will disqualify the proxy from acting on behalf of the member at the relevant general meeting.

5.4 **Record date for exercise of member rights**

5.4.1 The board may, in accordance with section 59, determine and publish a record date for the purpose of determining which members are entitled to -

5.4.1.1 receive a notice of a members meeting;

5.4.1.2 participate in and vote at a members meeting;

5.4.1.3 decide any matter by written consent or by electronic communication; or

5.4.1.4 be allotted or exercise any other rights.

5.4.2 A record date so determined by the board may not be earlier than the date on which the record date is determined or more than 10 business days before the date on which the event or the action for which the record date is being set, is scheduled to occur, and must be published to the members.

5.4.3 If, at any time, the board fails to determine the record date for determining member's rights, as contemplated in article 5.4.2, the record date for the relevant matter is, as determined in accordance with section 59 (3) –

5.4.3.1 in the case of a meeting, the latest date by which the Association is required to give notice of that meeting; or

5.4.3.2 the date of the relevant action or event in any other case.

5.5 **Quorum for general meetings**

5.5.1 The quorum for a general meeting to begin shall be members present in person or represented by proxy, holding at least 15% of all the voting rights that are entitled to be exercised on at least one matter to be decided at such meeting, provided further that at least 3 members are present in person at such meeting.

5.5.2 In addition, a matter to be decided at a general meeting may not begin to be considered unless sufficient persons are present in person or represented by proxy at the meeting to exercise, in aggregate, at least 15% of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda, provided further that at least 3 members are present in person at such meeting.

5.5.3 If, within half an hour after the appointed time for a general meeting to begin, the requirements for a quorum as stipulated in article 5.5.1 is not met, the meeting is automatically postponed without motion, vote or further notice for one hour.

5.5.4 If, within half an hour of the appointed time for a general meeting to begin, the requirements for a quorum as stipulated in article 5.5.2 are not met for the consideration of an item on the agenda, the item may be postponed to a later time in the meeting without motion or vote, and if there is no other business on the agenda of that meeting or if at that later time the quorum requirements are still not met, the meeting is adjourned for one hour, without motion or vote.

5.5.5 At any such adjourned meeting, if a quorum is still not present after a further half an hour has passed, the members present in person or represented by proxy shall constitute a quorum for all purposes at such meeting.

5.5.6 After a quorum has been established for a members meeting, or for a matter to be considered at a members meeting, the members meeting may continue, or the matter may be considered, provided that members constituting a quorum are present or represented throughout such members meeting.

5.5.7 Notwithstanding the time limit set in articles 5.5.3 and 5.5.4 above, if a general meeting cannot begin due to a deficient quorum, the chairperson of the meeting may extend the time limit for a reasonable period on the grounds that –

5.5.7.1 exceptional circumstances affecting weather, transportation, Electronic Communication etc., have generally impeded or are generally impeding the ability of persons who can vote at the meeting to be present; or

5.5.7.2 one or more particular persons who are entitled to vote at the meeting, having been delayed, have communicated an intention to attend the meeting, and those persons, together with others already in attendance, would satisfy the quorum requirements.

5.6 **Voting rights of members**

5.6.1 As contemplated in article 3.1.9, membership of members not in good standing shall be automatically suspended and accordingly, only members in good standing or their proxy shall be entitled to speak and vote at a general meeting. For the avoidance of doubt, if a member who is not a natural person is not in good standing, the principal member appointed by such member shall not be entitled to speak and vote at a general meeting.

5.6.2 Subject always to article 5.6.1, each member shall have one vote for each piece of land in the estate of which such member is the owner.

5.6.3 Where a piece of land is registered in the name of more than one person, then all such co-owners shall jointly have one vote which must be exercised by their appointed principal member.

5.6.4 Where a sectional title register has been opened on a piece of land, the owners of units shall collectively have one vote to be exercised by the body corporate through its nominated and appointed principal member.

5.6.5 At general meetings, voting shall be by poll (ballot) and each member who is entitled to vote and present or represented by proxy shall have the number of votes determined in accordance with article 5.6.2.

5.6.6 Any objection with regard to the admissibility of any vote, any declaration made by the chairperson of a general meeting with regard to the result of any voting, or with regard to the correctness or validity of the voting procedure followed, must be made prior to closure of the meeting at which such vote took place. Only a member present or represented and entitled to vote on the matter in question, may lodge such an objection, which shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive. Every vote not disallowed at a general meeting shall be valid for all purposes.

5.6.7 The chairperson of a general meeting shall not have a casting/deciding vote in addition to his deliberative vote as a member (if any).

5.6.8 Every resolution of members shall be either an ordinary resolution or a special resolution approved as follows –

5.6.8.1 for an **ordinary resolution** to be adopted at a general meeting, it must be supported by **more than 50% of the voting rights** held by members, present in person or represented by proxy entitled to exercise voting rights on the resolution;

5.6.8.2 for a **special resolution** to be adopted at a general meeting it must be supported by **at least 75% of the voting rights** held by members, present in person or represented by proxy entitled to exercise voting rights on the resolution.

5.6.9 In addition to anything prescribed in the Act as having to be adopted by special resolution, a special resolution shall be required to -

5.6.9.1 amend the MOI or any provision thereof;

5.6.9.2 ratify a consolidated revision of the MOI as contemplated in section 18(1)(b);

5.6.9.3 ratify any actions by the Association or its directors in excess of their authority, as contemplated in section 20(2);

5.6.9.4 approve the voluntary winding-up as contemplated in section 80(1) or the winding-up as contemplated in section 81(1) of the Association;

5.6.9.5 approve any proposed fundamental transaction (as contemplated in chapter 5, Part A of the Act).

5.6.10 The minutes of a general meeting shall be distributed to the board, to be approved by the board as correct, at the first board meeting immediately following the general meeting and shall serve as evidence of the proceedings of that meeting or the adoption of any resolution/s thereat. Any extract from such minutes signed by the chairperson of the board, shall be deemed as evidence of the matters stated in such extract.

5.7 **Members acting other than at a meeting ("round robin resolutions")**

5.7.1 Subject to article 5.7.2, any resolution that could be voted on at a members meeting may instead be submitted for consideration to the members entitled to exercise voting rights in relation to such resolution as contemplated in and in accordance with the provisions of section 60.

5.7.2 Any business of the Association that is required by the Act or this MOI to be conducted at an Annual General Meeting, may not be conducted in the manner contemplated in this article 5.7.

6. ARTICLE 6 - DIRECTORS AND OFFICERS

6.1 **Composition**

6.1.1 The board of the Association will comprise of no fewer than five (5) and no more than seven (7) directors.

6.1.2 Members may from time to time in a general meeting by special resolution resolve to increase or decrease the size of the board to more or fewer than the number of directors stipulated in article 6.1.1, subject always to the requirements of the Act.

6.1.3 Subject to article 6.1.9, all directors to be appointed to the board shall be elected by the members in general meeting by way of ordinary resolution.

6.1.4 There shall be no *ex officio* directors of the Association in addition to the elected directors.

6.1.5 The chairperson and deputy chairperson of the board shall be elected by the directors at their first meeting after the Annual General Meeting of the Association.

6.1.6 The persons elected to the board of the Association shall be deemed to have been nominated by the members for election as directors of the Club, such election to be voted on at a general meeting of the Club.

6.1.7 Every director elected to the board may nominate any member as his alternate director to act in his stead if he is not able to do so. The appointment of any alternate director has to be approved by a majority of the directors present at the relevant meeting of the board and the person nominated to act as alternate director may not be ineligible to act as a director in terms of the provisions of section 69 or article 6.1.8. Where a director nominates an alternate director, such person shall be deemed to have also been nominated to act as alternate director on the board of the Club for the director nominating him. A person may act as an alternate to more than one director. Where a person is alternate to more than one director or where an alternate director is a director, he shall have a separate vote, on behalf of each director he is representing in addition to his own vote, if any.

6.1.8 There are no general qualifications prescribed by the Association for a person to serve as a director in addition to the requirements in section 69 of the Act, save that (i) only natural persons may serve as directors and (ii) any natural person who is not a member in good standing or a natural person who is a related person (as such term is defined in section 2(1) the Act) of a member who is not in good standing shall not be entitled to serve as a director. No person shall be elected as a director if he is ineligible or disqualified in terms of the Act and any such election shall be null and void. A person who is ineligible or disqualified must not consent to be nominated for election as a director.

6.1.9 The directors shall have the power at any time, and from time to time, to appoint a person as an additional director (a “co-opted director”) to assist the board in meeting its workload, provide any expertise the board may require at a given point in time to fulfil its functions properly or as otherwise deemed necessary and appropriate by the board, provided that the total number of directors shall not at any time exceed the number fixed according to this MOI (whether in terms of article 6.1.1 or 6.1.2) and such director shall retire from office at the next following Annual General Meeting and shall then be eligible for re-election but shall not be taken into account in determining which directors are to retire by rotation at such Annual General Meeting.

6.1.10 A director shall vacate his office if –

6.1.10.1 his term of office expires;

6.1.10.2 he becomes ineligible to act as a director on any of the grounds set forth in section 69(7) and/or 69(8);

6.1.10.3 any of the other circumstances in section 70(1)(b) apply to such director.

6.2 **Rotation, nomination, election and filling of vacancies**

6.2.1 Directors will be elected for an indefinite term, subject to article 6.2.2.

6.2.2 For purposes of the election described in article 6.1.3 above, the board will each year, prior to the calling for nominations as per article 6.2.5 below -

6.2.2.1 by unanimous resolution determine which directors shall vacate their directorships in order to create vacancies for at least 1/3 (one third), or if their number is not a multiple of 3 then the number nearest to 1/3 (one third), of the number of directors to rotate; and

6.2.2.2 in the event of the board not being able to come to a unanimous resolution in this regard, the required vacancies will be effected by the longest serving director (measured in consecutive years) first vacating his directorship, thereafter the second longest serving director, continuing with this process until the required number of vacancies are created to achieve the required rotation; and

6.2.2.3 in the event that for the last required vacancy one or more directors may have served equal terms (measured in consecutive years), then those directors shall decide among themselves which director shall vacate his position. Should the directors in question fail to reach a decision, then the board will cause a draw of names between such directors, with the drawn name being the director to vacate his directorship; and

6.2.2.4 each director vacating in terms of article 6.2.2.1 to 6.2.2.3 shall be eligible for re-election.

6.2.3 If at any meeting at which an election of directors ought to take place, the offices of the retiring directors are not filled, unless it is expressly resolved by the members not to fill such vacancies, the meeting shall stand adjourned and the provisions of article 5.5 shall apply *mutatis mutandis* to such adjournment. If at such adjourned meeting the vacancies are not filled, the retiring directors shall be deemed to have been re-elected at such adjourned meeting unless a resolution against the re-election of any such director has been put to the meeting and been passed.

6.2.4 Should a vacancy arise on the board –

6.2.4.1 the board shall be entitled to appoint any eligible person as a director to fill such vacancy and serve as a director on a temporary basis, until the vacancy has been filled by an election in terms of this article 6.2.4;

6.2.4.2 an election for a director to fill the vacancy shall be conducted at the earlier of –

6.2.4.2.1 a special general meeting held for this purpose within 6 months of the vacancy arising; or

6.2.4.2.2 the next Annual General Meeting if the notice of the election at such meeting can be timeously done.

6.2.5 The board shall call for the nomination of directors at least 45 business days before the Annual General Meeting of the Association. Fully completed nomination forms together with a curriculum vitae of the candidate and a statement by the candidate regarding his motivation together with key factors for consideration by members of his candidature, must be returned at least 30 days before the annual general meeting to enable the circulation of full details of nominated directors to occur with the notice of the Annual General Meeting.

6.3 **Authority**

6.3.1 In accordance with section 66(11) of the Act, any failure by the Association at any time to have the minimum number of directors required by the Act or this MOI, does not limit nor negate the authority of the board, or invalidate anything done by the board or the Association whilst such minimum number is not met.

6.3.2 The authority of the board of directors to manage and direct the business and affairs of the Association is not limited nor restricted by this MOI. As a result, the board of directors has the authority to exercise all of the powers and perform all of the functions of the Association in pursuing its principal object and performing all functions and activities ancillary thereto.

6.4 **Meetings and resolutions of the board**

6.4.1 The board of directors may meet for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit, subject to the further provisions of this MOI.

6.4.2 The right to call a meeting of the board as contemplated in section 73(1) as read with section 73(2) may be exercised by not less than 3 directors acting collectively.

6.4.3 The board has the authority to determine the manner and form of providing notice of its meetings as set out in section 73(4) provided that no meeting may be convened without notice to all of the directors, and provided further that despite a failure to give notice or a defect in the giving of any notice of a meeting of the board, any meeting of the board may proceed if all of the directors acknowledge actual receipt of the notice or all of the directors are present at the meeting or all of the directors agree to waive notice of the meeting as contemplated in section 73(5).

6.4.4 The authority of the board to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) of the Act, is not limited or restricted by this MOI, provided the electronic communication facility employed enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

6.4.5 The quorum requirements for a board meeting to begin is a majority of the directors being present.

6.4.6 If within 30 minutes after the appointed time for a meeting of the board to begin, the requirements for a quorum as stipulated in article 6.4.5 above are not met, the meeting is postponed without motion, vote or further notice, to a date to be determined by the directors present, which date shall not be earlier than 2 business days and not later than 10 business days after the date of the meeting, at the same time and place, or if such place is not available, at such other place as the directors present may elect.

6.4.7 If at the meeting postponed under article 6.4.6 above a quorum is not present within 30 minutes after the time appointed for the meeting to begin, the directors present at that postponed meeting shall constitute a quorum.

6.4.8 At each meeting of the board each director shall have one vote.

6.4.9 A resolution of the board shall be passed if approved by a simple majority of votes of the directors present at a quorate meeting. In the case of a tied vote, the chairperson shall not have a casting/deciding vote and the matter voted on shall be deemed to have failed.

6.4.10 A decision that could be voted on at a meeting of the board may be adopted by written consent of a majority of the directors given in person or by electronic communication, provided each director has received notice of the matter to be decided.

6.5 **Committees of the board and delegation of authority**

6.5.1 The board of directors may appoint any officers of the Association it considers necessary to achieve the stated objective of the Association.

6.5.2 The board is authorised to appoint committees of the board, which committees shall each have at least one director serving on such committee and which may otherwise comprise of such persons who are not directors as contemplated in section 72(2) and the board may delegate to such committees any of the authority of the board as contemplated in section 72(1).

6.5.3 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 the directors with the required duty of a director to the Association, as set out in section 76.

6.5.4 The board is further obliged to appoint such statutory committees of the board as are required in terms of the Act, unless an exemption from such appointments applies.

6.5.5 The board may, from time to time, appoint a general manager, which person shall also serve as general manager of the Club, and may confer on such person such power and delegate such authority as more fully detailed in the chart of authority.

6.6 **Directors' financial assistance**

6.6.1 The Association may not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to a director, prescribed officer, or to a person related to any such director or prescribed officer, unless it constitutes an accountable advance to meet –

6.6.1.1 legal expenses in relation to a matter concerning the Association; or

6.6.1.2 anticipated expenses to be incurred by such person on behalf of the Association; or

6.6.1.3 is to defray the person's expenses incurred at the Association's request.

6.6.2 Directors shall further be entitled to be refunded all reasonable and *bona fide* expenses incurred by them respectively in or about the performances of their duties as directors, as may be approved by the board.

6.7 **Indemnification of directors**

6.7.1 The Association may advance expenses to a director to defend litigation in any proceedings arising out of the director's service to the Association, and may further directly or indirectly indemnify a director for such expenses if the proceedings are abandoned or the proceedings exculpate the director, or if they arise in respect of any liability for which the Association is authorised to indemnify a director in terms of article 6.7.2 below.

6.7.2 The Association may indemnify a director in respect of a liability arising out of performance of his duties and actions taken as director, except to the extent that such liability arises from wilful misconduct or wilful breach of trust, or in the case of the director having –

6.7.2.1 acted in the name of the Association, or performed any action on behalf of the Association, despite knowing that he lacked any and all authority to do so;

6.7.2.2 acted with gross negligence in such a manner that the Association is viewed to have conducted its business recklessly, with intent to defraud any person or for any fraudulent purpose; or

6.7.2.3 been party to any act or omission by the Association despite knowing that the act or omission was calculated to defraud a creditor, employee or member of the Association, or had another fraudulent purpose.

6.7.3 The Association is authorised to purchase insurance to protect –

6.7.3.1 a director against any liability or expenses for which the Association is permitted to indemnify a director in accordance with article 6.7.2 above; or

6.7.3.2 the Association against any contingency including, but not limited to, any expenses or liability indemnification the Association is authorised to award to the directors.

7. **ARTICLE 7 - INDEMNIFICATION OF ASSOCIATION**

7.1 The Association (which for purposes of this article 7 includes its management, officers, employees and agents) is absolved by members with regard to any and all loss or damage suffered by the Association, or against any claims instituted against it for loss or damage, caused by a member (or its family, employees, agents, contractors, sub-contractors, tenants, guests or occupiers of its erf or unit) by way of any unlawful act, negligence (including any act or omission) and/or as a result of any breach of the provisions of this MOI and/or the company rules and/or the conduct rules.

7.2 Each member, to the fullest extent permissible in law, indemnifies the Association (which for purposes of this article 7 includes its management, officers, employees and agents) against any loss or damage suffered by such member (including its family, employees, agents, contractors, sub-contractors, tenants, guests or occupiers of its erf or unit) caused by the Association as a result of any unlawful act, negligence (including any act or omission) and/or as a result of any breach of the provisions of this MOI and/or the company rules and/or the conduct rules, unless such act or omission or breach was the result of wilful misconduct on the part of the Association.

8. ARTICLE 8 - DISPUTE RESOLUTION

8.1 To the extent permissible in law, any dispute between any of the parties who are subject to this MOI with regard to the matters recorded in article 8.2, must first be dealt with by way of the grievance procedure as contained in the conduct rules before any tribunal, court, third party or regulatory body is approached for an intervention. Should such grievance procedure have been followed and not have resulted in the dispute being resolved, the parties shall then proceed to mediation as contemplated in article 8.3.

8.2 In the event of a dispute between any of the parties who are subject to this MOI with regard to –

8.2.1.1 the interpretation of;

8.2.1.2 the effect of;

8.2.1.3 the parties' respective rights or obligations under;

8.2.1.4 the application of;

8.2.1.5 a breach of; and/or

8.2.1.6 the correctness of,

this MOI or the company rules or the conduct rules, that dispute, shall be dealt with first by way of the grievance procedure as referred to in article 8.1 and failing the dispute being resolved in terms of such grievance procedure, the parties shall follow a process of mediation.

8.3 The mediation will be held electronically or at the estate and the parties may agree on the mediation procedure and the mediator, and failing such agreement, the mediator will be appointed on their behalf by the chairperson of the Arbitration Foundation of South Africa ("AFSA"), or its successor in title.

8.4 The parties to the dispute will personally attend such mediation proceedings, or, in the case of a juristic person, the principal member for that entity will personally attend the mediation proceedings.

8.5 The parties to the dispute will share equally in the costs and expenses of the mediation, such costs not including costs or expenses incurred by a party for an expert opinion in connection with the mediation. An expert may be appointed by either party at their own cost. Any party appointing an expert must provide sufficient notice to the other party to allow them to appoint their own expert. Copies of any expert opinion must be provided to the mediator and all other parties before the mediation process begins.

8.6 All mediation proceedings, proposed settlements, communications, statements and offers, whether oral or written, made in the course of the mediation by any of the parties or their respective agents, employees, experts and attorneys, are confidential.

8.7 Any and all agreement reached during the course of mediation and reduced to writing and signed by the parties will be binding upon all the parties.

8.8 Nothing contained in this MOI shall preclude any party to the MOI from approaching the CSOS for an adjudication on the matter if the matter falls within the jurisdiction of the CSOS, provided the parties have first engaged in *bona fide* negotiation as contemplated in the grievance procedure.

9. ARTICLE 9 - CONDUCT RULES

9.1 The board may make practical rules directed at the proper administration and/or better management of the estate and ensuring conduct by members, their invitees and contractors or staff in the furtherance and promotion of any of the objects of the Association and/or for the advancement of the interests of the members and/or the residents of the estate. The board is the designated body to on behalf of, and in accordance with the decisions and directives of the Association, formulate, enact, manage and enforce the conduct rules.

9.2 Members may by special resolution instruct the board to cancel or amend any conduct rule previously enacted by the board or instruct the board to enact new conduct rules.

9.3 A conduct rule will take effect on the date of it being passed by the board, or such later date as the board may resolve, subject to the proviso that such conduct rule may be amended or cancelled subsequently should members so resolve as contemplated in article 9.2.

9.4 The board will cause the Association to publish any variation to the conduct rules forthwith to members in accordance with the provisions of this MOI.

9.5 For the enforcement of any of the conduct rules, the board (or management or any committee of the board to whom such authority for enforcement may have been delegated by the board) may -

9.5.1 give notice to the member concerned requiring him to perform such obligation or to remedy such breach within such period as the board (or management or any committee of the board to whom such authority for enforcement may have been delegated by the board) may determine;

9.5.2 take or cause to be taken such steps as they may consider necessary to perform such obligation, or remedy the breach of which the member, its household or tenants, its visitors, employees or contractors may be liable and, debit the cost of so doing to the member concerned, which amount shall be deemed to be a debt owing by the member concerned to the Association; and/or

9.5.3 in its sole discretion, impose a system of penalty levies. The amounts of such penalty levies shall be approved by the board and notified to the members and shall be in effect from the date of such notification and shall be noted at each Annual General Meeting of the Association; and/or

9.5.4 enforce the provisions of any conduct rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as the board may deem fit.

9.6 In the event of the board instituting any legal proceedings against any member for the enforcement of any of the rights of the Association in terms of this MOI and/or the company rules or the conduct rules, or the collection of any outstanding amount due and payable to the Association, the Association shall be entitled to recover all disbursements, expenses as well as legal costs and debt collection levies so incurred by it from the member concerned, calculated as between attorney and own client.

9.7 In the event of any breach of the conduct rules or this MOI by a member's household or tenants, its visitors, employees or contractors, such breach shall be deemed to have been committed by the member itself. Without prejudice to the foregoing, the board may take or cause to be taken such steps against the person actually committing the breach as the board, in its discretion, may deem fit.

9.8 In the event of any member or member of its household, its tenant, visitor, employee or contractor disputing the fact that a breach of any of the conduct rules or this MOI has been committed, such dispute must be raised in writing within 7 calendar days of the notice of breach having been transmitted to the person in question and the chairperson of the board, or his duly appointed delegate shall adjudicate summarily upon the dispute and deliver a notice to the relevant person with the outcome of the adjudication within 7 calendar days thereafter. Nothing contained in this MOI shall preclude the board, a member or a resident from approaching the CSOS for a further adjudication on the matter.

SCHEDULE 1

COMPANY RULES AS DETERMINED BY THE BOARD IN TERMS OF SECTION 15(3)

1. **RULE 1 – LEVIES**

1.1 The board shall establish and maintain a levy fund, sufficient, in their opinion, for the repair, upkeep, control, management and administration of the Association and the estate including –

1.1.1 the provision of security services;

1.1.2 the payment of rates and taxes and other charges on the estate levied by the local or any other authority;

1.1.3 any charges for the supply of electric current, gas, water, fuel and sewage disposal, refuse collection and any other services to the estate including any services required by the Association to enable it to carry out its main and ancillary objects;

1.1.4 for the covering of any losses suffered by the Association;

1.1.5 for the payment of any premiums of insurance;

1.1.6 and of all other expenses incurred or to be incurred in relation to the estate and for the discharge of any other obligation of the Association;

1.1.7 sufficient to build up adequate reserves for contingencies;

1.1.8 provided that nothing in the abovementioned shall be construed as obliging the Association to pay service charges due by owners to the relevant authority.

1.2 All levies due by members shall be payable to the Association immediately as it becomes due and owing without deduction, demand or set-off.

1.3 The board shall determine the amounts which members shall contribute towards the levy fund in accordance with the principle that all owners shall contribute equally to such fund.

1.4 Notwithstanding the contents of the abovementioned rule, the extent of the levy payable in respect of commercial enterprises or residential properties other than free-standing erven, may be determined by the board on the basis of the level of services rendered.

1.5 The Board may draw a distinction between the services rendered by the Association to a particular body corporate for a particular type of scheme, again taking into account the nature and the extent of the services rendered to that body corporate and the owners of the body corporate.

1.6 The monies in the levy fund shall be utilised to defray the expenses referred to in rule 1.1 above.

1.7 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.

1.8 Any amount due by a member whether in respect of a levy or any other amount falling due for payment under these clauses, which remains unpaid after the same has fallen due, shall bear interest as from the due date for payment to the date for payment at the prime rate plus 3 percentage points. Such interest shall be calculated and compounded monthly.

1.9 Subject to the provision of rule 1.3 above, the Board shall have the power to impose additional special levies on members in respect of unforeseen expenditure and shall determine how such levies are to be paid in accordance with the principles set out in rule 1.4 above.

1.10 In the case of a trust, company or close corporation being the member, all members, trustees, beneficiaries, directors or shareholders of such trusts, companies or close corporations shall be jointly and severally liable as co-principal debtors for the payment of levies to the Association.

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

1.12 All contributions levied under the provision of these Rules shall be due and payable by the members on the passing of a resolution to that effect by the board and may be recovered by the Association by action in any court, including a magistrates court, of competent jurisdiction from the persons who were the members at the time when such contributions became due.

1.13 The Association has established a levy stabilisation fund for the purpose of subsidising day-to-day expenditure and/or meeting unforeseen expenditure of the Association in relation to the common immovable property in the estate. In the event of any land being sold, alienated or otherwise disposed of, the owner as seller shall be obliged to pay the levy stabilisation fund contribution in accordance with the relevant provisions of the Sale Agreement and article 2.4 of the Association's MOI. The new owner as purchaser shall become liable for the payment of the levy stabilisation contribution which liability shall be immediately due but shall only be payable by the new owner when it alienates the property. Body corporates who are members of the Association shall ensure such levy stabilisation fund contribution is included as a liability in any agreement for the alienation of a unit in the sectional title scheme administered by the body corporate and is duly collected by the body corporate from the selling owner and paid over to the Association. No member or owner shall be entitled for any reason to a refund of the levy stabilisation fund contribution paid by it unless otherwise determined by the board in its sole discretion.

1.14 In the event of there being a dispute as to the amount of any levy due by the member, such dispute shall be referred to the Association's independent auditors for a decision, whose decision shall be final and binding on the parties. Costs associated with such decision shall be payable by the party who erred.

1.15 The Association shall not be entitled to borrow money, save in accordance with a special resolution of the members.

1.16 Although the obligation to pay the aforesaid levies 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 the land of the estate, to collect the aforesaid levies, due to the Association, from the body corporate's members on the Association's behalf, and to pay same over to the Association timeously.

1.17 Efficiency of Administration

1.17.1 Each member of the Association is also a shareholder in the Club. Each member is liable for the payment of the golf subscriptions as well as any other charges raised by the club against the member in respect of purchases of food and beverages and other services. The Association may act as agent for the

Club in collecting any amounts due to the Club by the member. Any amounts due to the Club may be included on the monthly invoice presented by the Association to the member. Any receipts from the member shall first be applied to debts due to Club.

2. RULE 2 – CONTROL OF DEVELOPMENT

2.1 Design Review Committee

2.1.1 A Design Review Committee shall be constituted comprised of 1 (one) architect or qualified architectural technician and such other individuals appointed to such Committee by the board from time to time.

2.1.2 The Design Review Committee will be supported by, *inter alia,* an Aesthetics Committee with a view to ensuring any development within the estate is in accordance with the development and architectural controls, SPLUMA, the scheme (where applicable) and to the standards and architectural theme which will enhance the attraction of the estate as a whole.

2.1.3 All plan submissions, whether for new buildings or alterations to existing buildings, will be considered on their merit and approval will be at the absolute discretion of the Design Review Committee as appointed by the board. The owner shall be liable for levies raised by the Association in relation to the services provided and time spent by such Committee in reviewing and approval of such plan submission, regardless of whether such owner proceeds with construction of such new building or alteration or not.

2.2 Key Design Elements of the Development

2.2.1 External walls to be clay or cement brick plastered or bag washed and painted white. A foundation brick (kept natural or bagged white) or natural stone plinth stepping to a maximum height of 510mm shall be permitted.

2.2.2 Garages to match that of the main structure and doors to be sectional overhead, horizontally slatted timber or alternative material coloured white, charcoal or matt grey.

2.2.3 Roof either thatch, charcoal grey sheet metal or bitumen shingle (colour estate grey) roofing at a 45-degree pitch as specified in the development and architectural controls.

2.2.4 The maximum permissible height of a building measured from natural or cut ground level (at any point) shall be 8500mm with the wall plate level not exceeding 1260mm from the first-floor level.

2.2.5 No part of a building, excluding chimneys, may exceed 8500mm above natural or cut ground level at any point, subject to rule 2.2.6 below.

2.2.6 Height restrictions of 7300mm above natural or cut ground level are imposed on the following erven (references are SG diagram 1972 of 2006):

159 to 169	391 to 396
178 to 180	398 to 416
185 to 206	418 to 422
282 to 284	459 to 477
360 to 370	491 to 501
372 to 387	553 to 567
388 to 390	

2.2.7 Boundary walls adjoining the golf course shall consist of a 300mm high brickwork base, smooth plastered and painted white in combination with timber fencing and smooth plastered white piers to a maximum of 900mm high. The total height shall not exceed 1200mm on the boundary adjoining the golf course or along the side boundaries 5.0 metres therefrom.

2.2.8 A maximum height of 1800mm high brick plastered or bag washed walling or timber fencing in combination with plastered piers, is permitted on the other boundaries or as connecting elements and a maximum height of 2100mm high brick plastered or bag washed wall shall be permitted for walls acting as a drying yard.

2.2.9 **Building Lines**

2.2.9.1 on plots to be 6.0 metres from a road boundary and 4.5 metres from the side boundaries except for where corrugated or bitumen shingle roofs are used where 2.0 metres will be permitted, and 5.0 metres from the golf course boundary and 4.5 metres elsewhere;

2.2.9.2 Garages on plots are only permitted on a boundary, with prior relaxation application and approval on merit by the Design Review Committee;

2.2.9.3 on chalet and village plots to be 3.0 metres from the road boundary and 1.5 metres from the side boundaries except for garages where they will be permitted on to a side boundary, provided that rainwater is not shed on the adjoining property and 3.0 metres elsewhere.

2.2.10 Windows and doors will be bronze, charcoal, matt grey, black or white powder coated aluminium or natural timber and will conform with the form, elements and materials as set out in the Development and Architectural Controls and as approved by the Design Review Committee.

2.3 **Landscaping**

The landscaping of land by a member shall be undertaken in accordance with the prescribed Land Design Protocol. 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.

2.4 **Prohibition against the sub-division or consolidation of land**

No land shall be rezoned, sub-divided or consolidated without the consent of the Association, which consent the Association may in its sole discretion grant or refuse. Should the Association grant such rezoning, sub-division or consolidation, the Association shall be no worse off financially than it was prior to such grant. Accordingly, in the event of a consolidation, the member shall remain liable for payment of levies and subscriptions as if it were the owner of two pieces of land.

2.5 **Maintenance obligation and standard**

Where the maintenance of a property is being neglected and it falls into a condition which in the reasonable opinion of the Association is not in keeping with the general aesthetic and maintenance standards of the estate, or gives rise to or potentially creates a nuisance or health hazard, the Association shall give written notice to the owner or the body corporate (where applicable) to carry out the necessary maintenance and/or other corrective action within a reasonably specified period of time so as to bring the property to the required condition. Should the owner (or the body corporate where applicable) fail to carry out such work or take such action as notified by the Association as being required to address the problem/s within the specified period, the Association is entitled to (i) impose penalty levies on the owner or body corporate and/or (ii) to appoint a contractor to carry out the required work or actions and to recover the reasonable cost thereof from the owner or body corporate, the amount of which costs shall be deemed to form part of levies due by the owner or body corporate. The owner or body corporate hereby irrevocably gives permission to the Association's appointed contractor/s and/or representatives to enter upon the property to conduct such required work should it fail to do so and acknowledge that the Association's appointed contractors and/or representatives entering the property for purposes of conducting the work, shall be doing so for a lawful reason. In the event of a tenant occupying the property, the owner shall be obliged to ensure that any lease agreement it has with such tenant contains a clause in terms of which such tenant consents in advance and irrevocably to the Association's appointed representatives and/or contractors entering the property for the purposes of giving effect to the Association's right to have the necessary work carried out where the owner fails to do so upon request.