



**REPUBLIC OF SOUTH AFRICA
COMPANIES ACT, 2008**

**MEMORANDUM OF INCORPORATION
OF A NON-PROFIT COMPANY**

CEDAR LAKES HOMEOWNERS ASSOCIATION NPC

Registration Number 2000/002883/08

**Approved at Cedar Lakes Homeowners Association's 21st AGM on the 30th of
September 2021**

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1 FORMAT OF MEMORANDUM

- 1.1 Neither the short nor the long standard form of Memorandum for a Non-Profit Company, being Forms CoR.15.1.E and respectively CoR15.1.F, will apply to the Association;
- 1.2 This Memorandum is in a form unique to the Association, as contemplated in section 13(1)(a)(ii) of the Act.

2 PRELIMINARY

- 2.1 If the provisions of this Memorandum are in any way inconsistent with the provisions of the Statutes, the provisions of the Statutes shall prevail, and this Memorandum shall be read and interpreted in all respects subject to the Statutes;
- 2.2 Notwithstanding the omission from this Memorandum of any provision to that effect, the Association may do anything which the Act empowers a company to do if so authorised by its Memorandum of Incorporation;
- 2.3 This Memorandum shall be applicable to all Members of the Association and/or Occupants of properties in the Association Area falling under the jurisdiction of the Association;
- 2.4 In the interpretation of this Memorandum, regard should be given to the purpose of describing the main business and the main objects of the Association, in particular, the promotion and advancement of communal interests of the Members and Occupants of the Association.

3 DEFINITIONS

Unless the context otherwise indicates:

- 3.1 "**Act**" means the Companies Act No 71 of 2008;
- 3.2 "**Association**" means The Cedar Lakes Homeowners Association NPC, registration number 2000/002883/08, a non-profit company with Members to which this Memorandum of Incorporation is applicable, duly registered and incorporated according to the company laws of the Republic of South Africa;
- 3.3 "**Association Area**" means the development area is known as Cedar Lakes Residential Estate comprising of extensions of the townships known as Maroeladal Extension 8 duly demarcated on S.G. No A10399/1993, Maroeladal Extension 11 duly demarcated on S.G. No 5217/2000, Maroeladal Extension 13 duly demarcated on S.G. No 1030/1996, Needwood duly demarcated on S.G. No 2542/1996 and Needwood Extension 4 or such other townships as may be approved from time to time, situated on former portion 32 of the Farm Zevenfontein No. 407 JR, portion 258 of the Farm Zevenfontein No 407 JR, the Farm Cedar Lakes 718 JR, portion 319 of the Farm Witkoppes No 194 IQ, portion 348 of

the Farm Witkoppen 194 IQ and portion 317 of the Farm Witkoppen No. 194 IQ respectively;

- 3.4 **"Auditors"** means the Auditors of the Association;
- 3.5 **"Board"** – means the Board of Directors of the Association;
- 3.6 **"Board Committee"** or **"Committee"** – means a Committee established by the Directors of the Association in terms of Section 72 of the Act;
- 3.7 **"Business Days"** – means, 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:
- 3.7.1 excluding the day on which the first such event occurs;
- 3.7.2 including the day on or by which the second event is to occur; and
- 3.7.3 excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in paragraphs 3.7.1 and 3.7.2, respectively.
- 3.8 **"Budget"** means the forecasted income and expenditure for a financial year prepared by the Board of Directors;
- 3.9 **"Chairman"** means the Chairman of the Board of Directors;
- 3.10 **"Connected Person"** means a natural person who is either in a legally recognised domestic partnership with a Member or a parent or child of a Member;
- 3.11 **"CSOS"** means the statutory body established in terms of the Community Scheme Ombud Service Act, 2011, Act 9 of 2011;
- 3.12 **"Deficit"** means the amount by which the expenses of the Association in any accounting period exceed the income, as determined by the annual audit;
- 3.13 **"Directors"** means the Directors of the Association who shall for the purposes of the Act, be the Directors of the Association;
- 3.14 **"Erf"** means any erf or subdivision of an erf or consolidation of erven registered in the name of any person in terms of the Deeds Registries Act, No. 47 of 1937;
- 3.15 **"in writing"** or **"written"** including typewriting, printing, lithography and includes any communication in an electronic form transmitted by using any medium;
- 3.16 **"Manager"** means a natural person duly appointed, from time to time, with specified functions for the control, management and administration of the affairs of the Association and to exercise such powers and duties as may be entrusted and as further detailed in paragraph 10;
- 3.17 **"Managing Agent"** means the agent duly appointed, from time to time, with specified functions for the control, management and administration of the affairs of the Association

and to exercise such powers and duties as may be entrusted, and as further detailed in paragraph 10, such an appointee need not be a natural person;

- 3.18 "**Medium**" means any medium recognised by the Directors and the laws of the Republic of South Africa including but not limited to, electronic mail, telegram, telex, telecopy, the internet, facsimile, telephone, short message system, audio-visual and audio digital recordings;
- 3.19 "**Member**" means the persons or entities referred to in section 7 and which have specified rights in respect of the Association as contemplated in item 4 of Schedule 1 of the Companies Act 71 of 2008;
- 3.20 "**Memorandum**" means this Memorandum of Incorporation;
- 3.21 "**Occupant**" means any person ordinarily resident on any Erf within the Association Area;
- 3.22 "**Portfolio**" means the Board appointed function for the oversight of activities within the Association operations, as approved by the Board from time to time;
- 3.23 "**Surplus**" means the amount by which the income of the Association in any accounting period exceeds the expenses, as determined by the annual audit;
- 3.24 "**Register**" means the register of Members kept in terms of the Statutes;
- 3.25 "**Rules**" means the rules and regulations of the Association;
- 3.26 "**the Statutes**" means the Act as amended as well as each and every other statute or ordinance from time to time in force concerning companies and necessarily affecting the Association;
- 3.27 "**Vice-Chairman**" means the Vice-Chairman of the Board of Directors;
- 3.28 In regard to voting by Members, the following shall apply:
- 3.28.4 "**Show of Hands**" means a vote or a Poll by the raising of hands in the meeting, in which each attendee being a Member or proxy of a Member is entitled to one vote;
- 3.28.5 "**Poll**" means a vote by a Show of Hands, Ballot or Secret Ballot, in which each Member or proxy's vote shall include an extra vote for:
- 3.28.5.1 each extra Erf owned by such Member; or
- 3.28.5.2 each proxy held by such Member or proxy for purposes of the meeting;
- 3.28.6 "**Ballot**" means a Poll taken in writing by way of ballot papers;
- 3.28.7 "**Secret Ballot**" means a Poll taken in writing by means of ballot papers where the identity of the Member voting is not endorsed on the ballot paper.
- 3.29 Reference to Members represented by proxy shall include Members represented by an

agent appointed under a general or special power of attorney, and reference to Members present or acting in person shall include corporations represented or acting in the manner prescribed in the Statutes; and

- 3.30 Expressions defined in the Act, or any statutory modification thereof, in force at the date on which this Memorandum shall become binding on the Association shall have the meaning so defined. Explanatory notes in this Memorandum shall not be regarded as binding on the Association or its Members and shall not be referred to in the interpretation hereof;
- 3.31 Words in the singular number shall include the plural and words in the plural number shall include the singular, words importing any one gender shall include the other, and words importing natural persons shall include juristic persons, corporate entities and bodies corporate;
- 3.32 Reference to a party includes that party's successors and permitted assigns;
- 3.33 Where the day on or by which anything is to be done is not a business day, it must be done on or by the first business day that follows;
- 3.34 When a number of days are prescribed in this agreement, it refers to Business Days, as per paragraph 3.7;
- 3.35 Any reference to a document includes an amendment or supplement to, or replacement or novation of that document;
- 3.36 The captions appearing in this agreement are for reference purposes only and do not affect the interpretation thereof;
- 3.37 Where figures are referred to in numerals and words, if there is any conflict between the two, the words prevail;
- 3.38 Where the Act refers to "Member", "shareholder", "the holders of a company's securities", "holders of issued securities of that company" or "holder of voting rights entitled to be voted", the reference must be read to be a reference to the voting Members of the Association.

4 NON-PROFIT COMPANY

- 4.1 The Association is a non-profit company with Members as defined by Section 10(1) as well as the exclusions defined in Section 10(2) and Schedule 1 of the Act;
- 4.2 The Association has no share capital;
- 4.3 The Association's financial year-end is 31 March or as decided by the Board of Directors, from time to time;
- 4.4 The terms and obligations of this Memorandum of Incorporation are governed by the

unalterable provisions of the Act and contains alterable provisions as allowed for in Section 15(2)(a), 15(2)(b) and 15(2)(c) of the Act and conforms to the requirements of Schedule 1 to the Act;

- 4.5 Except to the extent that the Act disallows the indemnity of any Director or officer, the Association and its Directors shall not be liable for any injury or loss (including loss resulting from theft) to any of its Members, their tenants, visitors, employees, contractors or any other person, regardless of the cause thereof.

5 MAIN OBJECT AND BUSINESS OF THE ASSOCIATION

- 5.1 The main object of the Association is to carry on, to promote, advance, and to protect communal interests, safety and welfare of the Members of the Association, including, but not limited to, by maintaining the open spaces, controlling the aesthetic appearance of land, including landscaping, buildings and improvements in or on the Association Area, controlling traffic, implementing security measures for the controlled access to the Association Area and cutting the grass, trimming the edges, weeding, tidying and watering the Association's erven in the Association Area, and controlling the conduct of all persons and animals in the Association Area;
- 5.2 Association's common stands may not be sold or transferred to any other person or entity and shall not be mortgaged;
- 5.3 All the assets, property and income of the Association, whether obtained by donations, selling of capital assets, income-generating activities or levies, must be used to further the objectives of the Association as stated in paragraph 5.1;
- 5.4 No part of the income of the Association may be paid to any incorporator, Member or Director unless:
- 5.4.1 the payment is reasonable remuneration for goods delivered and/or services rendered; or
 - 5.4.2 the payment constitutes reasonable reimbursements for expenses incurred in the course of a Director's duties in furthering the objects and purposes of the Association; or
 - 5.4.3 the payment is an amount due and payable in terms of a *bona fide* agreement between the Association, a Member, a Director or any of them; or
 - 5.4.4 the payment is a fulfilment of any right arising from the advancement of the objectives of the Association; or
 - 5.4.5 the Association is obliged by law to do so.

6 APPLICATION OF OPTIONAL PROVISIONS OF THE ACT AND FINANCIAL ASSESSMENT PROCEDURE OF THE ASSOCIATION

- 6.1 The Association does not elect, in terms of section 34(2) of the Act, to comply voluntarily with the provisions of Chapter 3 (*Enhanced Accountability and Transparency*) of the Act;
- 6.2 The Association does not elect, in terms of section 118 (1)(c)(ii) of the Act, to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Act nor to the Takeover Regulations provided for in the Act and will be bound by these provisions only to the extent contemplated in section 118(1)(c)(i);
- 6.3 The accounts of the Association must nevertheless be audited, in accordance with standards to be determined by the Directors from time to time by resolution, but which may be no less than those imposed by International Financial Reporting Standards Small Business Compliant auditing.

7 MEMBERSHIP

- 7.1 Membership of the Association shall be limited to any person that is, in terms of the Deeds Registries Act, reflected in the records of the Deeds Registry concerned as the registered owner of any Erf in the Association Area. Where an Erf is owned by a juristic entity, membership shall extend to such juristic entities nominated representative by way of a resolution, who shall be a natural person and provided such nominated representative is a trustee/ director/ member/ beneficiary of such juristic entity;
- 7.2 A Member shall include the trustee in an insolvent estate, a liquidator or the trustee elected in terms of any regulatory or legislative measure, the liquidator of a company or close corporation which is a Member, the executor of the estate of a Member who has died or a representative of a Member, recognised by the law of a Member who is a minor or of unsound mind or is under a disability if such trustee, liquidator, executor or representative is acting within the scope of his authority;
- 7.3 Where any Erf is owned by more than one person, all the registered owners of that Erf shall together be deemed to be one Member of the Association and have the rights and obligations of one Member of the Association, provided, however, that all co-owners of any Erf shall be jointly and severally liable for the due performance of any obligation to the Association;
- 7.4 When a Member becomes the registered owner of an Erf in the Association Area, he shall *ipso facto* become a Member of the Association, and when he ceases to be the owner of any such Erf in the Association Area, he shall *ipso facto* cease to be a Member of the Association;
- 7.5 Where a Member is a juristic entity, the directors/ members/ trustees of such entity ("the Juristic Member") bind themselves unto and in favour of the Association as sureties in

solidum for the joint and several co-principal debtor being the Juristic Member, for the due and punctual payment of the Juristic Member to the Association of any amount which may become owing by the Juristic Member to the Association from any indebtedness arising from this Memorandum. The Association may, in addition to the surety created in this paragraph 7.5, require the directors/ members/ trustees of the Juristic Member from time to time to sign a further surety agreement(s);

- 7.6 No Member shall let or otherwise part with the occupation of his Erf, whether temporarily or otherwise, unless he has agreed in writing with the proposed occupier of such Erf as a *stipulatio alteri* in favour of the Association that such occupier shall be bound by all the terms and conditions of these presents, and proof thereof is lodged with the Association prior to the proposed occupier taking occupation of the Erf in question;
- 7.7 A registered owner of an Erf may not resign as a Member of the Association;
- 7.8 The rights and obligations of a Member shall not be transferable, and every Member shall:
- 7.8.1 reasonably further, to the best of his ability, the business objects and interests of the Association;
- 7.8.2 not interfere in the day to day management of the Association's business or interfere in the exercise of the Director's powers in terms of paragraph 19 and this Memorandum generally;
- 7.8.3 not unreasonably refuse to sign all documents and do all things necessary to enable registration of whatever servitudes may be required for services to be registered whether over or in favour of any access Erf or any other Erf in the Association Area and including the provision of security and recreational facilities;
- 7.8.4 observe all Rules;
- 7.8.5 not contravene, permit the contravention of any law, by-law, ordinance, proclamation or statutory regulation or the conditions of any license, relating to or affecting the occupation of any building, Erf, or the carrying on of any business, trade or profession on his Erf, or so contravene or permit the contravention of the conditions of title applicable to the Erf;
- 7.8.6 provided that nothing contained in these presents shall prevent a Member from ceding his rights in terms of this Memorandum as security to the mortgagee of that Member's Erf;
- 7.8.7 Any Member who is indebted to the Association in respect of any levy, interest, penalty or any other sum, which is overdue for payment, or who is in breach of any of the provisions of this Memorandum or the Rules of the Association, may be suspended as a Member of the Association on such terms and conditions as the Directors may deem fit. Such suspension shall preclude the Member from the exercise of any voting rights in terms of this Memorandum or in any other manner deriving benefits from his Membership. Such suspension shall, however, not excuse the Member from the fulfilment of all of his obligations to the Association in terms of this Memorandum or the

Rules.

8 LEVIES

- 8.1 The Directors of the Association are required to impose levy contributions upon its Members in respect of, but not limited to, the creation common levy fund for operational requirements, a contingency levy fund, a capital acquisition or replacement levy fund, as well as a levy stabilisation fund in the furtherance of the main business and main objects of the Association as described in this Memorandum. Such levy contributions are to be approved by an ordinary resolution of the Members at a general meeting;
- 8.2 The Directors shall not less than 30 (thirty) days prior to the end of each financial year, or as soon thereafter as is reasonably possible, prepare and serve upon every Member in a manner permitted under this Memorandum, an estimate in reasonable detail of the amount which shall be required by the Association to meet the expenses as set out in paragraph 8.1;
- 8.3 The Directors may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature as contemplated in paragraph 26;
- 8.4 Each notice to each Member shall specify the contribution payable by the Member;
- 8.5 Every such annual levy shall be payable either in a single one-off lump sum payment in advance on or before the first day of each financial year or in equal monthly instalments, due in advance on the first day of each and every month of each financial year;
- 8.6 In the event of the Directors for any reason whatsoever failing to prepare and serve the estimate referred to in 8.2 timeously, every Member shall until service of such estimate aforesaid, continue to pay the levy previously imposed and shall after such service pay such levy as may be specified in the notice referred to in 8.2 with retrospective effect, if applicable;
- 8.7 The Directors may from time to time impose special levies, by an ordinary resolution by the Members, upon the Members in respect of all such expenses as are mentioned in paragraphs 8.1 and 8.2, which are not included in any estimate made in terms of paragraph 8.2, and may in imposing such special levies determine the terms of payment thereof as well as any interest that may be imposed on the unpaid portion of such special levies;
- 8.8 A Member shall not be entitled to withhold payment for any reason whatsoever of any levy or special levy or contribution due by him to the Association;
- 8.9 Where two or more persons are registered as the owner of an Erf, their liability to pay levies shall be jointly and severally;
- 8.10 The Directors shall be empowered in addition to such other rights as the Association may have in law as against its Members to determine the rate of interest from time to time

chargeable upon arrear levies, special levies and other charges, provided that such rate of interest shall not exceed the rate laid down in terms of the Prescribed Rate of Interest Act No 55 of 1975, as amended;

- 8.11 Any amount due by a Member by way of a levy, a special levy and any other charges shall be a debt due by him to the Association, and any certificate signed by a Director of the Association will be *prima facie* proof of the amount indebted by the Member to the Association;
- 8.12 Notwithstanding that a Member ceases to be such, the Association shall have the rights to recover any arrears from him;
- 8.13 No levies, special levies, interest or any other charges paid by a Member shall under any circumstances be repayable by the Association upon his ceasing to be a Member. A Member on ceasing to be such shall have no claims whatsoever on any surplus the Association may have, whether obtained by way of sale of Association assets or otherwise. A Member's successor in title to an Erf shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that Erf, to pay the levy, interest and any other charges thereon attributable to that Erf;
- 8.14 In calculating the levy payable by any Member, the Directors shall, as far as reasonably practicable:
- 8.14.1 assign those costs arising directly out of the Erf itself to the Member owning such Erf;
 - 8.14.2 assign those costs relating to the Association Area generally to the owners of all erven;
 - 8.14.3 Subject to 8.11, the costs of the Association shall be borne by the Members equally.

9 RULES

- 9.1 Subject to any restriction imposed or direction given at a general meeting of the Association, the Directors may in accordance with the provisions of the Act, from time to time make, amend or repeal Rules which may include estate rules regarding:
- 9.1.1 the required deposits, standards and guidelines for the architectural design of all buildings and outbuildings as well as structures of any nature; and
 - 9.1.2 the preservation of the environment, including the right to control and to require the cultivation of trees and other vegetation and the right to control the design, erection, placement, materials and construction of fences and/or walls, and/or hedges, whether upon or within the boundaries of any Erf, including the right to prohibit fences and/or walls in any garden area or around any Erf; and
 - 9.1.3 the right to prohibit, restrict or control the keeping of any animal which they regard as dangerous or a nuisance; and
 - 9.1.4 the use, maintenance, repair and replacement of any recreational, private and public

- open spaces including any roads and road reserves in the Association Area and or any services, connections and equipment in such areas, including the right to levy a reasonable charge for the use thereof; and
- 9.1.5 the access to and egress from any of the erven in the Association Area; and
- 9.1.6 the placing or fixing of ornamentation or embellishments upon the outside of buildings, including the power to remove any such objects; and
- 9.1.7 the conduct of any persons within the Association Area for the prevention of nuisance of any nature to any Member; and
- 9.1.8 if applicable, the determination and recovery of charges for water and electricity consumed on the erven in the Association Area and
- 9.1.9 the control and collection of refuse; and
- 9.1.10 the preservation of the natural environment, vegetation and fauna in the Association Area and
- 9.1.11 any other matter capable of regulation by such Rules in terms of the Statutes; and
- 9.1.12 the furtherance and promotion of any of the objects of the Association for the better management of the affairs of the Association and/or for the advancement of the interest of Members and/or Occupants in the Association Area.
- 9.2 For the enforcement of any of the Rules made by the Directors in terms hereof and for the payment of any debt due to the Association, the Directors may:
- 9.2.13 give notice to the Member or Occupant concerned requiring him to remedy a breach thereof or make payment within such reasonable period as the Directors may determine; and/or;
- 9.2.14 take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the Member or his Occupant may be guilty or recover the debt, and debit the cost of so doing to the Member, which amount shall be deemed to be a debt owing by the Member to the Association; and/or;
- 9.2.15 impose a system of penalties, the amounts of such penalties shall be reviewed and confirmed at each Annual General Meeting of the Association; and/or;
- 9.2.16 to record a Member's default in respect of payment of any levies and/or penalties to registered credit bureaus;
- 9.2.17 take such other action, including proceedings in Court or arbitration or procedures via CSOS, as they may deem fit.
- 9.3 In the event of the Directors instituting any legal proceedings against any Member Occupant within the Association Area for the enforcement of any of the rights of the Association in terms hereof, the Association shall be entitled to recover all legal costs so

incurred from the Member or Occupant concerned, calculated as between attorney and own client, together with all collections costs, tracing fees, sheriff fees and collection commission;

- 9.4 A certificate signed by a Director on behalf of the Association will be *prima facie* proof of the total levies, special levies, penalties and interest due by a Member to the Association;
- 9.5 In the event of any breach of the Rules by the Members, Occupants and/or their guests, co-occupants, lessees or contractors and agents, such breach shall be deemed to have been committed by the Member himself, but without prejudice to the foregoing, the Directors may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit;
- 9.6 In the event of any Member or Occupants disputing the fact that he has committed a breach of any of the Rules, the internal dispute resolution mechanisms provided for in paragraph 57 shall be applied;
- 9.7 Any penalty imposed upon any person in terms of the Rules shall be deemed to be a debt due by a Member or Occupant to the Association and payable to the Association within such period as may be specified by the Directors in the notice imposing the penalty. Failing the declaration of a dispute in terms of paragraph 9.6, such penalty shall be immediately due for payment, and such person shall have forfeited his right to refer the matter for determination by the Committee referred to in paragraphs 9.6 and 57. Such penalty constituting a debt shall be recoverable by an ordinary court process;
- 9.8 Notwithstanding anything to the contrary herein contained, the Directors may in the name of the Association enforce the provisions of any Rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit;
- 9.9 The Association may in a general meeting by ordinary resolution itself make any Rules which the Directors may make and may in a general meeting vary, modify or repeal any Rules made by it or by the Directors from time to time;
- 9.10 In addition to the suspension provided for in paragraph 7.8.7 hereof, for as long as any amount due by a Member to the Association is overdue, or a Member is in breach of any provisions of this Memorandum or of any of the Rules made in terms hereof, he shall not be entitled to make use of any of the facilities or be entitled to any privileges of the Association;
- 9.11 Any change or addition to the Rules shall be published by the Directors to the Members by any medium authorised in terms hereof, at least 10 (ten) business days before being incorporated into the Rules. All changes or additions to the Rules shall be adopted at the next Annual General Meeting via an ordinary resolution.

10 MANAGER AND MANAGING AGENT

- 10.1 The Board of Directors has the authority to appoint a Manager in the ordinary course of business. The Board of Directors in making such an appointment may, at their discretion, make use of a recruitment specialist;
- 10.2 In addition to the appointment of a Manager as per 10.1, the Board of Directors may make further appointments of permanent staff members for the running of the Association;
- 10.3 All personnel appointed under 10.1 and 10.2 will be required to enter into a contract of employment setting out details necessary to ensure that the policies, procedures and directives, as set out by the Board of Directors are implemented;
- 10.4 The appointment of a Managing Agent will require a Special Resolution passed by Members at a properly constituted General Meeting;
- 10.5 The Manager or Managing Agent shall keep full records of his or its administration and shall report to the Association on all matters which in his or its opinion detrimentally affect the value of or the amenity of any freehold residential portions or open spaces or Erf;
- 10.6 The Directors shall give reasonable prior notice to the Manager or Managing Agent of all meetings of the Directors to which the Manager or Managing Agent is invited;
- 10.7 Should there be no Manager or Managing Agent in office at any time, then all references in these paragraphs to the Manager or Managing Agent shall be deemed to be a reference to the Directors.

11 DIRECTORS

- 11.1 Unless and until otherwise determined by the Association in General Meeting, there shall be a board of Directors of the Association which shall consist of not less than 5 (five) nor more than 9 (nine) members;
- 11.2 At each Annual General Meeting, all of the Directors must stand down but shall be eligible for re-election;
- 11.3 Subject to the provisions of paragraphs 13, 14 and 15, any Director shall be an individual and a Member or a Connected Person of the Member of the Association as described in paragraph 7.1 above and shall be appointed by the Members at an Annual General Meeting of the Association, pursuant to the procedure set forth in paragraph 11.7;
- 11.4 A Director, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of these presents;
- 11.5 All Members of the Board of Directors shall be obliged to sign a written acceptance of Directorship, confidentiality agreement and a code of ethics with the Association upon

being nominated and elected to become a Director, provided such nomination is accepted;

- 11.6 The procedure for the appointment of Directors at an Annual General Meeting shall be as follows:
 - 11.6.1 The Directors shall, in terms of the notice convening the Annual General Meeting, inform the Members of the procedure to be followed for the nomination and appointment of Directors in terms of this paragraph and the right of the nomination of an existing Director;
 - 11.6.2 Any person, pursuant to the provisions of paragraph 11.3, may be nominated for appointment as a Director, provided that such nomination is in writing and supported by any 2 (two) Members of the Association other than the person nominated and provided that all of the said Members are in good standing.
- 11.7 Such nomination must:
 - 11.7.3 be in writing and delivered to the office at least 5 (five) working days before the Annual General Meeting; and
 - 11.7.3.1 Include such nominees written acceptance of such nomination;
 - 11.7.3.2 Any nomination for the appointment of a Director which fails to comply with the provisions of paragraph 11.6.2 shall be invalid and disregarded;
 - 11.7.3.3 In respect of all nominations for the appointment of a Director which are procedurally compliant with the provisions of paragraph 11.6., such nominees Curriculum Vitae shall be circulated to Members in the same forum/medium as the notice convening an Annual General Meeting at least 2 (two) Business Days prior to the Annual General Meeting.
- 11.8 Each eligible Member shall have the right to exercise as many votes as there are candidates, limited to a maximum of nine votes;
- 11.9 Each eligible Member will assign only one of his available votes per preferred candidate;
- 11.10 The Members shall, in terms of paragraph 11.4, appoint a Director or Directors from the candidate or candidates accepted by the Annual General Meeting or from such person or persons who have made representations to the Members in terms of paragraph in respect of an existing or new Director or Directors who have been nominated for reappointment in terms of paragraph 11.7;
- 11.11 The candidates with the most votes shall be appointed as the Directors. Notwithstanding the provisions of paragraph 38, in the event of an equality of votes, a ballot shall be called to determine the appointment of a Director. Scrutineers shall be appointed to determine the result of the ballot;
- 11.12 A Member who wishes to serve as a Director of the Association need not be present at the meeting at which he is nominated, but must confirm acceptance of such nomination;

- 11.13 Nothing in this Memorandum shall prevent an existing Director, including any Director appointed in terms of paragraph 15 and 20, from being nominated for reappointment, provided that he is duly nominated for appointment in terms of paragraphs 11.6;
- 11.14 The Association may, at any Annual General or other meeting and by ordinary resolution remove a Director from office before the end of his term;
- 11.15 The Association may, from time to time, at any meeting of Members increase the number of Directors, subject to the provisions of 11.1.

12 REMOVAL OF DIRECTORS

Despite anything to the contrary in Association's Memorandum of Incorporation or rules, or any agreement between the Association and a Director, or between any Member and a Director, a Director may be removed by an ordinary resolution adopted at a Members' meeting by the persons entitled to exercise voting rights in an election of that Director, subject to the provisions of the Act, paragraph 71.

13 INTEREST OF AND DISCLOSURES BY DIRECTORS AND COMMITTEE MEMBERS

- 13.1 A Director or a member of a Board appointed Committee may not, in addition to any prohibited personal financial interest in terms of the Act:
- 13.1.1 hold any other office or place of profit in the Association; or
 - 13.1.2 act by himself or by his firm in a professional capacity for the Association;
- 13.2 If a Director, a Prescribed Officer as defined in the Act or a non-Director Board member or non-Director Committee member has a personal financial interest, direct or indirect, (or knows that a Related Person, as defined in the Act, has such an interest), he must disclose to the Board of Directors and at each formal meeting of the Association, which will be minuted, the nature and extent of that interest. This disclosure must comply with the requirements of Section 75 of the Act. If the personal financial interest (including that of a Related Person) arises after the matter has been approved by the Board, the Director, Prescribed Officer or non-Director Board Committee member concerned must promptly, after the interest arises, disclose same to the Board as contemplated in Section 75 of the Act;
- 13.3 Any Director with a declared interest shall not be allowed to vote on any matter pertaining to that interest and shall recuse himself from the discussion.

14 DISQUALIFICATION OF DIRECTORS FROM THE BOARD OF DIRECTORS

- 14.1 A Director shall be deemed to have vacated his office upon:
- 14.1.1 him profiting by his office or having an interest in any contract with the Association, without the prior written consent of the Board of Directors; or;
 - 14.1.2 his estate is sequestrated, or he files a petition for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the insolvency laws for the time being in force, or if he makes an arrangement or composition with his creditors generally; or;
 - 14.1.3 he is declared a lunatic or becomes of unsound mind; or;
 - 14.1.4 he resigns his office by notice in writing to the Association; or;
 - 14.1.5 him being removed from office as provided for in Section 71 of the Act; or;
 - 14.1.6 he is otherwise removed in accordance with any provisions of this Memorandum; or;
 - 14.1.7 in the event of him being a Member of the Association, he is being disentitled to exercise a vote in terms of 38.1 below.

15 VACANCIES ON THE BOARD OF DIRECTORS

- 15.1 In the event of any vacancy in respect of the Board of Directors, whether occasioned by the death, resignation, disqualification or removal of a Director, the Directors shall be entitled to appoint a replacement Director, subject to the provisions of paragraphs 15.3 and 20;
- 15.2 The Directors shall have the power at any time to request an appointment of additional Director(s), provided that such appointment is made subject to paragraphs 11.1 and 11.4;
- 15.3 Any Director appointed in terms of paragraph 15.1 shall serve office until the next Annual General Meeting. Such a Director shall be entitled to be nominated for reappointment in terms of paragraph 11.7.

16 APPOINTMENT OF CHAIRMAN, VICE CHAIRMAN AND PORTFOLIO DIRECTORS

- 16.1 The Directors shall, within 14 (fourteen) calendar days after each Annual General Meeting, appoint from their number a Chairman and Vice-Chairman, who shall hold their said appointments, provided that the office of Chairman or Vice-Chairman shall *ipso facto* be vacated by a Director holding such office upon his ceasing to be a Director for any reason;
- 16.2 No one Director shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time, the Board of Directors shall immediately appoint one of their number as a replacement in such office;
- 16.3 Directors of Portfolios shall be appointed by the Directors within 14 (fourteen) calendar days after each Annual General Meeting;
- 16.4 The designation of available Portfolios is at the sole discretion of the Board of Directors. Should there be more Directors than Portfolios the non-Portfolio Directors will be designated as Directors Without-Portfolio;
- 16.5 The Director appointed to the Finance Portfolio may not, simultaneous, hold the position of Chairman of the Board of Directors.

17 PRESIDING

Except as otherwise herein provided, the Chairman shall preside at all meetings of the Board of Directors and all general meetings of Members and, in the event of his not being present within 10 (ten) minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the Vice-Chairman shall act in his stead, or failing the Vice-Chairman, a Chairman appointed by the meeting.

18 DIRECTORS' EXPENSES & REMUNERATION

Directors shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as Directors. Save as aforesaid, Directors shall not be entitled to any remuneration for the performance of their duties in terms hereof, unless the Association in a general meeting otherwise determined by a special resolution of the Association.

19 POWERS OF DIRECTORS

- 19.1 Subject to the express provisions of these presents, the Directors shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs, including the right of appointment and dismissal of

the managing agents and any employees, may exercise all such powers of the Association and do all such acts on behalf of the Association as may be exercised and done by the Association and as are not by the Act or by these presents required to be exercised or done by the Association in a general meeting, subject however to such rules as may have been made by the Association in a general meeting or as may be made by the Directors from time to time;

- 19.2 In the exercise of their powers, in terms of the Act and this Memorandum, the Directors shall at all times act reasonably;
- 19.3 All notices or communication by the Members to the Association shall be in writing;
- 19.4 Save as specifically provided in these presents, the Directors shall at all times have the right to engage on behalf of the Association the services of accountants, auditors, attorneys, advocates, architects, engineers and any other professional firm or person or other employees whatsoever for any reason deemed necessary by the Directors and on such terms as the Directors shall decide;
- 19.5 The Directors shall further have power:
 - 19.5.1 to require the submission for approval of such plans, drawings, specifications and other information as they may deem necessary to ensure compliance by Members with these presents and the rules made in terms hereof;
 - 19.5.2 to require that any works within the Association Area shall be supervised to ensure that the provisions of these presents and the Rules are complied with and that all work is performed in a proper and workmanlike manner;
 - 19.5.3 to determine the access to the Association Area and to the erven in the respective townships;
 - 19.5.4 to determine the parking areas to be used by Members and their employees, agents and invitees;
 - 19.5.5 to determine the security facilities to be installed and the operation thereof for the protection of the Association Area;
 - 19.5.6 to make Rules as provided for in paragraph 9;
 - 19.5.7 to do all such things as may be necessary or desirable for the attainment of the main object of the Association.
- 19.6 The Directors shall not be entitled to undertake, on behalf of the Association, any projects of a capital nature or the construction or the demolition of immovable capital assets (specifically buildings) without the sanction of an ordinary resolution at a general meeting, unless it can be considered an emergency situation;
- 19.7 The Directors may not acquire or dispose of or otherwise financially encumber Land and / or Buildings without the sanction of a Special Resolution at a General Meeting of the

Association;

- 19.8 The Directors may acquire or dispose of movable capital assets (specifically vehicles, equipment and machinery) as contemplated in the Budget. Unbudgeted acquisitions or disposals exceeding a specified value, the amount which will be agreed at a previous general meeting, via an ordinary resolution, from time to time, per item, will require approval at a general or special meeting of Members before being actioned. This paragraph shall not be applicable to unplanned or emergency acquisitions considered to be a replacement of existing movable assets that have become unserviceable during the budget period.

20 CO-OPTION TO THE BOARD OF DIRECTORS

The Board of Directors shall have the right to co-opt onto the Board of Directors any person or persons chosen by it, provided that only persons qualifying in terms of 11.2 may be appointed and vote as Directors. Any co-opted person shall hold office until the next Annual General Meeting.

21 COMMITTEES

- 21.1 The Directors may by resolution appoint any number of Committees of the Board and may delegate any of their authority to any such Committee. Any Committee so formed shall, in the exercise of the powers so delegated, conform to the provisions of the Act, this Memorandum and Rules or regulations that may from time to time be imposed on it by the Board;
- 21.2 The appointment of Committee Members will be subject to a review of the candidate's curriculum vitae and supporting references, and such appointment will be subject to a resolution by the Board of Directors;
- 21.3 All Committees will be appointed annually, after the AGM, by the new Board of Directors;
- 21.4 A Committee appointed by the Board may, with the prior approval in each instance of the Board, consult with or receive advice from any person, at the budgeted expense of the Association;
- 21.5 A Committee has the full authority of the Board in respect of a matter referred to it, in accordance with the resolution appointing or authorising it, as contemplated in the Act, save that in the exercise of the authority delegated to it, and in carrying out its duties, the Committee shall comply with any mandates or instructions that may from time to time be given by the Board and any procedures and obligations of the Board.
- 21.6 All Board appointed Committee members will be required to sign and execute a code of conduct and/or confidentiality agreement as the Directors may require;

21.7 The Directors may appoint or remove Board Committee members by an ordinary resolution (simple majority) passed at a meeting of Directors.

22 BUSINESS OF AND MEETINGS OF THE DIRECTORS

22.1 Subject to the instructions of the Members of the Association in general meetings, the Directors have all necessary powers to manage and control the business and affairs of the Association;

22.2 The Directors must meet at least every alternate month to discuss the business of the Association. All meetings must be minuted in detail in accordance with the Act. Any two Directors may call for an additional meeting at any reasonable time;

22.3 The Directors may otherwise regulate their business and meetings as they see fit;

22.4 When a resolution of the Board is called for, the Board must record in writing:

22.4.1 the proposed resolution;

22.4.2 the manner in which the vote on the proposed resolution was cast; and;

22.4.3 whether the resolution was approved or not.

22.5 Resolutions of the Board may be:

22.5.4 passed in counterpart;

22.5.5 passed on a round-robin basis;

22.5.6 or in any combination of the above.

22.6 A simple majority of the Directors present must approve a resolution for it to pass. The Chairman does not have a casting vote in the event of an equality of votes;

22.7 If the number of Directors is below the minimum number allowed in terms of this Memorandum, the Directors may not act, except in an emergency, but may vote to appoint additional Directors as may be necessary to bring the number of Directors to the minimum number prescribed in the paragraphs;

22.8 Any Director who acts in an emergency must give full particulars of the emergency to the Board at the next meeting held after the minimum number of Directors have been appointed, at which a quorum is present, for ratification by the Board;

22.9 In the event of all Directors resigning simultaneously, the Manager shall call for a special General Meeting within 15 (fifteen) Business Days, for the purpose of electing Directors;

22.10 Any decision taken at a Directors' meeting, or by a Director, is valid, even if it is found later that the appointment of the Directors was irregular, or that they were disqualified in some

way from acting.

23 QUORUM AT DIRECTORS' MEETINGS

The quorum necessary for the holding of any meetings of the Directors shall be a majority of the number of Directors, all present personally. Any resolution of the Board of Directors shall be carried on a simple majority of all votes cast. In the case of an equality of votes for and against any resolution, the Chairman shall not have a second or casting vote.

24 MINUTES OF DIRECTORS' MEETINGS

- 24.1 The Directors shall cause minutes to be kept of every Directors' meeting, which minutes shall without undue delay after the meeting has closed, be reduced to writing and certified correct by the Chairman. All minutes of Directors' meetings shall, after certification, be placed in a Directors' minute book to be kept at the registered address of the Association as provided therefore in the Act. The Directors' minute book shall be open for inspection at all reasonable times by any Director, the Auditors and the Members;
- 24.2 Save as provided for these presents, the proceedings of any Directors' meeting shall be conducted in such a reasonable manner and form as the Chairman of the meeting shall decide;
- 24.3 A resolution signed by all the Directors shall be valid in all respects as if it had been duly passed at a meeting of the Board of Directors.

25 VALIDITY OF ACTS OF DIRECTORS AND COMMITTEES

As regards all persons dealing in good faith with the Association, all acts done by any meeting of the Directors or of the Board appointed Committee (s), or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment or continuance in office of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be as valid as if every such person had been duly appointed or was qualified or had continued to be a Director or was entitled to vote, as the case may be.

26 RESERVES

- 26.1 The Directors may set aside out of the surplus of the Association and carrying to reserve such sums as they think proper. All sums standing to the credit of Reserves (other than such amounts as are set aside in terms of paragraph 26.5) either of a general or specific nature shall at the discretion of the Directors be applicable for meeting contingencies for

the gradual liquidation of any debt or liability of the Association, for establishing, repairing, improving or maintaining any property of the Association, for meeting losses on the realisation of or writing down investments either individually or in the aggregate, or for any other purpose to which a surplus of the Association may appropriately be applied;

- 26.2 Pending such application, such sums may either be employed in the business of the Association (without being kept separate from the other assets of the Association) or be invested;
- 26.3 The Directors may divide the reserve into such special reserves as they think fit and re-allocate the amounts of such reserves either in whole or in part to other special or general reserves and may consolidate into one reserve any special reserves or any parts of any special reserves into which the reserve may have been divided;
- 26.4 The Directors may also carry forward any surplus without placing them to reserve;
- 26.5 The Directors shall, at each general meeting, suggest a reviewed amount to be held in reserves for approval by and under the control by the Members at each general meeting.

27 MEETINGS OF THE ASSOCIATION

- 27.1 The Association shall, at least once a year, call for and hold an Annual General Meeting of the Association in accordance with the Act. The Annual General Meetings may not be more than 18 (eighteen) months, nor less than 9 (nine) months apart;
- 27.2 Annual General Meetings and meetings called to pass a special resolution must be called for at least 15 (fifteen) Business Days before the meeting;
- 27.3 All meetings, other than Annual General Meetings and meetings at which special business is to be considered (which shall be called ordinary general meetings), must be called for on at least 10 (ten) Business Days' notice.
- 27.4 The Directors or Members may call for such a meeting in terms of the procedures set out in the Act;
- 27.5 A Members' requisition for a meeting must:
 - 27.5.1 be in writing to the Directors;
 - 27.5.2 describe the specific purpose for which the meeting is to be held; and;
 - 27.5.3 be made by, or signed by no less than 10 (ten percent) of the Members of the Association entitled to vote on the agenda item for the meeting;
- 27.6 The Directors of the Association may, if the proposed resolution is received in time, include the proposed resolution in the notice of any meeting the Association has scheduled; or otherwise, publish a copy of the proposed resolution to all Members by whatever convenient means or medium, as quickly as possible, before the meeting;

27.7 The accidental omission to give notice of a meeting to any Member does not invalidate a resolution passed at that meeting.

28 NOTICE OF MEETINGS

28.1 A meeting of Members may be called on less notice than required in paragraphs 28.1 and 27.3, but such meeting may only proceed if every person who may exercise Voting Rights in respect of any item on the agenda for the meeting:

28.1.1 is present at the meeting; and;

28.1.2 votes to waive the required minimum notice at the meeting;

28.2 A notice of Members' meeting must be given in the prescribed form or such other form prescribed from time to time and must include at least the following information:

28.2.3 the date, time and place for the meeting;

28.2.4 the purpose of the meeting;

28.2.5 an agenda for the meeting setting out in reasonable detail all resolutions which will be proposed for adoption by Members at that meeting;

28.2.6 a copy of any proposed resolution of which the Association has received notice, and which is to be considered at the meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;

28.2.7 such other information as may be prescribed in the Act;

28.3 In the case of an Annual General Meeting of the Association, the notice must include:

28.3.8 a summarised form of the financial statements to be presented; and

28.3.9 directions for obtaining a copy of the complete annual financial statements for the preceding financial year; and;

28.3.10 a reasonably prominent statement that:

28.3.10.1 a Member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, participate in and vote at the meeting in the place of the Member;

28.3.10.2 a proxy need not also be a Member of the Association; and

28.3.10.3 participants will be required to provide satisfactory identification to verify their right to participate at the meeting as set out below;

28.4 If the Association fails deliberately to give the required notice of a Member's meeting, or if there was a material defect in the giving of the notice, the meeting may proceed if all of

the persons who are entitled to exercise Voting Rights in respect of each item on the agenda of the meeting:

- 28.4.11 acknowledge actual receipt of the notice;
- 28.4.12 are present at the meeting;
- 28.4.13 waive notice of the meeting; or
- 28.4.14 in the case of a material defect in the manner and form of giving notice, ratify the defective notice.

29 VERIFICATION OF RIGHT TO ATTEND MEETING

29.1 A person wishing to attend or participate in a Member's meeting (whether as a proxy or Member) must present reasonably satisfactory identification to the Chairman of the meeting at least 15 (fifteen) minutes before the time scheduled for the start of the meeting. The Chairman must be reasonably satisfied that the right of the person to attend and vote has been reasonably verified. For the purposes of this paragraph 29, the following forms of identification shall be reasonably satisfactory:

- 29.1.1 a valid identity document;
- 29.1.2 driver's license or passport (or original certified copy of any of these documents);
- 29.1.3 an original power of attorney;
- 29.1.4 letter of authority or other instrument appointing the proxy or person to attend the meeting on behalf of a Member.

29.2 In the event that the identification process is not completed by the time that the meeting is scheduled to begin, then the commencement of the meeting shall be delayed until the identification process is complete.

30 QUORUM

No business or matter to be decided shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. A quorum is the minimum number of Members (present in person or by proxy) necessary to validly constitute a meeting of Members;

- 30.1 The quorum for ordinary business shall be 85 (eighty-five) Members entitled to vote, of which 45 (forty-five) shall be Members actually present in person;
- 30.2 For Special Business, the provisions of the Act and such further provisions as are applicable in terms thereof to the calling of meetings for the passing of Special Resolutions shall

apply. (Explanatory Note:- For Special Resolutions, the Act currently requires a quorum of Members entitled to vote as together for the time being represent the votes of 25% of the Members, and such Special Resolutions shall be supported by 75% of the quorum).

31 PARTICIPATION BY WAY OF ELECTRONIC COMMUNICATION

The Board of Directors is authorised to implement measures for the purposes of participation by Electronic Communication in any meeting of the Association. Members, in such cases, will not be required to be present in person or by proxy to participate.

32 ADJOURNMENT

If within half an hour from the time appointed for the holding of a general meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time or at such other place as the Chairman of the meeting shall appoint. If at the adjourned meeting a quorum is not present within half an hour from the time appointed for the holding the meeting, the Members present shall be a quorum. No business shall be conducted at such adjourned meeting other than the business before the meeting which was adjourned.

33 AGENDA AT MEETINGS

33.1 In addition to any other matters required by the Act or these presents to be dealt with at an annual general meeting, the following matters shall be dealt with at every Annual General Meeting:

33.1.1 the consideration of the Chairman's report;

33.1.2 the election of Directors;

33.1.3 the approval of any Rule changes;

33.1.4 the consideration of any other matters raised at the meeting, including any resolutions proposed for adoption by such meeting, and the voting upon any such resolutions;

33.1.5 the consideration of the Annual Financial Statements of the Association for the preceding financial year;

33.1.6 the consideration of the report of the Auditors and the fixing of remuneration for the Auditors.

33.1.7 no business shall be dealt with at any general meeting unless written notice has been given to the Directors not less than 2 (two) days before such meeting by the person proposing to raise such business of his intention to do so, provided, however, that the

Chairman may on an ordinary resolution of the meeting relax this condition.

34 PROCEDURE AT GENERAL MEETINGS

The Chairman may, with the consent of any general meeting at which a quorum is present and shall, if so directed by the meeting, adjourn a meeting from time to time and place to place. No business shall be transacted at any adjourned meeting other than business that could have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for 10 (ten) Business Days or more, a notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, the Members shall not be entitled to any notice of the adjournment or of the business to be transacted at an adjourned meeting.

35 PROXIES

A Member, in good standing, may be represented at a general meeting by a proxy, who need not be a Member of the Association. The instrument appointing a proxy shall be in writing, shall detail the specific mandate of the proxy and shall be signed by the Member concerned or his agent, duly authorised in writing where appropriate, but need not be in any particular form provided that, where a Member is more than 1 (one) person, a majority of those persons shall sign the instrument appointing a proxy on such Members' behalf. A proxy form shall only be valid for 60 (sixty) days from the date on which the same were signed.

36 FORMALITIES

The instrument appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at the meeting at which the person named in the instrument proposes to vote. No instrument appointing a proxy shall be valid after the expiration of 12 (twelve) months from the date of its execution.

37 VOTING BY PROXY

A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation has been received by the Directors at any time before a vote is taken in respect of which the proxy exercises such vote.

38 VOTING AND POLLS

38.1 Save as expressly provided for these presents, no person other than a Member duly

registered and who shall have paid every levy and other sums owing, if any, which shall be due and payable to the Association in respect of or arising out of his Membership and who is not under suspension, shall be entitled to be present and to vote on any question, either personally or by proxy or by an electronic communication system approved by the Board of Directors at any general meeting;

- 38.2 At every general meeting:
 - 38.2.1 every Member, in person or by proxy and entitled to vote, shall have 1 (one) vote for each Erf registered in his name;
 - 38.2.2 if an Erf is registered in the name of more than one person, then all such co-owners shall jointly have 1 (one) vote;
 - 38.2.3 Save as contemplated by 11.11, matters put to the vote will be decided on a Show of Hands in the first instance or by a vote by Poll.
- 38.3 Members, or their proxies, may call for a Poll on any vote, either before or on a declaration of the result of a vote. A minimum of 5 (five) Members, or their proxies, must support the call for the Poll. Scrutineers shall be elected to determine the result of the Poll. A call for a Poll may be withdrawn;
- 38.4 The Chairman of the meeting will direct how the Poll will take place (i.e. by a Show of Hands, a Ballot or a Secret Ballot). A demand for a Poll on a resolution does not mean that the meeting must be interrupted. Other business may continue;
- 38.5 Save as is required by the Act for a Special Resolution, voting at a meeting of Members, whether by Show of Hands or by Poll, is decided by a simple majority;
- 38.6 The Chairman does not have a casting vote. If the number of votes is the same, the resolution is defeated;
- 38.7 The Chairman must announce any resolution to be considered and must be recorded in writing:
 - 38.7.4 the proposed resolution;
 - 38.7.5 the manner in which the vote on the proposed resolution was cast; and;
 - 38.7.6 whether the resolution was approved or not.
- 38.8 Unless any Member present in person or by proxy at a general meeting shall, before the closure of the meeting, have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, whether by Show of Hands or otherwise, or to the propriety or validity of the procedure at such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respect be deemed to have been properly and validly constituted and conducted. An entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the number of votes recorded in favour

of or against such motion, shall be conclusive evidence of the votes so recorded.

39 SECONDING

Every resolution and every amended resolution proposed for adoption by a general meeting shall be seconded at the meeting and if not so seconded shall be deemed not to have been proposed.

40 MEMBERS RIGHTS TO INFORMATION

40.1 A Member has the right to inspect and make a copy of the following documents as contemplated in sections 24, 26 and 85 of the Act:

40.1.1 this Memorandum (as amended);

40.1.2 the record of Directors;

40.1.3 reports presented at Annual General Meetings;

40.1.4 annual financial statements;

40.1.5 minutes of Directors meetings;

40.1.6 notices and minutes of all Members meetings (including any resolutions adopted at such meetings and any documents circulated in relation to any such resolutions);

40.1.7 written communications sent generally by the Association to Members;

40.1.8 the record of the Association Auditors;

40.1.9 Register of Members (Erf and registered name only).

41 REGISTERS

41.1 The Association shall keep at the place prescribed by the Act and maintain in proper form and in the manner prescribed by the Act all such registers as are required by the Act;

41.2 In addition, the Association's register of Members shall be kept updated with each Member's email address and telephone contact detail, to enable the Association to despatch notices as contemplated by paragraph 43.1

41.3 The Association shall not be entitled nor obliged to disclose the email addresses or telephone contact details of any Members to any person, including another Member. Upon the written request of any Member, the Association may despatch any notice or communication on behalf of such Member to any other Member or Members. Such

request shall not be unreasonably refused.

42 ACCOUNTING RECORDS

- 42.1 The Directors shall cause true accounts as required by the Act to be kept of the sums of money received and expended by the Association and the matters in respect of which such receipts and expenditure take place, and of the assets and liabilities of the Association. The accounting records of the Association shall be kept at the office of the Association or at such place or places as the Directors deem fit;
- 42.2 The accounting records and minutes of meetings of the Association must be available during office hours to current Members or their duly authorised representatives, at the Associations' registered office;
- 42.3 Before each Annual General Meeting, the Directors must prepare and at the Annual General Meeting, present audited financial statements (the "accounting records") containing the balance sheet, statements and reports referred to in Section 29 and 30 of the Act, made up to a date and not more than 6 (six) months before the meeting;
- 42.4 The report of the Directors shall comply with Section 29 of the Act, and the report of the Auditors shall comply with Section 30 of the Act. The income statement, reports and balance sheet shall be signed by and on behalf of the Directors by at least 2 (two) Directors;
- 42.5 The financial year-end of the Association is the last day of March of each year, or as determined by the Board of Directors, from time to time.

43 SERVICE OF NOTICES AND LEGAL PROCESS

- 43.1 All notices intended or required to be given by the Association to any Member of the Association shall be given in writing either personally, by post addressed to the Member at his address registered with the Association or by electronic notice via any medium approved by the Directors;
- 43.2 A Member shall be bound by every notice given to him in terms of paragraph 43.1;
- 43.3 Any notice, if given by post, shall be deemed to have been delivered on the day following that on which the letter or envelope containing such notice is posted, and in providing the giving of the notice sent by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and handed in at a Post Office. Any notice by hand, telefax or email shall be deemed to have been served on the same day of transmittal by hand, telefax, and by email;
- 43.4 All legal processes may be served by or on behalf of the Association upon any Member at the address of any Erf owned by him unless the register of Members has an alternate physical address as provided for in paragraph 41.2. Such physical address, whether at his

Erf or at the address set out in the register, shall be a Members nominated *domicilium citandi et executandi*;

- 43.5 For the purpose of this Memorandum, the Association chooses a legal address for service, or *domicilium citandi et executandi* ("*domicilium*") as follows:

Cedar Lakes Homeowners Association NPC

Cedar Road

Fourways

2191

Tel: (011) 469 1693

Fax: (011) 469 1692

Email: chairman@cedarlakes.co.za

- 43.6 The Association may change its *domicilium* at any time by notice in writing, provided that the new *domicilium* is in the Republic of South Africa and is a physical address at which process can be served.

44 INDEMNITY

Subject to the limitations imposed by Section 78(6) of the Act, the Association will indemnify a Director, Prescribed Officer, Board Committee member or member of the audit committee. The Association will purchase insurance to protect the Directors, Prescribed Officers, Board Committee members in accordance with Section 78(7) of the Act. Subject to the provisions of the Act, each Director, servant, agent, prescribed officer, Board Committee member and employee of the Association and any management agent, his employee's nominees or invitees shall be indemnified by the Association against all costs, losses and expenses (including travelling expenses) which such person or persons may incur or become liable for by reason of any contract entered into or any act or deed done or omission by such person or persons in the discharge of their respective duties, including in the case of a Director, his duties as Chairman or Vice-Chairman. Without prejudice to the generality of the foregoing, the Association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any bona fide act, deed or matter done or omitted by him jointly or severally in connection with the discharge of his duties.

45 REMEDIES

- 45.1 Whenever they consider that the appearance of any land or building vested in a Member or Members is such as to be unsightly or injurious to the amenities of the surrounding area or the Association Area generally, the Directors may serve notice on such Member or

Members to take such steps as may be specified in the notice to eliminate such unsightly or injurious condition. In the event of the Member or Members failing within a reasonable time, to be specified in such notice, to comply therewith, the Directors may enter upon the property concerned and take such steps as may be necessary and recover the cost thereof from the Member or Members concerned, which shall be deemed to be a debt owing to the Association;

45.2 The Directors shall be obliged, in giving such notice, to act reasonably.

46 DAMAGE AND SECURITY AND MAINTENANCE

46.1 In the event of any Member or any servant, agent, or independent contractor of any Member, causing any damage to any landscape or other work done in the road reserve or to the Association Area fence or other work done in the road reserve or to the Association Area fence or security equipment facilities or to any of the amenities or facilities or property of the Association, such damage shall be repaired by the Association and the Member concerned shall be liable for the costs thereof;

46.2 The Member shall at all times observe all laws, and by-laws, regulations, the provisions of the town planning scheme and any other provisions in force relating to the Erf or the use thereof. In the event of any Member failing so to do, such failure shall be deemed to be a breach of these presents, and the Directors shall be entitled to take such action as they may be empowered and as they may deem fit in terms hereof to remedy such breach or to prevent the continuation thereof. In the event of any town planning scheme laying down any conditions in relation to the matters dealt with herein which are more onerous than the conditions herein laid down, the provisions of such town planning scheme shall prevail;

46.3 Each Member shall comply fully with all security measures introduced by the Directors;

46.4 The Association may require any Member to maintain the sidewalk adjacent to his Erf, and in the event of such Member failing so to maintain such sidewalk to the satisfaction of the Association, the Association shall be entitled to take action as may be necessary for the maintenance of such sidewalk and to charge the Member concerned.

47 BUILDING APPROVAL

No person shall commence with the construction of any building or structure within the Association Area or any additions or alterations to such building or structure unless he has submitted to the architectural review Committee for examination and approval or refusal of such plans for such building, structure, alteration or addition as are required in terms of the by-laws of the local authority having jurisdiction over the Association Area. Any such additional plan or information relating to the proposed building, structure, alterations or additions as the Committee may require and such plans have been approved. The Committee shall have the power:

- 47.1 to charge a fee for the examination and approval or refusal of building plans;
- 47.2 in approving any plans, to lay down such reasonable conditions as it may deem fit.
- 47.3 to refuse approval of the plans in the event of the Committee in its sole discretion determining that such plans or the development proposals therein contained are not in accordance with these presents.

48 CONSTRUCTION

No person shall commence with the construction of any building or structure within the Association Area or any additions or alterations thereto unless he has made payment of a "construction deposit" as fixed by the Directors from time to time. 80% (eighty percent) of the construction deposit (the balance of deposit) will be refunded without interest only when the construction work has been completed, and the Directors are satisfied that all loose materials and building rubble has been removed, and any damage to any part of the common area of the Association Area has been repaired. Any cost to the Association to repair or replace any damaged paving, landscaping, walling, fencing or any part of the common area of the Association Area may be deducted from the balance of the deposit. Any cost exceeding the deposit shall be payable by the Member on demand.

49 CLEARANCE CERTIFICATE

- 49.1 No Member shall transfer his Erf until the Board of Directors under the hand of its duly authorised agent has certified that the Member has at the date of transfer fulfilled all his obligations to the Association and that the purchaser has agreed to be bound by the terms hereof. No Erf or any interest therein shall be transferred without the written consent of the Association. Such consent shall not be withheld unless:
 - 49.1.1 Such Member is indebted to the Association in any way in respect of levies or other amounts which the Association may in terms of these presents be entitled to claim from him;
 - 49.1.2 The proposed transferee has not agreed to become a Member of the Association;
 - 49.1.3 Such Member remains in breach of any of the provisions of these presents or any rules after notice from the Directors requiring him to remedy such breach.

50 CHARGE FOR CLEARANCE CERTIFICATE

The Directors in issuing the certificate referred to in 49 above shall be entitled to charge a reasonable fee, therefore, to be determined by the Directors from time to time subject to review by the Association in general meeting.

51 EXTENT OF PROVISIONS

The provisions of this Memorandum shall be binding upon all Members and insofar as they may be applicable, to all persons occupying any Erf by, through or under any Member, whatever the nature of such occupation. No Member shall let or otherwise part with the occupation of his Erf without the prior written consent of the Association, which consent shall only be withheld if the Association is not satisfied that the proposed occupier of the Erf has complied with the provisions of 7.6 above.

52 AGREEMENTS

The Association may enter into agreements with Members and any third party for the provision of amenities and services to the Members and to levy a reasonable charge in respect of the provision thereof.

53 DELEGATION

The Directors may delegate such of their powers to a Manager or Managing Agent as they may determine subject to any restriction imposed or direction having been given at any general meeting of the Association.

54 PERIMETER WALLS AND FENCES

54.1 It is recorded that perimeter walls and fences exist around the Association Area and individual townships within the Association Area, and certain parts of such fences or walls are and may be erected on the boundaries of certain erven. In addition, the wall between the townships of "The Ridge and "The Village", being the south-west boundary wall of stands 4248 to 4255 inclusive, is deemed a perimeter wall;

54.2 In the case of perimeter walls or fences erected on the boundaries of certain erven:

54.2.1 the owner of any such Erf shall be obliged to maintain that part of the wall facing his Erf in fair, good and proper conditions and should he not carry out any necessary maintenance and repair work, the Directors shall be entitled to procure that such work is done and to recover the cost thereof from such owner; and;

54.2.2 the exterior of such wall shall be maintained by the Association.

54.3 In the case of:

54.3.3 perimeter walls and fences erected on the boundaries of certain erven; and;

54.3.4 non-perimeter walls and fences on the boundaries of erven the owner of any such Erf

shall be obliged to maintain both that part of the fence facing his Erf as well as the exterior of such fence in fair, good and proper conditions and should he not carry out any necessary maintenance and repair work the Directors shall be entitled to procure that such work is done and to recover the cost thereof from such owner.

- 54.4 Any Member whose Erf abuts such perimeter wall or fence shall not be entitled to interfere in any manner whatsoever with any such walling or fencing (or any fencing erected) and shall permit the Association from time to time access to such Member's Erf in order to inspect such walling or fencing and to effect such repairs as the Member may not have carried out from time to time.

55 SECURITY

- 55.1 In the event of the Association electing to provide security equipment and security services and/or other services for Members in the Association Area, all Members shall be obliged:

- 55.1.1 to permit the installation of any equipment on the erven or in the buildings on the erven for the purpose of such services as may be determined by the Association from time to time;
- 55.1.2 to make payment of the charges raised by the Directors in respect of such services;
- 55.1.3 abide by such terms and conditions as may be laid down by the Directors from time to time in respect of such equipment and services.

56 PUBLIC AND PRIVATE PARK

It is recorded that the maintenance and control of public and private open spaces, including the road reserve (from road kerb to road kerb) and the common facilities and amenities, shall be the responsibility of the Association.

57 INTERNAL DISPUTE RESOLUTION, MEDIATION AND ARBITRATION

- 57.1 Should any dispute of whatsoever nature arise at any time between Members, or between the Members and the Association in respect of the rights, obligations, interpretation or the application of this Memorandum, then either party:
- 57.1.1 may declare a dispute by delivering the details thereof, in writing, to the other party and the Association, and
 - 57.1.2 request that such dispute is referred without legal representation to mediation by a single mediator at a place and time to be determined by the mediator.

- 57.2 Within 14 (fourteen) days of the delivery of the declaration of a dispute and request that such dispute be referred to mediation and in the absence of the parties agreeing to a mediator, the Chairperson of the Association, failing him any Director of the Association, shall nominate the mediator which need not necessarily be a Member of the Association;
- 57.3 The mediator will convene and conduct the mediation process at such venue, date and process as he in his sole discretion may determine;
- 57.4 The costs of mediation shall be determined by the mediator and shall comprise:
- 57.4.3 the mediator's expenses; and
 - 57.4.4 any fee which shall have been previously paid by the parties.
- 57.5 Until the costs of the mediation have been determined by the mediator, the said costs shall be borne equally by the two parties and shall be due and payable to the mediator on presentation to them of his written account;
- 57.6 If within 14 (fourteen) days of the appointment of a mediator or such extension as the parties may agree the dispute remains unresolved, or despite mediation, the dispute has not been resolved, then the dispute may be referred to CSOS by either party.

58 ALTERATION OF THE MEMORANDUM OF INCORPORATION

- 58.1 Notwithstanding any Alterable Provision to the contrary, this Memorandum may be amended only if the proposed amendment is preceded by a Special Resolution passed at a properly quorate meeting of Members;
- 58.2 If the Memorandum is amended, then the Board must file a Notice of Amendment of the Memorandum within five Business Days and the amendment will take effect on the date the Notice of Amendment is filed or such later date as is specified in the Notice of Amendment;
- 58.3 The Board, or any individual authorised by the Board, may alter this Memorandum in a manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by providing written notice of the proposed alteration to each Member. If none of the Members raise any objection to the proposed alteration to the effect that the proposed alteration exceeds the authority provided for in this paragraph 58 within five business days of receiving the notice of the proposed alteration, the Board may file the required Notice of Alteration;
- 58.4 If any Member objects to the proposed alteration on the grounds aforesaid, the proposed alteration must be preceded by a Special Resolution;
- 58.5 Any material amendment of this Memorandum not constituting a patent error in spelling, punctuation, reference, grammar, or similar defect on the face of the document must be authorised by a special resolution by Members of the Association at a properly constituted

general meeting;

- 58.6 Once approved, as per paragraph 58.4, the Board must publish a copy of the relevant alteration or amendment to the Memorandum to each Member.