MEMORANDUM OF INCORPORATION

of

HAWAAN HOMEOWNERS ASSOCIATION (RF) NPC

Registration Number 2004/008756/08

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1. DEFINITIONS

1.1 In this Memorandum of Incorporation, the following words and phrases shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:

(a) “Act” means the Companies Act, No. 71 of 2008. Words that are defined in the Act bear the same meaning in this memorandum as in the Act.

(b) "Architects" means the architects appointed to the panel of approved architects for the Estate.

(c) "Association" means Hawaan Homeowners Association (RF) NPC and “Company” shall have a corresponding meaning.

(d) “Auditors” means the auditors of the Association.

(e) “Board” means the board of Directors of the Association from time to time.

(f) “Commission” means the Companies and Intellectual Property Commission.

(g) “Directors” means the directors of the Association from time to time.

(h) “Electronic Communication” has the meaning set out in Section 1 of the Electronic Communications and Transactions Act No. 25 of 2002 as amended (or any legislation enacted to replace such act) and the regulations in force thereunder from time to time.

(i) “Environmental Management Plan” means the comprehensive plan covering all the phases identified within the Estate approved by the Department of Environmental Affairs and adopted by the Association.

(j) “Environmental Principles” means the environmental framework for the initial site assessment, design, rehabilitation, landscaping requirements and all other relevant information approved by the Department of Environmental Affairs, Pietermaritzburg, and adopted by the Association.

(k) “Erf’ means a subdivision of land in the Estate which is capable of individual ownership or a sectional title unit in the Estate and "Erven" is the plural term.

(l) “Estate” means the township shown on General Plan Number 2273/south and known as Hawaan Forest Estate, phases 1 to 4 and phase 5 as shown on General Plan Number 1750/2008.

(m) “Estate Manager” means the person appointed by the Association to attend to the day-to-day management of the affairs of the Association.

(n) “Gate House” means the security gate and buildings at the entrance to the Estate.

(o) “Managing Agent” means the person, corporation or other entity appointed by the Association as an independent contractor to undertake management of such functions on behalf of the Association as the Board may from time to time determine.

(p) “Member” means an owner of an Erf.

(q) “Ordinary Resolution” means a resolution adopted with the support of more than 50% (fifty percent) of the voting rights exercised on the resolution.

(r) “The parks, areas of conservation significance, and water features” means the existing land resource designated and shown on the General Plan of the Estate and any future amendments thereto which may include other areas that may be incorporated, restored and rehabilitated in accordance with the Environmental Management Plan for the benefit of the owners of Erven in the Estate.

(s) "Regulations" means regulations in terms of the Act.

(t) "Rules" means the Conduct Rules made by the Directors in terms of clause 6 and includes all related protocols, policies and guidelines applicable from time to time.

(u) “Site Development and Architectural Guidelines”, otherwise known as "Building Design and Planning Guide" means the guidelines set out in the document of the same title prepared by Stefan Antoni Architects and amended by the Association from time to time.

(v) “Special Resolution” means a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution.

1.2 Unless the context otherwise requires, any words importing the singular number shall also include the plural number and vice versa and words importing any one gender shall include the other two genders.

1.3 For the purposes of this Memorandum of Incorporation, whenever any number of days is prescribed, it excludes the first and includes the last day unless the last day falls on a Saturday, Sunday or South African gazetted public holiday, in which case the last day will be the next succeeding business day.

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

1.5 Where there is a conflict between a provision (whether express, tacit or implied) of this Memorandum of Incorporation and:

(a) an alterable or elective provision of the Act, the provisions of this Memorandum of Incorporation shall prevail to the extent of the conflict; and

(b) an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail unless this Memorandum of Incorporation imposes on the Association a higher standard, greater restriction, longer period of time or similarly more onerous requirement, in which event the relevant provision of this Memorandum of Incorporation shall prevail to the extent of the conflict.

1.6 The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this Memorandum of Incorporation.

1.7 Any reference to a notice shall be construed as a written notice and shall include a notice which is transmitted electronically in the manner and form permitted in terms of the Act and/or the Regulations thereunder.

1.8 Any reference to statutes or regulations shall be deemed to include any lawful amendments thereto, re-enactments thereof or any legislation enacted to replace such statutes or regulations.

1.9 Any reference to “Business Hours” shall be construed as being the hours between 8.00 am and 5.00 pm on any Business Day. Any reference to “time” shall be interpreted as South African Standard Time

1.10 Any reference to “this Memorandum of Incorporation” shall be construed as a reference to this Memorandum of Incorporation as amended from time to time.

2. INCORPORATION

2.1 The Association is incorporated as a non-profit company as defined in the Act.

2.2 The Association is incorporated in accordance with and governed by:

(a) the unalterable provisions of the Act that are applicable to non-profit companies.

(b) the alterable provisions of the Act that are applicable to non-profit companies subject to the limitations, extensions, variations and substitutions set out in this Memorandum of Incorporation; and

(c) the provisions of this Memorandum of Incorporation.

3. OBJECTS AND AIMS OF THE ASSOCIATION

The primary objective and aim of the Association are to manage, promote, advance and protect the communal interests, safety and welfare of the Members of the Association as owners of Erven in the Estate, and anything necessary or incidental to this object, including but not limited to:

3.1 ensuring that a secure environment for the Members of the Association is maintained by way of a gated controlled access to the Estate, perimeter electrified fencing, beams, sensors and television cameras, as well as the appointed security staff.

3.2 maintaining the aesthetic standards of the Estate by controlling buildings and improvements on the Erven in accordance with the Site Development and Architectural Guidelines, the Environmental Principles, and Environmental Management Plan and any amendments thereto approved by the Association from time to time.

3.3 maintaining:

(a) the gated security access and perimeter electrified fencing.

(b) the roads and verges in the Estate.

(c) the street lighting in the Estate.

(d) the parks, areas of conservation significance (except for those areas which fall under the management of the Hawaan Forest Conservation Trust) and water features, and especially to preserve any eco-sensitive areas, plant species or colonies in accordance with the Environmental Management Plan for the benefit of the Members and in accordance with any future rehabilitation and amendments approved by the Department of Environmental Affairs and adopted by the Association from time to time;

3.4 maintaining good conduct standards of Members and occupiers of Erven in the Estate for the general benefit of all Members in accordance with the Rules adopted by the Association.

3.5 insuring and properly maintaining all assets under its ownership and/or control.

3.6 raising levies as provided for herein to fund the carrying out of its objects, including expenditure relating to immovable property owned by the Association.

3.7 making and enforcing Rules, in furtherance of the objects of the Association, as set out in clause 6 hereof.

3.8 imposing fines and penalties for non-compliance with the provisions of this Memorandum of Incorporation and the Rules.

4. POWERS OF THE ASSOCIATION

The Association is a juristic person which has all of the legal powers and capacity of an individual except to the extent that:

4.1 a juristic person is incapable of exercising any such powers, or having any such capacity; or

4.2 this Memorandum of Incorporation or the Act place restrictions on the powers of the Association.

5. ALTERATIONS TO THE MEMORANDUM OF INCORPORATION

5.1 Subject to clause 8.1, this Memorandum of Incorporation may be altered or amended:

(a) by the Association's Board to the extent necessary to comply with an Order of Court; or

(b) by a Special Resolution passed at a meeting of Members; or

(c) by the Association's Board in order to correct a patent error in spelling, punctuation, reference, grammar or similar defects by posting a notice of the alteration to every shareholder and filing a notice of the alteration with the Commission as provided for in Section 17(1) of the Act.

5.2 Any amendments to this Memorandum of Incorporation shall be submitted by the Association to the South African Revenue Service once such amendments have become effective.

6. RULES

6.1 Subject to clauses 6.2 and 6.3, the Board shall have the power to make Rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Estate, for the purposes of giving proper effect to the provisions of this Memorandum of Incorporation in furtherance of the objects of the Association and for any other purpose, such Rules being in addition to and distinct from company governance rules in terms of Section 15(3) of the Act, and which Rules shall be observed by all Members and all Members shall procure the observance of the Rules by all those occupying Erven through them.

6.2 The Board must publish any proposed Rules to be made in terms of this clause by way of notice to all Members within a reasonable time and any Rules proposed by the Board will take effect on the date specified in the notice.

6.3 Any Rules that take effect as contemplated in clause 6.2 above will remain binding on an interim basis until put to a vote at the next general meeting of the Association and will become permanently binding if ratified by Ordinary Resolution of the Members.

6.4 The Board may take or cause to be taken any steps as it may consider necessary to remedy the breach of any Rules of which a Member may be guilty and debit the costs of so doing to the Member concerned which amount shall be deemed to be a debt due by the Member to the Association and added to the levies owed by the Member to the Association. In addition, the Board may impose a system of fines or other penalties. The amount of such fines and/or penalties shall be determined by the Board from time to time.

6.5 For the enforcement of any of the Rules, the Board may:

(a) give notice to a member to remedy any breach of the Rules within a time period deemed reasonable by the Board; and

(b) if the breach is not remedied within the time period afforded to the Member concerned, take or cause to be taken steps as it may consider necessary to remedy the breach of the Rule of which the Member or any Member of his family, his invitees, agents, servants, lessees or any other person for whom he may be responsible may be liable and debit the costs of doing so to the Member concerned, which amount shall be deemed to be a debt owing by the Member concerned to the Association; and

(c) impose a system of fines and/or other penalties. The amounts of such fines may be reviewed at the annual general meeting of the Association; and

(d) take such other action as the Board may deem necessary to remedy the Member's breach, including litigation; and

(e) defend any action taken by any Member or any other person against the Association or its Directors in their capacity as such.

6.6 The Board may, in the name of the Association, institute proceedings in a court of competent jurisdiction, to enforce the provisions of this Memorandum of Incorporation and any rules made hereunder, and for this purpose may appoint attorneys and counsel.

6.7 In the event of any breach of the rules by a Member's family, invitees, agents, employees, contractors, occupants or lessees of his Erf, or any other person for whom the Member may be responsible, such breach shall be deemed to have been committed by the Member himself. Without prejudice to the aforegoing, the Board may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.

6.8 Should any Member (or other person mentioned in 6.7 above) dispute the fact that such Member has committed a breach of this Memorandum of Incorporation or any of the Rules, a committee of three (3) Directors appointed by the Chairman of the Board shall adjudicate upon the issue at such time and in such manner and according to such procedure as the Chairman may direct. A record of such proceedings shall be kept available for inspection at the offices of the Association.

6.9 Any fine or penalty imposed upon any Member shall be deemed to be a debt due by the Member to the Association and likewise also added to the levies owed by the Member to the Association and shall attract interest and be recoverable in the same way as any other debt due under this Memorandum of Incorporation.

6.10 The Association may in general meeting itself make any Rules which the Board may make and may in general meeting vary or modify any Rules made by it or by the Board from time to time.

7. COMPANY GOVERNANCE RULES

The authority of the Association to make necessary or incidental rules relating to the governance of the Association (to be distinguished from the Rules provided for in clause 6 above) as contemplated in terms of Section 15(3) of the Act is not altered or limited by this Memorandum of Incorporation. Such rules must be published by posting a copy to every Member and by filing a copy of the rules with the Commission and will not take effect until the expiry of ten (10) business days from the date upon which the rule was filed with the Commission, or on such later date as may be specified in the rules. Each such rule made by the Board must be put to the vote at the next General Meeting of Members. Notice of ratification or non-ratification must be filed with the Commission within five (5) business days after the vote.

8. MEMBERS

8.1 Membership of the Association shall be compulsory for the registered owners of Erven in the Estate. This provision may never be altered by the Members.

8.2 The title deed of each Erf shall contain a condition that neither an Erf nor an undivided share in an Erf shall be transferred to any person until the proposed transferee has bound himself to become and remain a Member of the Association and the Association has issued a clearance certificate to the effect that its Memorandum of Association has been complied with.

8.3 A person desiring to take transfer of an Erf shall complete a prescribed membership application form and shall sign an undertaking to agree to be bound by this Memorandum of Incorporation, the Site Development and Architectural Guidelines, the Rules and other requirements of the Association. Upon compliance with these requirements, the Association will consent to the person becoming a Member of the Association.

8.4 If a member is not a natural person and is instead a juristic person, the juristic person must, in a written format prescribed by the Association from time to time, appoint 1 (one) natural person to be its duly authorised representative, to act on that Member's behalf in relation to all matters pertaining to the Member's membership of the Association. The instrument authorising such person to represent the Member must be lodged with the Association within 7 (seven) Days of the Member becoming a Member of the Association. Should a member fail to furnish the Association with the aforementioned information then:

(a) the director/member first appearing on the records of the Commission for the respective company or close corporation at the relevant time shall be deemed to be the duly authorised representative of such juristic person in the event of the juristic person being a company or close corporation.

(b) the trustee of any trust whose name appears first on the relevant letters of authority or like document in the possession of the Association shall be deemed to be the duly authorised representative of such juristic person in the event of such juristic person being a trust.

8.5 The Member must notify the Association of any change of the identity or contact details of its representative, within 3 (three) Business Days after any such change.

8.6 A Member, who is a Juristic Person, must within 7 (seven) Days after becoming a member, and within 7 (seven) Days after any change in its registered members, directors, shareholders, trustees and/or beneficiaries or any change in its governance documents taking effect furnish the Association:

(a) in the case of a close corporation or an unincorporated association, provide the Association with a list of its registered members and their respective interests and/or amended founding statement, constitution or other governance documents, as the case may be.

(b) in the case of a company, provide the Association with a list of its directors and shareholders and the details of their shareholding and/or memorandum of incorporation or other governance documents, as the case may be.

(c) in the case of a trust, provide the Association with a list of its trustees and beneficiaries and/or amended deed of trust and/or letters of authority, as the case may be.

8.7 The Board may impose a penalty on any Member that fails to comply with the requirements of clauses 8.4 and 8.5.

8.8 Where a Member is a juristic person the shareholders, directors, trustees and/or members (as the case may be) of such legal entity (other than directors or trustees acting in a professional capacity as such) shall be personally liable, jointly and severally with such Member, for the due performance by the Member of all of its obligations in terms of this Memorandum of Incorporation and the Rules.

8.9 Where an Erf is owned by more than one person, all the registered owners of that Erf shall:

(a) together be deemed to be one Member of the Association and have the rights and obligations of one Member of the Association; and

(b) be jointly and severally liable for the due performance of any obligation of a Member to the Association; and

(c) shall nominate in writing 1 (one) of them to be the duly authorised representative of the co-owners, to act on their behalf in relation to all matters pertaining to the co-owners' membership of the Association; and

(d) if the co-owners fail to nominate one of them as the duly authorised representative of the co-owners, the co-owner first named in the title deeds of the Erf shall be recognised by the Association as the duly authorised representative of the co-owners.

(e) all notices which may be required to be given to the Member or otherwise in respect of that Erf, whether in terms of the Act or this Memorandum of Incorporation, shall be given to the person authorised in terms of clause 8.9(c), and failing which, in the event of 8.9(d) being applicable, the person first named in the title deeds of the Erf.

8.10 The Association shall maintain at its registered office a register of the Members of the Association as provided for in Section 24(4) of the Act. The register shall be open for inspection.

8.11 The rights and obligations of Membership shall commence on the day upon which a person becomes a registered owner of an Erf and shall cease on the day when the person ceases to be a registered owner.

8.12 A Member shall not let or part with occupation of an Erf unless:

(a) the proposed occupier agrees to be bound by all the terms and conditions of this Memorandum of Incorporation, as well as all the Rules imposed by the Association in terms of clause 6 hereof; and

(b) the Member and occupier conclude a written agreement of lease in a form approved by the Board.

8.13 Only one residential dwelling shall be built on each Erf and only twenty-five (25) residential dwellings will be built on the Erven comprised within phase 5.

9. RIGHT TO INFORMATION

Every Member has the right to inspect and copy without any charge for any such inspection the information contained in the following records of the Association:

9.1 the Association's Memorandum of Incorporation and any amendments to it, and any Rules made by the Company.

9.2 the records in respect of the Association's Directors.

9.3 the reports to annual meetings and annual financial statements.

9.4 the notices and minutes of all Members meetings including all resolutions adopted by Members at such meetings.

9.5 any document that was made available by the Association to its Members in relation to each such resolution for seven (7) years after the date each such resolution was adopted.

9.6 copies of any written communication sent generally by the Association to all its members for a period of seven (7) years after the date on which each such communication was issued.

9.7 the register of Members.

10. LEVIES

10.1 Prior to each annual general meeting of the Association the Directors shall prepare a budget comprising an itemised estimate of the anticipated income and expenditure of the Association for the ensuing financial year, together with an estimate of the levies which the Directors intend to impose on the Members of the Association. At the annual general meeting the Members shall approve, with or without amendment, the budget and the estimated levies.

10.2 Pursuant to the decision taken at the annual general meeting, the Directors shall impose an annual levy on the Members in order to raise sufficient funds to meet the anticipated expenditure. The annual levy shall be payable in equal monthly instalments on the first day of each and every month with effect from the first day of the month following the month in which Members are notified of the amount of the levy but shall be subject to acceleration in the event that a Member falls into arrears in which event the

Association shall be entitled to claim from that Member the balance of the annual levy which upon the member persisting in such breach shall then become due and payable to the Association.

10.3 Subject to clauses 10.4 and 10.10 all Members shall contribute to the levy fund equally in respect of each Erf owned however, where two or more Erven, as originally laid out at the inception of the Estate, were consolidated after their purchase, they shall still be treated as separate Erven for the purpose of levies, both ordinary and special - unless the Member was given a levy rebate for the consolidated Erven and provided that such levy rebate shall not apply to a subsequent purchaser or transferee of the consolidated Erven.

10.4 Should there be a material change in the Association's monthly expenses, the Board may increase the monthly levies and give written notice to each Member of the increased levies and of the date on which such increased levies become payable.

10.5 Any levy due by a Member shall be a debt due by such Member to the Association.

10.6 The obligation to pay levies shall cease upon the cessation of membership. The title deeds of each Erf shall contain a clause that the Erf may not be transferred without the lodgement in the Deeds Office of a certificate by a duly authorised representative of the Association to confirm that all levies and other amounts owing by the Member to the Association have been paid in full or secured to the satisfaction of the Association. The Association shall be entitled to charge a reasonable fee for the issue of the certificate. Notwithstanding any person ceasing to be a Member, all levies and other amounts attributable to any period whilst such person was a Member, shall continue to be of full force and effect and recoverable from such person.

10.7 If a Member has not paid a monthly levy and/or any other amount within seven (7) days of the due date, that Member shall be liable for interest thereon calculated from the due date of payment until the date on which the levy and/or other amount is paid at a rate of interest 5% (five percent) above the prime overdraft rate of interest levied by the major banks from time to time. The interest shall be calculated and shall be compounded monthly in advance.

10.8 Notwithstanding the aforementioned, should a Member fail to effect payment of levies (whether annual or special) levied by the Association on the due date for payment thereof, then the full outstanding balance remaining unpaid for the relevant financial year shall immediately become due and payable without notice and/or demand, however, the Board may, in their sole election and discretion, agree to a re-payment arrangement with the Member concerned subject to such conditions as the Board may impose.

10.9 The Board, in managing the financial obligations and cash flow requirements of the Association, may in their sole election and discretion, agree to reduce, vary or discount the full outstanding balance remaining unpaid by a Member, or any penalty levies due by a Member, subject to such conditions as the Board may impose and subject further to the ratification by the Members, with or without amendment, at the next General Meeting of the Association following such determination.

10.10 Should there be any dispute between a Member and the Association concerning the amount of any levy payable by such Member, the dispute shall be referred to the Auditors whose decision shall be final and binding upon both the Member and the Association.

11. <u>RESALES AND LETTING</u>

11.1 All resales of Erven are to be concluded on the original standard Estate sale agreement obtainable from the offices of the Association.

11.2 Only estate agents on the approved panel of estate agents may be mandated by Members to find buyers or lessees for their properties. The mandate shall be subject to the terms and conditions of the agency agreement concluded between the Association and the estate agent.

11.3 Should an Erf be sold privately, the seller shall be obliged to pay to the Association a percentage of the gross selling price as a departure levy, which percentage will be set by the Board from time to time and which currently is 0,5% (zero comma five percent). The amount shall be payable on the date of transfer and payment thereof shall be secured pending transfer in a manner acceptable to the Association.

12. <u>GENERAL MEETINGS OF THE ASSOCIATION</u>

12.1 The Association shall within six (6) months after the end of each financial year hold a general meeting as its annual general meeting in addition to any other general meetings during that year, and shall, in calling the meeting, specify the meeting as such in the notices issued in terms of clause 13 hereof.

12.2 The annual general meeting shall be held at such time and place as the Directors shall decide from time to time.

12.3 All general meetings other than annual general meetings shall be called extraordinary general meetings.

12.4 The Directors may, whenever they think fit, convene an extraordinary general meeting.

12.5 The Directors must convene an extraordinary general meeting if one or more written and signed demands of such meeting are delivered to the Association, and.

(a) each such demand describes the specific purpose for which the meeting is proposed; and

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

13. NOTICES OF MEETINGS

13.1 An annual general meeting and a meeting called for the passing of a special resolution shall be called by giving at least twenty-one (21) calendar days' notice in writing to each Member. An extraordinary general meeting, other than one called for the passing of a special resolution, shall be called by giving at least fourteen (14) calendar days' notice in writing to each Member. In each case the notice shall be exclusive of the day on which it is given and shall specify the place, the day and hour of the meeting. In the case of special business, the notice shall state the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the reasons for it. A general meeting of the Association which is called by shorter notice than that specified in this clause shall be deemed to have been duly called if it is so agreed:

(a) in the case of a meeting called as the annual general meeting, by all the Members entitled to attend and vote thereat; and

(b) in the case of an extraordinary general meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than 95% of the total voting rights of all Members.

13.2 The notice may be posted, or it may be transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient. In addition, a notice transmitted electronically must comply with Regulation 7(4) of the Regulations.

13.3 The accidental omission to give notice of a meeting or of any resolution, or to give any other notification, or present any document required to be given or sent in terms of this Memorandum of Incorporation, or the non-receipt of any such notice, notification or document by any Member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution passed at any meeting, unless deemed by the Chairman to be a material omission.

14. <u>ELECTRONIC PARTICIPATION IN MEMBERS MEETINGS</u>

The authority of the Association to conduct a Members' meeting entirely by Electronic Communication, or to provide for participation in a Members' meeting by Electronic Communication, as set out in Sections 63(2) and 62(3) of the Act, is not limited or restricted by this Memorandum of Incorporation provided that the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively at the meeting.

15. <u>QUORUM FOR A MEETING OF MEMBERS</u>

15.1 No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of any general meeting shall be such of the Members entitled to vote as together for the time being represent the votes of 25% (twenty five percent) in number of all Members entitled to vote for the time being.

15.2 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 and time 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 holding the meeting, the Members present shall be a quorum.

16. <u>AGENDA FOR A MEETING OF MEMBERS</u>

16.1 In addition to any other matters required by the Act or this Memorandum of Incorporation to be dealt with at an annual general meeting, the following matters shall be dealt with at every annual general meeting:

(a) the consideration of the Chairman’s report.

(b) the election of Directors.

(c) the consideration of any other matters referred to the meeting, including any resolutions proposed for adoption by such meeting, and the voting upon any such resolutions.

(d) the consideration of the accounts of the Association for the preceding financial year.

(e) the consideration of the report of the auditors, and the appointment of the auditors for the ensuing year.

(f) the consideration and approval of the budget and estimated levies for the ensuing year.

16.2 No business shall be dealt with at any general meeting unless written notice has been given to the Directors not less than seven (7) days before such meeting by the person proposing to raise such business of his intention to do so; provided however, that the Chairman may by ordinary resolution of the meeting relax this condition.

17. PROCEDURE AT A GENERAL MEETING OF MEMBERS

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 to another time and place. No business shall be transacted at any adjourned meeting other than business which could have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for ten (10) days or more, notice of the adjourned meeting shall be given in the same manner as of the original meeting. Save as aforesaid, the Members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.

18. PROXIES

18.1 A Member 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 signed by the Member concerned or his agent, duly authorised in writing and in such form as the Board may approve.

18.2 A copy of the instrument appointing a proxy shall be delivered to the office of the Association by hand, by telefax or electronic communication (e-mail) or presented to the Chairman before the time at which the meeting for which the proxy is appointed is scheduled to begin, failing which the proxy shall not be entitled to attend the Members' meeting and/or act on behalf of the Member whom the proxy represents. The Board shall be entitled to call upon a Member to lodge the original instrument appointing the proxy with the Association within seven (7) days of the date of the meeting or proceedings. For the sake of clarity, the instrument appointing a proxy shall include a copy of the identity document or registration document of the Member concerned as well as that of the proxy and where the Member is a juristic person the instrument shall include a resolution of the Member authorising the signatory to sign the proxy.

18.3 No instrument appointing a proxy shall be valid after the expiration of twelve (12) months from the date of its execution.

18.4 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 had been received by the Directors at any time before a vote is taken in respect of which the proxy exercises such vote.

19. <u>VOTES</u>

19.1 At every general meeting:

(a) subject to the provisions of the undermentioned clauses, on a show of hands every Member present in person or by proxy shall be entitled to one vote, regardless of the number of Erven owned by him.

(b) if an Erf is registered in the name of more than one person, then all such co-owners shall share the vote attached to that Erf.

(c) on a poll, every Member shall be entitled to one vote for every Erf registered in the name of the Member.

(d) a Member shall not be entitled to vote at any general meeting if the Member is in arrear with the payment of levies or any other amount payable to the Association or remains in breach of any of the Rules.

19.2 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, and every Member present or represented by proxy, shall have one vote save that where any proxy represents more than one Member or when demanded by any Member, the vote shall be on a poll. A declaration by the Chairman that a resolution has been carried (unanimously or by a particular majority) or negated, and an entry to that effect in the book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

19.3 If a poll is demanded it shall be taken in such manner as the Chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

19.4 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.

19.5 A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

19.6 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.

19.7 In the case of an equality of votes for and against any resolution, the resolution shall be deemed to have been defeated.

19.8 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 respects be deemed to have been properly and validly constituted and conducted. An entry in the minutes to the effect that a 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.

19.9 In accordance with the provisions of Section 60 of the Act, a resolution that could be voted on at a Member's meeting may instead be:

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

(b) voted on in writing by such Members entitled to exercise voting rights in relation to the resolution within a period of 20 (twenty) Business Days after the resolution was submitted to them.

19.10 A resolution contemplated in clause 19.9:

(a) will have been adopted if it is in writing and signed, or supported, if it is an Ordinary Resolution by the holders of more than 50% (fifty percent) of the voting rights which may be exercised on the resolution and, if it is a Special Resolution by the holders of at least 75% (seventy five percent) of the voting rights which may be exercised on the resolution at a properly constituted Members' meeting; and

(b) if adopted, will have the same effect as if it had been approved by voting at a meeting; and

(c) may be signed in counterparts.

19.11 As contemplated in Section 60(4) of the Act, within ten (10) business days after adopting a resolution in accordance with clause 19.9 the Association must deliver a statement describing the results of the vote, consent process or election to each Member who was entitled to vote on or consent to the resolution.

19.12 Any business of the Association that is required by the Act or this Memorandum of Incorporation to be conducted at an annual general meeting of the Association, may not be conducted in the manner contemplated in clause 19.9.

19.13 At a Members' meeting, an abstention shall not be counted as a vote for or against the resolution in question however where Members act other than at a meeting an abstention shall count as a vote against the resolution in question.

19.14 For the purposes of clause 19.9. "In writing" includes a resolution voted on electronically.

20. <u>RESTRICTIONS ON PAYMENTS TO MEMBERS</u>

The Association must apply all of its assets, however derived, to advance its stated objects as set out in this Memorandum of Incorporation. The Association must not directly or indirectly pay any portion of its income or transfer any of its assets, regardless of how the income or asset was derived, to any person who is or was a member or director, or person appointing a director, of the Association except:

20.1 as reasonable:

(a) remuneration for goods delivered or services rendered to, or at the direction of, the Association; or

(b) payment or reimbursement for expenses incurred to advance the stated objects of the Association; or

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

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

20.4 in respect of any legal obligation binding on the Association.

21. DIRECTORS

21.1 There shall be a Board of Directors of the Association which shall consist of not less than three (3) and not more than seven (7) Directors.

21.2 A Director shall be an individual (who is not precluded by the Act from being a director of a company) and must either be a Member or the spouse of a Member of the Association, or the authorized representative of a Member which is not a natural person. A Director who is not himself a Member, by accepting his appointment to office shall be deemed to have agreed to be bound by all the provisions of this Memorandum of Incorporation.

21.3 Directors shall be elected by the Members in general meeting. For a period of temporary absence, a director may appoint an alternate Director.

21.4 Each director shall have the power to nominate another person to act as an alternate Director in his or her place during his or her absence or inability to act as a Director and on such appointment being made, the alternate Director shall be subject to the terms, qualifications and conditions existing with reference to the other Directors of the Association.

22. REMOVAL AND ROTATION OF DIRECTORS

22.1 Each Director shall continue to hold office from the date of his appointment for a period of one year, until the beginning of the next annual general meeting after the expiry of that year. At such meeting each Director shall be deemed to have retired from office but will be eligible for re-election to the Board of Directors at such meeting.

22.2 A Director shall be deemed to have vacated office upon:

(a) having ceased to be eligible under clause 21.2 hereof.

(b) having become disqualified to act as a director in terms of the provisions of the Act; or

(c) being removed from office as provided in Section 71 of the Act.

(d) resigning from office by means of a written notice given to the Board.

22.3 Upon any vacancy occurring in the Board prior to the next annual general meeting, the vacancy shall be filled by a new election conducted in accordance with Section 70(3)(b) of the Act.

22.4 The Directors shall be entitled to appoint committees consisting of such number of their Members and such outsiders, including the Estate Manager, as they may deem fit and to delegate to such committees such of their functions, powers and duties as they may deem fit, with further power to vary or revoke such appointments and delegations as the Directors may from time to time deem necessary. A committee member who is not also a director may not vote on a matter to be decided by the committee.

23. CHAIRMAN AND VICE CHAIRMAN

23.1 The Directors shall within fourteen (14) days after each annual general meeting appoint from their number a Chairman and Vice Chairman, who shall hold their respective offices until the end of the next annual general meeting, provided that the office of Chairman or Vice Chairman shall *ipso facto* be vacated by a Director holding such office upon his ceasing to be a Director for any reason. No one Director shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time the Board of Directors shall immediately appoint one of their number as replacement in such office.

23.2 Except as otherwise provided, the Chairman shall preside at all meetings of the Directors and at all general meetings of Members and, in the event of his not being present within twenty (20) 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.

24. DIRECTOR'S EXPENSES

Directors shall be entitled to recover all reasonable and bona fide expenses incurred by them in 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.

25. POWER OF DIRECTORS

25.1 Subject to the express provisions of this Memorandum of Incorporation, the Directors:

(a) shall manage and control the business and affairs of the Association.

(b) shall have the right to appoint and dismiss the Estate Manager and/or Managing Agent.

(c) may exercise all the powers of the Association and perform all acts on behalf of the Association, unless these are required by the Act or by this Memorandum of Incorporation to be exercised or performed by the Association in general meeting.

25.2 Subject to the provisions of this Memorandum of Incorporation, the Directors are entitled to engage on behalf of the Association the services of accountants, auditors, attorneys, advocates, architects, engineers, a Managing Agent and/or Estate Manager and any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the Directors and on such terms as the Directors shall decide.

26. MEETINGS OF DIRECTORS

26.1 The Directors may on seven (7) days written notice given by anyone (1) Director to the other Directors meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit, subject to any provisions of this Memorandum of Incorporation. Unless a Director is known to be away, each Director shall acknowledge receipt of the written notice.

26.2 The quorum necessary for the holding of any meetings of the Directors shall be a majority 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 resolution shall be deemed to have been defeated.

26.3 If within half an hour from the time appointed for the holding of a Directors' 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 and time 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 holding the meeting, the Directors present shall constitute a quorum.

26.4 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 in accordance with the provisions of the law relating to the keeping of minutes of meetings of directors of companies. The Directors' minute book shall be open for inspection at all reasonable times by any Director, the auditors, the Members and the Managing Agent and Estate Manager.

26.5 Save as provided in this Memorandum of Incorporation, the proceedings of any Directors' meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

26.6 A resolution signed by all the Directors shall be valid in all respects as if it had been duly passed at a properly convened and constituted meeting of the Board of Directors.

26.7 In the event of urgent business arising, a directors' meeting may be called on such period of notice and in such manner as the circumstances require.

26.8 As contemplated in Section 73(3) of the Act, a Board meeting may be conducted entirely by Electronic Communication or one or more Directors may participate in a Board meeting by Electronic Communication, provided that all participants can participate effectively in the meeting and can communicate concurrently with each other without an intermediary.

26.9 In accordance with Section 74(1) of the Act, a decision which could be voted on at a Board meeting may instead be adopted by written consent of a majority of the Directors, given in person or by Electronic Communication, provided that each Director has received notice of the matter to be decided.

26.10 Within ten (10) business days after adopting a resolution in terms of this section, the Association must deliver a statement describing the results of the vote or consent process to every Director.

27. BORROWING POWERS

The Association may in its discretion raise or borrow sums of money for the purposes of the Association and may secure the repayment of such moneys in such manner and upon such terms and conditions as the Directors think fit and in particular may mortgage or bind its property or any part thereof as security for any debt or obligation of the Association. Any loans exceeding the sum of R100 000,00 must be approved by way of an ordinary resolution passed by the Members in a general meeting.

28. ACCOUNTS

28.1 The accounts and books of the Association shall be open to inspection by Members at all reasonable times during business hours.

28.2 Once in each financial year the accounts of the Association shall be examined and the correctness thereof ascertained by auditors. The duties of the Auditors shall be regulated in accordance with Chapter 10 of the Act.

29. BANK ACCOUNT

Funds received by the Association shall be deposited in the Association's bank account.

30. SERVICE OF NOTICES

Any notice required to be given to a Member by the Association, whether under this Memorandum of Incorporation or in terms of the Act, shall be in writing and either:

30.1 hand delivered to the Member at the address of the Erf, if the Member or the duly authorised representative of the Member ordinarily resides there.

30.2 sent by pre-paid registered post to such other address as the Member has given the Association in writing for the service of notice; any notice served by post shall be deemed to have been served on the third day after posting; or

30.3 emailed to the email address given by the Member, where the Member has supplied the Association with the Member's email address.

31. ENFORCEMENT OF OBLIGATIONS AND LEGAL COSTS

31.1 Should any Member or any lessee of any Member or guest or invitee of any Member fail to perform any obligation incumbent upon him, if applicable, within the period of any notice given for compliance, the Association shall be entitled, but not obliged, to do such things and incur such expenditure as is, in the opinion of the Association, necessary and/or requisite to procure compliance. The costs thereby incurred by the Association shall be a Debt due by the Member concerned, which shall be payable on demand.

31.2 For purposes of legal action, the physical address of the Erf of a Member shall be the domicilium citandi et executandi of a Member. If he wishes to change such domicilium address he must give written notice to that effect to the Association, provided however that any new domicilium shall be a physical address within the Republic of South Africa.

31.3 The domicilium citandi et executandi for any tenant/occupier (other than a member who has provided the Association with a domicilium citandi et executandi) for purposes of legal action is the physical address of the Erf occupied by the tenant/occupier.

31.4 In no way detracting from the generality of any other provision of this Memorandum of Incorporation, in the event of the Association incurring any legal costs as a result of any breach of this Memorandum or Incorporation or Rules by any Member or incurred as a result of any other dispute or other matter concerning a Member, the Association shall be entitled to recover on demand all such legal costs from such Member (or, if applicable, Members both jointly and severally) on an attorney and own client scale (alternatively the highest permissible scale of legal fees) in full, including collection commission, disbursements and all other related charges incurred by the Association, whether or not legal action, arbitration or other proceedings are actually instituted or proceeded with, the intention being to ensure that the Association is insofar as is permissible indemnified in full in respect of all legal costs incurred by it. If a Member disputes the legal costs incurred by the Association, then the Association may refer the costs for taxation, alternatively, where taxation is not possible, to the applicable governing body of the legal profession for consideration and assessment, and the decision on taxation, alternatively on assessment, shall be final and binding.

32. PROTECTION OF PERSONAL INFORMATION ACT

32.1 Members:

(a) acknowledge that the Association will collect the Member's personal information, including but not limited to name(s), identity numbers, registration numbers, birth dates, email addresses, physical addresses, postal addresses, telephonic numbers, geographic locations and other correspondence which may be private and/or confidential.

(b) acknowledge that the Association will use the personal information for the purposes of use in all matters pertaining to the Member as an owner in the Estate.

(c) consent to the Association processing the Member's personal information, including but not limited to collecting, recording, organising, disseminating and making the personal information available for the uses set out in clause 32.1(b) above;

(d) consent to the Association collecting the Member's aforementioned personal information directly from the Member and from any other source.

(e) consent to the Association retaining records of the Member's aforementioned personal information for so long as it, in its sole discretion, deems it necessary to do so; and

(f) accept the contents of this consent as adequate notification of the collection and processing of the Member's aforementioned personal information by the Association and consent to the Association failing to provide full notification in terms of Section 18 of the Protection of Personal Information Act No. 4 of 2013 ("POPIA") which consent is permitted in terms of Section 18(4) of POPIA.

33. DISSOLUTION AND/OR WINDING UP OF ASSOCIATION

33.1 The Association may be dissolved and/or wound up by a Special Resolution passed at a members' meeting called for that purpose.

33.2 In the event of the Association being dissolved or wound up:

(a) the Directors will act as liquidators.

(b) the Association's net assets, after discharge of its liabilities shall be transferred to some other non-profit association, voluntary association or non-profit trust having similar objects to that of the Association and which is also exempt from income tax in terms of Section 10(1)(e)(i)(cc) of the Income Tax Act, 1962 (or any replacement thereof) to be determined by the Members of the Association at or before the time of its dissolution or winding up, or failing such determination, by the court having jurisdiction.

34. FUNDAMENTAL TRANSACTIONS

34.1 As contemplated in item 2(1) of Schedule 1 to the Act, the Association may not:

(a) amalgamate, merge with or convert to a profit company; or

(b) 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 disposition of an asset occurs in the ordinary course of the activities of the Association.

34.2 Any proposal to:

(a) dispose of all or the greater part of its assets or undertaking; or

(b) amalgamate or merge with another non-profit company must be submitted to the Members for approval in a manner comparable to that required of profit companies in accordance with Sections 112 and 113 of the Act respectively.

34.3 Sections 115 and 116 of the Act, read with the changes required by the context, apply with respect to the approval of a proposal contemplated in clause 34.2.

35. DISCLAIMER AND INDEMNITY

35.1 The Association shall not be liable for any injury to any person, damage to or loss of any property, to whomsoever it may belong, occurring or suffered, upon the Estate, regardless of the cause thereof, nor shall the Association be responsible for any theft occurring on the Estate.

35.2 Neither the Association nor any of its Directors or agents shall be liable to any Member or any of its lessees, employees, agents, servants, invitees, customers, contractors or any Member of the public dealing with any Member, for any injury or loss or damage of any description which they may suffer on the Estate, regardless of the cause thereof.

35.3 Members accept responsibility for and indemnify the Association and its employees, servants, agents and lawful invitees against all claims by any person arising from any injury or loss or damage contemplated by this clause 35.