



REPUBLIC OF SOUTH AFRICA COMPANIES ACT, 2008

**MEMORANDUM OF INCORPORATION OF A NON-PROFIT COMPANY NOT HAVING A
SHARE CAPITAL**

of the

EUPHORIA HOME OWNERS ASSOCIATION NPC

REGISTRATION NUMBER: 2005/031867/08

The Articles of the Association are as follows:

1. INTERPRETATION

In This Memorandum, unless the context otherwise requires:

- 1.1 “Act” means the Companies Act 71 of 2008 as amended from time to time;
- 1.2 “Aesthetics Committee” means a sub-committee appointed by the Board in terms of Article 27 and being responsible for maintaining and updating the Landscaping Guidelines, for monitoring compliance therewith and for recommending corrective or preventative action as appropriate;
- 1.3 “Architectural Guidelines” means the guidelines according to which improvements may be made and buildings may be erected as approved by the Board and issued by the Architectural Review Committee from time to time;
- 1.4 “Articles” means the Articles of the Association as contained in this Memorandum;
- 1.5 “Architectural Review Committee” means a sub-committee appointed by the Board in terms of Article 26 and being responsible for maintaining and updating the Architectural Guidelines within the requirements of the relative local authority, for monitoring compliance therewith and for recommending corrective or preventative action as appropriate;
- 1.6 “Association” means Euphoria Home Owners Association (Non Profit Company);
- 1.7 “Board” means the Board of Directors of the Association as elected in terms of this Memorandum from time to time;
- 1.8 “Body Corporate” means a body corporate as defined in Section 1 of the Sectional Titles Act or a Share Block Company as defined in Section 1 of the Share Blocks Control Act;
- 1.9 “Commercial Stand” means Sold or Unsold Stands numbered 51, 214, 215, 216, 217, 646, 647,698 and 699;
- 1.10 “Common Use Stands” means those 33 (thirty three) Stands which have been set aside for common use and include such Stands upon which roads have been built and open areas;

- 1.11 "Company" means the Association;
- 1.12 "Completion Certificate" means the certificate accepted by the Board and issued by an architect appointed by the Board, on completion of the erection of the improvements on a Stand;
- 1.13 "Completion Date" means the date upon which the Completion Certificate is issued;
- 1.14 "Contributions to the Golf Club" means subscriptions for the compulsory member of the Euphoria Golf Club as nominated in accordance with clause 3.7.1 and as agreed between the Euphoria Golf Club and the Association from time to time and any amounts which the Association in its sole discretion may pay to the Golf Club from time to time;
- 1.15 "Controlling Interest" means the ability to make decisions for and on behalf of the entity, either individually or jointly;
- 1.16 "Developer" means Lodges (Pty) Ltd (Reg No. 2016029564/07) as successor to Euphoria Golf Estate (Proprietary) Limited (In Liquidation) Registration No. 2004/023480/07), its successors in title and assigns;
- 1.17 "Development and Architectural Controls" means the Architectural Guidelines and Landscaping Guidelines, which may be amended by the Board, with the consent of the relevant local authority where required, from time to time;
- 1.18 "Directors" means the Directors of the Association as elected in terms of this Memorandum from time to time;
- 1.19 "Discounted Levy" has the meaning attributed to it in clause 13.8;
- 1.20 "Estate" means the Euphoria Golf Estate established as the township Euphoria under the Development Facilitation Act, 67 Of 1995, by the Limpopo Development Tribunal on 13 September 2006, the extent of which may be added to from time to time;
- 1.21 "Erf" means one of the 799 (seven hundred and ninety nine) plots of land of the township of Euphoria situated on the farm Euphoria 783 – KR, Limpopo Province, Republic of South Africa, of which 757 (seven hundred and fifty seven) are Residential Stands, 9 (nine) are Commercial Stands and 33 (thirty three) are Common Use Stands;
- 1.22 "Euphoria Golf Club" or "Golf Club" means a golf club which was established as a voluntary association on 28 January 2012;
- 1.23 "Levies" has the meaning attributed to it in clause 13.8;
- 1.24 "Golf Course" means the golf course developed on, *inter alia*, Stands 727, 728 and 737;
- 1.25 "Individual Ownership" means ownership by a natural or juristic Person or Persons;
- 1.26 "Joint Owner" means any Person who in terms of the Deeds Registries Act is reflected in the records of the Deeds Office concerned as one of the registered owners of any Stand in the Estate which Stand is jointly owned by two or more Persons and any reference to Owner in this Memorandum shall apply, *mutatis mutandis*, to any Joint Owner;
- 1.27 "Land" means any land in the Estate, including any subdivision capable of individual ownership, whether such land is improved or not, or a sectional title unit under the provisions of the Sectional Titles Schemes Management Act, where a sectional title scheme has been established on any such land or the right to extend a sectional title scheme by the erection of a unit (as contemplated in Section 25 of the Sectional Titles Schemes Management Act) where a sectional title scheme has been established on any such land;

- 1.28 "Landscaping Guidelines" means the Landscape Protocol of the Association as determined by the Aesthetics Committee from time to time and as approved by the Board;
- 1.29 "Manager" means the person, corporation or association appointed by the Board to manage the affairs of the Estate within authority approved by the Board;
- 1.30 "Member" means a Member of the Association as set out in Article 3;
- 1.31 "Member's Representative" and "Members' Representative" means the natural person who has been nominated by the Member or by the Joint Owners, as the case may be, as its/their representative in respect of a particular Stand;
- 1.32 "Memorandum" means the Memorandum of Incorporation of the Association as amended from time to time;
- 1.33 "Municipal Services" means water, sewerage, refuse removal, telecommunications and such other utilities and services as may be provided by the Local Authority to the Estate from time to time;
- 1.34 "Office" means the registered office of the Association;
- 1.35 "Open Spaces" means parks, common areas, golfing areas and other open spaces in the Estate;
- 1.36 "Owner" means any Person who in terms of the Deeds Registries Act is reflected in the records of the Deeds Office concerned as the registered owner of any Sold Stand in the Estate;
- 1.37 "Person" means a natural person, a corporation, a company, a firm, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of any of the foregoing that is recognised by Law as the subject of rights and duties, and references to a "Person" (or to a word incorporating a Person) shall be construed so as to include that Person's successors in title and assigns or transferees;
- 1.38 "Planning Ordinance" means the Land Use Planning Ordinance (Cape) 15/1985 as amended (or any legislation enacted to replace such Ordinance), or the Development Facilitation Act, 67 of 1995;
- 1.39 "Property Time Share Control Act" means the Property Time Share Control Act No. 75 of 1983 as amended and any regulations in force there under from time to time;
- 1.40 "Residential Stands" means all Sold and Unsold Stands on which residential dwellings have been erected or on which residential dwellings are entitled to be erected as determined by the Association from time to time whether they have been improved or not;
- 1.41 "Rules" mean the Rules made by the Board in accordance with the provisions of Article 11 hereof;
- 1.42 "Sectional Titles Schemes Management Act" means the Sectional Titles Schemes Management Act No. 59 of 1980 (as amended) and any regulations in force there under from time to time;
- 1.43 "Services" means *inter alia* the supply of water, electricity, sewage, refuse removal and security, the maintenance of the common property and such other utilities or services as may be provided by the Association from time to time;
- 1.44 "Share Blocks Control Act" means the Share Blocks Control Act No. 59 of 1980 (as amended) and any regulations in force there under from time to time;
- 1.45 "Sold Stand" means any Residential or Commercial Stand on the Estate which has been sold by the current Developer or its predecessors;

- 1.46 "Stand" means Erf;
- 1.47 "Surplus" includes revenue received in excess of expenditure and proceeds generated from the sale of a capital asset(s);
- 1.48 "Unsold Stand" means any Residential or Commercial Stand on the Estate which has not been sold by the Developer;
- 1.49 Words and expressions used and not otherwise defined in this Memorandum shall have the meaning assigned to them by the Act;
- 1.50 Words importing the singular shall include the plural and vice versa;
- 1.51 Words importing the masculine, feminine and neutral shall include the others of such genders;
- 1.52 Any heading in this Memorandum is intended for reference purposes only and shall not influence the interpretation thereof;
- 1.53 Where an expression has been defined and such definition contains provisions conferring rights or imposing obligations on any party, effect shall be given to that provision as if it were a substantive provision contained in this Memorandum;
- 1.54 In computation of periods of time from a specified day to a later specified day, "from" means from and including and "until" or "to" means to and including;
- 1.55 "Include", "including" and "in particular" shall be construed as being by way of example, illustration or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding words. The words "other" and "otherwise" shall not be construed so as to be limited or defined by any preceding words, where a wider construction is reasonably possible;
- 1.56 References to Members represented by proxy shall include Members represented by an agent appointed under a general or special power of attorney and references to Members present or acting in Person shall include Members' Representatives;
- 1.57 References to legislation include any statute, by-law, regulation, rule, subordinate legislation or delegated legislation or order, and a reference to any legislation is to such legislation as amended, modified or consolidated from time to time, and to any legislation replacing it or made under it.

2 OBJECT OF THE ASSOCIATION

The main object of the Association is to develop, promote, advance and protect communal interests and the safety and welfare of the Members of the Association, including, but not limited to, by maintaining the infrastructure and open spaces, monitoring that the aesthetic appearance including landscaping, buildings and improvements on the property is maintained, implementing security measures for the controlled access to the property, supplying services where required and ensuring that the development standards are maintained.

3 MEMBERSHIP

3.1 Membership of Association

- 3.1.1** Membership of the Association shall be limited to the Developer in its capacity as such and to all Owners. In the event that beneficial ownership of any Stand passes from the Developer to any other Person or Persons including by way of sale, exchange, donation, deed, intestacy, will, cession, mortgage, assignment, court order or insolvency, irrespective as to whether such alienation is voluntary or involuntary, and further irrespective as to whether such alienation is subject to a suspensive or resolutive condition, such Person or Persons shall become Members of the Association.
- 3.1.2** All Members are bound by the stipulations, conditions, rights and obligations of this Memorandum.
- 3.1.3** No Member shall transfer land unless it is a condition of such transfer that the transferee, in a manner acceptable to the Association, agrees to become a Member and is admitted as a Member.
- 3.1.4** In order to procure compliance with the provisions of this Memorandum, it shall be registered as a Condition of Ownership of land that no land shall be alienated without the written consent of the Association first being had and obtained, which consent shall be given if the proposed transferee has been or will be admitted as a Member of the Association and both the transferor and transferee have complied with all their obligations to the Association, including but not limited to the payment of any monies due to the Association. For the purposes of this clause "alienate" means to alienate any land or part thereof, and in no way detracting from the generality of the aforesaid, includes by way of sale, exchange, donation, deed, intestacy, will, cession, mortgage, assignment, court order or insolvency, irrespective as to whether such alienation is voluntary or involuntary, and further irrespective as to whether such alienation is subject to a suspensive or resolutive condition. In the case of an artificial person, such as a company, close corporation or trust, a material change in the Beneficial Ownership or in the Controlling Interest thereof, shall be deemed to constitute an alienation for the purposes of this Memorandum and, in the event of there being any dispute as to whether there has been a material change in Beneficial Ownership or in the Controlling Interest, such matters shall be resolved by way of procedures provided for in Article 30 below.
- 3.1.5** In the event of any Stand being owned in undivided shares by more than one Owner, each such Joint Owner shall be a Member for the purposes of this Memorandum and be bound by this Memorandum and collectively the Joint Owners of such Stand shall nominate one Members' Representative provided that for each Stand jointly owned voting shall be restricted to 1 (one) vote per Stand.
- 3.1.6** A Member may not tender resignation of his membership of the Association.
- 3.1.7** When a Member becomes a registered Owner of a Stand he shall *ipso facto* become a Member of the Association, and when he ceases to be the Owner of that Stand, he shall *ipso facto* cease to be a Member of the Association in regard to that Stand.

3.2 Admission of Members

3.2.1 On approval of this Memorandum, the Members of the Association shall be the Persons who are Members immediately prior to such approval. Thereafter the Members of the Association shall be the Developer, while any of the Unsold Stands remain, and those Persons who, from time to time, become Members in accordance with the provisions of this Memorandum provided that those Persons whose membership ceases in terms of this Memorandum shall no longer be Members.

3.2.2 The right to determine admission to membership of a proposed acquirer of land is hereby conferred upon the Board. The Board shall not unreasonably decline to admit to membership an applicant in the event of the applicant having undertaken to comply with and abide by this Memorandum and all the Association's requirements and Rules and the party from whom the applicant is taking transfer of land, has complied with these Articles and all the Association's requirements and Rules (and in no way detracting from the generality of the aforesaid), has made payment of any amounts due by such transferor and transferee to the Association.

3.3 Rights and duties of Members

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

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

3.3.1.2 the right to vote, either personally or by proxy, at all General Meetings of the Association in accordance with the provisions of this Memorandum;

3.3.1.3 the right to receive notices of, attend and speak at all General Meetings of the Association in accordance with the provisions of this Memorandum;

3.3.1.4 should Members holding between them, in aggregate, not less than 25% (Twenty Five Percent) of the voting rights in the Association, collectively so decide, the right to convene a General Meeting.

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

3.4 Cessation of Membership

3.4.1 Membership of the Association shall cease:

3.4.1.1 upon a Member ceasing to be an Owner;

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

3.4.1.3 upon the death of a Member, or upon the Member being declared insane or incapable of managing his affairs;

3.4.1.4 In the event of a Member ceasing to be a Member in terms of Article 3.4.1.2 or 3.4.1.3 the legal representative of such Member shall, for all purposes, be recognized and be bound as the Member under this Memorandum.

3.5 Liability of each Member

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

3.6 Register of Members

The Association shall maintain at its office a register of Members as provided in Section 24 (4) read with Schedule 1, Section 9 of the Act. The register of Members shall be open to inspection as provided in Section 26 of the Act.

In the event that a Member is an artificial Person, such as a company, close corporation or trust, such Member shall advise the Association of the names and contact details of all directors, members and/or trustees of such Member and of any changes that may take place subsequently.

3.7 Membership of the Euphoria Golf Club

3.7.1 Every Member shall nominate 1 (one) person who shall become a compulsory member of the Euphoria Golf Club.

3.7.2 The subscription of such compulsory Euphoria Golf Club membership shall be included in the levy payable by the Member.

3.7.3 The Member may change his nomination from time to time by giving written notice to the Euphoria Golf Club committee.

3.7.4 The rights and obligations attached to membership are as contained in the Euphoria Golf Club constitution.

4 GENERAL MEETINGS

4.1 Annual General Meeting

The Association shall hold a General Meeting in every year as its Annual General Meeting on such date and at such time and place as may be determined by the Board, and shall specify the meeting as such in the notice calling it, provided, however, that the Annual General Meeting shall be held not later than 4 (four) months after the end of each financial year of the Association, and provided that not more than fifteen months shall elapse after the holding of the last preceding Annual General Meeting.

4.2 Notice of General Meeting

The Annual General Meeting and any General Meeting, including a meeting called for the passing of a Special Resolution, shall be called by not less than 15 (fifteen) business days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it was given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Association in a General Meeting, to such Persons as are, under this Memorandum, entitled to receive such notices from the Association: Provided that a meeting of the Association shall, notwithstanding the fact that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed by all the Members having a right to attend the meeting.

4.3 Proceedings at General Meetings

4.3.1 Business

The Annual General Meeting shall deal with and dispose of all matters prescribed by the Act, including the consideration of the audited annual financial statements, a decision on the number of Directors and election of Directors when such decision is required in accordance with the provisions of this Memorandum, the appointment of an auditor and any other business of which due notice has been given. All business laid before any other General Meeting shall be considered special business.

4.3.2 Quorum

4.3.2.1 A quorum for:

4.3.2.1.1 a General Meeting, shall be Members holding between them, in aggregate, not less than 5% (five percent) of the voting rights in the Association, present, in person or by proxy, and entitled to vote (subject to a minimum of 3 (three) Members being personally present).

4.3.2.1.2 a General Meeting called for the passing of a Special Resolution, shall be Members holding between them, in aggregate, not less than 15% (fifteen percent) of the voting rights in the Association, present in person or by proxy, and entitled to vote (subject to a minimum of 5 (five) Members entitled to vote being personally present).

4.3.3 If within half-an-hour after the time appointed for the General Meeting, a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to a date one week after the date of the meeting at the same time and place provided that if such date falls on a public holiday, it shall be adjourned for a further week, and so on. If at such adjourned meeting a quorum is not present within half-an-hour after the time appointed for the meeting, the Members present in person or by proxy shall be a quorum.

4.3.4 Where a meeting has been adjourned as aforesaid, the Association shall, upon a date not later than 3 (three) days after the adjournment, send written notice to each Member of the Association stating:

4.3.4.1 the date, time and place to which the meeting has been adjourned;

4.3.4.2 the matter before the meeting when it was adjourned; and

4.3.4.3 the grounds for the adjournment.

Chairperson

4.3.5 The Chairperson, if any, of the Board shall preside as Chairperson at every General Meeting of the Association. If there is no such Chairperson, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as Chairperson, the Members shall elect one of their Members to be Chairperson.

4.3.6 The Chairperson may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. When a meeting is adjourned, the provisions of Articles 4.3.3 and 4.3.4 shall *mutatis mutandis* apply to such adjournment.

Voting

4.3.7 Subject to the provisions of Article 4.4, at any General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (at any time before or on the declaration of the result of the show of hands) demanded by the Chairperson or by any Member, and unless a poll is so demanded, a declaration by the Chairperson that a resolution has, on a show of hands, been carried or defeated (by a particular majority) and an entry to that effect in a book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of votes recorded in favour or of against such resolution. A demand for a poll may be withdrawn. If a poll is duly demanded, it shall be taken in such a manner as the Chairperson directs, and the result of the poll shall be deemed to be the decision of the meeting on the resolution for which the poll was demanded. Scrutineers shall be elected to determine the result of the poll. In the case of equality of votes, whether on a show of hands or on a poll, the Chairperson of the meeting shall be entitled to a second or casting vote, subject to the provisions of Article 4.4.

Proxy and Resolutions

4.3.8 The instrument appointing a proxy shall be signed by the appointer and shall be in such form as approved of by the Board.

4.3.9 The instrument appointing a proxy shall be deposited at the office of the Association not less than 24 (twenty four) hours before the time for the holding of the meeting at which the Person named in such instrument purports to attend or vote pursuant thereto or in respect thereof. In default of compliance herewith the instrument shall be treated as invalid for the purpose of attending or voting at that meeting or any adjournment thereof. No instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution, unless the proxy otherwise provides.

4.3.10 A vote in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided no intimation in writing of the death or revocation shall have been received at the office or by the Chairperson of the meeting before the vote is given,

4.3.11 In the event of a Member being a juristic person, such as a close corporation, company or trust, such Member shall lodge at the offices of the Association, a resolution authorizing a particular natural person to represent the Member generally and to exercise the Member's vote on its behalf. Such Resolution shall be lodged at the offices of the Association at least 24 (twenty four) hours before the time for the holding of any meeting at which a Member wishes to be represented and/or vote.

4.4 Votes of Members

Each Member, Member's Representative or Members' Representative, as the case may be, present at a meeting of the Association, in person or by proxy, shall be entitled to one vote for each Stand which such Member owns subject to Article 13.16. While any Unsold Stands remain, the Developer shall be entitled to 1 (one) vote per Unsold Stand upon which the Developer pays levies to the Association, plus 1 (one) vote.

5 INSPECTION OF MINUTES

The minutes of every General Meeting and Annual General Meeting of the Association shall be kept and may be inspected and copied as provided in Section 26 of the Act.

6 DIRECTORS (TERMS OF OFFICE)

6.1 The number of Directors and the election thereof shall be determined from time to time by the Members in a General Meeting subject to the following provisions:

6.1.1 The number of Owner-elected Directors shall be a minimum of 4 (four) and a maximum of 12 (twelve);

6.1.2 The Developer shall be entitled to nominate that number of Directors proportionate to Owner-elected Directors as the number of Unsold Stands is to Sold Stands and who shall hold office until removed by the Developer or until resignation or other reason.

6.1.3 The Owner-elected Directors shall be elected at the Annual General Meeting for a period of three years subject to Article 6.1.5;

6.1.4 A Director need not be a Member of the Company;

6.1.5 One third of the Board shall retire in rotation at each Annual General Meeting;

6.1.6 A retiring Director shall immediately be eligible for re-election;

6.1.7 For the purposes of this Article, a year shall be deemed to be the period between consecutive Annual General Meetings.

6.2 If as a result of the termination of the appointment of a Director the total number of Directors falls below the prescribed number, the Board shall within 30 (thirty) days act to bring the number of Directors up to the level as specified in these Articles. If the Director so retiring or resigning was the nominee of the Developer his successor shall be appointed by the Developer within 30 (thirty) days. Should the Developer fail to appoint such Director within the time period, the Board shall request the Developer to remedy same within 20 (twenty) days failing which the Board may do so within a further 30 (thirty) days. The validity of any resolutions taken or acts performed by the Directors during a period when the number falls short of that provided in 6.1 above shall not be prejudiced by such shortfall.

6.3 No Director or intending Director shall be disqualified by his office from contracting with the Company in any manner whatsoever.

6.4 Such Director shall not be entitled to be present nor to vote at any Board meeting or otherwise in relation to such contract and he shall not be reckoned for the purpose of constituting a quorum of Board.

6.5 The Directors shall have the power to co-opt Persons onto sub-committees of the Board for the purpose of assisting the Directors in carrying out any of their functions.

6.6 The Chairperson and Deputy Chairperson shall be elected by the Directors at their first meeting after the Annual General Meeting of the Association.

7 ALTERNATE DIRECTORS

Any Director may obtain leave of absence by a resolution of the majority of the Directors, and may thereupon appoint an alternate to act for him during his absence with all powers and privileges enjoyed by him. The appointment of such alternate shall not, however, be valid unless confirmed by a resolution of the majority of Directors present at the meeting.

8 TERMINATION OF A DIRECTOR'S TERM OF OFFICE

A Director shall cease to hold office as such if:

- 8.1 he ceases to be a Director by virtue of any of the provisions of any legislation or becomes prohibited from being a Director by reason of any order made under any legislation; or
- 8.2 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 law for the time being in force, or if he makes any arrangement or composition with his creditors generally; or
- 8.3 he is declared of unsound mind; or
- 8.4 he is removed by a resolution of the Association as provided for in the Act; or
- 8.5 he resigns his office by notice in writing to the Association or dies; or
- 8.6 is absent for three consecutive regular meetings of the Board without obtaining prior leave of absence;
- 8.7 he, also being a Member, or being associated with a Member in the role of director, shareholder, member or trustee of that Member or any eventual holding entity of such Member, or being the spouse, parent or child of a Person who is a Member or is associated as set out in this clause 8.7, is in arrears by more than 60 (sixty) days regarding any amounts due to the Association.
- 8.8 he commits a breach of trust.

9 REMUNERATION OF DIRECTORS

- 9.1 The remuneration of Directors shall from time to time be determined by a special resolution approved by the Members subject to the provisions of the Act, having regard to the general principle that the Board should not be remunerated.
- 9.2 The Directors may be paid all travelling, hotel and other expenses properly incurred by them in or about the performance of their duties as Directors including those of attending and travelling to and from meetings of the Board or any sub-committee of the Board or at any meeting of Members of the Association.
- 9.3 The Board may pay any Director who serves on any sub-committee or who devotes special attention to the business of the Association, or otherwise performs services which in the opinion of the Board are outside the scope of the ordinary duties of a Director, such extra remuneration as they may determine and subject to the provisions of Act.

10 POWERS AND DUTIES OF DIRECTORS

- 10.1 The business of the Association shall be managed by the Board
- 10.2 The Board shall have the power to:

- 10.2.1 take all actions necessary to achieve the purpose of the Association provided that such actions are not prohibited by the Act, by any other legislation or by this Memorandum;
- 10.2.2 pay all expenses incurred in promoting the Association;
- 10.2.3 enter into contracts and agreements with third parties;
- 10.2.4 institute and defend legal action;
- 10.2.5 incur such expenditure as is necessary and/or required;
- 10.2.6 make Rules and enforce compliance thereto as set out in Articles 11 & 12;
- 10.2.7 manage the finances of the Association as set out in Article 13;
- 10.2.8 appoint personnel and terminate their services as required from time to time;
- 10.2.9 open and operate bank and deposit accounts for the Association;
- 10.2.10 implement decisions taken at General Meetings;
- 10.3 The Association in a General Meeting shall have the right to limit and restrict the powers of the Board, provided that no resolution of the Association shall invalidate any prior act of the Directors which would otherwise have otherwise been valid.

11 RULES

- 11.1 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 and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those Members who fail to comply with the provisions of this Memorandum or the Rules.
- 11.2 Rules made by the Board shall be reasonable and equitable and shall serve the best interests of the Association and its Members.
- 11.3 The Rules shall apply equally to all and shall be binding on all Members.
- 11.4 Rules, applicable within the Estate may be made, *inter alia*, in regard to:
 - 11.4.1 the preservation of the natural environment;
 - 11.4.2 vegetation and flora and fauna in the Estate;
 - 11.4.3 the storing of flammable and other harmful substances;
 - 11.4.4 the conduct of any Persons within the Estate and the prevention of nuisance of any nature to any Owner;
 - 11.4.5 the use of roads, pathways and open spaces;
 - 11.4.6 the imposition of fines and other penalties to be paid by Members and Persons accredited to do work on the Estate;
 - 11.4.7 the management, administration and control of the open spaces;
 - 11.4.8 the erection of all buildings and other structures on the Estate (including, but in no way limited to, service connections to buildings);
 - 11.4.9 the accreditation of contractors and other service providers to Owners;

- 11.4.10 the establishment, installation and maintenance of gardens;
- 11.4.11 the use by owners or their tenants of land, buildings and other structures and the upkeep, aesthetics and maintenance of such;
- 11.4.12 the conditions upon which animals, reptiles or birds may be kept as pets;
- 11.4.13 the use of recreation and entertainment areas and amenities;
- 11.4.14 the fees to be charged for the use of areas and amenities;
- 11.4.15 the use of all vehicles including golf carts;
- 11.4.16 the control of business premises in the Estate and the use of land within the Estate
- 11.4.17 the approval of estate agents and letting agents to sell or lease land on the Estate;
- 11.4.18 the accreditation of managing agents to manage sectional title schemes on the Estate;
- 11.4.19 security arrangements; and
- 11.4.20 generally in regard to any other matter which the Board from time to time may consider appropriate.

12 ENFORCEMENT OF RULES

- 12.1 The Board may take or cause to be taken such steps as they consider necessary to remedy the breach of any Rules by a Member and debit the costs of so doing to the Member concerned, which amount shall be deemed to be a debt owing by the Member to the Association. In addition the Board may impose fines or other penalties. The amounts of such fines and/or penalties shall be determined by the Board from time to time.
- 12.2 In the event of any breach of the Rules by any tenant or occupier of any land owned by a Member, or any Person who enters or is present on the Estate by virtue of the request, invitation, or by permission of a Member, such breach shall be deemed to have been committed by the Member and the Board shall be entitled to take such action as they deem fit against the responsible Member.
- 12.3 Notwithstanding the foregoing, the Board may in the name of the Association enforce the provisions of any Rules by an application in a Court of competent jurisdiction and for this purpose may appoint such attorneys or advocates as they may deem fit.
- 12.4 In the event of the Association incurring any legal costs as a result of any breach of this Memorandum or the Rules by any Member, the Association shall be entitled to recover all such legal costs from such Member on an attorney and own client scale in full whether or not legal action is actually instituted.

13 FINANCE

- 13.1 The Board shall annually compile and approve a budget prior to the commencement of the ensuing financial year of the income and expenditure reasonably anticipated for that financial year. Expenditure shall include all operating expenditure related to achieving the objectives of the Association such as for the repair, upkeep, control, management and administration of the Association and of the Estate, the provision of security services, garden

maintenance, insurance premiums, the payment of municipal charges, Contributions to the Golf Club as well as major repair provisions, capital expenditure and other expenditure items which occur less frequently than annually.

- 13.2 Income shall include income from sale of services on a user pays basis and from levies to cover shared expenses.
- 13.3 The budget shall be approved and implemented based on the requirement that the finances of the Association will not result in a deficit. Any income shortfall shall be covered from levy receipts (provided that nothing in this Memorandum shall be construed as obliging the Association to pay service charges due by Owners to the relevant local authority).
- 13.4 Levies shall be determined by estimating the annual amount required and then allocating this per Stand, in accordance with clauses 13.7 and 13.8 below. Note that all Common Use Stands and Stands owned by the Association shall be exempt from paying levies. The annual levy will become due in twelve monthly installments due on the 1st (first) day of each month without deduction, demand or set-off.
- 13.5 In the event that an Owner owns the right to extend any sectional title scheme on the Estate by the erection of more than one unit, each unit shall be deemed to be a Stand for the purpose of Article 13.4.
- 13.6 Further the Golf Course shall be deemed to be 1 (one) Stand for the purpose of Article 13.4.
- 13.7 The Board shall be entitled to grant discounts in the event of annual levies being paid in full in advance or for any other justifiable reason.
- 13.8 Levies shall be calculated according to the following procedure:
The Board shall estimate the annual cash requirement of the Association by considering expenditure including operating, capital and major repair expenditure and the amount to be retained in a Levy stabilisation fund established in terms of clause 13.14 and taking into account any arrears and other commitments that may have arisen and any non-levy income. The Board shall further estimate the values of Levies which may remain unpaid and any arrear Levies that might be recovered. The cash requirement so determined shall be divided by the number Stands upon which levies payable, in accordance with clause 13.8.1, are taking into account the discounts set out in this clause 13.8. as at 1 March of any year:
- 13.8.1 Levies are payable on all Residential Stands and Commercial Stands, provided that on those Commercial Stands on which no buildings have been erected and on which no commercial activities take place, no Levies are payable, while on those Commercial Stands upon which buildings have been erected and/or on which commercial activities take place the Board may impose such Levies as it deems fit. Provided further that on any Stands owned by the Association, no levies are payable.
- 13.8.2 all Residential Stands in respect of which a Completion Certificate has been issued shall pay a Discounted Levy which discount will be determined by the Board but which shall not be more than shall be 25% (twenty five percent) of the Full Levy;
- 13.8.3 For avoidance of doubt, levies shall be calculated using the following formula:

$$\text{Full Levy per Stand} = \text{ACR} / ((\text{NF} + (\text{ND} \times (100\% - \text{D})))$$

ACR=Annual cash requirement;

NF =Number of Stands upon which the Full Levy applies;

ND=Number of Stands which qualify for a discount; and

D=The discount decided upon by the Board which shall be expressed as a percentage and which shall be greater than or equal to zero and less than or equal to 25%.

- 13.9 Where two or more persons are registered as the Owners of a Stand, their liability to pay levies shall be joint and several and where the Member is an artificial Person, such as a company, close corporation or trust the directors, members and/or trustees as the case may be shall indemnify the Association against any losses it may incur as the result of actions or omissions by the Member.
- 13.10 All income received by the Association shall be deposited in a separate account or accounts which the Association shall open and keep with one or more financial institutions.
- 13.11 Any amount due by a Member whether in respect of a levy or any other amount falling due for payment under this Memorandum, which remains unpaid 7 (seven) days after the same has fallen due, shall bear interest as from the due date for payment to the date of payment at a rate of interest determined by the Board from time to time.
- 13.12 The Board may impose special levies on Members in respect of any unforeseen expenditure and shall determine how such levies are to be paid in accordance with the principles set out above.
- 13.13 A Member shall not be entitled to repayment of any amount standing to the credit of his account.
- 13.14 All contributions levied under the provisions of this Memorandum shall be due and payable by Members on the passing of a resolution to that effect by the Board and may be recovered by the Association by action in any Court (including any Magistrates Court) of competent jurisdiction from the Persons who were Members at the time when such contribution became due.
- 13.15 The Board may establish a levy stabilization fund for the purposes of meeting any extraordinary expenditure and expenditure of a capital nature. In the event of a Stand being sold, alienated or otherwise disposed of, the transferee shall be obliged to pay the levy stabilization fund contribution applicable at that time. The transferor shall not be entitled to a refund of any levy stabilization fund contribution paid by him.
- 13.16 Should a Member be more than 60 (sixty) days in arrears with the payment of any amounts due to the Association and remain in arrears notwithstanding demand for payment by the Association, then in that event such Member shall not be entitled either in person or by proxy to speak or vote at a meeting of Members of the Association. A letter addressed to the Chairperson of a meeting of Members of the Association by the Board, dated not more than 14 (fourteen) days prior to any such meeting, shall constitute proof of non-payment of any arrear levies by such Member and shall entitle the Chairperson of such meeting of the Members of the Association to prevent such Member or his proxy from speaking or voting at such meeting unless full payment is made by such Member before such meeting but subsequent to the aforesaid letter having been signed on behalf of the Board and proof of such payment is at hand.

- 13.17 A Member shall be liable for and pay all legal costs, including costs as between an attorney and his own client, and collection commission, expenses and all other charges incurred by the Association in recovering arrear levies or any other arrear amounts due and owing by such Member to the Association.
- 13.18 In the event of there being a dispute as to the amount of any amount due by the Member, such dispute shall be referred to the Association's Auditors for a decision, whose decision shall be final and binding on the parties.
- 13.19 The Association shall be entitled to borrow money only in accordance with a resolution passed at a General Meeting.
- 13.20 Although the obligation to pay amounts owing to the Association shall rest with the individual Member it shall, if the Association so chooses, be the responsibility of the Body Corporate to collect amounts due to the Association, from the Body Corporate members, on the Association's behalf.

14 ACCOUNTING RECORDS

- 14.1 The Board shall cause such accounting records as are prescribed by the Act to be kept. Accounting records shall be deemed to be proper if they represent fairly the state of affairs and business of the Association and contain information of the transactions and financial position of the trade or business of the Association.
- 14.2 The accounting records shall be kept at the registered office of the Association or at such other place or places as the Board deems fit, and shall always be open to inspection by the Members.

15 ANNUAL FINANCIAL STATEMENTS

- 15.1 The Board shall from time to time, in accordance with the Act, cause to be prepared and laid before the Association in General Meeting such financial statements as are prescribed by the Act.
- 15.2 A copy of the audited financial statements shall be laid before the Association's Annual General Meeting. A summary of the aforesaid audited financial statements shall, not less than 21 (twenty one) days before the date of such meeting, be sent to every Member of the Association: provided that this Article shall not require copies of documents to be sent to any Person of whose address the Association is not aware.

16 AUDITOR

The Association shall annually appoint an auditor at the annual General Meeting in accordance with the Act.

17 PROVISION OF SERVICES

17.1 Services

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

17.2 **Security of the Estate**

The Association shall provide such security in the Estate as it deems appropriate, from time to time. The Association or Persons authorized by it, shall be entitled to enter upon any piece of land for the purposes of maintaining the security perimeter fence of the Estate, for the purpose of maintaining any other security apparatus or for the purposes of patrolling the Estate for security purposes.

17.3 **Maintenance of Open spaces, Private Roads and Municipal Services**

The Association shall be responsible for the maintenance, upkeep and repair of any private open spaces, private roads or other common landscaped area within the Estate. Further, in the event of the Local Authority, or any other service provider, not having the means or being unwilling to maintain or provide the services normally provided by a local authority or, in the event of the local authority or any other service provider not maintaining the services normally provided by a local authority to a standard acceptable to the Association, then in that event, the Association shall provide and maintain such services.

18 **BOARD MEETINGS**

18.1 The Board shall meet as and when required but shall meet at least 4 (four) times during a financial year. Board meetings shall be called and conducted in accordance with Section 73 of the Act.

18.2 The Board may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit.

18.3 Unless otherwise resolved by the Board, all their meetings shall be held on the Estate.

18.4 Resolutions shall be passed on a majority of votes.

18.5 The Chairperson shall not have a second or casting vote in the case of an equality of votes.

18.6 The Board may determine what period of notice shall be given of meetings and may determine the means of giving such notice. It shall not be necessary to give notice of a meeting of the Board to any Director for the time being absent from the Republic, but notice of any such meeting shall be given to his alternative, if he has appointed one, provided that such alternate is in the Republic.

18.7 A quorum shall consist of a majority of the Board. For the purposes hereof a Director who has authorized another Director to vote for him at a meeting in terms of Article 19.17 shall, if the Director so authorized is present at the meeting, be deemed to be present himself and each Director whose alternate is present at a meeting (even if the latter is alternate to more than one Director) shall be deemed to be so present.

18.8 The continuing Board may act notwithstanding any vacancy in their body, but, if and for so long as their number is reduced below the number fixed by or pursuant to this Memorandum as a quorum, the continuing Board may act only for the purpose of summoning a General Meeting of the Association. If there is no Board of Directors able and willing to act, then any two Members may summon a General Meeting for the purpose of appointing a Board.

18.9 Subject to the Act, a resolution in writing signed by all Directors being present in the Republic and being not less than are sufficient to form a quorum shall be as valid and effectual as if it had been passed at a meeting of the Board duly

called and constituted; provided that where a Director is not present in the Republic, but has an alternate who is, the resolution must be signed by that alternate. The resolution may consist of several copies of the document, each signed by one or more of the Directors or their alternates.

18.10 A Director unable to attend a Board meeting may authorize any other Director to vote for him at the meeting, and in that event the Director so authorized shall have a vote for each Director by whom he is so authorized in addition to his own vote. If both the Director so authorized and an alternate of the Director who granted the authority are present at the meeting, the alternate shall not be entitled to vote on behalf of the absent Director. Authority in terms of this Article must be in writing (which may take the form of a letter, telegram, cable, e-mail, telefax or telex) and must be handed to the Chairperson presiding at the meeting at which it is to be used.

18.11 The Board may elect a Chairperson of their meetings and determine the period for which he is to hold office, but if no such Chairperson is elected, or if at any meeting the Chairperson is not present within 15 (fifteen) minutes after the time appointed for holding it, the Board present may choose one of their number to be Chairperson of the meeting.

19 MINUTES

19.1 The Board shall cause Minutes to be kept in terms of the Act:

19.1.1 of all appointments of officers;

19.1.2 of names of Directors present at every meeting of the Association and at every meeting of the Board;

19.1.3 of any personal financial interest in respect of a matter to be considered at a meeting of the Board in accordance with Section 75 of the Act;

19.1.4 of all proceedings at all meetings of the Association and/or the Board; and

19.1.5 of all other matters as prescribed in Section 73 of the Act.

19.2 Such Minutes once they are approved as a true record of proceedings shall be signed by the Chairperson of the meeting at which the proceedings took place or by the Chairperson of the following meeting.

20 SUB-COMMITTEES

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

20.2 Should the Board not appoint the Chairperson of a sub-committee, the members of that sub-committee shall elect a Chairperson of its meetings. If at any meeting the Chairperson is not present within 15 (fifteen) minutes after the time appointed for holding the same, the sub-committee members present may elect one of their number to be Chairperson for that meeting.

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

21 LIMITATION OF LIABILITY OF DIRECTORS

Liability of Directors shall be in accordance with Section 77 of the Act.

22 DELEGATION OF POWERS OF DIRECTORS

The Board may from time to time entrust to and confer upon a designated official of the Association, consultant or any other capable Person, such of the powers and authorities vested in it as it may deem fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and subject to such terms and conditions and restrictions as it may deem expedient, and it may from time to time revoke or vary all or any of such powers and authorities.

23 ACCEPTANCE OF ASSIGNMENT OF POWERS AND FUNCTIONS

The Association shall carry out all the functions and assume all powers as provided for in the Sectional Titles Act (and in particular Sections 37 and 38 thereof) as the Association may require to be delegated to it by the relevant Body Corporate and those functions imposed in terms of the Share Blocks Control Act (and in particular Sections 13, 15 and 19 thereof), as the Association may require to be delegated to it by a Share Block Company, in relation to any Sectional Title or Share Block Scheme in the Estate. In addition to the a foregoing any controlling body of any Share Block Scheme or Sectional Title Scheme, shall assign such powers and functions to the Association as may be required of it by the Association.

24 NOTICES

24.1 A notice may be given by the Association to any Member either by means of delivery of any notice, letter and/or any other document by hand at the Member's Stand or posted to the Member's postal address as nominated and indicated by the Member in writing and recorded in the register of the company or dispatched by telefax or e-mail to the facsimile number or e-mail address as indicated by the Member in writing from time to time

24.2 Notice of every General Meeting shall be given as in Article 25.1 or in any other manner authorized to every Member of the Association.

24.3 If a Member has not supplied the Association with an address within the Republic of South Africa for the service of notice as above, then it shall be considered sufficient for the Association to serve notice at the address of the land owned by the Member.

24.4 No other Person shall be entitled to receive notice of General Meetings.

24.5 Any notice by post, telefax or e-mail shall be deemed to have been served at the time when the letter or message containing the same was posted or sent and in proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.

24.6 The failure to give notice to any Member or the failure of any Member to receive a notice shall not vitiate any proceedings of the Association.

25 WINDING-UP ASSOCIATION

In the event of the Association being wound up, its assets (if any) shall devolve upon such other corporation as the Members in such winding-up order determine, provided that such corporation has aims and objectives similar to those of the Association. No resolution for the winding up of the Association shall be passed prior to the rights of vehicular and pedestrian ingress and egress being secured by way of servitudes registered against the title of the Estate or the transfer of such accesses to a local authority, as public roads

26 ARCHITECTURAL REVIEW COMMITTEE

- 26.1 The Architectural Review Committee shall be a sub-committee appointed by the Board and shall comprise 1(one) architect and such other individuals as the Board deems necessary
- 26.2 The Architectural Review Committee will act with a view to ensuring any development within the Estate is in accordance with the Architectural Guidelines and to standards and an architectural theme which will enhance the attraction of the Estate as a whole.
- 26.3 The Board shall ensure that the Architectural Review Committee carries out all the functions and duties entrusted to it so as to give proper effect to the provisions of the Architectural Guidelines. The Chairperson of the Architectural Review Committee shall be appointed by the Board.
- 26.4 The Architectural Review Committee shall meet at least 4 (four) times during the Association's financial year.

27 AESTHETICS COMMITTEE

- 27.1 The Aesthetics Committee shall be a sub-committee appointed by the Board and shall comprise such individuals as the Board deems necessary
- 27.2 The Aesthetics Committee with a view to ensuring any development within the Estate is in accordance with the Landscaping Guidelines and to standards which will enhance the attraction of the Estate as a whole.
- 27.3 The Board shall ensure that Aesthetics Committee carries out all the functions and duties entrusted to it so as to give proper effect to the provisions of the Landscaping Guidelines. The Chairperson of the Aesthetics Committee shall be appointed by the Board.
- 27.4 The Aesthetics Committee shall meet at least twice during the Association's financial year.

28 ENFORCEMENT OF OBLIGATIONS OF MEMBER

Should any Member or any lessee of an 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. The Member shall be obliged to bring to the attention of any tenant of his land, the Rules of the Association. In addition, a Member shall use his best endeavors to ensure that any invitee of the Member who enters the Estate complies with the Association's Rules.

29 SETTLEMENT OF DISPUTES

- 29.1 In the event of any dispute or differences arising between the members inter se or between a Member and the Association as to the construction, meaning, interpretation or effect of any of the provisions or as to the rights, obligations or liabilities of the Association or any Member in terms of this Memorandum, the parties shall forthwith meet to attempt to settle such dispute or difference and failing such settlement within a period of 60 (sixty) days, then such dispute or difference shall be submitted to arbitration in accordance with the provisions set out below.
- 29.2 The arbitrator shall be if the question in issue is:
- 29.2.1 primarily an accounting matter, an independent chartered accountant of not less than 15 (fifteen) years standing as such appointed by the President for the time being of the South African Institute of Chartered Accountants;
- 29.2.2 primarily a legal matter, a practicing senior Advocate of not less than 10 (ten) years standing as such, or a practicing attorney of not less than 15 (fifteen) years standing as such, in either event as may be appointed by the President for the time being of the Northern Provinces Law Society (or anybody enacted to replace such Society);
- 29.2.3 any other matter, an independent person agreed upon between the parties and, failing agreement, as may be appointed by the President for the time being of the Northern Provinces Law Society (or anybody enacted to replace such Society) regard being had to the needs of the dispute and the qualifications required therefore.
- 29.2.4 If agreement cannot be reached within 10 (ten) business days after the arbitration has been demanded as to whether the question in issue falls under 23.2.1, 23.2.2 or 23.2.3, then a practicing Advocate of not less than 10 (ten) years standing or alternatively practicing attorney of not less than 15 (fifteen) years standing as such, as agreed between the parties and failing agreement as may be appointed by the President for the time being of the Northern Provinces Law Society (or anybody enacted to replace such Society) as soon as possible thereafter, shall determine that issue so that an arbitrator can be appointed and the arbitration can proceed as soon as reasonably practical in the circumstances.
- 29.3 The arbitration shall be held:
- 29.4 in a summary manner, i.e. on the basis that it shall not be necessary to observe or carry out either:
- 29.4.1 the usual formalities or procedure, which may be otherwise be prescribed; or
- 29.4.2 the strict Rules of evidence;
- 29.5 The arbitrator shall;
- be entitled to make any award as to costs of the proceedings;
- 29.5.2 decide the matter submitted to him according to what he considers just and equitable in the circumstances, and shall have regard to the desire of the parties to dispose of such dispute expeditiously, economically and confidentially, and the strict Rules of law need not be observed or taken into account by him in arriving at his decision.
- 29.6 The decision of those arbitration proceedings;
- 29.6.1 shall be binding on the parties to the dispute and shall be forthwith carried into effect;

29.6.2 may at the instance of any party hereto be made an Order of Court of competent jurisdiction, provided that such proceedings for such Order of Court shall not delay in any way at all the due execution and carrying into effect of the arbitrator's award.

29.6.3 Notwithstanding anything to the contrary contained in this Article, the provisions hereof shall not preclude any party hereto from taking any action against any other party or parties to the dispute in any competent Court having jurisdiction where such action is reasonably required either to restrain temporarily pending the outcome of any arbitration proceedings, any party from commencing, omitting or continuing any action that is or is likely to materially prejudice any other party, and regard being had to all the circumstances, is of such an urgent nature that it would not be appropriate merely to have recourse to arbitration proceedings, the parties agreeing that the test to be generally applied being that which would otherwise entitle any party hereto an urgent interdict against any other party in accordance with the relevant laws applicable.

30 **DISCLAIMER OF RESPONSIBLITLY**

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

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

30.3 Members shall indemnify the Association and its employees, servants and agents and lawful invitees and hold them harmless against all claims by any Person arising from any injury or loss or damage as contemplated in this Article.

31 **PROHIBITION AGAINST THE SUB-DIVISION AND CONSOLIDATION OF ANY LAND**

No land shall be sub-divided or consolidated without the consent of the Association, which consent the Association may in its sole and absolute discretion grant or refuse.

32 **AMENDMENT TO ARTICLES**

This Memorandum may only be amended or varied by way of a special resolution of Members.