

MEMORANDUM OF INCORPORATION

OF THE

LELOKO HARTBESPOORTDAM ASSOCIATION NPC

which is a non-profit company with members, registered under Registration No. 2005/021735/08
(hereinafter referred to as “the Company”)

The Memorandum was adopted by the members of the Company by
Special Resolution on 23 November 2013

PART 1 - INTERPRETATION

1.1 INTERPRETATION AND DEFINITIONS

- 1.1.1. In this Memorandum of Incorporation:
- 1.1.1.1 a reference to a section by number refers to the corresponding section of the Companies Act, No. 71 of 2008 as amended from time to time;
 - 1.1.1.2 words and expressions that are defined in the Companies Act, 2008 bear the same meaning in this Memorandum as in that Act; and
 - 1.1.1.3 the Schedules attached to this Memorandum are part of the Memorandum of Incorporation.
- 1.1.2. In this Memorandum of Incorporation, the following words shall, unless the context otherwise indicates, have the meanings hereinafter assigned to them:
- “the Act”** means Act 71 of 2008, as amended or any Act that replaces it;
 - “auditors”** means the auditors of the Company;
 - “the Board”** means the board of directors of the Company;
 - “the Company”** means Leloko Hartbeespoortdam Association NPC, registration number 2005/021735/08 also herein referred to as the Leloko HOA;
 - “the Developer”** means ProjectProp (Pty) Ltd, registration number 2004/021553/07 or its successor in title or function;
 - “electronic” or “electronic notice”** means any form of electronic communication approved by the Board of Directors and utilised to issue, present, deliver, serve or record inter alia communiques, circulars, statutory notices, financial statements, Auditors’ reports, notifications, proxy forms or any other written information pertaining to the Company;
 - “Erf”** means any Erf created by the subdivision of land and any two or more Erven which are notarially tied shall be regarded as such number of erven as applicable and any two or more Erven which are consolidated shall be regarded as one Erf;
 - “financial year”** means the financial year of the Company which shall run from the first day of March in any year until the last day of February in that same year;
 - “member”** means a member of the Company as defined in Article 2.5;
 - “Memorandum”** means this Memorandum of Incorporation of the Company;
 - “month”** means a calendar month;
 - “open spaces”** means the general areas including but not limited to the entrance, landscape areas, private streets, street lights, pavements, kerbs, sidewalks, traffic islands and road reserve, security houses owned or used by the Company and other amenities;
 - “the Property”** means the entire area of the Leloko Lifestyle Eco-Estate comprising Kosmos extensions 7, 8 and 9 as established or to be establish on the remainder Portion of Portion 129 of the Farm De Rust 478,

registration Division JQ, North West Province, including any common areas and open spaces including the greenbelt areas, dwellings erected or established thereon and any land in respect of which the Company has a right of occupation;

“register” means the register of members;

“the Rules” means the management and conduct rules made by the Board from time to time;

“services” means such infrastructural utilities and amenities to be provided and/or installed on the land by the Developer and maintained by the Company;

“the Statutes” means the Act as well as each and every other statute, regulation, ordinance or by-law affecting the Company and the exercise of its powers and functions;

“unit” means any Sectional Title unit in respect of any Sectional Title Scheme registered in respect of any Erf on the Property and held under tenure in terms of the Sectional Titles Act, 95 of 1986, as amended.

- 1.1.3. Unless the context otherwise indicates, any words importing the singular shall also include the plural and vice versa, words importing any one gender shall include the other and words importing persons shall include bodies corporate.

PART 2 - INCORPORATION AND NATURE OF THE COMPANY

2.1 INCORPORATION

- 2.1.1 The Company is incorporated as a non-profit company, as defined in the Companies Act, 2008.
- 2.1.2 The Company is incorporated in accordance with and governed by—
- 2.1.2.1 the unalterable provisions of the Companies Act, 2008 that are applicable to non-profit companies;
 - 2.1.2.2 the alterable provisions of the Companies Act, 2008 that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in the Memorandum;
 - 2.1.2.3 the provisions of the Memorandum.

2.2 OBJECTS AND POWERS OF THE COMPANY

- 2.2.1 The main object of the Company is to promote, advance and protect the communal interests, safety and welfare of the members of the Company and, in by doing so, ensuring acceptable aesthetic, architectural and environmental standards on the land including landscaping, maintenance of open spaces and control of buildings and improvements; rendering and maintenance of all essential and communal services, including water supply and sanitation services, electricity distribution, refuse removal and storm

water drainage and the collection of levies for which members of the Company are liable.

- 2.2.2 The Company is not subject to any restrictive conditions on changing the Memorandum, as contemplated in section 15(2)(b) of the Act, nor is it prohibited from amending any particular provision of the Memorandum, as contemplated in section 15(2)(c) of the Act.
- 2.2.3 Except to the extent necessarily implied by the stated objects, the purposes and powers of the Company are not subject to any restriction, limitation or qualification as contemplated in section 19(1)(b)(ii) of the Act.
- 2.2.4 Despite any provision in any law or agreement to the contrary, upon the dissolution of the Company the entire net value of the company must be distributed to one or more non-profit companies, external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts—
 - 2.2.4.1 having objects similar to its main object; and
 - 2.2.4.2 as determined in terms of this Memorandum or the Company's members, if any, or its directors, at or immediately before the time of its dissolution or by the court, if the Memorandum or the members or directors fail to make such a determination.

2.3 MEMORANDUM OF INCORPORATION AND COMPANY RULES

- 2.3.1 The Memorandum of the Company may be altered or amended only—
 - 2.3.1.1 in compliance with a court order in the manner contemplated in section 16(4) of the Act;
 - 2.3.1.2 at any other time if a special resolution to amend it is proposed by the Board of the Company; or members entitled to exercise at least 10% (ten percent) of the voting rights that may be exercised on such a resolution; and is adopted at a members meeting or in accordance with section 60 of the Act which deals with members acting other than at a meeting;
 - 2.3.1.3 by the Board of the Company, or an individual authorised by the Board, in accordance with section 17 of the Act, to alter the Company's Rules, or its Memorandum, in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document, by publishing a notice of the alteration, in any manner required or permitted by the Memorandum or the Rules of the Company; and filing a notice of the alteration;
 - 2.3.1.4 in implementing a business rescue plan pursuant to section 152(6)(b) of the Act.
- 2.3.2 The Board of the Company may make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act or the Memorandum, by—

- 2.3.2.1 publishing a copy of those rules, in any manner required or permitted by the Memorandum, or the Rules of the Company; and
 - 2.3.2.2 filing a copy of those rules.
- 2.3.3 A rule contemplated in article 2.3.2—
 - 2.3.3.1 must be consistent with the Act and the Memorandum, and any such rule that is inconsistent with the Act or the Memorandum is void to the extent of the inconsistency;
 - 2.3.3.2 takes effect on a date that is the later of 20 (twenty) business days after the rule is filed in terms of article 2.3.2.2 or the date, if any, specified in the rule; and
 - 2.3.3.3 is binding on an interim basis from the time it takes effect until it is put to a vote at the next general members meeting of the Company and on a permanent basis only if it has been ratified by an ordinary resolution at such a meeting.
- 2.3.4 If a rule that has been filed in terms of article 2.3.2.2, is subsequently—
 - 2.3.4.1 ratified as contemplated in article 2.3.3.3, the Company must file a notice of ratification within 5 (five) business days after the vote, in the prescribed manner and form; or
 - 2.3.4.2 not ratified when put to vote—
 - 2.3.4.2.1 the Company must file a notice of non-ratification within 5 (five) business days after the vote, in the prescribed manner and form; and
 - 2.3.4.2.2 the Company's Board may not make a substantially similar rule within the ensuing 12 (twelve) months, unless it has been approved in advance by ordinary resolution of the members.
- 2.3.5 Any failure to ratify the Rules of the Company does not affect the validity of anything done in terms of those rules during the period that they had an interim effect as provided in article 2.3.3.3.
- 2.3.6 The Board must publish any Rules made by delivering a copy of those Rules to each member using any of the delivery methods contemplated in section 6 of the Act.
- 2.3.7 The Company must publish a notice of any alteration of the Memorandum or the Rules, made by delivering a copy of those Rules to each member using any of the delivery methods contemplated in section 6 of the Act.
- 2.3.8 The Board of the Company or any such other person or body delegated by it will be responsible for the enforcement of the Memorandum and the Rules and, to this end, to take such actions or issue such notices or do such things as may be necessary to ensure compliance of members, tenants, occupiers or visitors in respect of the Memorandum and/or the Rules.

2.4 OPTIONAL PROVISIONS OF THE COMPANIES ACT

- 2.4.1 In terms of sections 34(2) and 84(1)(c)(ii) of the Act, the Company elects voluntary to appoint an auditor and to have its annual financial statements audited by such auditor.
- 2.4.2 As the Company will be audited voluntarily, the Company does not have to comply with the provisions of Chapter 3 of the Act.
- 2.4.3 The appointment, remuneration and duties of the auditor shall be determined by the Board of the Company.

2.5 MEMBERS OF THE COMPANY

- 2.5.1 The Company shall maintain a register at the place and in the manner prescribed by the Act.
- 2.5.2 Members consist of all persons including the Developer and legal entities who are reflected in the records of the relevant Deeds Registry in terms of the Deeds Registries Act, 47 of 1937 as the registered owners of any erven or units located on the Property excluding owners of non-residential erven.
- 2.5.3 When a person becomes the registered owner of an Erf or Unit, he shall *ipso facto* become a member of the Company and when he ceases to be the owner of any such Erf or Unit, he shall *ipso facto* cease to be a member of the Company.
- 2.5.4 A Member shall include the trustee in an insolvent estate, a liquidator or trustee elected in terms of any regulatory or legislative measure; the liquidator of a company or close corporation which is a member; the executor of the estate of a member who has died or a representative of a member who is a minor or of unsound mind or under disability provided such a representative is recognised by law as being duly appointed and provided further that such trustee, liquidator, executor or representative is acting within the scope of his authority.
- 2.5.5 Where an Erf or Unit is owned by more than one person, all of the registered owners of that Erf or Unit shall for voting purposes together be deemed to be one member of the Company and shall, in this regard, have the rights and obligations of one member of the Company.
- 2.5.6 Where two or more residential erven have been notarially linked, the member concerned will still constitute two or more members. Where two or more residential erven have been consolidated, the owner of such consolidated erf shall count as only one member.
- 2.5.7 All members are obliged to ensure that in the event of alienation of their property (or interest therein) that the new transferee binds himself to

become a member of the Company and that the Company issues a clearance certificate that the outgoing member has complied with the provisions of the Memorandum.

- 2.5.8 Every member shall to the best of his ability promote the objects of the Company and comply with the Memorandum and Rules of the Company including ensuring the compliance therewith by any tenants or occupants of his Erf or Unit.

PART 3 - RIGHTS OF MEMBERS

3.1 MEMBERS' AUTHORITY TO ACT

- 3.1.1 If, at any time, every member of the Company is also a director of the Company, as contemplated in section 57(4) of the Act, the authority of the members to act without notice or compliance with any other internal formalities, as set out in that section is not limited or restricted by this Memorandum.

3.2 MEMBERS' RIGHT TO INFORMATION

- 3.2.1. Pursuant to the provisions of section 26(1) of the Act, a person who is a member of the Company has a right to inspect and copy in business hours, without charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the following records of the Company:
- 3.2.1.1. the Memorandum and the Rules and any amendments thereto;
 - 3.2.1.2. the records in respect of the Company's directors;
 - 3.2.1.3. the reports to annual meetings;
 - 3.2.1.4. the financial statements;
 - 3.2.1.5. the notices and minutes of annual meetings including all resolutions adopted by them and any other such documents as made available;
 - 3.2.1.6. the register of the Company.
- 3.2.2. A person not contemplated in article 3.2.1 has a right to inspect or copy the register or the register of directors of the Company, upon payment of no more than the prescribed maximum charge for such an inspection.
- 3.2.3. It is an offence for the Company to—
- 3.2.3.1. fail to accommodate any reasonable request for access, or to unreasonably refuse access, to any record that a person has a right to inspect or copy in terms of this article; or
 - 3.2.3.2. to otherwise impede, interfere with, or attempt to frustrate, the reasonable exercise by any person of the rights set out in this article.

3.3 PROXIES

- 3.3.1 The right of a member of the Company to appoint persons concurrently as proxies, as set out in section 58(3)(a) of the Act, is not limited, restricted or varied by this Memorandum.
- 3.3.2 The authority of a member's proxy to delegate the proxy's powers to another person, as set out in section 58(3)(b) of the Act, is not limited or restricted by this Memorandum.
- 3.3.3 A member must deliver to the Company a copy of the instrument appointing a proxy, using any of the delivery methods contemplated in section 6 of the Act, before that proxy may exercise the member's rights at a members' meeting, as set out in section 58(3)(c) of the Act and the instrument appointing a proxy shall be valid for 6 (six) months.
- 3.3.4 No member at any meeting of the Company shall be limited in regard to the number of proxies per vote he may present and exercise, in addition to his own vote.
- 3.3.5 The authority of a member's proxy to decide without direction from the member whether to exercise, or abstain from exercising any voting right of the member, as set out in section 58(7) of the Act, is not limited or restricted by this Memorandum.

3.4 RECORD DATE FOR EXERCISE OF MEMBER RIGHTS

- 3.4.1 If the board does not determine a record date for any action or event, the record date is as contemplated in section 59(3)—
 - 3.4.1.1 in case of a meeting, the latest date by which the Company is required to give members notice of the meeting; or
 - 3.4.1.2 the date of the action or event, in any other case, unless the Memorandum or the Rules of the Company provide otherwise.

PART 4 – MEMBERS' MEETINGS

4.1 REQUIREMENT TO HOLD MEETINGS

- 4.1.1 The Company is required to hold members meetings in addition to those specifically required by the Act.
- 4.1.2 The Company must convene an annual general meeting of its members—
 - 4.1.2.1 initially, no more than 18 (eighteen) months after the Company's date of incorporation; and
 - 4.1.2.2 thereafter, once in every calendar year within 6 (six) months after the end of its financial year, but no more than 15 (fifteen) months after the date of the previous annual general meeting, or within

an extended time allowed by the Companies Tribunal, on good cause shown.

- 4.1.3 An annual general meeting convened in terms of article 4.1.2 must, at the minimum, provide for the following business to be transacted:
 - 4.1.3.1 presentation of the directors' report;
 - 4.1.3.2 presentation of the audited annual financial statements for the immediately preceding financial year, a copy of which must be supplied to each member together with the notice of the annual general meeting;
 - 4.1.3.3 election of directors, to the extent required by the Act or the Memorandum and subject to the provisions of article 2.5.2;
 - 4.1.3.4 appointment of an auditor for the ensuing financial year;
 - 4.1.3.5 any matters raised by members, with or without advance notice to the Company.
- 4.1.4 Other matters reserved for a general meeting are the following:
 - 4.1.4.1 the approval or ratification of any amendment or alteration of the Rules of the Company;
 - 4.1.4.2 the sale or alienation of any immovable property, or portion thereof, belonging to the Company;
 - 4.1.4.3 the consideration and approval of the fees, deposits, penalty levies and interest or late payment fees on arrear levies, payable in terms of the Memorandum or the Rules;
 - 4.1.4.4 the consideration and approval of the Company's budget for the new financial year; and
 - 4.1.4.5 the consideration of any other matters raised at the meeting, including any resolutions proposed for adoption by such meeting and the voting upon any such resolutions.
- 4.1.5 The directors may, whenever they think fit, convene a general meeting.
- 4.1.6 If at any time there shall not be, within the Republic, sufficient directors capable of acting to form a quorum, any director or any 2 (two) members of the Company may convene a general meeting in the same manner as nearly possible to that in which meetings may be convened by directors.

4.2 MEMBERS' RIGHT TO REQUISITION A MEETING

- 4.2.1 In accordance with section 61(3) of the Act and subject to article 4.1.2, the Board or any other person specified in the Memorandum or Rules, must call a members meeting if one or more written and signed demands for such a meeting are delivered to the Company, and—
 - 4.2.1.1 each such demand describes the specific purpose for which the meeting is proposed; and
 - 4.2.1.2 in aggregate, demands for substantially the same purpose are made and signed by the members, 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.

- 4.2.2 The Company, or any member of the Company, may apply to a court for an order setting aside a demand made in terms of article 4.2.1 on the grounds that the demand is frivolous, calls for a meeting for no other purpose than to reconsider a matter that has already been decided by the members, or is otherwise vexatious.
- 4.2.3 At any time before the start of a members meeting contemplated in article 4.2.1—
 - 4.2.3.1 a member who submitted a demand for that meeting may withdraw that demand; and
 - 4.2.3.2 the Company must cancel the meeting if, as a result of one or more demands being withdrawn, the voting rights of any remaining members continuing to demand the meeting, in aggregate, fall below the minimum percentage of voting rights required to call the meeting.

4.3 LOCATION OF MEMBERS' MEETINGS

- 4.3.1 The Board of the Company has the authority to determine the location of any members meeting provided that such meeting shall be held at an address which the Board deems to be the most convenient for the members.

4.4 NOTICE OF MEMBERS' MEETINGS

- 4.4.1 As stipulated in section 62(1) of the Act a notice of a members meeting must be delivered to members at least 15 (fifteen) business days before the meeting is to begin, using any of the delivery methods contemplated in section 6 of the Act.
- 4.4.2 A copy of either the audited financial statements or the annual financial statements, which have been compiled independently and reported on by an independent accounting professional, must accompany the notice of the annual general meeting send to each member.
- 4.4.3 The accidental omission to give notice of a meeting to a person, or the non-receipt of notice of a meeting by any person entitled to receive notice of such meeting, shall not invalidate the proceedings of that meeting.

4.5 ELECTRONIC PARTICIPATION IN MEMBERS' MEETINGS

- 4.5.1 The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63(2) of the Act is not limited or restricted by this Memorandum.

4.6 QUORUM FOR MEMBERS' MEETINGS

- 4.6.1 Pursuant to section 64 of the Act and subject to articles 4.6.2 to 4.6.5—
 - 4.6.1.1 a members meeting may not begin until at least 15% (fifteen percent) persons with voting rights are present at the meeting; and
 - 4.6.1.2 a matter to be decided at the meeting may not begin to be considered unless at least 15% (fifteen percent) persons with voting rights are present at the meeting.

- 4.6.2 If, within one hour after the appointed time for a meeting to begin, the requirements of article 4.6.1.1, or 4.6.1.2 if applicable,
 - 4.6.2.1 for the meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for one week;
 - 4.6.2.2 for consideration of a particular matter to begin have not been satisfied—
 - 4.6.2.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
 - 4.6.2.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned for one week without motion or vote.

- 4.6.3 The person intended to preside at a meeting that cannot begin due to the operation of article 4.6.1.1 or 4.6.1.2 if applicable, may extend the one-hour limit allowed in article 4.6.2 for a reasonable period on the grounds that—
 - 4.6.3.1 exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of members to be present at the meeting; or
 - 4.6.3.2 one or more particular members, having been delayed, have communicated an intention to attend the meeting, and those members, together with others in attendance, would satisfy the requirements of article 4.6.1.1 or 4.6.1.2 if applicable.

- 4.6.4 The Company is not required to give further notice of a meeting that is postponed or adjourned in terms of article 4.6.2, unless the location for the meeting is different from—
 - 4.6.4.1 the location of the postponed or adjourned meeting; or
 - 4.6.4.2 a location announced at the time of adjournment, in the case of an adjourned meeting.

- 4.6.5 If, at the time appointed in terms of this article for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of article 4.6.1 or 4.6.2, if applicable, have not been satisfied, the members of the Company present in person or by proxy will be deemed to constitute a quorum.

- 4.6.6 Unless the Company's Memorandum or Rules provide otherwise, after a quorum has been established for a meeting, or for a matter to be

considered at a meeting, the meeting may continue, or the matter may be considered, so long as at least 1 (one) member with voting rights entitled to be exercised at the meeting, or on that matter, is present at the meeting.

4.6.7 Minutes will be kept of every members meeting.

4.7 ADJOURNMENT OF MEMBERS' MEETINGS

4.7.1 A meeting as contemplated in article 4.6 may not be adjourned beyond the earlier of—

4.7.1.1 the date that is 120 (one hundred and twenty) business days after the record date determined in accordance with section 59 of the Act; or

4.7.1.2 the date that is 60 (sixty) business days after the date on which the adjournment occurred.

4.7.2 The agenda at an adjourned meeting must not differ in any material respect from the agenda for the original meeting and no other business may be conducted other than the unfinished business of the original meeting.

4.8 MEMBERS' RESOLUTIONS

4.8.1 For an ordinary resolution to be adopted at a members meeting, it must be supported by at least 50% (fifty percent) of the members who voted on the resolution, as provided in section 65(7) of the Act.

4.8.2 For a special resolution to be adopted at a members meeting, it must be supported by at least 75% (seventy five percent) of the members who voted on the resolution, as provided for in section 65(7) of the Act.

4.8.3 A special resolution adopted at a members meeting is not required for a matter to be determined by the Company, except those matters set out in section 65(11) of the Act.

4.8.4 For the following matters a special resolution must be adopted at a member meeting:

4.8.4.1 amend the Company's Memorandum to the extent required by section 16(1)(c) and section 36(2)(a) of the Act;

4.8.4.2 ratify a consolidated version of the Company's Memorandum, as contemplated in section 18(1)(b) of the Act;

4.8.4.3 ratify actions by the Company or directors in excess of their authority, as contemplated in section 20(2) subject to section 20(3) of the Act;

4.8.4.4 approve any proposed fundamental transaction as contemplated in item 2(2) of Schedule 1 of the Act.

4.9 ROCEEDINGS AT GENERAL MEETINGS

- 4.9.1 The chairperson, and failing him the vice chairperson, of the Board of directors, shall preside as chairperson at every meeting of the members of the Company. If there is no such chairperson, or if at any meeting he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting, or is unwilling to act as the chairperson, the members present shall choose a director as chairperson.
- 4.9.2 If no director is present, or if all the directors present decline to take the chair, the members present shall choose a Member present to be the chairperson of the meeting.
- 4.9.3 Subject to the provisions of articles 2.5.2, 2.5.5, 2.5.6, 4.9.4 and 4.9.5, every member present in person or by proxy at a general meeting of the Company shall be entitled to one vote on a show of hands.
- 4.9.4 Any member who is the registered owner of more than one Erf or Unit shall be entitled to exercise a vote for each and every Erf and/or Unit registered in his name.
- 4.9.5 Save as expressly stated in the Memorandum, no person other than a member duly registered as contemplated in articles 4.9.3 and who shall have paid every levy and other sum, if any, which shall be due and payable to the Company and shall have complied with the provisions of the Memorandum and any Rule enacted in terms of this Memorandum, and who is not under suspension, shall be entitled to be present or to vote on any matter, either personally or by proxy, at any general meeting.
- 4.9.6 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or mental disorder of the principal, or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the membership in respect of which the proxy is given, provided that no notification in writing of such death insanity revocation or transfer as aforesaid shall have been received by the Company before the commencement of the meeting or adjourned meeting at which the proxy is used.
- 4.9.7 The chairperson shall not have a casting vote. If the number of votes for and against a resolution is equal, such resolution shall be regarded as been defeated.
- 4.9.8 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.
- 4.9.9 A poll demanded on the election of a chairperson or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time and in such manner as the chairperson

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.

- 4.9.10 Unless any member present in person or by proxy at a general meeting shall, before closure of the meeting, have objected to any declaration made by the chairperson of the meeting as to the result of any voting at the meeting, whether by show of hand or otherwise, or to the propriety of validity of the procedure at such meeting, such declaration by the chairperson 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 and an entry in the minutes to the effect that any motion has been carried or defeated, with a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the votes so recorded.
- 4.9.11 The parent or guardian of a minor, and the curator *bonis* of a lunatic member, and also any person entitled to transfer the membership, may vote at any general meeting in respect thereof in the same manner as if he were the registered member, provided that at least 48 (forty eight) hours prior to the time of holding the meeting at which he proposes to vote, he shall satisfy the Board that he is such parent, guardian or curator or that he is entitled to transfer the membership, or that the directors have previously admitted his right to vote in respect of the membership. Co-executors of a deceased member whose names appear in the register shall, for the purposes of this article, be deemed to be joint holders of that membership.
- 4.9.12 On a poll, votes may be given either personally or by proxy.

PART 5 – DIRECTORS AND OFFICERS

5.1 COMPOSITION OF THE BOARD OF DIRECTORS

- 5.1.1 The Board of the Company comprises of at least 3 (three) directors and not more than 6 (six) directors of which 3 (three) directors are to be elected by Members in accordance with the provisions of section 68(2) of the Act and 3 (three) directors may be nominated by the Developer while the developer is still a member of the Company.
- 5.1.2 The 3 (three) directors to be elected by the Members from their ranks shall be elected for a period of 2 (two) years or such shorter period as the Members may determine, and the election of such directors shall be subject thereto that one-third of the directors must retire each year at the annual general meeting.
- 5.1.3 As contemplated in section 66(4) of the Act, one or more persons may be elected by Members at an annual general meeting in accordance with the

provisions of section 68(2) of the Act to act as an alternate director to any one of the other directors should it be necessary. The alternate director may discharge all the duties and the functions of the director he represents.

- 5.1.4 Retiring directors are re-eligible provided that any person who has served 2 (two) terms of office as a director (whether cumulative or successive) shall not be eligible for re-appointment as a director for a period of 2 (two) years, calculated from the date upon which such person last held office.
- 5.1.5 Only a member of the Company or the representative of a juristic person who is a member, may be elected as a director.
- 5.1.6 The authority of the Company's Board to, on a temporary basis, fill any vacancy on the Board due to the vacation of such position, for whichever reason, by a director which was duly elected by the Members, is not limited or restricted by the Memorandum provided any such vacancy must first be filled by a duly elected alternate director. If no alternate director is available, the Board may appoint a member or the representative of a juristic person who is a member, as a director to fill such vacancy and each such appointed director of the Company serves until the next annual general meeting.
- 5.1.7 The office of a director elected by the Members or, as contemplated in article 5.1.6, on an temporary basis appointed by the Board, shall be vacated if the director—
 - 5.1.7.1 no longer satisfy the qualification and eligibility requirements set out in section 69 of the Act;
 - 5.1.7.2 ceases to be a member of the Company; or
 - 5.1.7.3 ceases to be the representative of a juristic person who is a member; or
 - 5.1.7.4 is a representative of a juristic person and the juristic person who appointed him, ceases to be a member; or
 - 5.1.7.5 resigns his office by notice in writing to the Company and the Registrar; or
 - 5.1.7.6 for more than 6 (six) months is absent without permission of the directors from meetings of directors held during that period.
- 5.1.8 As provided for in section 69(6) of the Act, the Company's Memorandum may impose additional grounds for eligibility or disqualification of directors; or minimum qualifications to be met by the directors of the Company which shall include but not be limited to a director—
 - 5.1.8.1 acting by himself or by his firm in a professional capacity for the Company and be remunerated for such work done;
 - 5.1.8.2 having any direct or indirect interest in any contract or any arrangement entered into or on behalf of the Company unless the Company in a general meeting shall have provided its prior approval in respect of such office, place of profit, appointment or interest and subject to such terms and conditions as may be determined by the Company in a general meeting.

- 5.1.9 The appointment of any director in terms of this Memorandum shall be based upon such person's qualifications, expertise and experience, in relation to any portfolio which requires the appointment of a new director or the re-appointment of an existing director.

5.2 AUTHORITY OF THE BOARD OF DIRECTORS

- 5.2.1 The business and affairs of the Company shall be managed by the directors, who may exercise all such powers of the Company as are not by the Act or by the Memorandum required to be exercised by the Company at any meeting of the members, subject nevertheless to the provisions of the Memorandum and the Act and to such regulations not being inconsistent with the Memorandum or the Act, as may be prescribed by the Company at any such meeting, but no regulation made by the Company at such meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.
- 5.2.2 The directors may appoint from their ranks a chairperson and a deputy-chairperson and confer on them such powers as they deem fit or revoke or vary all or any of such powers subject to a board resolution to this effect.
- 5.2.3 Subject to the provisions contained in the Memorandum, and subject to any directions given by any general meeting of the Company, the Board is entitled to draft, add to, amend or revise rules for the orderly and proper management, control and administration of the Property. These rules may provide for the usage by members, their visitors or tenants of any roads, access areas and open spaces with specific emphasis on preservation of the environment; maintenance of an aesthetically pleasing character and the safety and security of the Property and all persons thereon. The rules may also make provision for the penalties payable if members, their visitors or tenants are found in breach of the rules or any conditions contained in the Memorandum.
- 5.2.4 The Board is responsible for the issuing and, from time to time, the revision of architectural guidelines and building requirements and for ensuring that all developments, additions and alterations to the Property comply therewith. For this purpose the directors are empowered to approve all building plans and no owner may commence with any building works before such approval has been granted and any applicable fees paid.
- 5.2.5 The Board shall, from time to time, entrust to and confer upon any company, firm, person or association, such powers invested in them, either collaterally, or to the exclusion of, and in substitution for, any of the powers of the directors for such time and on such conditions as they may think fit, or revoke or vary any of such powers subject to a board resolution to this effect.

- 5.2.6 The company, firm, person or association contemplated in article 5.2.5 shall act as the secretary of the Board meetings and such company, firm, person or association need not be a member of the Company.
- 5.2.7 Should the Board fail at any time to have the minimum number of directors required by the Act or the Memorandum, the Board may act only for the purpose of increasing the number of directors to the minimum number or for the purpose of summoning a general meeting of the Company, but for no other purpose.
- 5.2.8 In the event of all directors resigning at once, the secretary of the Board as contemplated in article 5.2.6 shall call for a meeting of members within 10 (ten) days, for the purpose of electing directors and a chairperson.
- 5.2.9 In the event that the Board of directors takes an *ultra vires* decision or acts outside its powers, the secretary of the board as contemplated in article 5.2.6, shall report such inappropriate decision or action to the Board of Directors with a request to withdraw and rescind such decision or action. Should the Board fail to comply with such demand, the secretary of the Board may call for a meeting of members to address the matter.
- 5.2.10 Notwithstanding any delegation of powers, the directors shall remain liable for the acts or omissions of any committee appointed in terms of article 5.7.1 or any company, firm, person or association appointed in terms of article 5.2.5 or persons contemplated in article 5.3.12.

5.3 BOARD OF DIRECTORS' MEETINGS

- 5.3.1 The directors may meet for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, and for as many times as the chairperson may determine provided that they shall at least meet on a quarterly basis.
- 5.3.2 A director authorised by the Board of the Company may call a meeting of the Board at any time and must call such a meeting if required to do so by at least 2 (two) directors.
- 5.3.3 The Board may determine the form and time for giving notice of its meetings, but—
- 5.3.3.1 such a determination must comply with any requirements set out in the Memorandum or the Rules of the Company;
 - 5.3.3.2 no meeting of the Board may be convened without notice to all of the directors, subject to article 5.3.4; and
 - 5.3.3.3 a Director who is not at any time in the Republic of South Africa shall not during such time as he is absent therefrom be entitled to receive a notice of any meeting but the notice of any meeting shall be given to his alternate, if any.

- 5.3.4 Except to the extent that the Company's Memorandum provides otherwise if all of the Directors of the Company—
- 5.3.4.1 acknowledge actual receipt of the notice of a meeting;
 - 5.3.4.2 are present at the meeting; or
 - 5.3.4.3 waive notice of the meeting;
- the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.
- 5.3.5 The chairperson shall be entitled to preside over all meetings of directors. If at any meeting the chairperson and deputy-chairperson are not present within 15 (fifteen) minutes after the time appointed for holding it, the directors present may choose one of their number to be chairperson of the meeting.
- 5.3.6 Unless and until a quorum is so fixed by the directors, it shall be 4 (four) directors of which 2 (two) directors must have been elected by the members and 2 (two) directors nominated by the Developer. The quorum shall not in any circumstances be less than 4 (four) directors.
- 5.3.7 A meeting of the directors at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions by or under the articles of the Company for the time being vested in or exercisable by the directors generally.
- 5.3.8 A quorum of directors must be present at a meeting before a vote may be called at a meeting of the Directors, in which case—
- 5.3.8.1 each Director has one vote on a matter before the Board; and
 - 5.3.8.2 a majority of the votes cast on a resolution is sufficient to approve that resolution and, in the case of an equality of votes, the chairperson shall not have a second or casting vote.
- 5.3.9 The Company must keep minutes of the meetings of the Board of Directors, and any of its committees and include in the minutes the names of the directors present at a Board meeting, all proceedings of the meeting and all resolutions adopted by the Board.
- 5.3.10 Resolutions adopted by the Board—
- 5.3.10.1 must be dated and sequentially numbered; and
 - 5.3.10.2 are effective as of the date of the resolution, unless the resolution states otherwise.
- 5.3.11 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.
- 5.3.12 All notices or communications by the members to the Directors shall be in writing and addressed to the Chairperson. The Chairperson may in his discretion delegate the authority to deal with any such communication or

notice to any other appropriately delegated Director, committee, officer or employee of the Company.

- 5.3.13 The authority of the Company's Board to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) of the Act, is not limited or restricted by this Memorandum.

5.4 DIRECTORS ACTING OTHER THAN AT A MEETING

- 5.4.1 Except to the extent that the Memorandum of the Company provides otherwise, a decision that could be voted on at a meeting of the Board 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.
- 5.4.2 A decision made in the manner contemplated in article 5.4.1, is of the same effect as if it had been approved by voting at a meeting.

5.5 REMUNERATION AND EXPENSES OF DIRECTORS

- 5.5.1 The directors shall not be entitled to remuneration for their services, provided that if any director shall be required to perform extra services, or shall incur reasonable *bona fide* expenses in or about the performance of his duties as a director, he shall be entitled to receive a remuneration, to be fixed by the members at an annual general meeting, and reimbursed for such expenses.
- 5.5.2 Directors shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as directors provided that, in as far as it is possible, prior notification of such expenses shall be communicated to the board.

5.6 INDEMNIFICATION OF DIRECTORS

- 5.6.1 Except to the extent that the Company's Memorandum provides otherwise, the Company—
- 5.6.1.1 may advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company; and
 - 5.6.1.2 may directly or indirectly indemnify a Director for expenses contemplated in article 5.6.1.1, irrespective of whether it has advanced those expenses, if the proceedings—
 - 5.6.1.2.1 are abandoned or exculpate the Director; or
 - 5.6.1.2.2 arise in respect of any liability for which the Company may indemnify the Director, in terms of articles 5.2.1 and 5.2.2.

- 5.6.2 Except to the extent that the Memorandum provides otherwise, the Company may indemnify a Director in respect of any liability arising other than as contemplated in article 5.2.1.
- 5.6.3 The Company may not indemnify a Director in respect of—
 - 5.6.3.1 any liability arising—
 - 5.6.3.1.1 in terms of section 77(3)(a), (b) or (c) of the Act; or
 - 5.6.3.1.2 from wilful misconduct or wilful breach of trust on the part of the director; or
 - 5.6.3.2 any fine contemplated in article 5.2.3.
- 5.6.4 The Company may not directly or indirectly pay any fine that may be imposed on the Director of the Company as a consequence of that Director having been convicted of an offence in terms of any national legislation, unless the conviction was based on strict liability.
- 5.6.5 Except to the extent that the Memorandum of the Company provides otherwise, the Company may purchase insurance to protect—
 - 5.6.5.1 a Director against any liability or expenses for which the Company is permitted to indemnify a Director in accordance with article 5.6.1.
- 5.6.6 The Company is entitled to claim restitution from a Director of the Company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with this article or section 78 of the Act.

5.7 COMMITTEES OF THE BOARD

- 5.7.1 Except to the extent that the Memorandum of the Company provides otherwise, the Board may—
 - 5.7.1.1 appoint any number of committees of Directors; and
 - 5.7.1.2 delegate to any committee any of the authority of the Board.
- 5.7.2 Except to the extent that the Memorandum of the Company, or a resolution establishing a committee, provides otherwise, the committee—
 - 5.7.2.1 may include persons who are not Directors of the Company, but—
 - 5.7.2.1.1 any such person must not be ineligible or disqualified to be a director in terms of section 69 of the Act; and
 - 5.7.2.1.2 no such person has a vote on a matter to be decided by the committee;
 - 5.7.2.2 may consult with or receive advice from any person;
 - 5.7.2.3 has the full authority of the Board in respect of a matter; and
 - 5.7.2.4 must report to the Board on a regular basis.

PART 6 – FINANCIAL ARRANGEMENTS

6.1 ACCOUNTING RECORDS

- 6.1.1 The directors shall cause such accounting records as are prescribed by the Act, to be kept. Proper accounting records shall not be deemed to be kept if there are not kept such accounting records as are necessary to present the state of affairs and business of the Company and to explain the transaction and financial position of the business of the Company.
- 6.1.2 The accounting records shall be kept at the registered office of the Company or at such other place or places as the directors think fit, and shall always be open to inspection by the directors.
- 6.1.3 The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounting records of the Company or any of them shall be open to inspection by members not being directors, and no member (not being a director) shall have any right of inspecting any accounting records or documents of the Company except as conferred by the Act or as contemplated in article 3.2.1 or authorised by the directors or by the Company in a general meeting.

6.2 ANNUAL FINANCIAL STATEMENTS

- 6.2.1 The directors shall from time to time, in accordance with section 30 of the Act, cause to be prepared and placed before the company in Annual General Meeting, such annual financial statements as referred to in the Act.
- 6.2.2 A copy of any annual financial statements which are to be placed before the company in Annual General Meeting, shall, not less than 15 (fifteen) business days before the date of the meeting, be sent to every member of the Company, provided that this article shall not require a copy of those documents to be sent to any person of whose address the company is not aware of.

6.3 AUDITORS

An auditor shall be appointed in compliance with the Act and the appointment, powers, rights, remunerations and duties of the auditors shall be regulated by the provisions of the Act.

6.4 LEVIES AND TARIFFS

- 6.4.1 The income of the Company consists mainly of the compulsory monthly levies payable by Members, and is applied to the furtherance of the Company's objectives including the uninterrupted supply of electricity and water, sanitation services, refuse removal and storm water drainage.

- 6.4.2 The directors shall annually, prior to the end of the financial year, prepare an estimated income and expenditure budget for the Company for the ensuing financial year including a reasonable provision for contingencies.
- 6.4.3 The estimated budget must set out in reasonable detail—
 - 6.4.3.1 the projected revenue for the next financial year;
 - 6.4.3.2 the projected capital and operational expenditure for the next financial year;
 - 6.4.3.3 the deficit or surplus of the preceding financial year, as may apply, and an explanation thereof;
 - 6.4.3.4 the funds in reserve.
- 6.4.4 The directors shall, based on the budget referred to in article 6.4.2, determine the levies payable as referred to in article 6.4.1 which levies are categorised as follows—
 - 6.4.4.1 general levy; and
 - 6.4.4.2 basic services levy.
- 6.4.5 No general or basic services levies will be payable by the Company in respect of property owned by it and by the Developer in respect of property owned by it and not yet developed or alienated by it.
- 6.4.6 Levy payments will be paid by the owners of Erven, Units and non-residential property in the following manner—
 - 6.4.6.1 in respect of the owners of—
 - 6.4.6.1.1 Erven, the full amount of the general levy and the full amount of the basic services levy as charged by the Company in respect of each Erf;
 - 6.4.6.1.2 notarially tied Erven, the full amount of the general levy and the full amount of the basic services levy as charged by the Company in respect of each of the notarially tied Erven;
 - 6.4.6.1.3 a consolidated Erf, the full amount of the general levy and the full amount of the basic services levy as charged by the Company in respect of the consolidated Erf;
 - 6.4.6.1.4 a Unit, each owner 60% (sixty percent) of the full amount of the general levy and collectively the full amount of the basic services levy as charged by the Company in respect of the Unit;
 - 6.4.6.1.5 boat houses / storage units, each owner 10% (ten percent) of the full amount of the general levy and each owner 10% (ten percent) of the full amount of the basic services levy as charged by the Company in respect of each boat house / storage unit.
- 6.4.7 The payment of the levy as contemplated in article 6.4.6.1.5 does not confer any membership of voting rights on owners of boat lockers or storage units.
- 6.4.8 Until such time as the Directors prepare the budget and serve the notice to effect an amended levy amount, in the manner provided for in the

Memorandum, the members shall pay such monthly levy amount as was applicable to the previous financial year.

- 6.4.9 The directors may, at any stage, impose special levies upon the members if they are of the opinion that the budgeted levies are insufficient to enable the Company to achieve its objectives, which special levies may be made payable in one sum or by such instalments as the Directors shall determine.
- 6.4.10 The directors are entitled to determine the date of payment of levies and the rate of interest payable in respect of arrear levies which interest shall not exceed the percentage allowed by governing legislation.
- 6.4.11 The directors may establish a maintenance reserve fund with the sole purpose to ensure surplus funds, if any, from income derived from the basic services levy are accumulated for future maintenance.

6.5 FINANCIAL YEAR

- 6.5.1 The financial year ends on the last day of February of each year.

PART 7 – GENERAL

7.1 LEGAL ACTION AND DOMICILIUM

- 7.1.1 In the enforcement of any rules made by the Directors in terms hereof and for the payment of any amount due to the Company, the Directors may—
 - 7.1.1.1 give notice to the member or resident concerned requiring to remedy a breach thereof or make payment within such reasonable period as that the Directors may determine and/or
 - 7.1.1.2 take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the member or the resident may be guilty or recover the debt, and debit the cost of so doing to the member or the resident concerned which amount shall then be deemed to be a debt owing by the member or resident concerned to the Company and/or
 - 7.1.1.3 also impose penalty amounts in respect of arrear payments and in respect of any member who is in breach of the Company's Memorandum as well as its Rules and/or
 - 7.1.1.4 take such other action including proceedings in any competent Court as they may deem fit.
- 7.1.2 In the event of the Directors instituting any legal proceedings against any member for the enforcement of any rights of the Company in terms hereof including the collection of levies, or any other expenses, the Company shall be entitled to recover, on demand, all legal cost so incurred by the member or resident concerned on a scale as calculated between Attorney and Own Client.

- 7.1.3 Any notice or process delivered on a member in connection with any matter or subject arising out of the Memorandum or the Rules of the Company shall be deemed to be effectively and sufficiently served on such a member—
- 7.1.3.1 when it has been delivered to him personally or to his duly authorised agent;
 - 7.1.3.2 when it has been left at his address registered with the Company or place of business or employment to a person apparently not less than sixteen years of age and residing or employed there;
 - 7.1.3.3 when it has been sent by pre-paid registered or certified post addressed to his address registered with the Company for which an acknowledgement of the posting thereof will be obtained from the postal service;
 - 7.1.3.4 when he has nominated an address for legal purposes, having been delivered to such an address;
 - 7.1.3.5 when, in the case of a legal person, having been delivered at the registered office or business premises of such legal person;
 - 7.1.3.6 if service cannot be effected in terms of articles 7.1.3.1 to 7.1.3.5, by affixing it to a conspicuous place at his address registered with the Company;
 - 7.1.3.7 when it has been sent by electronic mail to his e-mail registered with the Company for which the record of the transmission, whether physical or electronic, shall be proof and shall be deemed to have been sent and served on the day on which the Company released such electronic communication.
- 7.1.4 The Company or a member may change their domicilium citandi et executandi at any time by notice in writing, provided the new domicilium is in the Republic of South Africa and is a physical address at which process can be served. Provided that, where a member changes his domicilium, he must be able to provide proof of change in the form of a letter of acknowledgement of receipt from the Company, without which written proof, the change is void.