



Form CoR 15.1E – Non Profit Companies with members

**Companies and Intellectual Property Commission**  
**Republic of South Africa**

**Memorandum of Incorporation**  
**of**  
**ZANDSPRUIT ESTATE HOME OWNERS ASSOCIATION NPC**

Registration number of company

2008/021353/08

Which is referred to in the rest of this Memorandum of Incorporation as "the Company".

The Company has adopted this unique form of Memorandum of Incorporation and, accordingly, the prescribed standard form of Memorandum of Incorporation for Non Profit companies, which is contained in the Companies Regulation, will not apply to the Company.

The Company is a pre-existing company, incorporated in terms of Section 21 of the Companies Act, 1973. As contemplated in Item 4(2)(a) of Schedule 5 to the Companies Act, 2008, The Company wishes to amend its existing Memorandum of Incorporation (comprising of a Memorandum and Articles of Association) by replacing it with this Memorandum of Incorporation, which was adopted by the members of the Company by the passing of a special resolution dated 13 September 2014 as is evidenced by the Minutes of the Meeting enclosed herewith.






The Company is a Non Profit company with members.  
This memorandum was adopted by the directors of the company, in accordance with section 16, as evidenced by the following signatures made by them.

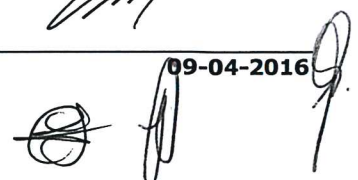
Zandspruit Estate Home Owners Association Memorandum of Incorporation

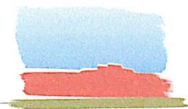
09-04-2016

**MOVE TO A BETTER PLACE**



Name and address	Identity number / Registration Number	Capacity in which signatory signs (Incorporator/ Director / Company/ Secretary/ Other)	Signature	Date
<b>Gerrit Jan van der Grijn</b> 1344 Falcon Road Zandspruit Bush & Aero Estate Hoedspruit, 1380	NR94C41H7	Director		8/4/16
<b>Sean Peter Flynn</b> 28 Le Moulin, Elizabeth Road, Bedfordview, 2008	6410025208104	Director		9/11/16
<b>Martin Gert den Dunnen</b> 1350 Mustang Road Zandspruit Bush & Aero Estate Hoedspruit, 1380	6106125077080	Director		12/4/16
<b>Gideon Van der Ploeg</b> 1382 Mustang Road Zandspruit Bush & Aero Estate Hoedspruit, 1380	6106035378081	Director		9/4/2016
<b>George Colville Clarke</b> 121 Eland Street, Hoedspruit, 1380	7412115005084	Director		12/4/2016





## PART A – INTERPRETATION AND DEFINITIONS

In this MOI, clause headings are used for convenience only and shall not be used in its interpretation, unless the context clearly indicates a contrary intention.

### 1. AN EXPRESSION OR WORD THAT DENOTES:

- 1.1 Any gender, includes the other genders;
- 1.2 Natural person, includes an artificial or juristic person and vice versa;
- 1.3 The singular, includes the plural and vice versa;

### 2. IN THIS MEMORANDUM OF INCORPORATION

- 2.1 A reference to a section by number refers to the corresponding section of the Companies Act, 2008;
- 2.2 Words that are defined in the Companies Act, 2008 bear the same meaning in this Memorandum as in that Act.
- 2.3 Any word, phrase or sentence which is not defined in the Companies Act, 2008 or in 1.2, shall bear its usual meaning;

### 3. EACH TERM, POWER OR AUTHORITY SHALL BE GIVEN THE WIDEST POSSIBLE INTERPRETATION

### 4. THE FOLLOWING EXPRESSIONS AND WORDS WILL BEAR THE MEANINGS ASSIGNED TO THEM BELOW, AND COGNATE EXPRESSIONS AND WORDS WILL BEAR CORRESPONDING MEANINGS:

- 4.1 **"Act"** The Companies Act 71 of 2008, as amended or re-enacted and for the time being in force, including only regulations promulgated there under and for the time being in force;
- 4.2 **"Auditors"** The auditors of the Company appointed by the Board from time to time;
- 4.3 **"Company"** The company defined as such on the front page of this MOI;
- 4.4 **"Directors"** The directors for the time being of the Company or if there is only 1 (one) director, then that director;
- 4.5 **"General meeting"** Any general meeting of the Company, including an annual general meeting, or any adjournment thereof, as the case may be;
- 4.6 **"Member"** A person who holds membership in, and specified rights in respect of, this non-profit company, as contemplated in item 4 of Schedule 1;
- 4.7 **"Memorandum of Incorporation or MOI"** The memorandum of Incorporation of the Company, being this document (and including any Schedules hereto), as amended or replaced from time to time;
- 4.8 **"The office"** The registered office for the time being of the Company;
- 4.9 **"The Republic"** The Republic of South Africa;
- 4.10 **"The register"** The register of members kept by the Company in accordance with the provisions of the Act;



- 4.11 **"The secretary"** The secretary for the time being of the Company or any person authorised to act in his place, including a person authorised by the directors to carry out any duties of the secretary;
- 4.12 **"Estate conduct rules"** Rules, as approved from time to time by the members that apply to the management of the estate and the conduct of the members, residents, and their guests, employees and invitees;
- 4.13 **"governance rules"** Rules as envisaged in section 15(3) for the governance of the company, made and amended from time to time by the directors as set out in this MoI;
- 4.14 **"Erf"** Means the development known as the Hoedspruit Extension 12;
- 4.15 **"Developer"** Means the company ZANDSPRUIT ESTATES (Pty) Ltd – Registration number: 2006/033649/07;
- 4.16 **"Proxy"** Means any other member of this company.

## **PART B – INCORPORATION AND NATURE OF THE COMPANY**

### **5. INCORPORATION**

- 5.1 The Company is incorporated on 2 September 2008 as a Non Profit company, with members, as defined in the Companies Act, 1973, and is governed by:
- 5.1.1 The unalterable provisions of the Companies Act, 2008 that are applicable to Non Profit companies;
- 5.1.2 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 this Memorandum; and
- 5.1.3 The provisions of this Memorandum of Incorporation.
- 5.2 The year-end of the company will be the last day of February each year.

### **6. OBJECTS AND POWERS OF THE COMPANY**

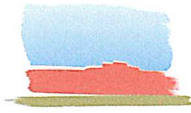
- 6.1 The Objects of the Company are to:
- 6.1.1 Promote and advance the communal interest of a social and cultural nature of its members in respect of the properties in the estate, taking into account the interest of minority interests especially when considering changes to this MOI;
- 6.1.2 Promote and advance the character of the estate as a safe and ecologically responsible development facilitating a lifestyle as envisaged in the approved Land Development known as HOEDSPRUIT EXTENSION 12 created in terms of the Development Facilitations Act No. 67 of 1995.
- 6.2 The company shall have all the powers and capacity of an individual that are capable of being exercised or possessed by a juristic person.
- 6.3 In advancing its objects, and without limiting the generality of its powers, the company may do the following:
- 6.3.1 Impose membership fees and levies on the members of the company;



- 6.3.2 Administer and enforce the estate conduct rules;
- 6.3.3 Manage, oversee and control access to the estate;
- 6.3.4 Maintain, repair and improve the company owned property and infrastructure;
- 6.3.5 Pay all rates, services charges and other taxes and/or levies charged and payable to any authority in respect of the company owned property and/or the employees of the company;
- 6.3.6 Any other purpose which may be approved by a general meeting of members.
- 6.4 The Company is not subject to any provision contemplated in section 15 (2) (b) or (c) of the Companies Act 2008.
- 6.5 Upon dissolution of the Company, its net assets must be distributed in the manner determined in accordance with item 1 (4) (b) of Schedule 2 of the Companies Act 2008.

## **7 MEMORANDUM OF INCORPORATION AND COMPANY RULES**

- 7.1 This Memorandum of Incorporation of the Company may only be altered or amended only in the manner set out in section 16, 17 or 152 (6) (b), by special resolution adopted by a members meeting or in terms of a court order.
- 7.2 Amendments to the memorandum may be proposed by the board of directors or by members entitled to exercise at least 10 (ten) % of the voting rights.
- 7.3 The board shall have the power to alter this memorandum to the extent necessary to correct patent errors in spelling, punctuation, reference, grammar or similar defects as envisaged in section 17 of the act. A notice of any such alteration must be sent to each member by ordinary mail or e-mail at least 15 (fifteen) business days prior to the filing of the notice of alteration with the Commission.
- 7.4 The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15 (3) to (5) of the Companies Act is not restricted save that any new rule made by the board must be ratified by special resolution.
- 7.5 The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17 (1) of the Companies Act by delivering a copy of those rules to each member by ordinary mail or e-mail.
- 7.6 The rules governing the manner of amendment of this MOI, may only be altered by special resolution passed by not less than 100% of the number of members entitled to vote.
- 7.7 The rules involving the developer may only be amended by special resolution passed by not less than 100% of the number of members entitled to vote.
- 7.8 The rules governing the Airfield and special rights of owners of the Aerodrome-, Retirement Village, Wilderness Area, Equestrian and Hotel stands, may only be altered by special resolution passed by not less than 100% of the number of members entitled to vote.
- 7.9 Estate Conduct Rules:
  - 7.9.1 The company in a general meeting may from time to time make or approve rules for conduct on the estate to facilitate the promotion and advancement of the interests of the members and the character of the estate as set out in clause 6;
  - 7.9.2 A special resolution is required for the approval or amendment of estate conduct rules;



- 7.9.3 Each member of the company undertakes to comply with the estate conduct rules and is responsible for ensuring compliance with the estate conduct rules by family, friends, employees, agents, appointees or visitors or any other person who is within the estate by permission or consent of the member;
- 7.9.4 If any conflict should arise between the content of this memorandum and the content of the estate conduct rules, this memorandum shall prevail;
- 7.9.5 Attached to the rules is the original draft Sale Agreement with its own attachments: Contractors Code of Conduct, the Architectural Guidelines, the first Rules and Regulations, the first Constitution of the company and the Layout Plan. The members will adhere to and herewith specifically adopt the original draft Sale Agreement together with its own attachments: Contractors Code of Conduct, the Architectural Guidelines, the first Rules and Regulations, the first Constitution of the company and the Layout Plan, which will form an indivisible and integral part of this MOI. It will remain the responsibility of the members to enquire from the Company into any modifications.

#### 7.10 Governance Rules:

- 7.10.1 Subject to clause 7.10.4 below, the board of directors will have the authority to make any necessary or incidental rules for the governance of the company in respect of matters not addressed in the Act or in this memorandum, and to amend or repeal any such rules;
- 7.10.2 The board must publish any proposed rule to be made in terms of clause 7.10.1 above by delivering a copy of that proposed rule to each member by ordinary / electronic mail;
- 7.10.3 Subject to clause 7.10.4 below, any rule proposed by the board will take effect 20 (twenty) business days after publication as set out in clause 7.10.2 above or on the later date specified in the rule;
- 7.10.4 Any rule proposed by the board will not take effect, and may not be filed with the commission, if written objections by holders of 25 (twenty five) % or more of the voting rights are received by the board within 20 (twenty) business days after publication as set out in clause 7.10.2 above;
- 7.10.5 Any rule that has taken effect as contemplated in clause 7.10.3 above will remain binding on an interim basis until put to a vote at the next general meeting of the members of the company and will become permanently binding if ratified by a special resolution;
- 7.10.6 If by reason of clause 7.10.4 above a rule does not take effect, the board must promptly inform each member of this result by ordinary / electronic mail.

### 8 **OPTIONAL PROVISIONS OF COMPANIES ACT 2008.**

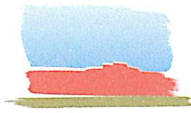
- 8.1 The Company does not elect, in terms of section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008.

### 9 **MEMBERS OF THE COMPANY**

- 9.1 Membership of the company is open to owners and bona fide purchasers purchasing from the developer of properties in the estate.
- 9.2 As contemplated in Item 4 (1) of Schedule 2 of the Act, the Company has members, who are all in a single class, being voting members, each of whom has an equal vote in any matter to be decided by the members of the Company.
- 9.3 The terms and conditions of membership in the Company are as set out below:

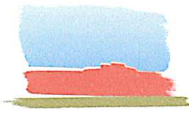
- 9.3.1 Subject to Article 2 membership of the company shall be limited to:





- 9.3.1.1 Any person who, in terms of the deeds Registries Act, is reflected in the records of the Deeds Office concerned as being the registered owner of any erf/stand in the township HOEDSPRUIT EXTENTION 12;
- 9.3.1.2 Any bona fide purchaser purchasing from the developer in terms of the draft sale agreement for as long as the sale agreement exists and which membership will terminate should the deed of sale be cancelled for any reason whatsoever;
- 9.3.2 Where any erf/stand in the township is owned by more than 1 (one) person, all the registered owners of that erf/stand shall together be deemed to be 1 (one) member of the Company and have the rights and obligations of 1 (one) member of the Company, provided however that all co-owners of any such erf shall be jointly and severally liable, the one to pay the other to be absolved for the due performance of any obligation to the Company and more especially the payment of the monthly levies due;
- 9.3.3 The property may not be sub-divided nor may any sectional title scheme, shareblock or any township development be registered over the property. Fractional Ownership of a stand whether through a undivided share or through a company, closed corporation, trust or any other type of legal persona or quasi legal persona must have pre-approval by ZEHOA and may not have more than 4 owners / members / shareholders / trustees / beneficiaries etc.. The property may not be consolidated without the written approval of the Zandspruit Estate Home Owners Association;
- 9.3.4 When a person becomes the registered owner of any erf in the township, he shall ipso facto become a member of the Company, and when he ceases to be the owner of any such erf he shall ipso facto cease to be a member of the Company;
- 9.3.5 Juristic persons and Trusts may also be members of the Company provided however that all directors or members or trustees of any such juristic person or trust, shall be jointly and severally liable, the one to pay the other to be absolved for the due performance of any obligation to the Company and more especially the payment of the monthly levy;
- 9.3.6 No member shall further let or otherwise part with occupation of any erf, whether temporarily or otherwise, unless he has agreed in writing with the proposed occupier of any such land as a stipulation alter in favour of the Company that such occupier shall be bound by all the terms and conditions of this Memorandum of Incorporation of the Company, and such written agreement is lodged with the Company prior to the proposed occupier taking occupation of the erf in question;
- 9.3.7 The Company shall maintain at its registered office a register of members of the Company as provided in Section 105 of the Act. The register of members shall be open to inspection as provided for in Section 113;
- 9.3.8 Each member has one voting right;
- 9.3.9 A member has the right to access and use the communal facilities on the company owned property, in accordance with the estate conduct rules;
- 9.3.10 A Registered owner of any erf in the scheme may not resign as a member of the Company;
- 9.3.11 A Member will cease to be a member if the member sells his/her property, and the transfer of ownership is transferred.
- 9.4 Membership fees and levies
- 9.4.1 Members are obliged to pay all amounts due to the company, as may be determined by the company in a general meeting, from time to time.
- 9.4.2 It is compulsory for every member excluding the developer, and the Company, to pay a





monthly levy to the Company for every portion of the estate registered into his name.

- 9.4.3 It is a specific rule that properties may not be consolidated without the expressed written permission of the Company, and even after having received permission to consolidate a levy will still be payable in respect of each of the original properties as it was before consolidation.
- 9.4.4 The Company may impose fines on members for breaching the rules of this MOI and add the fines to the levy account and will be payable immediately.
- 9.4.5 The monthly levies are due and payable in advance on/before the 1st day of each month.
- 9.4.6 The levy applicable to each type (zoned) of stand will be determined initially by the developer and indicated in the rules. When considering changes to the levies, the Company, will do so by applying the principle of dividing the expenditures amongst the members on a pro rata basis.
- 9.4.7 All and any invoices issued to members for electrical- and/or water supply and/or any other services rendered in terms of this MOI, will be regarded as levies and added to the members monthly levy account.
- 9.4.8 If there is any dispute regarding the measurement of supply of any service, the Company will be entitled to calculate an average consumption and issue an invoice to the member, which the member agrees to pay.

## **10 FAILURE TO PAY LEVIES**

- 10.1 No member shall (unless otherwise determined by the directors) be entitled to any of the privileges of membership until he shall have paid every levy and interest thereon and any other amount which may be due and payable by him to the company.
- 10.2 If a member fails to pay the monthly levy account:
  - 10.2.1 The member will deny him/her/itself access to the Estate. All members acknowledge that no member will have the right to access the estate without their levy accounts showing an up to date balance in the records of the Company;
  - 10.2.2 The whole of the outstanding amount will immediately become payable and claimable;
  - 10.2.3 The Company may immediately commence legal action against the member for recovery of the outstanding levy;
  - 10.2.4 The member will be responsible for the payment of all legal costs for commencement and completion of the said action on a scale as between attorney- and own client and collection commission;
  - 10.2.5 The member will further be held liable for any expenses incurred by the Company to collect the outstanding amount, inclusive of sending out demands or any other method used by the Company with regard to the collection of levies;
  - 10.2.6 The member will further be held liable for interest on the outstanding levy amount calculated at the credit card rate of the bankers of the Company from time to time;
  - 10.2.7 The members consent to the jurisdiction of the Magistrate's Court in any legal proceedings and it is the responsibility of the member to provide the Company with a physical address outside of the Estate to be used as his domicilium citandi et executandi failing which the members' erf/stand in the Estate will be regarded as the elected domicilium citandi et executandi for all notices or services to be aforementioned in this paragraph.

## **11 CONTRACTORS CAMP**

- 11.1 The property the Contractors Camp is situated on is intended to be owned by the Company. The Zandspruit Town Home Owners Association will however have a perpetual right of use of the Contractors Camp. The ZTHOA will not be liable to pay any rent for the use of the property but will be liable to contribute to the running cost and expenses relating to the Contractors Camp- i.e. security, personnel and extensions of infrastructure etc. The proportion of contributions will be determined by applying the principle of benefit and use and will be agreed upon by both parties on an on-going basis.

## **12 MEMBER'S AUTHORITY TO ACT**

- 12.1 If, at any time, every member of the Company is also a director of the Company, as contemplated in section 57 (4), 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 of Incorporation.

## **13 MEMBERS RIGHT TO INFORMATION**

- 13.1 In addition to the rights to access information set out in section 26 (1), a member of the Company has the further rights to information, as follows:
- 13.2 The company shall keep its accounting books and records at its office and, upon request of any member, shall grant the member, or its duly authorized representatives reasonable access to such books and records during normal business hours.

## **14 REPRESENTATION BY CONCURRENT PROXIES**

- 14.1 The right of a member of the Company to appoint persons concurrently as proxies, as set out in section 58(3)(a) is limited to one proxy.

## **15 AUTHORITY OF PROXY TO DELEGATE**

- 15.1 The authority of a member's proxy to delegate the proxy's powers to another member, as set out in section 58(3)(b) is not limited or restricted by the Memorandum of Incorporation.

## **16 REQUIREMENT TO DELIVER PROXY INSTRUMENT TO THE COMPANY**

- 16.1 The requirement that a member must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the member's rights at a members meeting, as set out in section 58(3) is not varied by this Memorandum of Incorporation.

## **17 DELIBERATIVE AUTHORITY OF PROXY**

- 17.1 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) is not limited or restricted by this Memorandum of Incorporation.
- 17.2 A member entitled to vote at a general meeting shall be entitled to appoint one other member or more than one member in the alternative to each other as his proxy / proxies to attend, speak and vote at a general meeting on his behalf.





## **18 RECORD DATE FOR EXERCISE OF MEMBERS RIGHTS**

- 18.1 If, at any time the Company's Board of Directors fails to determine a record date, as contemplated in section 59, the record date for the relevant matter is as determined in accordance with section 59 (3).

## **19 REQUIREMENT TO HOLD MEETINGS**

- 19.1 The Company is not required to hold any members meeting other than those specifically required by the Companies Act, 2008.
- 19.2 An Annual General Meeting is required within 6 (six) months of the date of each year-end of the Company in order to deal with the following matters:
- 19.2.1 Presentation of Annual Financial Statements;
  - 19.2.2 Re-appointment of Auditors (if applicable);
  - 19.2.3 Rotation of Directors and new appointments.

## **20 MEMBERS RIGHT TO REQUISITION A MEETING**

- 20.1 The right of members to requisition a meeting, as set out in section 61 (3), may be exercised by at least 10 (ten) percent % of the voting members entitled to be exercised in relation to the matter to be considered at the meeting, as provided for in that section.

## **21 LOCATION OF MEMBERS MEETINGS**

- 21.1 The authority of the Company's Board of Directors to determine the location of any members meeting, and the authority of the Company to hold any such meeting in the Republic or in any foreign country, as set out in section 61(9) is not limited or restricted by this MoI.

## **22 NOTICE OF MEETINGS**

- 22.1 The minimum number of days for the Company to deliver a notice of a members meeting to the members is 15 business days as provided in section 62 (1).

## **23 ELECTRONIC PARTICIPATION IN MEMBERS MEETINGS**

- 23.1 The authority of the Company to conduct a meeting entirely by electronic communication or by participation by certain members in a meeting by electronic communication is not limited or restricted by this Memorandum of Incorporation.

## **24 QUORUM OF MEMBERS MEETINGS**

- 24.1 The quorum requirement for a members meeting to begin, or for a matter to be considered shall be 10 (ten percent) % of members which shall be present or by proxy.
- 24.2 If, within 15 minutes after the appointed time for a meeting to begin, the requirements set:
- 24.2.1 For that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for 1 (one) week;
  - 24.2.2 For consideration of a particular matter to begin, to a later time in the meeting without motion to vote; or





24.3 The person intended to preside at a meeting that cannot begin, may attend the one hour limit allowed for a reasonable period on the grounds that:

24.3.1 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

24.3.2 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.

24.4 The maximum period allowable for an adjournment of a members meeting is 21 days.

24.5 The Company must within 3 days after the adjournment publish a notice in a newspaper circulating in the province where the registered office of the Company is situated stating the date, time and place to which the said meeting has been adjourned.

24.6 If at any adjourned meeting a quorum is not present within 15 minutes from the appointment time of such meeting to commence, the members who are present or represented by a proxy and entitled to vote shall constitute a quorum and may proceed to transact the business of the meeting.

24.7 The authority of a meeting to consider a matter, as set out in Section 64(9) is not limited or restricted by this Memorandum of Incorporation.

## **25 MEMBERS RESOLUTIONS**

25.1 For an ordinary resolution to be adopted at a members meeting, it must be supported by at least 60 (sixty) % of the members who voted on the resolution, as provided in section 65 (7).

25.2 Special resolutions shall require approval at a members meeting of 75% of voting rights present at such meeting, or by written approval of 75 (seventy five) % of members entitled to attend and vote at such a meeting.

25.3 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) or elsewhere in the Act.

25.4 For a minimum period of 6 (six) years after date of DFA development approval and thereafter until such time as at least 30 (thirty) % of all the residential properties have completed residential buildings, the developer will have the power to terminate any resolutions that it feels are in conflict with its interest but cannot force through its own decisions. The purpose of this special power is to protect the proper administration of the development and the interest of the developer without giving the developer executive powers.

## **26 CHAIRPERSON OF MEETING**

26.1 The chairperson, if any, of the board shall preside as chairperson at every members meeting but if there is not such chairperson, or if at any meeting he or she is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the directors present shall choose one of their number to be chairperson. If no director is willing to act as chairperson, the members present shall choose one of their number to be chairperson of the meeting.

26.2 In the case of a tied vote, the chair may cast a deciding vote.



## **27 VOTING OF MEMBERS**

- 27.1 Subject to any special rights or restrictions as to voting by members by or in accordance with this memorandum, at a meeting of the company:
- 27.1.1 Every person present and entitled to exercise voting rights shall be entitled to vote on a show of hands, irrespective of the number of voting rights that person would otherwise be entitled to exercise; and
- 27.1.2 On a poll any person who is present at the meeting, whether as a member or as proxy for a member, has the number of votes determined in accordance with the voting rights held by that member.
- 28.2. Voting shall be conducted by means of a polled vote in respect of any matter to be voted on at a meeting of members if a demand is made for such a vote by:
- 28.2.1 At least 5 (five) persons having the right to vote on that matter, either as members or as proxies representing members; or
- 28.2.2 A person who is, or persons who together are, entitled, as members or proxies representing members, to exercise at least 10 (ten) % voting rights entitled to be voted on that matter; or
- 28.2.3 The chairperson of the meeting.
- 28.3 At any meeting of the company a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of 28.1 above, and unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or defeated, and an entry to that effect in the book containing the minutes of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
- 28.4 If a poll is duly demanded, it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll, regard shall be had to the number of votes to which each member is entitled.
- 28.5 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 28.6 Where two or more owners are regarded as one member, they shall be counted as one member for determining whether a quorum is present and may only exercise one vote between them at meetings of the company, irrespective of whether voting takes place by show of hands or by poll. If more than one of such joint holders is present at any meeting, personally or by proxy, the person so present whose name stands first in the membership register shall alone be entitled to vote.
- 28.7 The board of any company or the controlling body of any other entity or person that is a member of the company may authorise any other member to act as its representative at any meeting of members of the company, in which event the following provisions will apply:
- 28.7.1 The member so authorised may exercise the same powers of the authorizing company, entity or person as it could have exercised if it were an individual member;
- 28.7.2 The authorizing company, entity or person shall lodge a resolution of the directors of such company or controlling body of such other entity or person confirming the granting of such authority, and certified under the hand of the chairperson or secretary thereof, with





the company before the commencement of any members meeting at which such member intends to exercise any rights of such member, unless excused from doing so by the chairperson of such meeting.

## **29 COMPOSITION OF THE BOARD OF DIRECTORS**

- 29.1 The Board of Directors of the Company comprising of at least 3 (three) members and no more than 7 (seven) of whom is to be elected as directors:
- 29.1.1 By ordinary resolution of the members; and
- 29.1.2 Serves for an indefinite term until resigned, deceased or removed by the members by ordinary resolution of the members;
- 29.2 For a minimum period of 6 (six) years after date of DFA development approval and thereafter until such time as at least 30 (thirty) % of all the residential properties have completed residential buildings on, one seat on the board of directors will be reserved for the developer. The developer will have the power to terminate decisions that it feels are in conflict with its interest but cannot force through its own decisions. The purpose of this special power is to protect the proper administration of the development and the interest of the developer without giving the developer executive powers.
- 29.3 In addition to the appointed directors there are no ex officio directors of the Company, as contemplated in section 66(4)(a).
- 29.4 Each appointed director of the company serves his appointment until the annual general meeting next following his appointment, at which meeting at least one third of the directors shall be deemed to have retired from office, but shall be eligible for re-election to the Board of Directors of such meeting.
- 29.5 A Director shall be deemed to have vacated his office upon:
- 29.5.1 His having become disqualified to act as a director in terms of the provisions of the act;
- 29.5.2 His being removed from office as provided in section 70 of the Companies Act, 2008;
- 29.5.3 In the event of his being a member of the Company, his being disentitled to exercise a vote;
- 29.5.4 Upon any vacancy occurring in the Board of Directors prior to the next annual general meeting, the vacancy in question shall be filled by a person nominated by the remaining directors for the time being in office.

## **30 AUTHORITY OF THE BOARD OF DIRECTORS**

- 30.1 The authority of the Company's Board of Directors to manage and direct the business and affairs of the Company as set out in section 66 (1) is not limited or restricted by this Memorandum of Incorporation.

## **31 DIRECTORS MEETINGS**

- 31.1 The quorum required for a Director's Meeting to make decisions is 50 (fifty) %.
- 31.2 Each Director shall have one vote on any matter raised at a Directors meeting, and a majority of the votes on any Resolution are required to approve such Resolution.



- 31.3 The authority of the Company's Board of Directors to consider a matter other than at a meeting, as set out in section 74 is not limited or restricted by this Memorandum of Incorporation.
- 31.4 The right of the Company's Directors to requisition a meeting of the Board, as set out in section 73 (1), may be exercised by at least 25% of the directors, as provided in that section.
- 31.5 The authority of the Company's Board of Directors 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) is not limited or restricted by this Memorandum of Incorporation
- 31.6 The authority of the Company's Board of Directors to determine the manner and form of providing notice of its meetings, as set out in section 73 (4) is not limited or restricted by this Memorandum of Incorporation
- 31.7 The authority of the Company's Board of Directors to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73 (5) is not limited or restricted by this Memorandum of Incorporation
- 31.8 The quorum requirement for a directors meeting to begin, the voting rights at such a meeting and the requirements for approval of a resolution at such a meeting, are as set out in section 73 (5).

## **32 INDEMNIFICATION OF DIRECTORS**

- 32.1 The authority of the Company's Board of Directors to advance expenses to a director, or indemnify a director, in respect of defence of legal proceedings, as set out in section 78 (3) is not limited or restricted by this Memorandum of Incorporation.
- 32.2 The authority of the Company's Board of Directors to indemnify a director in respect of liability, as set out in section 78 (5) is not limited or restricted by this Memorandum of Incorporation.
- 32.3 The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in section 78 (7) is not limited or restricted by this Memorandum of Incorporation.

## **33 DIRECTORS' COMPENSATION**

- 33.1 This memorandum does not limit, restrict or qualify the power of the company to pay remuneration to its directors for their service as directors as reasonable compensation for services rendered to the company in accordance with section 1(3) of Schedule 1 (Companies act 71 of 2008).

## **34 OFFICERS AND COMMITTEES**

- 34.1 The Board of Directors may appoint any officers it considers necessary to better achieve the objects of the Company.
- 34.2 The authority of the Company's Board of Directors to appoint committees of directors, and to delegate to any such committee any of the authority of the Board as set out in section 72 (1), or to include in any such committee persons who are not directors, as set out in section 73 (2) (a) is not limited or restricted by this Memorandum of Incorporation.
- 34.3 The authority of a committee appointed by the Company's Board, as set out in section 72 (2) (b) and (c) is not limited or restricted by this Memorandum of Incorporation.