



Waterfall

• COUNTRY LIFESTYLE ESTATE •



Waterfall

• COUNTRY LIFESTYLE VILLAGE •

WATERFALL COUNTRY ESTATE HOME OWNERS ASSOCIATION

CONDUCT RULES

TABLE OF CONTENTS

1. INTERPRETATION	3
2. INTRODUCTION.....	5
3. TRAFFIC AND VEHICLES	5
4. LANDSCAPING	6
5. MAINTENANCE	7
6. SECURITY AND FIREARMS	7
7. NOISE AND NUISANCE.....	8
8. PETS.....	9
9. SLAUGHTERING OF ANIMALS PROHIBITED.....	10
10. REFUSE.....	10
11. RECREATIONAL FACILITIES.....	10
12. USE OF STANDS.....	11
13. SERVICE PROVIDERS.....	12
14. PLAN APPROVAL.....	12
15. CONSTRUCTION	13
16. ALIENATION	16
17. LEVIES	17
18. APPROVALS	18
19. BOARD DETERMINATION FINAL AND BINDING.....	18
20. CHANGES TO RULES	18
21. SERVICE PROVIDERS.....	18

WATERFALL COUNTRY ESTATE HOME OWNERS ASSOCIATION

CONDUCT RULES

(In terms of Article 9 of the Articles) adopted at a meeting of Directors held on 3 July 2009

1. INTERPRETATION

1.1 In these Rules, unless inconsistent with or otherwise indicated by the context -

1.1.1 “**Articles**” means the Articles of Association of the Association;

1.1.2 “**Association**” means the Waterfall Country Estate Home Owners Association (association incorporated under Section 21), registration number 2009/012918/08;

1.1.3 “**Aesthetics Committee**” means the aesthetics committee appointed by the Board and which shall have such powers and functions as may be assigned to it by the Board;

1.1.4 “**Board**” means the board of Directors of the Association as constituted from time to time;

1.1.5 “**Directors**” means the directors of the Association from time to time;

1.1.6 “**End-User Lease**” means a lease between Propco (as lessor) and a Member (as lessee) in respect of a Stand or Unit whether or not such lease was entered into in the first instance with the Member as lessee, or was subsequently assigned to the Member as lessee;

- 1.1.7 “**Estate**” means both Waterfall Country Estate and Waterfall Country Village;
- 1.1.8 “**Member**” means a lessee of a Stand in terms of an End-User Lease and who is (and is required to be) a member of the Association;
- 1.1.9 “**Propco**” means Waterfall WUQF Properties (Proprietary) Limited, registration number 2004/013493/07 the name of which is in the course of being changed to Waterfall Country Estate WUQF (Proprietary) Limited, the owner of the Land on which the Estate is situated;
- 1.1.10 “**Resident**” means a person who permanently resides in a Unit, whether or not that person is a Member;
- 1.1.11 “**Rules**” means these conduct rules;
- 1.1.12 “**Stand**” means a residential stand forming part of the Estate whether or not a Unit has been erected thereon;
- 1.1.13 “**Visitor**” means any person entering upon the Estate by invitation from a Member or a Resident, whether as a guest, contractor or other invitee;
- 1.1.14 “**Unit**” means a residential unit (whether free standing or high density).
- 1.2 Clause headings are for reference purposes only and will not be taken into account in the interpretation of these Rules.

1.3 Reference to any one gender, whether masculine, feminine or neuter, includes the other genders.

1.4 A reference to the singular includes the plural and vice versa.

2. INTRODUCTION

2.1 These Rules are made by the Directors in terms of the Articles.

2.2 These Rules are binding on all Members, Residents and their Visitors. Residents are responsible for the conduct of their Visitors. Any breach of these Rules by a Visitor or Resident who is not a Member, will be attributed to the relevant Member who will be held responsible for such breach.

2.3 These Rules are made in accordance with, and supplement, the Articles and the End-User Leases.

2.4 These Rules will be enforced by the Board. Any infringement of these Rules may result in the offender being penalised with a fine or such other sanction as may be deemed appropriate by the Board and as more fully provided for in the Articles.

3. TRAFFIC AND VEHICLES

3.1 A speed limit of 40 kilometres per hour applies within the Estate and must be adhered to.

3.2 Vehicles must be parked in areas specifically designated for that purpose. Particularly vehicles may not be parked on sidewalks and/or in no parking

zones. Notwithstanding the foregoing vehicles may, with the prior permission of the Board, be parked on sidewalks on an occasional basis if and when a Resident hosts a social event with a large number of guests, provided that no foliage may be damaged.

3.3 Excessive revving of vehicles is not prohibited.

3.4 All traffic signs must be strictly obeyed.

3.5 No quad bikes or motorcycles may be ridden on footpaths and/or within the Estate generally except when travelling between a Stand and the main entrance to the Estate for purposes of entering or exiting the Estate.

3.6 No vehicles may be repaired or maintained on or about the Estate provided that normal washing of vehicles is permitted.

4. **LANDSCAPING**

4.1 No landscaping features on the Estate (whether on sidewalks or elsewhere) may be removed or altered without the prior written consent of the Board. Damage to curbs, traffic signs, lampposts, and other road markings (whether by Members, Residents or visitors) will be for the account of the relevant Member.

4.2 No Member or Resident may undertake any landscaping on or about the Estate except on the Stand on which the Unit occupied by such Member is located.

4.3 No Member or Resident shall permit the growth of any noxious and/or alien vegetation other than with the prior written consent of the Board.

- 4.4 No garden fences, walls, screen walls and/or similar features may be installed by Residents without the prior Written consent of the Aesthetics Committee.

5. MAINTENANCE

- 5.1 Residents must maintain their Stands (including vacant Stands and sidewalks) in a clean, neat and tidy condition to the reasonable satisfaction of the Board having regard generally to the high standard of maintenance applied throughout the Estate.

- 5.2 All garden fences, walls, screen walls and similar features installed by Residents must be maintained by them in a neat and serviceable order and condition.

- 5.3 Failure to affect any necessary maintenance will entitle the Board and/or the Association to affect the necessary maintenance and to claim the cost thereof from the Member or Resident concerned.

6. SECURITY AND FIREARMS

- 6.1 Residents must comply with all security measures from time to time implemented by the Association.

- 6.2 Garage doors must be kept closed at all times except whilst in operation.

- 6.3 Insofar reasonably possible Visitors must at all times be accompanied by a Resident.

- 6.4 All Visitors shall be required to sign such register of Visitors as may be provided by the Association from time to time. In addition Visitors will be

required to sign a waiver of claims and indemnity against liability in such form as may be required by the Association.

6.5 No firearms, crossbows and similar weapons may be discharged on the Estate except for bona fide purposes of self defence.

6.6 Burglar alarms are to be of a non-audible nature and must be fitted by a security contractor approved by the Board and be connected to the central monitoring system provided.

6.7 Every domestic worker must, prior to being engaged, be registered by the Resident concerned with the Association's security department and be issued with a proximity disk for access and with an identity card. When a domestic worker is discharged the Resident concerned must immediately inform the Association in order that the proximity disk for access is cancelled.

6.8 No private "night watchmen" are permitted provided that Residents make use of private security officers employed by security companies approved by the Association.

7. **NOISE AND NUISANCE**

7.1 Members and Residents may not create any nuisance or disturbance (whether through noise, odours, or any other manner howsoever) on or about the Estate.

7.2 Without limiting the generality of 7.1 –

7.2.1 no fireworks may be discharged on or about the Estate;

7.2.2 the use of petrol driven lawnmowers is prohibited on weekends and public holidays;

7.2.3 no hobby or other activity is permitted which will create nuisance or disturbance (whether through noise or otherwise) to other Residents. Without limiting the generality of the foregoing power driven tools which create an excessive noise are prohibited.

7.3 The privacy of all Residents must be respected.

8. **PETS**

8.1 All pets must wear a collar with tag indicating the name, telephone number and address of the owner. Pets must be kept on a leash whilst on common areas and may under no circumstances be allowed to swim in dams or other water features.

8.2 Pet litter (droppings) must be immediately removed and suitably disposed of. "Poop-Scoops" (or other suitable equipment) and litter bags must be carried whilst walking dogs on or about common areas forming part of the Estate.

8.3 No pets which create a disturbance (whether through excessive barking or other conduct) are permitted.

8.4 Owners of pets must ensure that they do not cause a nuisance or disturbance to other residents and that cyclists, walkers, joggers, pedestrians and other pets are not attacked or harassed.

8.5 Pit Bull Terriers are specifically prohibited.

8.6 Where necessary suitable fencing or other restraining measures approved by the Board must be installed to contain pets.

8.7 The Board may require animals and pets which it in its sole and absolute discretion considers to be dangerous and/or undesirable and/or a nuisance to be removed from the Estate.

9. **SLAUGHTERING OF ANIMALS PROHIBITED**

The slaughtering of animals, whether for religious, sacrificial, cultural or other purposes on or about the Estate is expressly prohibited.

10. **REFUSE**

10.1 Refuse must be disposed of in appropriate closed refuse containers which must be stored in such locations as are demarcated for that purpose. All refuse must be separated into separate containers for recycling purposes.

10.2 Refuse may not be dumped on streets or elsewhere in the Estate. The burning of refuse is not permitted.

10.3 Refuse containers may be placed on streets only for collection purposes on days designated for such collection, and must be returned to the demarcated areas immediately after the refuse has been removed.

11. **RECREATIONAL FACILITIES**

11.1 All amenities and recreational facilities forming part of the Estate shall be used at the sole risk of the user. The Association (nor its Directors and other representatives) will not be liable for any injury, loss or damage suffered arising from the use of any such amenities and/or facilities.

- 11.2 The use of amenities and recreational facilities is restricted to Residents and (where permitted) their Visitors. All Visitors must be accompanied by a Resident when using any amenities and/or recreational facilities forming part of the Estate.
- 11.3 Children who have not yet attained the age of 14 (fourteen) years must be accompanied by an adult Resident when using any of the amenities and/or recreational facilities forming part of the Estate.
- 11.4 Smoking is not permitted in any recreational building and/or any other building which is intended for the shared use of all Residents and their visitors, except in areas specifically designated for that purpose.
- 11.5 Roller skating, rollerblading, skateboarding and cycling are not permitted on any of the hard surfaced walkways or other areas on or about the Estate that have not been specifically designated for that purpose, including in or around any recreational building.

12. USE OF STANDS

- 12.1 Stands may be used for private residential purposes only. No business activity of any nature may be conducted from a Stand and/or a Unit without the prior written approval of the Board.
- 12.2 No Unit may be occupied by more than 1 (one) family.
- 12.3 No commercial farming activity is permitted.
- 12.4 No public auction may be held on or about the Estate (whether from a Unit or otherwise) without the prior written approval of the Board.

- 12.5 No quarrying and/or mining activities of any nature are permitted on Stands.
- 12.6 No individual DSTV dishes or similar installations are permitted.
- 12.7 All yards and washing lines must be screened in such a manner that they are not visible from streets, the trim park and/or other Stands.
- 12.8 No private cemeteries are permitted.
- 12.9 No Stand may be subdivided and no application for the rezoning of a Stand may be brought without the prior written approval of the Board.

13. **SERVICE PROVIDERS**

The provision of services in respect of waste management, waste removal, sanitation, security and broadband electronic communication and digital television services will be provided by such service providers as are appointed by Propco (or its nominee) from time to time which will endeavour to ensure that such services are of a reasonable and acceptable standard and are provided at a reasonable and acceptable cost. The services of other service providers may not be used.

14. **PLAN APPROVAL**

No building or other structure may be erected on a Stand unless plans for such building or other structure have been approved in writing by the Aesthetics Committee.

15. CONSTRUCTION

- 15.1 Construction of Units must be commenced with within 24 (twenty four) months after the first registration (“**registration date**”) of an End-User Lease between Propco and the Member concerned, and must be completed within 24 (twenty four) months after commencement, failing which penalties as set out hereunder will become payable. All such penalties shall accrue to the Developer as to 50% (fifty percent) thereof and to the Association as to the balance as part of a levy stabilisation fund. If construction is completed –
- 15.1.1 later than 48 (forty eight) months but earlier than 72 (seventy two) after the registration date then the penalty will be the sum of R5 000.00 for every month (or part thereof) that the Unit is completed late; and
- 15.1.2 later than 72 (seventy two) months after the registration date then the penalty will increase to R10 000.00 for every additional month (or part thereof) that construction is completed late.
- 15.2 All existing trees which do not interfere with proposed structures must be protected during construction. The Association may levy fines if existing trees are damaged unnecessarily. Existing trees may be removed only with the prior written consent of the Board.
- 15.3 All contractors must provide the Association with the names of all construction workers and other employees to be engaged in construction activities on the Estate. Only construction workers that have been registered and have been issued with an approved identity card may be engaged.

- 15.4 Only building contractors who are –
- 15.4.1 registered with the Master Builders and Allied Trades Association and the National Home Builders Registration Council; and
- 15.4.2 approved by the Association and the Aesthetics Committee.
- may be engaged.
- 15.5 Prior to commencement of construction Members must pay the sum of R15 000.00 to the Association as security for any damage that may be caused to curbs, roads, pavements and landscaping during construction. Upon completion of construction and provided no damage has occurred the sum of R5 000.00 will be refunded to the Member concerned. The balance of R10 000.00 will be retained by the Association as part of a road rehabilitation fund.
- 15.6 A temporary site hut or outbuilding for materials and supplies may be erected during construction activities, but must be removed immediately after practical completion. Such hut or outbuilding must be approved by the Board. No caravans are allowed.
- 15.7 Each Member must endeavour to minimise dust, noise and effluent during construction.
- 15.8 All rubble and waste must be removed without delay. Such waste management company as is appointed by Propco (or its nominee) must be contracted to provide a container or “skip” for the removal of construction rubble and waste.
- 15.9 Construction activities will be permitted only during the following hours –

- 06h30 to 18h00 on normal weekdays
- 07h00 to 13h00 on Saturdays
- no construction activities are allowed on Sundays and public holidays.

15.10 Construction activities may be undertaken outside of the hours referred to in 15.9 only with the prior written consent of the Board. Application for such consent must be submitted to the Association at least 1 (one) week prior to the date in respect of which consent is required.

15.11 All construction workers must enter the site in an approved vehicle with a temporary access token. No construction workers are permitted to walk on the Estate other than is reasonably necessary for construction activities.

15.12 No building materials and/or rubble or waste may be stored or dumped on sidewalks.

15.13 All deliveries of supplies may take place only during normal construction hours and must be through the service entrance.

15.14 Contractors must provide at least 1 (one) chemical toilet per stand for the entire duration of construction activities and may not connect into the sewer system.

15.15 Contractors who do not comply with these Rules will be denied access to the Estate and neither the Member nor the contractor concerned will have any recourse against the Association.

15.16 Construction workers must leave the Estate immediately after the permitted hours for construction and may not sleep overnight on the Estate.

15.17 Except for normal builders holidays, once construction activities have commenced they must be completed without delay and may not be interrupted or suspended for more than 7 (seven) consecutive days.

15.18 Upon completion of construction –

15.18.1 all curbs, roads, pavements, landscaping and other infrastructure of whatever nature damaged during the course of construction must be repaired and made good by the Member concerned to the satisfaction of the Board;

15.18.2 all building boards must be removed within 7 (seven) days after practical completion; and

15.18.3 all rubble and unused building materials must be removed within 7 (seven) days after practical completion.

16. **ALIENATION**

16.1 No End-User Lease may be assigned to any third party (“**Assignee**”) unless –

16.1.1 the Assignee has agreed in writing to be and become a member of the Association upon the assignment of the End-User Lease to it and to remain a member of the Association for so long as it remains a lessee of a Unit or Stand in terms of the End-User Lease concerned; and

16.1.2 a certificate has been issued by the Board to the effect that all levies and other amounts payable to the Association in respect of the relevant Unit or Stand have be paid and are up to date and that provision for the payment of such levies has been made to the satisfaction of the Board for a period of 3 (three) months following the date of such certificate; and

16.1.3 a certificate has been issued by Propco to the effect that all levies and other amounts payable to Propco in respect of the relevant Unit or Stand have been paid and are up to date and that provision for the payment of such levies have been made to the satisfaction of Propco for a period of 3 (three) months following the date of such certificate.

16.2 The assignment of an End-User Lease to an Assignee will ipso facto constitute that Assignee as a Member of the Association;

16.3 If a Member is a company or other corporate entity then any change of in control of that company or other corporate entity will constitute an assignment for all purposes of this Rule 16.

17. **LEVIES**

17.1 All levies owing to the Association are payable monthly in advance by not later than the first day of each and every month.

17.2 Levies that are not paid promptly on due date for payment will bear interest at 3 (three) percentage points above the prime rate of interest from time to time charged by the Association's bankers to its major corporate clients in respect of overdraft advances. In addition to such interest the Board may levy an administration fee of R500.00.

- 17.3 Members shall not be entitled to withhold payment of levies payable to the Association for any reason (including and without limiting the generality of the foregoing by reason of any alleged failure by the Association to provide any services) and shall not be entitled to apply set-off.

18. **APPROVALS**

Any approval required from Propco and/or the Board in terms of these Rules may be withheld by Propco and/or the Board at their sole and absolute discretion and they will not be obliged to give reasons for such refusal.

19. **BOARD DETERMINATION FINAL AND BINDING**

Any determination of the Board relating to or arising from these Rules (including any determination regarding the interpretation and/or implementation of these Rules) shall be final and binding on Members and Residents and shall not be subject to dispute by them.

20. **CHANGES TO RULES**

These Rules may not be amended or changed in any manner howsoever without the prior written consent of Propco.

21. **SERVICE PROVIDERS**

- 21.1 Members are required to procure that their contractors enter into agreements with Cosmos Building Supplies (Proprietary) Limited or any other company nominated by Propco in terms of whereof all building materials will exclusively be supplied for purposes of constructing any improvements or infrastructure on a Stand (or if applicable on a Unit)

subject thereto that the building materials are made available by the said company on competitive sale terms, including timeous delivery, availability and that the pricing is competitive and market related or better.

21.2 Broad based services shall be provided by Smart Village (Proprietary) Limited (provided such services are of a reasonable and acceptable standard in all the circumstances) and for the purposes of this clause “*multi-media*” and “*broad band based services*” shall include voice (internal and external) services, data, internet) services, video services (including video on demand and television programs when available) and fibre optic networks and design implementation, operation and maintenance of the infrastructure required to provide such services.

21.3 All indigenous plants and trees to be used for the development will be acquired from a plant nursery to be established by Witwatersrand Estates Limited and/or the Waterval Islamic Institute on part of RE Portion 1 of the farm Waterval No. 5 (being the farm on portion on which the Estate is located) (“**the Farm**”) provided that such nurseries sale terms are competitive including timeous delivery, availability and that the pricing is competitive and market related or better.

21.4 All providers of security services (including the supply and installation of security equipment) in respect of the Estate shall be provided by service providers appointed by Propco at the instance of Waterfall Golf Estate (Proprietary) Limited (the developer) (provided that such services shall be of reasonable and acceptable standard in the circumstances and after a consideration of the providers of security services to other developments on the Farm, subject to pricing and service being market related.

REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 1973 AS AMENDED

ARTICLES OF ASSOCIATION
OF AN ASSOCIATION NOT HAVING A SHARE CAPITAL
(Section 60(1); Regulation 18)
(Association Incorporated under Section 21)

Registration Number of Association:

2009/012918/08

Name of Association:

WATERFALL COUNTRY ESTATE HOME OWNERS ASSOCIATION
(Association Incorporated under Section 21)

- A. The Articles of Table B contained in Schedule 1 of the Companies Act, 1973, as amended shall not apply to the Association.
- B. The Articles of Association are as follows:

INTERPRETATION

1.1 Definitions

In these Articles, and, unless the context requires otherwise, the following words and expressions shall have the meanings assigned to them hereunder -

- | | | |
|-------|-------------------------------|--|
| 1.1.1 | “the Act” | means the Companies Act, No 61 of 1973 as amended from time to time; |
| 1.1.2 | “Aesthetics Committee” | means the Aesthetics Committee to be appointed by the Developer and which shall have such powers and functions as may be assigned to it by the Developer; |
| 1.1.3 | “Alienate” | in relation to Leasehold Rights means to assign the End-User Lease in terms of which the relevant Stand or Unit is occupied, to any third party; |
| 1.1.4 | “Articles” | means the Articles of Association for the time being of the Association; |
| 1.1.5 | “Association” | means the Waterfall Country Estate Home Owners Association (association incorporated under Section 21); |
| 1.1.6 | “Common Facilities” | means all facilities which form part of the Estate and which are intended for the shared use of all Home Owners (and their invitees) in the Estate which may include all or any of a clubhouse, restaurants, gymnasium and/or fitness centre including such additional facilities as the Developer and/or Propco and/or the Association may determine from time to time, and includes the Common Properties; |

- 1.1.7 **“Common Properties”** means those Stands or Units and other areas forming part of the Estate comprising a trim trail, road servitudes and a park, all of which are intended for the shared use of all Home Owners including their invitees;
- 1.1.8 **“Developer”** means Waterfall Golf Estate (Proprietary) Limited, registration number 2004/034615/07, a company with limited liability duly incorporated according to the laws of the Republic of South Africa, and includes its successors in title;
- 1.1.9 **“Development Agreement”** means the agreement entitled “Construction and Development Lease Agreement” entered into between Propco, the Developer and others in respect of the Land and in terms of which the Developer is entitled to develop the Estate on the Land, and includes all addenda thereto;
- 1.1.10 **“Development Period”** means the period commencing on the date of registration of the Association and terminating on the date on which the Developer ceases to have any rights in terms of the Development Agreement or the date on which the Developer gives written notice to the Association that the Development Period has terminated, whichever is the earlier;
- 1.1.11 **“Directors”** means the directors of the Association for the time being;
- 1.1.12 **“End-User Lease”** means a lease between Propco and a Lessee in respect of a Stand or Unit;
- 1.1.13 **“Estate”** means both Waterfall Country Estate and Waterfall Country Village to be established in separate and distinct phases on the Land;

1.1.14	“Home Owner”	means a Lessee in terms of an End-User Lease;
1.1.15	“Land”	means those portions of the farm Waterval on which the estate is located;
1.1.16	“Leasehold Rights”	means the rights of a Home Owner as Lessee in terms of an End-User Lease;
1.1.17	“Lessee”	in relation to an End-User Lease, means the Person to whom the Stand or Unit concerned is leased;
1.1.18	“Local Authority”	means the Local Authority having jurisdiction over the Land;
1.1.19	“Manager”	means the Person appointed by the Association, from time to time, to undertake the management of the Estate;
1.1.20	“Member”	means a Member of the Association as referred to in 2;
1.1.21	“Memorandum”	means the Memorandum of Association from time being of the Association;
1.1.22	“Office”	means the registered office of the Association;
1.1.23	“Person”	means any person, company, close corporation, trust, partnership or other entity whether or not having separate legal personality;
1.1.24	“Propco”	means Waterfall Properties WUQF (Proprietary) Limited, registration number 2004/013493/07 the name of which is in the course of being changed to Waterfall Country Estate WUQF (Proprietary) Limited , a company with limited liability duly incorporated according to the laws of the Republic of South Africa or its successor as

- registered owner of the Land;
- 1.1.25 **“Rules”** means rules made by the Directors in terms of 9;
- 1.1.26 **“Services”** means the supply of water, sewerage, refuse removal, electricity telecommunications, television cables, security, maintenance of common property, garden maintenance and such other utilities or services including the cleaning of the Jukskei River as are provided by the Association or any other supplier of services to the Estate, from time to time;
- 1.1.27 **“Stand”** means a residential Stand (whether or not a Unit has been erected thereon) forming part of the Estate;
- 1.1.28 **“Unit”** means a residential Unit (whether free standing and/or high density);
- 1.2 Words and expressions used and not otherwise defined in these Articles shall have the meaning assigned to them by the Act.
- 1.3 Words importing the singular shall include the plural, and words importing the masculine, feminine and neuter shall include the others of such genders; and words importing Persons shall include Bodies Corporate, and vice versa in each instance.
- 1.4 The heading above any of the Articles is intended for reference purposes only and shall not influence the interpretation of the Articles.

2. **MEMBERSHIP**

2.1 **Membership of Association**

- 2.1.1 Membership of the Association shall be obligatory for a Home Owner.
- 2.1.2 Upon a Person becoming a Home Owner that Person shall automatically be and become a Member of the Association and shall remain a Member of the Association until he ceases to be a Home Owner.
- 2.1.3 A Home Owner may by written notice to the Association nominate any occupant of a Stand or Unit to represent it in all matters relating to the Association.
- 2.1.4 If a Home Owner comprises more than 1 (one) Person such Persons shall nominate one of them to be the Member for purposes of these Articles provided that the joint owners shall be bound by these Articles as if they were Members. Such nomination shall be made in writing to the Association within 7 (seven) days of such joint owners becoming Home Owners.
- 2.1.5 A Member may not resign as a Member of the Association for so long as he remains a Home Owner.
- 2.1.6 The following Persons shall be the first Members of the Association –
- 2.1.6.1 Propco (represented by Ibrahim Mia or if he should fail to act for any reason, any other person nominated by Propco);

- 2.1.6.2 Hugo Jacobus Mocke;
- 2.1.6.3 the Developer;
- 2.1.6.4 Werner Rudolph van Rhyn;
- 2.1.6.5 Robin Clive Emett;
- 2.1.6.6 Mark Arthur Corbett; and
- 2.1.6.7 Marius Bernard Werth.

2.2 **Admission of Members**

The right to determine admission to membership of a proposed Member shall vest in the Directors. The Directors shall not refuse any application for membership of a Person or entity who is required to be a Member and/or who automatically becomes a Member in terms of these Articles.

2.3 **Rights of Members**

2.3.1 Subject to the rights of membership as prescribed by the Act, membership of the Association shall confer upon Members, unless otherwise stipulated, the following rights -

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

2.3.1.2 the right to vote, either personally or by proxy, at all

general meetings of the Association in accordance with and subject to the provisions of these Articles;

2.3.1.3 the right to receive notices of, attend and speak at all general meetings of the Association, whether ordinary or extra-ordinary, in accordance with the provisions of these Articles;

2.3.1.4 should Members holding between them, in aggregate, not less than 25% (twenty five percent) of the voting rights in the Association, collectively so decide, the right to convene a general meeting.

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

2.4 **Cessation of Membership**

2.4.1 Membership of the Association shall cease -

2.4.1.1 upon a Member ceasing to qualify for membership in accordance with 2.1;

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

2.4.1.3 upon the death of a Member, or upon the Member being declared insane or incapable of managing his affairs.

2.4.2 If a Member ceases to be a Member in terms of 2.4.1.2 or 2.4.1.3 the trustee or liquidator or other legal representative (as the case may be) of such Member shall, for all purposes, be recognised and be bound as the Member under these Articles.

2.5 **Certificates**

Subject to the provisions of the Act, certificates of membership may be issued under the authority of the Directors in such manner and form as the Directors may determine from time to time.

2.6 **Register of Members**

The Association shall maintain at its Office a register of Members as provided in Section 105 of the Act. The register of Members shall be open to inspection as provided for in Section 113 of the Act.

3. **GENERAL MEETINGS**

3.1 **Annual General Meeting**

The Association shall hold a general meeting in every year as its annual general meeting on such date and at such time and place as may be determined by the Directors, and shall specify the meeting as such in the notice calling it, provided however that the annual general meeting shall be held not later than 6 (six) months after the end of each financial year of the Association, and provided further that not more than fifteen months shall elapse after the holding of the last preceding annual general meeting.

3.2 **Notice of General Meeting**

The annual general meeting and any meeting called for the passing of a Special Resolution shall be called by not less than 21 (twenty one) clear days notice in writing and any other general meeting shall be called by not less than 14 (fourteen) clear days notice in writing. The notice shall be exclusive of the day on which it was given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Association in general meeting, to such Persons as are, under these Articles, entitled to receive such notices from the Association. Provided that a meeting of the Association shall, notwithstanding the fact that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed by all the Members having a right to attend the meeting.

3.3 **Proceedings at General Meetings**

3.3.1 **Business**

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

3.3.2 **Quorum**

3.3.2.1 Subject to 3.3.2.4, a quorum for-

3.3.2.1.1 a general meeting shall be 3 (three) Members entitled to vote, personally present, and if a Member is a body corporate, represented;

3.3.2.1.2 a general meeting called for the passing of a Special Resolution, Members holding between them, in aggregate, not less than 25% (twenty five percent) of the voting rights in the Association, present, in Person or by proxy, and entitled to vote.

3.3.2.2 If within a half-an-hour after the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to a date not earlier than 7 (seven) days and not later than 21 (twenty one) days after the date of the meeting and if at such adjourned meeting a quorum is not present within a half-an-hour after the time appointed for the meeting, the Members present in Person shall be a quorum.

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

Member of the Association stating-

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

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

3.3.2.3.3 the grounds of adjournment.

3.3.2.4 Notwithstanding anything to the contrary provided in this 3.3.2, there shall not be a quorum at any general meeting of Members (whether ordinary or special) unless the following Members are represented at such meeting, whether in person or by proxy –

3.3.2.4.1 Propco;

3.3.2.4.2 during the Development Period, the Developer.

3.3.3 **Chairman**

3.3.3.1 The chairman, if any, of the Directors shall preside as chairman at every general meeting of the Association. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Members shall elect one of their Members to be chairman. Notwithstanding the foregoing, during the Development Period, the chairman and deputy

chairman shall be nominees of the Developer. After the Development Period the chairman shall be the Director appointed by Propco in terms of 5.

3.3.3.2 The chairman may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. When a meeting is adjourned, the provisions of 3.3.2.2, 3.3.2.3 and 3.3.2.4 shall *mutatis mutandis* apply to the adjourned meeting.

3.3.3.3 Ibrahim Mia shall be the first chairman of the Association.

3.3.4 **Proxy and Resolutions**

3.3.4.1 The instrument appointing a proxy shall be -

3.3.4.1.1 under the hand of the appointer and shall be in such form as the Directors shall approve; and

3.3.4.1.2 deposited at the Office of the Association not less than forty eight hours before the time for the holding of the meeting at which the Person named in such instrument purports to attend or vote pursuant thereto or in respect thereof. In default of compliance herewith the instrument

shall be treated as invalid for the purpose of attending or voting at that meeting or any adjournment thereof. No instrument appointing a proxy shall be valid after the expiration of 12 (twelve months) from the date of its execution, unless the proxy otherwise provides.

3.3.4.2 A vote in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, unless no intimation in writing of the death or revocation shall have been received at the Office or by the chairman of the meeting before the vote is given.

3.3.4.3 If a Member is a close corporation, company, trust or other juristic person, such Member shall lodge at the Offices of the Association, a resolution authorising a particular natural Person to represent the Member generally and to exercise the Members vote on its behalf. Such resolution shall be lodged at the Offices of the Association at least 48 (forty eight) hours before the time for the holding of any meeting at which a Member wishes to be represented and/or vote.

3.4 **Votes of Members**

3.4.1 Each Member present at a meeting of Members of the Association, in person or by proxy, shall be entitled to 1 (one) vote in respect of every Stand or Unit of which it is a Home Owner.

3.4.2 In addition to the votes (if any) to which they are entitled in terms of 3 –

3.4.2.1 Propco shall be entitled to 1 (one) vote for every 2 (two) Stands and Units comprising the Estate plus an additional 10 (ten) votes;

3.4.2.2 during the Development Period the Developer shall be entitled to an additional 100 (one hundred) votes.

3.4.3 For purposes of 3.4.1 the Developer shall be entitled to 1 (one) vote in respect of every Stand and Unit comprising the Estate which is not subject to an End-User Lease.

4. **INSPECTION OF MINUTES**

The minutes kept of every general meeting and annual general meeting of the Association under Section 204 of the Act, may be inspected and copied as provided in Section 206 of the Act.

5. **DIRECTORS**

5.1 The number of Directors shall be determined from time to time by Members in general meeting subject to the following provisions -

5.1.1 during the Development Period, there shall be a minimum of 4 (four) and maximum of 10 (ten) Directors of whom –

5.1.1.1 Propco shall be entitled to appoint 1 (one) Director;

- 5.1.1.2 the Developer shall be entitled to appoint a majority of the Directors;
- 5.1.2 after the expiry of the Development Period, there shall be a minimum of 3 (three) and maximum of 10 (ten) Directors of whom Propco shall be entitled to appoint a majority of Directors;
- 5.1.3 a retiring Director shall be eligible for re-election;
- 5.1.4 a nominee of the Developer shall be a Director for so long as the Developer does not revoke his appointment;
- 5.1.5 the nominee of Propco shall be a Director for so long as Propco does not revoke his appointment;
- 5.2 Save as is set out in 5.3 and 11, and save for the Directors nominated by Propco and the Developer, each Director shall continue to hold such office from the date of his commencement of office until the Annual General Meeting next following the said appointment, at which meeting each Director shall be deemed to have retired from office as such but shall be eligible for re-election to the board of Directors at such meeting.
- 5.3 If, as a result of retirement, resignation or otherwise, the total number of Directors falls below the prescribed number, the Directors shall Act promptly to bring the number of Directors up to the required number as specified in these Articles. If the Director so retiring or resigning was a nominee of Propco or the Developer (as the case may be), then

his successor shall be appointed by Propco or the Developer (as the case may be). Any resolutions taken or acts performed by the Directors during a period when the number falls short of that provided in 5.1 above shall not be invalidated by such shortfall.

5.4 Any Director, with the exception of a Director appointed by Propco or the Developer, may be removed by a majority Directors decision, for any reason whatsoever.

5.5 The appointment by the board of any Director to fill any vacancy for whatever reason shall be made within 45 (forty five) days of the date upon which such vacancy occurs.

5.6 The Directors shall have the power to co-opt Persons onto the board for the purposes of assisting the Directors in carrying out any of their functions.

6. **ALTERNATE DIRECTORS**

6.1 Any Director may for any reason, and at or for any time, appoint an alternate.

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

7. REMUNERATION OF DIRECTORS

7.1 A Director shall not directly or indirectly receive any remuneration for his services as a Director of the Association, provided that nothing in these Articles shall prohibit him from reimbursement of all travelling, subsistence and other expenses properly incurred by him in the execution of his duties in or about the business of the Association and which is authorised or approved by the Directors.

7.2 If any Director commits a breach of 7.1 he shall forthwith cease to be a Director and shall not be eligible for re-election.

8. POWERS AND DUTIES OF DIRECTORS

8.1 The business of the Association shall be managed by the Directors who may on behalf of the Association pay all expenses incurred in promoting and incorporating the Association, and may exercise all such powers of the Association as are not required by the Act, or by these Articles, to be exercised by the Association in general meeting. Without in any way derogating from the generality of the foregoing, the Directors shall be entitled to exercise on behalf of the Association all and any of the common powers set out in paragraph 5 of the Memorandum of Association and subject only to any contrary stipulation contained from time to time in the Memorandum and Articles of Association.

8.2 Without in any way affecting the generality of 8.1 the Directors shall have the power to enter into contracts and agreements with third parties to give proper effect to the provisions of the Memorandum and Articles of the Association.

8.3 The Directors may, pursuant to their rights, obligations and duties in terms of these Articles and as provided for and contemplated under these Articles, incur such expenditure as is necessary and/or requisite and howsoever arising to enable them to give proper effect to the provisions of the Memorandum and Articles of Association of the Association.

8.4 After the termination of the Development Period, the Association in general meeting shall have the right to limit and restrict the powers of the Directors, provided that no resolution of the Association shall invalidate any prior Act of the Directors which would otherwise have been valid.

9. RULES

9.1 The Directors shall have the power to make Rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Estate, for the purposes of giving proper effect to the provisions of the Memorandum and Articles of the Association and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those Members who fail to comply with the provisions of these Articles or the Rules -

9.1.1 in no way detracting from the generality of the foregoing, the Directors may from time to time make Rules, applicable within the Estate, specifically in regard to -

9.1.1.1 the preservation of the natural environment;

- 9.1.1.2 vegetation and flora and fauna in the Estate;
- 9.1.1.3 the placing of movable objects upon or outside the buildings included in the Estate, including the power to remove any such objects;
- 9.1.1.4 the storing of flammable and other harmful substances;
- 9.1.1.5 the conduct of any Persons within the Estate and the prevention of nuisance of any nature to any Home Owner;
- 9.1.1.6 the use of Stands and Units within the Estate;
- 9.1.1.7 the use of roads, pathways and other Common Facilities including appropriate traffic calming measures;
- 9.1.1.8 the imposition of fines and other penalties to be paid by Members of the Association;
- 9.1.1.9 the management, administration, control and use of the Common Facilities;
- 9.1.1.10 restrictions (“**architectural guidelines**”) with regard to the construction of Units or other buildings on Stands (including exterior decoration) and the architectural design, construction, quality and building materials of any such Unit or building;

- 9.1.1.11 the maintenance of all buildings, outbuildings, structures;
- 9.1.1.12 conditions with regard to the use and/or supply of electricity, water, sewerage reticulation on or about the Estate;
- 9.1.1.13 conditions and restrictions, landscaping of Stands or Units and common properties;
- 9.1.1.14 the keeping of pets;
- 9.1.1.15 the use by Home Owners of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings;
- 9.1.1.16 generally in regard to any other matter which the Directors from time to time considers appropriate.
- 9.2 The Directors may take or cause to be taken such steps as they may consider necessary to remedy the breach of any Rules of which the Member may be guilty and debit the costs of so doing to the Member concerned which amount shall be deemed to be a debt owing by the Member to the Association. In addition the Directors may impose a system of fines or other penalties. The amounts of such fines and/or penalties shall be determined by the Directors from time to time.
- 9.3 In the event of any breach of the Rules by any Member, other than the Home Owner, such breach shall be deemed to have been committed by the Home Owner concerned and the Directors shall be entitled to take

such action as they may deem fit against the responsible Member.

9.4 Notwithstanding the foregoing, the Directors may in the name of the Association enforce the provisions of any Rules by an application in a Court of competent jurisdiction and for this purpose may appoint such attorneys or Counsels they may deem fit.

9.5 Any Rules made by the Directors shall be reasonable shall be in the interest of the Association and the Estate.

9.6 The Rules made by the Directors from time to time in terms of the powers granted to them shall be binding on all Members.

9.7 In no way detracting from the generality of any other provisions of these Articles of Association, in the event of the Association incurring any legal costs as a result of any breach of these Articles by any Member, the Association shall be entitled to recover all such legal costs from such Member on an attorney and own client scale in full whether or not legal action is actually instituted.

9.8 The Rules (including the architectural guidelines) may not be amended in any way without the prior written consent of Propco.

10. MINUTES

10.1 The Directors shall in terms of the Act cause minutes to be kept -

10.1.1 of all appointments of Officers;

10.1.2 of names of Directors present at every meeting of the

Association and at every meeting of the Directors; and

10.1.3 of all proceedings at all meetings of the Association and/or the Directors.

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

11. **DISQUALIFICATION OR RESIGNATION OF DIRECTORS**

The Office of Directors shall be vacated if the Directors -

11.1 ceases to be a Director by effluxion of the period of appointment, or becomes prohibited from being a Director by virtue of any provision of the Act or these Articles; or

11.2 resigns his office by notice in writing to the Association and the Registrar; or

11.3 becomes insolvent or assigns his Estate for the benefit of or compounds with his creditors; or

11.4 is found to be a lunatic or of unsound mind; or

11.5 is absent for three consecutive regular meeting of the Directors without obtaining prior leave of absence; or

11.6 in the case of a Director appointed by the Developer, on the Developer revoking his appointment;

11.7 in the case of a Director appointed by Propco, on Propco revoking his appointment.

12. PROCEEDINGS AT MEETINGS OF DIRECTORS

12.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

12.2 A Director may, on 14 (fourteen) days' written notice to all other Directors, at any time, summon a meeting of the Directors.

12.3 The quorum necessary for the transaction of the business of the Directors shall be a majority of Directors holding Office at that time provided that there shall be no quorum of Directors unless –

12.3.1 at least 1 (one) Director appointed by Propco is present; and

12.3.2 during the Development Period, a majority of Directors present are appointees of the Developer; and

12.3.3 after the Development Period, a majority of Directors present are appointees of Propco,

is present.

12.4 If at a meeting neither the chairman nor the deputy chairman is present within 10 (ten) minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman for that meeting.

- 12.5 Questions arising at any meeting of the Directors shall be decided by a majority of votes of the Directors, present in person or by an alternate. Each Director shall be entitled to exercise 1 (one) vote, provided that during the Development Period, no resolution of Directors shall be carried unless at least one nominee of the Developer votes in favour of such resolution, and, after the Development Period no resolution of Directors shall be carried unless at least one nominee of Propco votes in favour of such resolution. Subject to the foregoing, if there is an equality of votes the chairman shall have a second or casting vote. Where a Person is an alternate Director to more than one Director, or where an alternate Director is also a Director in his personal capacity, he shall have a separate vote on behalf of each of the Directors he is representing.
- 12.6 All acts done in terms of any resolution passed at any meeting of the Directors or a committee of Directors or by any Person acting as a Director, notwithstanding that it may afterwards be discovered that there was some defect in their acting as aforesaid or that they or any of them were disqualified so to act, shall be as valid as if any such Person acting as Director in a meeting of Directors or a committee of Directors has been duly appointed and had qualified to be a Director.
- 12.7 The Directors may delegate any of their powers to committees consisting of such Persons as they think fit, the Chairman of which committees may be appointed by the Directors. Any committee so formed shall be in an advisory capacity to the Directors and shall report to and be responsible to the Directors and in the exercise of the powers so delegated, conform to the Rules that may be imposed on it by the Directors.

- 12.8 Should the Directors not appoint the chairman of a committee, the Members of that committee shall elect a chairman of its meetings. If at any meeting the chairman is not present within 10 (ten) minutes after the time appointed for holding the same, the committee members present may elect one of their number to be chairman for that meeting.
- 12.9 A committee may meet and adjourn as it thinks fit. Questions arising at any meeting shall be determined by a majority of votes of the committee members present and in the event of an equality of votes the chairman shall have a second or casting vote.
- 12.10 No Director shall be liable for any loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his office or in relation thereto unless the same happen through his own dishonesty, gross negligence or default, breach of duty or breach of trust.

13. DELEGATION OF POWERS OF DIRECTORS

The Directors may from time to time entrust to and confer upon the Manager, or any other designated official of the Association or consultant or any other Person or firm, for the time being, such of the powers and authorities vested in its as it may think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and subject to such terms and conditions and restrictions as it may think expedient, and they may confer such powers and authorities either collaterally or to the exclusion of, or in substitution for, all or any of the powers and authorities of the Directors and may from time to time revoke or vary all or any of such powers and

authorities.

14. **ASSIGNMENT OF POWERS AND FUNCTIONS**

The Association shall have all powers as are reasonably required by it for purposes of carrying out its functions. Without limiting the generality of the foregoing the Association shall perform such functions and have such powers as are conferred upon a body corporate in terms of Sections 37 and 38 of the Sectional Titles Act No. 95 of 1986, as amended.

15. **LEVY FUND**

- 15.1 The Directors shall establish and maintain a levy fund sufficient in their opinion for the repair, upkeep, control, management and administration of the Association and of the Estate including the provision of security services for the Estate, garden maintenance services, optic fibre cable networks, insurance premiums, the payment of rates and taxes and other charges on the Estate levied by the local or any other authority (including rates and taxes and other charges contemplated in 16), any charges for the supply of electrical current, gas, water, fuel and sewage disposal, refuse collection and any other Services to the Estate and any services required by the Association to enable it to carry out its main and ancillary objects, for the covering of any losses suffered by the Association, for the payment of any premiums of insurance and of all other expenses incurred or to be incurred in relation to the Estate and for the discharge of any other obligations of the Association (provided that nothing in these Articles shall be construed as obliging the Association to pay service charges due by Home Owners to the relevant authority).

- 15.2 All levies due by Members shall be payable to the Association immediately same become due and owing without deduction, demand or set-off.
- 15.3 The proportions in which Members shall make contributions towards the levy fund in terms of Article 15.1 shall be determined by the Directors who in determining such proportions shall have regard to all circumstances prevailing at the time and to equity provided however that the Directors may in any case where they consider it equitable to do so, assign to any Home Owner any greater or lesser share of the costs as may be reasonable in the circumstances.
- 15.4 Levies shall be payable in respect of all Stands or Units whether or not they have been developed with the construction of a Unit thereon.
- 15.5 Levies shall be payable only in respect of serviced stands which form part of a proclaimed township.
- 15.6 It is expressly recorded that Propco shall not be required to pay any levies.
- 15.7 All contributions received from Members shall forthwith be deposited in a separate account which the Association shall open and keep with a financial institution.
- 15.8 The monies in the levy fund shall be utilised to defray the expenses referred to in clause 15.1 above.
- 15.9 Notwithstanding any Person ceasing to be a Member, all levies attributable to any period whilst such Person was a Member, shall

continue to be of full force and effect and recoverable from such Person.

15.10 Any amount due by a Member whether in respect of a levy or any other amount falling due for payment under these Articles, which remains unpaid after the same has fallen due, shall bear interest as from the due date for payment to the date of actual payment at a rate of interest equal to that charged by the Association's bankers as its prime overdraft rate plus 3 (three) percentage points, such interest shall be calculated and compounded monthly.

15.11 The Directors shall have the power to impose additional special levies on Members in respect of any unforeseen expenditure and/or expenditure that is not been budgeted for and/or if, in the discretion of the Directors, budgeted income of the Association will be insufficient to discharge the liabilities of the Association (whether foreseen or not) and shall determine how such levies are to be paid.

15.12 A Member shall not be entitled to demand repayment of any amount standing to the credit of his levy account.

15.13 All contributions levied under the provisions of these Articles shall be due and payable by Members on the passing of a resolution to that effect by the Directors and may be recovered by the Association by action in any Court (including any Magistrates Court) of competent jurisdiction from the Persons who were Members at the time when such contributions became due.

15.14 Should a Member be more than 30 (thirty) days in arrears with the payment of any levies due in terms of this Article or any other amount

of any nature whatsoever due to the Association by such Member (including but not limited to any fine that may be imposed by the Association on any such Member) and remain in arrears notwithstanding demand for payment by the Association, then in that event such Member shall not be entitled either in Person or by proxy to speak or vote at a meeting of Members of the Association. A letter addressed to the Chairman of any such meeting by the Chairman of the Directors dated not more than 14 (fourteen) days prior to any such meeting shall constitute proof of non-payment of any arrear levies by such Member and shall entitle the Chairman of such meeting of the Members of the Association to prevent such Member or his proxy speaking or voting as such meeting (even if payment is made by such Member before such meeting but subsequent to the aforesaid letter having been signed by the Chairman).

15.15 In the event of there being a dispute as to the amount of any levy due by the Member, such dispute shall be referred to the Auditors for a decision, whose decision shall be final and binding on the parties.

15.16 The Directors may create a levy stabilisation fund to supplement any levies paid by Members in terms of this Article 15. Such levy stabilisation fund shall be funded in such manner as may be determined by the Directors from time to time.

16. **RATES INDEMNITY**

16.1 If and to the extent that Propco (by virtue of its ownership of the Land) is required to pay to the local authority concerned rates and taxes and/or other charges in respect of a Stand which has been leased to Home Owner and where the Home Owner concerned has

(notwithstanding the provisions of the relevant lease) failed to pay such rates and taxes and/or other charges, the Association indemnifies Propco in respect thereof and shall pay to Propco an amount equal to such rates and taxes and/or other charges.

- 16.2 Without limiting the generality of the provisions of 16.1, it is recorded that Propco is required to maintain a fund of R200 000.00 (subject to escalation) for security for the payment of unpaid rates and taxes and/or other charges. If and by virtue of the circumstances contemplated in 16.1 such fund is depleted and Propco is required to make any payment to such fund, the Association shall make the payment on behalf of Propco and indemnifies Propco in respect thereof.

17. ACCOUNTING RECORDS

- 17.1 The Directors shall cause such accounting records as are prescribed by the Act to be kept. Accounting records shall be deemed to be proper if they represent fairly the state of affairs and business of the Association.

- 17.2 The accounting records shall be kept at the registered Office of the Association or at such other place or places at the Directors think fit, and shall always be open to inspection by the Members.

18. ANNUAL FINANCIAL STATEMENTS

- 18.1 The Directors shall from time to time, in accordance with the Act, cause to be prepared and laid before the Association in general meeting such financial statements as are prescribed by the Act.

18.2 A copy of any annual financial statements which are to be laid before the Association in annual general meeting shall, not less than 21 (twenty) one days before the date of the meeting, be sent to every Member of the Association. Provided that this Article shall not require a copy of those documents to be sent to any Person of whose address the Association is not aware.

19. **AUDITOR**

An auditor shall be appointed in accordance with the Act.

20. **NOTICES**

20.1 A notice may be given by the Association to any Member either by advertisement or personally, or by sending it by post by prepaid letter addressed to such Member at his registered address, or if he has no registered address in the Republic at the address (if any) within the Republic supplied by him to the Association for the giving of notices to him. Any notice which may be given by advertisement shall be inserted in such newspaper as the Directors may from time to time determine.

20.2 A notice may be given by the Association to Propco and/or the Developer personally or by sending it by post by pre-paid letter addressed to Propco and/or the Developer at the following address or such other address as Propco and/or the Developer may from time to time notify the Association in writing –

Propco

Business Address: 20 Waterval Crescent
Woodmead
Sandton
2157

Telefax Number: (011) 802-1563

Developer

Business Address: Plot 5 Lynx Road
Treesbank Agricultural Holdings
Midrand

Telefax: (011)300-8790

20.3 Notice of every general meeting shall be given in any manner authorised -

20.3.1 to every Member of the Association. If a Member has not supplied the Association with an address within the Republic of South Africa for the service of notice by hand or by registered post, then it shall be considered sufficient for the Association to serve notice at the address of the Stand or Unit forming the subject matter of the leasehold rights owned by the Member;

20.3.2 to the auditor for the time being of the Association.

20.4 No other Person shall be entitled to receive notice of general meetings.

20.5 Any notice by post shall be deemed to have been served at the time when the letter containing the same was posted, and any notice by advertisement shall be deemed to have been given on the day upon which the advertisement was published in the newspaper, and in providing the giving of the notice by post, it shall be sufficient to prove

that the letter containing the notice was properly addressed and posted.

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

21. **WINDING-UP OF ASSOCIATION**

In the event of the Association being wound up, its assets shall devolve upon such other corporation as the Members in such winding-up order determine, provided that such corporation has aims and objects similar to those of the Association.

22. **REPAIR, UPKEEP, ADMINISTRATION, MANAGEMENT AND CONTROL OF THE ESTATE**

22.1 **Building and Improvements**

In order to procure compliance with the nature and amenity of the Estate no thing shall be placed on or attached to a building or any other structure, visible from outside of the building or such other structure without the consent of the Aesthetics Committee.

22.2 **Landscaping**

Save as may be expressly permitted in terms of the Rules no Home Owner shall be entitled to undertake any landscaping on or about the Estate. Without limiting the generality of the foregoing no Home Owner shall have any rights to plant any tree, shrub, grass, flower or to remove or cut same or attempt to erect any fence or wall or any

other structure or remove same on the Estate without the prior written consent of the Aesthetics Committee.

22.3 Provision of Services

The Association may, from time to time, contract with suppliers of Services to provide Services to the Estate, subject to the limitation contained in Article 22.

22.4 Open Spaces and Rights of Access

Home Owners shall be entitled to use all Common Facilities subject to the Rules from time to time.

22.5 Occupation and use of Stands or Units

22.5.1 Occupation and use of Stands or Units shall, at all times, be in compliance these Articles and the Rules. The Directors may, in their sole discretion, determine that any Person, not being a Member, be denied access to the Estate and be required to leave in the event of such Person breaching these Articles or the Association's Rules made in terms hereof. No Member shall use any Stand or Unit or part or any building or allow any other Person to use such Stand or Unit or part of any building, for purposes not permitted by these Articles and/or the Rules.

22.5.2 Without limiting the generality of any of the provisions of the Rules the following provisions will apply to every Member, Home Owner and their invitees -

22.5.2.1

the Member or Home Owner shall not carry on, and will not allow to be carried on or about the Stand or Unit, as a primary business any business which sells or distributes liquor or potable alcohol or which carries on any form of gaming or lottery, or any form of escort agency, strip show or similar entertainment and shall use its best endeavours to use the Stand or Unit (and not to allow the use thereof) in such manner which is not offensive to the laws of Islam. The provisions of this 22.5.2.1 do not prohibit the serving of alcohol to guests or invitees of a Home Owner for bona fide recreational purposes;

22.5.2.2

the Member or Home Owner will not use the Stand or Unit or permit the same to be used for any illegal or improper purposes or any manner which creates an unlawful nuisance or disturbance to other Persons;

22.5.2.3

no Member or Home Owner will be entitled to object to any application by Witwatersrand Estates Limited and/or any third party to any governmental or other authority relating to or in connection with any development to take place on the remainder of the Farm Waterval 5 – IR (or any part thereof) provided that such development is substantially in accordance with the requirements of the Local Authority and/or the Department of Agriculture, Conservation, Environment and Land Affairs and/or any other relevant authority.

22.6 **Services**

Inasmuch as the provision, establishment, maintenance and repair of Services may be required to take place on the Estate, the Members hereby consent to the provision of such Services in such places as the Directors may determine from time to time and to Persons authorising by them entering upon the Estate or any part thereof for the purpose of providing, establishing, maintaining and/or repairing the Services, provided that such work shall be carried out with as little inconvenience to Home Owners as reasonably possible.

22.7 **Security of the Estate**

The Association will not be liable to any Member or Home Owner or any of their respective invitees for any breach in security and/or by reason of any security provided by the Association not being adequate.

22.8 **Maintenance of Open Spaces and Public Road Verges**

The Association shall be responsible for the maintenance, upkeep and repair of the Common Facilities.

23. **LIMITATIONS WITH REGARD TO SERVICES**

23.1 The following services shall be provided by service providers nominated or approved by Waterval Investment Company (Proprietary) Limited (or its nominee), provided that such services are of a reasonable and acceptable standard in all the circumstances –

23.1.1 waste management, removal and sanitation services;

23.1.2 broad band based services which shall include voice (internal and external) services, data (internet) services, video services (including video on demand and television programs when available) and fibre optic networks, and the design, implementation, operation and maintenance of the infrastructure required to provide such services; and

23.1.3 security services;

23.1.4 mortgage origination services (to include Sanlam Home Loans (Proprietary) Limited),

it being the intention to standardise the provision of all such services in respect of all developments to take place on the Remaining Extent of the farm Waterval No. 5, Registration Division IR including subdivisions thereof.

23.2 All building materials required for purposes of constructing dwellings on Stands or Units must be obtained from Cosmos Building Supplies (Proprietary) Limited subject thereto that such building materials are supplied on competitive sale terms including prices and delivery times.

24. **ARTICLES BINDING ON INVITEES**

The provisions of these Articles (including in particular but without limiting the generality of the foregoing restrictions and conditions relating to the use of Stands or Units and Common Facilities) shall be binding on all invitees as if they were Members.

25. RESTRICTION AGAINST ALIENATION

25.1 No Member shall be entitled to Alienate Leasehold Rights to any third party unless -

25.1.1 the third party concerned has first agreed in Writing to be and become a Member of the Association; and

25.1.2 the Board has certified in Writing that all levies and similar amounts payable by the Member concerned to the Association have been paid or secured to the satisfaction of the Board for a period terminating not earlier than 3 (three) months after the date of such certificate; and

25.1.3 Propco has certified in writing that all amounts payable by the Member concerned to Propco have been paid or secured to the satisfaction of Propco for a period terminating not earlier than 3 (three) months after the date of such certificate.

25.2 Upon the assignment of an End-User Lease to a third party such assignee will automatically be and become a Member of the Association.

26. INTERNAL SERVICES

26.1 The Local Authority shall not be liable for the malfunction of the servicing of any internal roads and/or storm water drainage systems and/or essential Services forming part of the Estate unless responsibility for such roads, drainage system and/or essential Services is specifically assumed by the Local Authority.

26.2 The Association shall be obliged to maintain all internal roads and common areas and storm water drainage system in a good order and condition at its sole cost and expense.

26.3 The Association and its Members shall be obliged to consent to the registration of a servitude of right of way for municipal purposes over any area of the Estate in favour of the Local Authority as the Local Authority may require.

27. **RESTRICTIONS IN FAVOUR OF LOCAL AUTHORITY**

27.1 The Association shall not be deregistered without the prior written consent of the Local Authority.

27.2 The Association shall allow the Local Authority (Acting through any relevant department) access to the Estate at any time for purposes of maintaining and/or installing any facility for which the Local Authority is responsible and for purposes of providing Services to residents of the Estate.

28. **SOLE MANDATE**

No Leasehold Rights may be alienated or disposed of other than through the agency of an agent appointed in accordance with the provisions of the End User Lease in terms of which the Leasehold Rights are held.

29. ENFORCEMENT OF OBLIGATIONS OF MEMBERS

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

30. DETERMINATION OF DISPUTES

30.1 In the event of any dispute arising between a Member and the Directors (as the representative of the Association) as to the construction, meaning or interpretation of any of the provisions of these Articles or as to the rights, obligations or liabilities of the Association or any Member in terms of these Articles the parties shall forthwith meet to attempt to settle such dispute or difference and failing such settlement within a period of 14 (fourteen) days, then such dispute or difference shall be submitted to and decided by summary arbitration.

30.2 The arbitration shall be held -

30.2.1 at Sandton, Johannesburg;

30.2.2 in a summary manner, that is, on the basis that it shall not be necessary to observe or carry out either the usual formalities or procedures as prescribed by the Arbitration Act or the Strict

rules of Evidence;

30.2.3 as soon as reasonable practicable in the circumstances and with a view to it being contemplated within 21 (twenty one) business days after it is demanded;

30.3 The Arbitrator shall be a Person agreed to between the parties to the dispute and failing agreement, a Person nominated for such purpose by the president (or failing him, the secretary) for the time being of the Law Society of the Northern Provinces (or its successors in title).

30.4 The Arbitrator shall determine -

30.4.1 the issues submitted to him according to what he considers just and equitable in the circumstances and accordingly shall not be obliged to adhere to the strict rules of the Law;

30.4.2 which party shall pay the costs of and incidental to the arbitration or, if each is to contribute, the ratio of their respective contributions.

30.5 The Arbitrator shall be deemed to act as an expert and not as an Arbitrator.

30.6 The decision of the Arbitrator shall be -

30.6.1 final and binding on all parties;

30.6.2 carried into effect;

30.6.3 capable of being made an Order of any Court of competent jurisdiction.

31. DISCLAIMER RESPONSIBILITY

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

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

31.3 Members hereby accept responsibility for and indemnify the Association and its employees, servants and agents and lawful invitees against all claims by any Person arising from any injury or loss or damage as contemplated in this clause 31.

32. CONFLICTING PROVISIONS

If there is any conflict between any of the provisions of the Articles and any of the provisions of the Rules and/or any End-User Lease then the provisions of the Articles shall prevail.