

**MANAGEMENT RULES
OF
THE BOSK SECTIONAL TITLE SCHEME**

1. DEFINITIONS

In this Management Rules, -

- 1.1 The following words and expressions shall have the following meanings assigned to them below and cognate expressions bear corresponding meaning-
- 1.1.1 “**Act**” means the Sectional Titles Act 95 of 1986, and the Regulations thereto, as amended from time to time or any Act promulgated in substitution thereof;
- 1.1.2 “**Approved Budget**” means the budget set by the Developer at the commencement of the Development Period (or establishment of any Section Scheme, as the case may be) and thereafter, the budget presented to the Developer by the Trustees in accordance with the provisions of clause 16.4.2 for the Developer’s approval or review and consent;
- 1.1.3 “**Alienate**” means in relation to any Unit, the transfer of any rights in respect thereof and, without derogating from the generality of the foregoing, includes to alienate by way of sale, exchange, donation, deed, intestate succession, will, cession, assignment, court order, insolvency or liquidation, irrespective of whether such alienation is subject to a suspensive or resolute condition and “**Alienation**” shall have a corresponding meaning;
- 1.1.4 “**Architect**” means the controlling architect or their successors or such Architects as appointed from time to time as such by the Developer during the Development Period and thereafter by the Body Corporate;
- 1.1.5 “**Auditor**” means the auditor of the Body Corporate from time to time;
- 1.1.6 “**Body Corporate**” means the body corporate of the Sectional Title Scheme as referred to in Section 2(1) of the Management Act,
- 1.1.7 “**Business Day**” means any day other than a Saturday, Sunday or South African public holiday;
- 1.1.8 “**Business Unit**” means any Unit zoned in terms of the Town Planning Scheme for commercial or business purposes or which is used for business purposes with the consent of the Local Authority and the Body Corporate;
- 1.1.9 “**By-Law**” means the Local Authority’s By-Law on Municipal Land Use Planning (as amended);
- 1.1.10 “**Chairperson**” means the chairperson of the Trustees appointed from time to time;
- 1.1.11 “**Common Infrastructure**” means all infrastructure on or about the Land intended for shared use by, or benefit of, some or all the Members and which is necessary to support the Development, including structures and installations for the provision of municipal and other services such as electricity, water, gas (if applicable), and communications systems (subject to the provisions of the Constitution), including back-up power systems;
- 1.1.12 “**Commencement Date**” means the date on which the Scheme is opened;

- 1.1.13 “**Common Property**” means upon the opening of the sectional title register, those areas in the Scheme that are defined as “common property” in the Act, and may include all roads and common facilities within the Scheme;
- 1.1.14 “**Conduct Rules**” means the conduct rules of the Scheme promulgated and amended by the Trustees from time to time;
- 1.1.15 “**Developer**” means the terms as defined in the constitution of the Master Association, being Cloetesdal Developments (Pty) Ltd with Registration Number 2018/281892/07, a private company with limited liability duly incorporated in accordance with the laws of the Republic of South Africa or such entity’s successor in title with reference to the entity’s rights and obligations as Developer;
- 1.1.16 “**Developer Trustee**” means a trustee appointed by the Developer;
- 1.1.17 “**Development**” means the mixed-use land development on Remainder Portion 33 of the farm Cloetesdal No 81 in the Municipality and Division of Stellenbosch, Province of the Western Cape and which is known as *Newinbosch Neighbourhood* to be developed in accordance with approval obtained from the Local Authority, generally in accordance with the preliminary Site Development Plan and includes all/any extension(s) of the township as contemplated herein;
- 1.1.18 “**Development Period**” means the period commencing on the Commencement Date and enduring until the last Unit owned by the Developer in the Scheme has been transferred from the Developer to a third party, alternatively, on the date on which the Developer notifies the Body Corporate in writing that it terminates the Development Period;
- 1.1.19 “**Development Rights**” means the rights granted to the Developer at any time during the Development Period in terms of this Management Rules and as reserved in terms of Section 25 of the Act;
- 1.1.20 “**Electronic Address**” means in regard to Electronic Communication, any email address furnished to the Body Corporate by the Member;
- 1.1.21 “**Electronic Communication**” means the term as defined in the Electronic Communications Act No 36 of 2005, as amended from time to time or any Act promulgated in substitution thereof
- 1.1.22 “**Estate Agent**” means an Estate Agent approved and listed by the Master Association or by the Body Corporate in terms of such bodies’ criteria determined by the Master Association of the Body Corporate (whichever is applicable) and contracted by a Member (other than the Developer) for the letting and/or reselling of his Unit;
- 1.1.23 “**Land**” means the Erf 17939 Stellenbosch on which the Scheme will be established ;
- 1.1.24 “**Levy/Levies**” means payable by Members to the Body Corporate, which excludes Special Levies;
- 1.1.25 “**Local Authority**” means the local authority having jurisdiction over the Development which, at the Commencement Date, is Stellenbosch Municipality;
- 1.1.26 “**Managing Agent**” means any person or body appointed by the Body Corporate as an independent contractor to undertake any of the functions of the Body Corporate including

an Executive Managing Agent as contemplated in terms of section 28 of the Management Act regulations;

- 1.1.27 “**Management Act**” means the Sectional Titles Schemes Management Act 8 of 2011 and the Regulations thereto, as amended from time to time or any Act promulgated in substitution thereof;
- 1.1.28 “**Master Association**” means the Newinbosch Master Homeowners’ Association established in terms of the By-Law, which is bound by the provisions of such Newinbosch Master Homeowners’ Association constitution;
- 1.1.29 “**Member**” means the Developer in its capacity as such during the Development Period and all Owners;
- 1.1.30 “**Member Trustee**” means a trustee appointed by the Members;
- 1.1.31 “**Neighbourhood Rules**” means the conduct rules for the Development made and amended from time to time by the Master Association;
- 1.1.32 “**Ombud**” means the Ombud as defined in Section 1 of the Community Schemes Ombud Service Act, 2010, as amended from time to time or any Act promulgated in substitution thereof;
- 1.1.33 “**Ordinary Resolution**” means a resolution other than a Special or Unanimous Resolution passed at any general meeting of the Body Corporate by an ordinary majority of the total votes represented at such meeting by a quorum of Members present in person or by proxy;
- 1.1.34 “**Owner**” means the registered owner of a Unit or a share thereof who is, in terms of the Deeds Registries Act No 47 of 1937, as amended, reflected in the records of the Deeds Registry concerned as a registered owner or joint owner of the Unit;
- 1.1.35 “**Reserve Fund**” means the fund established in terms of clause 17;
- 1.1.36 “**Resident**” means any person lawfully occupying a Unit which shall include but not be limited to a Tenant and/or guest and employee of the Owner or Tenant, as the case may be, and persons who reside with the Owner or Tenant, as the case may be;
- 1.1.37 “**Sectional Plan**” means any sectional plan for the Scheme;
- 1.1.38 “**Scheme**” means The Bosk sectional title scheme to be established on the Land;
- 1.1.39 “**Special Resolution**” means a resolution –
- 1.1.39.1 Passed by at least 75% of the Members of the Body Corporate (reckoned in number) who are present or represented at a general meeting of the Body Corporate; or
- 1.1.39.2 agreed to in writing by Members of the Body Corporate, personally or by proxy or by a representative of any such Member recognised by law, holding at least 75% (reckoned in number), of all the Members who may vote;

- 1.1.40 “**Special Levies**” means the levies which apply to one specific Component (but not to all Components), and “**Special Levy**” means any of them, as the context may indicate;
- 1.1.41 “**Tenant**” means a person leasing a Unit from the Owner thereof;
- 1.1.42 “**Town Planning Schemes**” means the town planning schemes for the Development, as amended from time to time;
- 1.1.43 “**Trustees**” means the Developer Trustees and the Member Trustees of the Body Corporate, collectively from time to time and includes alternate and co-opted Trustees;
- 1.1.44 “**Unit**” means a sectional title unit in the Development Schemes (including any unit registered to a third party purchaser or still owned by the Developer) and includes any exclusive use area allocated to that unit;
- 1.1.45 “**Unanimous Resolution**” means a resolution-
- 1.1.45.1 Passed unanimously by all the Members of the Body Corporate who are present or represented at a general meeting of the Body Corporate and at which meeting at least 80% of all the Members (reckoned in number) are present or so represented; and all the members who cast their votes do so in favour of the resolution; or
 - 1.1.45.2 Agreed to in writing by all the Members of the Body Corporate personally or by proxy or by a representative of any such Member recognized by law;
- 1.1.46 “**Vice-Chairperson**” means the vice-chairperson of the board of Trustees of the Body Corporate;
- 1.1.47 “**Writing**” includes Electronic Communication but as regard any Member entitled to vote, only to the extent that such Member has notified the Body Corporate of an Electronic Address;
- 1.2 references to Members represented by proxy shall include members entitled to vote represented by an agent appointed under a general or special power of attorney;
- 1.3 references to Members entitled to vote present at a meeting or acting in person shall include juristic persons represented by duly authorised representative;
- 1.4 the headings are for reference purposes only and shall not affect the interpretation of this Constitution;
- 1.5 words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);
- 1.6 if any term is defined within the context of any particular clause in this Management Rules, the term so defined, unless it is clear from the clause in question that the term so defined has limited

application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Management Rules, notwithstanding that that term has not been defined in this interpretation provision;

- 1.7 subject as aforesaid, any words or expressions defined in the Act, as amended or any statutory modifications of such Act in force at the date on which this Management Rules became binding on the Body Corporate shall, if not inconsistent with the subject or context, bear the same meaning in this Management Rules;
- 1.8 whenever a provision in this Management Rules is in favour of the Developer, then-
 - 1.8.1 the Developer shall, in its sole and absolute discretion, be entitled at any time to-
 - 1.8.1.1 accept the benefit thereof;
 - 1.8.1.2 cede, delegate or assign to any third party of its choice any such provision (or any part thereof);
 - 1.8.1.3 waive strict compliance or any compliance at all with that provision.

2. INTRODUCTION

- 2.1. The Developer is the registered owner of the Remainder of Portion 33 of the Farm Cloetesdal number 81, situated in the Municipality and Division of Stellenbosch, Province of the Western Cape. The said property was renumbered to be Erf 17939 Stellenbosch.

The mentioned Erf 17939 Stellenbosch will be sub-divided into Erven 17940 Stellenbosch, Erf 17941 Stellenbosch and the Remainder of Erf 17939 Stellenbosch.

In addition to the above, General Plans have been approved to sub-divide Erf 17940 Stellenbosch into Erven 17969-18023 Stellenbosch and sub-divide Erf 17941 Stellenbosch, into Erven 18024-18090 Stellenbosch.

- 2.2 The Developer will establish the Scheme on the Land.
- 2.3. Notwithstanding any clause contained to the contrary herein and in order to:
 - 2.3.1 save on administration costs, management fees and expenses; and
 - 2.3.2 where necessary comply with various Acts and legislation that may be or may become applicable to the Development; and
 - 2.3.3 overcome any practical restrictions and conflicts in respect of applicable legislation and in order to effectively manage, control and administer the affairs of the members;
 - 2.3.4 the duties, functions and powers of the body corporates, shall be assigned to the Body Corporate as contemplated in regulation 6(4)(b) of the Management Act.

3. MEMBERSHIP

- 3.1 Membership of the Body Corporate shall automatically vest in and be limited to the Developer or its successor in title, in its capacity as such, and to any person, including the Developer, who is the Owner of a Unit in the Scheme. Membership of the Body Corporate shall be compulsory for the Developer, during the Development Period.
- 3.2 Subject to the rights of the Developer, where any Unit in the Scheme is owned by more than one person, all the Owners of that Unit shall together be deemed to be one Member of the Body Corporate and have the rights and obligations of one Member of the Body Corporate; provided that all co-Owners of any Unit shall be jointly and severally liable for the due performance of any obligation to the Body Corporate.
- 3.4 When a person becomes the Owner of any Unit in the Scheme, he shall *ipso facto* become a Member of the Body Corporate and the Master Association, and when he ceases to be the Owner of any such Unit, he shall *ipso facto* cease to be a Member of the Body Corporate and the Master Association.
- 3.5 Should the Developer cede or transfer any of its Development Rights, the cessionary or transferee shall from the date of cession or transfer acquire all of the benefits and obligations of the Developer in terms of this Management Rules in respect of those Development Rights so ceded or transferred; provided that if such rights are ceded in part, the cessionary shall acquire such benefits and obligations proportionally.
- 3.6 The Developer shall cease to be a Member of the Body Corporate on the date on which the Development Period terminates, or the date on which the last Unit owned by it is transferred, whichever is the later.
- 3.7 An Owner, ceasing to be a Member of the Body Corporate for any reason shall not, (nor shall an executor, curator, trustees or liquidators of such Owner ceasing to be a Member) have any claim upon or interest in the funds or other assets of the Body Corporate, but this clause shall be without prejudice to the rights of the Body Corporate to claim from such Member or his estate any arrears of Levies, Special Levies, subscriptions or other sums due from him to the Body Corporate at the time of him ceasing to be a Member.

3.8 MEMBERSHIP OF THE MASTER ASSOCIATION

- 3.8.1 In respect of any extension of the Scheme, the Body Corporate shall be a member of the Master Association.
- 3.8.2 Any notice required to be served upon the Body Corporate shall be deemed to have been properly served if served at the address given as the domicilium citandi et executandi of the Body Corporate.
- 3.8.3 The Body Corporate will be required to pay levies to the Master Association in order to contribute on a pro rata basis to the costs of the Master Association attributable to the use of the Master Association's property, infrastructure, service providers and the like by the members of the Body Corporate in question. The levies payable by the Body Corporate to the Master Association will be determined by the trustees of the Master Association, whose determination will be final and binding upon the Body Corporate and each member of the Body Corporate.
- 3.8.4 Members of the Body Corporate shall be entitled to use the communal facilities of the Master Association and shall be treated as members of the Master Association for this purpose, subject to the provisions of the constitution of the Master Association and the Neighbourhood Rules. If

the Body Corporate fails to make payment of any amount due by it to the Master Association then the Trustees of the Master Association shall be entitled to suspend the rights of the Body Corporate, and the rights of the Members to use the Master Association's property, infrastructure, service providers and the like until such time as all amounts payable by the Body Corporate to the Master Association have been paid in full.

- 3.8.5 The trustees and members of the Body Corporate agree that each of them will be bound by any decisions taken by the Master Association at a general meeting and / or taken by the trustees of the Master Association which affect their rights and obligations and each Trustee and Member agrees to be bound by and to adhere to such provisions of the Master Association's constitution and rules and regulations which are intended by the Master Association to apply to them.
- 3.8.6 To the extent that the provisions of this Management Rules or the rules of the Body Corporate may conflict with the provisions of the Master Association's constitution or rules, the provisions of the Master Association's constitution or rules (as the case may be) shall take precedence and shall be given effect too accordingly by the Members and the Trustees.
- 3.8.7 Any dispute, question or difference that may arise between any member or resident of the Master Association and any Member or Resident or between any trustee of the Master Association and any trustee of the Body Corporate or between any trustee of the Master Association and any Member or Resident out of or in regard to:

3.8.7.1 the interpretation of;

3.8.7.2 the effect of;

3.8.7.3 their respective rights or obligations under;

3.8.7.4 a breach of,

this Management Rules or any Rule or Regulation promulgated in terms of this Management Rules shall be decided by Arbitration in the manner set out in the Constitution of the Master Association subject at all times to the rights of the parties to the dispute to refer the matter to the Ombud for resolution.

- 3.8.8 Each Member acknowledges that a copy of the Master Association constitution will be available from the Trustees or from the website of the Development at www.newinbosch.co.za.

4. PHASES OF THE DEVELOPMENT

- 4.1 The Developer intends to develop and market the Development in phases as the Developer deems fit and in accordance with the Local Authority's requirements and, for the duration of the Development Period, the Developer shall enjoy unrestricted rights with regard to the marketing of the Development and, in particular, the right to erect signage within and outside the Development.
- 4.2 The Developer shall have the right to market and develop any products including turnkey products and sectional title scheme developments on the Development.
- 4.3 The Developer shall, in its absolute discretion, be entitled to apply for and subject to approval by the Local Authority, vary the layout and/or zoning and/or size and/or boundaries of Erven and/or the extent and position of streets comprising the Development and Members shall be bound thereby and shall have no claim of whatever nature against the Developer arising therefrom, provided that the Developer shall not be entitled to change an Erf which has been

sold by the Developer in any other way than that provided for in the Deed of Sale in respect of such Erf. Insofar as the consent of a Member is required for any of the afore going, the Developer (represented by any one of its Directors) is irrevocably granted a power of attorney to grant any/all such consents on behalf of Members, as may be required.

5 INCORPORATION OF FURTHER PHASES OF THE DEVELOPMENT

- 5.1 The Developer has a continuing and permanent interest to ensure that certain basic provisions are entrenched in perpetuity to ensure the success of the Development. Accordingly, none of the following provisions may be deleted or varied in any way, without the prior written consent of the Developer –
- 5.2 the Developer has the right at any time and from time to time to extend or alter the area or composition of the Development by requiring the Master Association to incorporate into the Development any part/s of any adjoining properties (developed or not) owned by the Developer from time to time as further phases of the Development which the Developer shall be entitled to develop as it may deem fit;
- 5.3 should any further property be incorporated into the Development, the Developer shall be entitled to require that the first and all subsequent Owners therein become Members of the Master Association in respect of those parts from such date as the Developer may determine, and on the same terms and conditions as are applicable to the other Members of the Master Association. The Members shall be bound by any such requirement of the Developer.

6 STATUS OF THE BODY CORPORATE

- 6.1 The Body Corporate shall:
- 6.1.1 have legal personality and be capable of suing and being sued in its own name; and
- 6.1.2 not operate for profit but for the benefit of the Members.
- 6.2 No Member in his personal capacity shall have any right, title or interest to or in the funds or assets of the Body Corporate which shall vest in and be controlled by the Trustees in their collective capacities as such.

7 MAIN BUSINESS AND OBJECTS OF THE BODY CORPORATE

- 7.1 The main business of the Body Corporate includes but is not limited to:
- 7.1.1 exercising the duties, functions, powers and duties of the Body Corporate of the Scheme, assigned to the Body Corporate as contemplated in Regulation 6(4)(b) of the Management Act, and without derogating from the generality thereof, the functions and duties contemplated in Sections 3, 4 and 5 of the Management Act;
- 7.1.2 operating, managing and maintaining internal roads, common facilities, security, gatehouse, refuse yard, fences and amenities in respect of the Common Property of the Scheme for the mutual use and benefit of the Members and their invitees;
- 7.1.3 controlling the aesthetic appearance of land, buildings including Units and other improvements on the Common Property of the Scheme and maintaining the landscaping;

- 7.1.4 controlling traffic and implementing security measures for and controlled access to the roads in the Scheme; and
- 7.1.5 controlling and managing the expenditure applicable to the Common Property of the Scheme and amenities and the collection of Levies for which such Members are liable.
- 7.1.6 The Body Corporate shall be entitled to acquire and dispose of immovable property, to enter into leases and to cede leases and to pass servitudes over its immovable property or to accept the benefit of servitudes granted in its favour.

8. USE OF INTELLECTUAL PROPERTY

Nothing in this Management Rules shall grant a Member or Resident any right, title or interest in and to the intellectual property of the Developer and/or any other entity in respect of the Development, including but not limited to the trade name, brand and logo associated with "Newinbosch".

9. TITLE DEED CONDITIONS

- 9.1 Each Owner shall become a member of the Body Corporate and a member of the Master Association automatically upon taking transfer of a relevant Unit. This condition shall be included in the title deed of each Unit and shall be binding on the Owner and his successors-in-title.
- 9.2 The following condition shall be included and carried forward into every Unit's title deed:

"Subject to the following conditions:

- 1. the Unit shall not be transferred without the prior written consent of the The Bosk Body Corporate; and*
- 2. the Unit shall not be transferred without the prior written consent of the Newinbosch Master Association."*

10. RESTRICTIONS

- 10.1 For the avoidance of doubt, short term letting, i.e. for less than 30 (thirty) days will be allowed subject to approval by the Body Corporate and the Master Association on such terms as provided for in the Neighbourhood Rules and the Conduct Rules .
- 10.2 No Member or Resident shall conduct any business in his Unit other than the uses envisaged here-in or use his Unit for purposes other than residential purposes unless the Trustees have approved the use to which the Unit is to be put in writing and the Local Authority has, to the extent that it may be necessary, granted the necessary approvals authorizing such use in terms of applicable laws and regulations and there has been compliance with the following –
 - 10.2.1 any Member wishing to conduct a business on in his Unit or who wishes to use his Unit for purposes other than residential, shall apply in writing to the Trustees for permission to do so. The Trustees shall be entitled in their absolute discretion to refuse such application or to approve the application unconditionally or to approve the application subject to such conditions as the Trustees deem necessary;

10.2.2 an application in terms of the foregoing shall contain a full description of the proposed business or usage and shall be in compliance with the procedures as set out in the constitution of the Master Association.

10.3 Notwithstanding anything else herein contained, the Developer shall be entitled to have commercial offices on the Development in which it can conduct its business activities and shall be entitled to do all things reasonably necessary to lawfully establish such offices on the Development.

10.4 No Member shall permit the number of occupants of his Unit to exceed 2 (two) persons per bedroom. The word "occupants" shall include but shall not be limited to any person who resides or stays on such Unit on a regular or occasional basis irrespective of whether such person is related to or is financially dependent upon the Member or whether such person pays rental or gives any other form of consideration in respect of such Unit or any portion thereof.

11. PRE-EMPTIVE RIGHT IN FAVOUR OF THE DEVELOPER

11.1 A Member shall not in any manner Alienate a Unit unless he shall first, in writing, have offered it for sale to the Developer who, for a period of 7 (seven) days calculated from the date of receipt of the offer, shall have the right to purchase the Unit upon the terms and conditions offered to it, as more fully set out in the Constitution of the Master Association.

12. ALIENATION OF UNITS

12.1 No Member shall transfer his Unit until the Body Corporate and the Master Association has certified that the Member has at date of transfer fulfilled all his financial obligations to the Body Corporate and the Master Association.

12.2 A Member may not alienate a Unit or an undivided share therein owned by him, without the written consent of the Body Corporate and the Master Association. Such consent shall not be withheld unless such Member is indebted to the Body Corporate or the Master Association in any way in respect of levies or other amounts which the Body Corporate may in terms of this Management Rules be entitled to claim from him.

12.3 The Body Corporate and the Master Association (or, if applicable, any Managing Agent appointed by the Body Corporate whose function it is to issue such certificate) shall be entitled to charge an administration fee as determined from time to time by the Trustees, for the issuing of the certificate issued in terms of clause 12.1 above.

13. RIGHTS AND OBLIGATIONS OF MEMBERS

13.1 An Owner may not resign as a Member of the Body Corporate.

13.2 The rights and obligations of a Member shall not be transferable except the rights of the Developer, which may be transferred to its successor in title.

13.3 Subject to the obligations of membership prescribed by these Management Rules, every Member shall:

13.3.1 further, to the best of his ability, the objects and interests of the Body Corporate;

- 13.3.2 observe all rules made by the Body Corporate in a general meeting or by the Trustees;
 - 13.3.3 pay all Levies due by the Member to the Body Corporate;
 - 13.3.4 sign all documents and do all things necessary to enable whatever servitudes may be required for services to be registered whether over or in favour of the access portion(s) or any other Land relating to the Development.
- 13.4 Subject to the rights of membership prescribed by the Act and by this Management Rules, membership shall confer upon each individual Member the following rights:
- 13.4.1 the right to nominate and elect the board of Trustees of the Body Corporate;
 - 13.4.2 the right to receive copies of the annual financial statements of the Body Corporate;
 - 13.4.3 the right to receive notice of, attend, speak and vote at general meetings of the Body Corporate.
- 13.5 Nothing contained in this Management Rules shall prevent a Member from ceding his rights in terms of this Management Rules as security to the mortgagee of that Member's Unit in the Development.

14. LEVIES

- 14.1 As envisaged in terms of Section 3 of the Management Act the Trustees by resolution, or the Members in general meeting, shall from time to time impose Levies upon the Members for the purpose of meeting all the expenses which the Body Corporate has incurred, or which the Trustees reasonably anticipate the Body Corporate will incur, including provision for future unexpected expenses.
- 14.2 The Developer shall, during the Development Period, contribute to the Reserve Fund as contemplated in Section 3(1)(b) of the Management Act and shall make additional contributions as contemplated in Section 3(1)(d) of the Management Act. The Developer shall, during the Development Period, ensure that the Body Corporate is financially stable and shall contribute to the Body Corporate, by mutual agreement, as required.
- 14.3 The Levies payable shall increase annually by no less than any increase in the Consumer Price Index and such increase shall be subject to the approval of the Developer during the Development Period. It is further recorded that any increase in levies payable by the Members to the Body Corporate will be market related and will be communicated to the Master Association prior to such increase taking effect.
- 14.4 The Trustees shall, not less than thirty days prior to the end of each financial year (which financial year, unless otherwise decided at a general meeting or by the Trustees, shall run from the first day of March in any year to the last day of February in the subsequent year (or as resolved by the Body Corporate during a general meeting), or so soon thereafter as is reasonably possible, but before every annual general meeting, cause to be prepared and served upon every Member at the address chosen by him an estimate in reasonable detail of the amount which shall be required by the Body Corporate to meet the expenses during the following financial year, and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The Trustees may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual nature,
- 14.4.1 for approval by the Developer, during the Development Period; and

14.4.2 for the Developer's review and consent, during the period commencing on expiry of the Development Period ("Development Period Expiry Date") and terminating on the 10th (tenth) anniversary of the Development Period Expiry Date (or such earlier date as the Developer may decide),

and against such approval (or granting of consent), the Trustees shall, not less than thirty days prior to the end of each financial year, or so soon thereafter as is reasonably possible, but before every annual general meeting, cause to be served upon every Member, at the address chosen by him, the Approved Budget.

- 14.5 Unless otherwise determined by Special Resolution, the Levies payable by Members shall be in accordance with the size of their respective Units, as depicted on the Sectional Plan.
- 14.6 The Levies payable by Members shall become due and payable on the passing of a resolution to that effect, as referred to in this clause 14, by the Members who were Owners of Units at the time the resolution was passed, provided that upon a change of ownership of a Unit the successor becomes liable for the pro rata payment of such contributions from the date of change of ownership.
- 14.7 The Trustees shall, as soon as possible after the imposition of the Levies in terms hereof, advise each Member in writing of the amount payable by him. An invoice or statement sent to a member and depicting the amount payable shall comply with this requirement. The failure of the Trustees to so advise a Member of the imposition or change in Levies shall however not affect the enforceability or validity thereof.
- 14.8 Levies and other amounts imposed shall be payable in monthly instalments (unless expressly stated to be payable otherwise) and shall be payable monthly in advance, on the first day of each month, without deduction or set-off.
- 14.9 The Trustees by resolution, or the Members in general meeting, may from time to time impose Special Levies upon the Members in respect of expenses which were not included in the approved estimate of income and expenditure, and such Levies may be made payable in one sum or by such instalments (with or without interest and if with interest at such rate as may be determined by the Trustees) and at such time or times as the Trustees shall think fit.
- 14.10 Interest shall be payable on arrear Levies and any other amounts due in terms hereof or the Rules, at a rate as may from time to time be determined by the Trustees, which rate shall not exceed the rate of interest payable per annum under the National Credit Act 35 of 2000. The interest charged by the Body Corporate, at whichever rate, shall be compounded, and capitalised monthly in arrears.
- 14.11 The amount of any Member's indebtedness to the Body Corporate at any time, the interest rates applicable from time to time and any other factor relating to the determination of such indebtedness as well as the due date for payment of such amount, may at the option of the Trustees be proved in any legal proceedings and at any stage by a certificate signed by any Trustee of the Body Corporate. It shall not be necessary to prove the appointment and authority of the person signing such certificate, which certificate shall be binding on any Member/s it relates to as prima facie proof of the facts contained therein. This includes any amount/s due by a Member, by way of Levies, Special Levies, interest thereon, other payment due in terms hereof or the Rules, or costs, which shall be regarded as debt due by the Member to the Body Corporate.

- 14.12 Any Member whose account reflects a credit balance equivalent to the levies of 12 months in advance, may receive a credit equivalent to a fixed percentage of the monthly Levy, which percentage shall be determined at the annual general meeting of Members by simple majority, and shall remain in force until it is altered at a subsequent annual general meeting. Members who do not have a credit balance as aforementioned, shall not receive the discount and no correspondence will be entered into by the Trustees in this regard. A Member who wishes to dispute any amount that has been billed to them must settle the amount in full and follow normal dispute resolution channels to correct any error that may have occurred.
- 14.13 Any Member who fails to pay their Levy on time, may at the sole discretion of the Trustees be liable to pay a deposit, the amount of which shall be determined by the Trustees but shall not exceed twelve times the monthly Levy currently payable. The deposit shall become due and payable on the passing of a resolution by the Trustees. Deposits shall be refunded to the Owner, free of interest, upon the transfer of the unit. At the sole discretion of the Trustees, the full deposit or any part thereof may be refunded to the Member, free of interest, prior to transfer. Similarly, the Trustees may at their sole discretion increase the deposit amount, provided that the deposit may never exceed twelve times the monthly Levy currently payable.
- 14.14 A Member shall not be entitled to withhold payment for any reason whatsoever of any Levy or Special Levy or contribution or any other amount, penalty, fine or interest due by him to the Body Corporate.
- 14.15 Trustees of the Master Association shall, assign a proportion of those costs attributable generally or specifically to a particular Sectional Title Scheme or the Body Corporate (“**the Sectional Title Levy**”), it being agreed that the Body Corporate in respect of such Sectional Title Scheme/s shall determine the pro-rata portion due by each Owner of a Unit in the said Sectional Title Scheme/s in respect of such Sectional Title Levy and shall be responsible for collecting such pro-rata amounts from each Owner of a Unit, which Owners agree to be jointly and severally liable with the Body Corporate to the Master Association for payment of each such pro-rata portion of the Sectional Title Levy.
- 14.16 The Body Corporate acknowledges and agrees that any increase in levies payable by the Owners of Units of the Body Corporate will be market related and will be communicated to the Master Association prior to such increase taking effect.

16. RESERVE FUND

16.1 The Body Corporate shall –

16.1.1 prepare a written maintenance, repair and replacement plan for the Common Property, to take effect on its approval by the Members in a general meeting, setting out the major capital items expected to require maintenance, repair and replacement within a 10-year period;

16.1.2 create a Reserve Fund, which fund shall be used to cover the maintenance, repair or replacement of Common Property as set out in the written maintenance, repair and replacement plan.

16.2 The annual contribution to the Reserve Fund shall be determined according to the following formula: [(estimated cost minus past contribution) divided by expected life of capital item].

16.3 The Body Corporate shall hold the funds collected in terms of clause 16.1.2 in a separate account from the Levy account.

16.4 Money may be paid out of the Reserve Fund –

16.4.1 at any time in accordance with trustee resolutions and the approved maintenance, repair and replacement plan; or

16.4.2 if the trustees resolve that such a payment is necessary for the purposes of an urgent maintenance, repair or replacement expense, as contemplated in the Management Act and Regulations.

17. **RULES**

17.1 Subject to any restriction imposed or direction given at a general meeting of the Body Corporate, the Trustees may from time to time make rules which may include rules in regard to: -

17.1.1 rules to provide for the control, management, administration, use and enjoyment of the Units and the Common Property of the Scheme as contemplated in Section 10(1) of the Management Act;

17.1.2 the use, maintenance, repair and replacement of any roadway which vests, or the rights in and to whereof vests, in the Body Corporate and of any services, connections and equipment under or over such roadway;

17.1.3 the implementation of a system of environmentally friendly practices regarding, amongst others: -

17.1.3.1 refuse disposal, refuse recycling and littering, which encourages Members, the members of their households, their guests, visitors, lessees and employees to separate their refuse at source for placement into separate recyclable waste containers in order to incorporate reduction, recycling, re-using and disposal of waste where appropriate;

17.1.3.2 encouraging Members, the members of their households, their guests, visitors, lessees, contractors and employees to use low-energy light bulbs.

17.1.4 the furtherance and promotion of any of the objects of the Body Corporate and the Master Association and/or for the better management of the affairs of the Body Corporate and the Master Association and/or for the advancement of the interests of Members in the Scheme.

17.2 For the enforcement of any of the rules made by the Trustees in terms hereof and for the payment of any debt due to the Body Corporate, the Trustees may:

17.2.1 give notice to the Member concerned requiring him to remedy a breach thereof or make payment within such reasonable period as the Trustees may determine;

17.2.2 take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the Member, his guests, invitees and lessees may be guilty or recover the debt, and debit the cost of so doing to the Member concerned, which amount shall be deemed to be debt owing by the Member concerned to the Body Corporate;

17.2.3 impose a system of fines or other penalties; provided that the amounts of such fines shall be reviewed and confirmed annually at a meeting of the Trustees;

- 17.2.4 take such other action, including proceedings in Court, as they may deem fit.
- 17.3 In the event of the Trustees instituting any legal proceedings against any Member within the Scheme for the enforcement of any of the rights of the Body Corporate in terms hereof, the Body Corporate shall be entitled to recover, on demand, all legal costs so incurred from the Member concerned, calculated as between attorney and own client.
- 17.4 In the event of any breach of the rules by the Members of any Member's household, guests, invitees or lessees, such breach shall be deemed to have been committed by the Member himself, but without prejudice to the foregoing, the Trustees may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.
- 17.5 In the event of any dispute between the Body Corporate or a Member arising out of or in connection with this Management Rules or applicable legislation or the rules, save where an interdict or other form of urgent relief is sought from a Court having jurisdiction, a committee of three Trustees appointed by the Chairperson for the purpose shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that the rules of natural justice shall be observed) as the Chairperson may direct.
- 17.6 Any fine imposed upon any Member, his guest, his invitee or his lessee shall be deemed to be a debt by the Member to the Body Corporate and shall be recoverable by ordinary civil process.
- 17.7 Notwithstanding anything to the contrary herein contained, the Trustees may in the name of the Body Corporate enforce the provisions of any rules by civil application or action in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit. The Body Corporate shall be entitled to recover all legal costs from such Member on an attorney and own client scale including the costs of counsel on the highest scale, in full, whether or not legal action is actually instituted.
- 17.8 The Body Corporate may in general meeting itself make any rules which the Trustees may make and may in general meeting vary or modify any rules made by it or by the Trustees from time to time.
- 18. TRUSTEES**
- 18.1 The functions and powers of the Body Corporate shall, subject to the provisions of this Management Rules, the rules and any restriction imposed or direction given at a general meeting of the Members, be performed and exercised by the Trustees holding office in terms of the Management Rules.
- 18.2 The first Trustees shall be nominated by the Developer upon formation of the Body Corporate and shall serve until at least the minimum number of Member Trustees has been elected.
- 18.3 Subject to the provisions of the Act, the Members shall be entitled, but not obliged, to have at least one (1) Trustee from their number serve on the board of Trustees; provided that there shall be not less than 2 (Two) and not more than 7 (Seven) Trustees at any time; provided further that during the Development Period the Developer shall be entitled to appoint not less than 50% plus one of the number of Trustees as Developer Trustees and alternate Developer Trustees for each Developer Trustees. The Members may also appoint an alternate Trustee for each Member Trustee.

18.4 Any failure by the Body Corporate at any time to have the minimum number of Trustees, does not limit or negate the authority of the Board, or invalidate anything done by the Board or the Body Corporate in regard to the appointment of the necessary further Trustees.

18.5 A Trustee need not himself be a Member. A Trustee, however, by accepting his appointment to office as such, shall be deemed to have agreed to be bound by all the provisions of these Management Rules.

19. REMOVAL AND ROTATION OF TRUSTEES

19.1 Save as set out in clause 18 and subject to clause 18.2, each Member Trustee shall continue to hold office from the date of his appointment until the second annual general meeting next following his appointment, at which meeting each Member Trustee shall be deemed to have retired from office but will be eligible for re-election to the board of Trustees at such meeting.

19.2 Subject to the provisions of clause 19.3 below, each Member Trustee shall continue to hold office until the second annual general meeting of the Association following his appointment, at which meeting each Member Trustee shall be deemed to have retired from office as such but will be eligible for re-election at such meeting. The Developer shall, by written notice to the Trustees, be entitled to remove any Developer Trustee appointed by the Developer and upon such removal or upon any Developer Trustee ceasing to hold office for any other reason, by written notice, appoint in their stead another person or persons.

19.3 A Trustee shall be deemed to have vacated his office upon:

19.3.1 his having become disqualified to act as a Trustee in terms of the provisions of the Act;

19.3.2 in the event of him being a Member, him being disentitled to exercise a vote in terms of clause 28 below.

19.4 Notwithstanding the fact that a Trustee shall be deemed to have vacated his office as provided in clause 19.3, anything done by such Trustee in the capacity of a Trustee in good faith shall be valid until the fact that he is no longer a Trustee has been recorded in the Minute Book of the Trustees

19.3 Upon any vacancy of a Member Trustee occurring on the board of Trustees prior to the next annual general meeting, the vacancy in question shall be filled by a person nominated by the remaining Trustees for the time being in office by way of co-option. Should the office of a Developer Trustee fall vacant prior to the next annual general meeting, the vacancy in question may be filled by the Developer.

20. CHAIRPERSON AND VICE CHAIRPERSON

20.1 Subject to clause 20.3 hereunder, the Trustees shall within 14 (fourteen) days after each annual general meeting appoint from their number a Chairperson and Vice-Chairperson; provided that the office of Chairperson or Vice-Chairperson shall ipso facto be vacated by a Trustee holding such office upon his ceasing to be a Trustee for any reason. No one Trustee shall be appointed to more than one of the aforesaid offices. In the event of any vacancy occurring in either of the aforesaid offices at any time, the board of Trustees shall immediately appoint one of their number as a replacement in such office.

20.2 Except as otherwise herein provided, the Chairperson shall preside at all meetings of the board of Trustees and, in the event of his not being present within ten minutes of the scheduled time

for the start of the meeting or in the event of his inability or unwillingness to act, the vice-Chairperson shall act in his stead, or failing the Chairperson and vice-Chairperson appointed by the meeting.

20.3 During the Development Period, the Chairperson shall be a Trustee appointed by the Developer.

21. TRUSTEES' EXPENSES

The Trustees shall be entitled to be repaid all reasonable and bona fide expenses incurred by them respectively in or about the performance of their duties as Trustees. Save as aforesaid, the Trustees shall not be entitled to any remuneration for the performance of their duties in terms hereof.

22. POWERS OF TRUSTEES

22.1 The Trustees shall perform the powers, functions and duties of the Trustees of the Body Corporate of the Scheme, as contemplated in Regulation 3(4)(b) of the Management Act of the Act and which powers, functions and duties shall include, but not be limited to, the functions and duties contemplated in Sections 3 to 5 of the Management Act.

22.2 Subject to the provisions hereof, and particularly the provisions of clause 23, the Trustees shall manage and control the business and affairs of the Body Corporate, shall have full powers in the management and direction of such business and affairs including the right of appointment of the Managing Agent, an Executive Managing Agent as contemplated in terms of Rule 28(3) and Rule 28 (4) of the Management Act, provided that during the Development Period and one year thereafter the Managing Agent shall be appointed by the Developer, Auditor, insurers and other service providers and employees, may exercise all such powers of the Body Corporate and do all such acts on behalf of the Body Corporate as may be exercised and done by the Body Corporate and as are not by the Act or by the Management Rules of the Body Corporate required to be exercised or done by the Body Corporate in general meeting, subject however to such rules as may have been made by the Body Corporate in general meeting or as may be made by the Trustees from time to time.

22.3 Save as specifically provided herein, the Trustees shall at all times have the right to engage on behalf of the Body Corporate the services of accountants, Auditors, attorneys, advocates, architects, engineers, a Managing Agent or any other professional firm or person or other employees whatsoever for any reasons deemed necessary by the Trustees and on such terms as the Trustees shall decide, and the Trustees may delegate any or all of their powers to the said Managing Agent as they may determine, subject to any restriction imposed or direction given at any general meeting of the Body Corporate; provided that during the Development Period and one year thereafter the Auditor and the Managing Agent shall be appointed by the Developer.

22.4 The Trustees shall further have power to require that any works being constructed within the Development shall be supervised to ensure that the provisions of the Management Rules of the Body Corporate and the rules are complied with

22.5 Where a Trustee is absent or ceases to hold office, the Trustees shall have the right to co-opt onto the Board any person or persons, which persons need not be Members of the Body Corporate, until the next Annual General Meeting.

22.6 Subject to clause 22.2 above, the board of Trustees shall be entitled to appoint committees consisting of such number of Trustees and such outsiders, including the Managing Agent, as

the Board may deem fit and to delegate to such committees such of their functions, powers and duties as the Board may deem fit, together with the further power to vary or revoke such appointments and delegations as the Trustees may from time to time deem necessary.

23. PROCEEDINGS OF TRUSTEES

- 23.1 The Trustees may, subject to the provisions of this Management Rules, meet together to attend to their business, adjourn and otherwise regulate their meetings as they think fit.
- 23.2 The quorum for the holding of any meeting of the Trustees shall be one-half of the total number of Trustees then in office (reduced, if the total number of Trustees then in office is an uneven number, to the nearest whole number) plus one Trustee; provided that there shall be at least one Member Trustee and two Developer Trustees present, and further that during the Development Period, not less than 51% (fifty one percent) of the quorum shall comprise of the Developer Trustees or its nominees. Any resolution passed by the board of Trustees shall be carried on a simple majority of all votes cast. Should there be an equality of votes for and against any resolution, the Chairperson shall have a casting vote and a deliberative vote during the Development Period. After the Development Period should there be an equality of votes, the resolution shall be deemed to have been defeated.
- 23.3 The Trustees shall cause the minutes of each meeting to be kept in accordance with the Act, which minutes shall be reduced to writing and certified as correct by the Chairperson as soon as is reasonably possible after such meeting. All minutes of meetings of the board of Trustees shall, after certification, be placed in a Minute Book which shall be kept in accordance with the applicable provisions of the Act. The Trustees' Minute Book shall be open for inspection at all reasonable times by any Trustee, the Auditors, the Members and the Managing Agents.
- 23.4 Subject to the provisions of this Management Rules, the proceedings of any meeting of the board of Trustees shall be conducted in such reasonable manner and form, as the Chairperson of the meeting shall direct.
- 23.5 A resolution signed by all the Trustees shall be valid in all respects as if it had been duly passed at a meeting of the board of Trustees duly called and constituted.

24. GENERAL MEETINGS

- 24.1 The Body Corporate shall hold its first annual general meeting within 12 (twelve) months after the date the Body Corporate is constituted or 60 (sixty) days after the establishment of the Body Corporates, whichever is the earlier and shall thereafter hold an annual general meeting not later than 6 (six) months after the end of each financial year of the Body Corporate.

At the first General Meeting contemplated in Regulation 16 of the Management Act any contract entered into by the Developer on behalf of the Body Corporate – inclusive of any cession agreement - shall be ratified by Members in terms of Regulation 16 (2)(d) of the said Act.

- 24.2 The Trustees may, whenever they think fit, convene a general meeting and the secretary shall convene a general meeting if a general meeting is requisitioned in terms of the Act. If at any time there are, within the Republic, insufficient Trustees capable of acting to form a quorum, any Trustee or Member of the Body Corporate may convene a general meeting in the same manner, as nearly as possible, as that in which meetings may be convened by the Trustees.
- 24.3 Subject to the provisions of the Management Act, general meetings shall be held at such time and place as the Trustees shall determine.

24.4 Pursuant to the provisions of clause 26, the general meetings of the Body Corporate shall serve as the general meeting.

24.5 All Members shall be entitled to vote in respect of matters of general concern as determined in accordance with that clause.

25. NOTICE OF GENERAL MEETING

25.1 Subject to the provisions of the Act, an annual general meeting and a meeting called for the passing of a Special Resolution or Unanimous Resolution shall be called on not less than 21 (Twenty One) days' notice in writing and any other general meeting shall be called on not less than 14 (Fourteen) days' notice in writing. Notice in terms of this clause shall be exclusive of the date on which it is served or deemed to be served and exclusive of the date for which it is given.

25.2 The notice of a meeting of the Body Corporate shall specify

25.2.1 the place;

25.2.2 the date and the hour of the meeting; and

25.2.3 in the case of special business, the general nature of such business;

and shall be given in the manner hereinafter provided or in such other manner as may be prescribed by the Body Corporate in general meeting and to such persons as are, under this Management Rules, entitled to receive such notices from the Body Corporate.

25.3 Notwithstanding the provisions of this Management Rules, but subject always to the Act:

25.3.1 a general meeting shall, notwithstanding that it is called by shorter notice than that specified in this Management Rules, be deemed to have been duly called if it is so agreed by a majority in number of the Members having a right to attend and vote at the meeting, who hold not less than 60 per centum of the total voting rights of all the Members;

25.3.2 a general meeting shall be entitled to deal with special business, the general nature of which has not been notified, if it is so agreed by a majority in number of the Members having a right to attend and vote at the meeting, who between them hold not less than fifty per centum of the total voting rights of the Members.

26. PROCEEDINGS AT GENERAL MEETINGS

26.1 In addition to any other matters required by the Act or in terms of this Management Rules to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:

26.1.1 the consideration of the Chairperson's report;

26.1.2 the election of Trustees to be appointed as Trustees;

26.1.3 the consideration of the accounts of the Body Corporate for the preceding financial year;

26.1.4 the consideration of the report of the Auditors and the fixing of remuneration for the Auditors;

26.1.5 the approval with or without amendment of-

- (i) the schedules of replacement values of Units in the Scheme for the purpose of insuring the buildings and Common Property as provided for in the Act; and
- (ii) the estimate of income and expenditure for the ensuing year for the purpose of determining the Levies payable by Members as contemplated in clause 9;

26.1.6 any other business laid before it and of which notice has been duly given in terms of this Management Rules or in respect of which notice has been waived.

26.1.7 the consideration of any other matters raised at the meeting, including any resolutions proposed for adoption by such meeting and the voting upon any such resolutions;

26.2 Where a company or other legal person is a Member of the Body Corporate it may, in the appropriate manner, nominate any person it deems fit to act as its authorised representative at any general meeting and such authorised representative shall be entitled to exercise the same rights and powers which that company would have had at that meeting if it were a natural person and present in person or by proxy.

26.3 Business may be transacted at a general meeting only while a quorum of Members is present.

27. QUORUM

27.1 No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business. The quorum necessary for the holding of a General Meeting shall be:

27.1.1 during the Development Period, all the votes of the Developer plus the number of votes of the other Members of the Body Corporate entitled to vote for the time being, equalling not less than one third of the total votes of members in number; or

27.1.2 after the Development Period the Members of the Body Corporate entitled to vote for the time being and holding not less than one third of the total votes of members in number,

provided that at no stage shall a quorum of less than 10% of the Members present in person or by proxy.

27.2 If within half an hour after the time appointed for the general meeting a quorum is not present, the general meeting, if convened upon requisition of the Members, shall be dissolved. In any other case the general meeting shall stand adjourned to the same day in the next week at the same time and place, or if that day is not a business day to the next succeeding business day, and if at such adjourned general meeting a quorum is not present within half an hour after the time appointed for the meeting, the Members present in person or represented by proxy shall constitute a quorum.

27.3 The Chairperson of the board of Trustees shall preside at all general meetings of the Body Corporate and, in the event of his not being present within 15 (Fifteen) minutes of the scheduled time for the start of the meeting or in the event of his inability or unwillingness to act, the Vice-Chairperson shall act in his stead or, failing the Vice-Chairperson, a Chairperson appointed by the Members present at the meeting.

27.4 The Chairperson of a general meeting at which a quorum is present may (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 business left unfinished at the meeting at which the adjournment took place. Subject to the Act, when a meeting is adjourned it shall not be necessary to give notice thereof.

27.5 No resolution at a general meeting will require a seconder.

27.6 Notwithstanding anything to the contrary provided in this clause 21, there shall not be a quorum at any general meeting of Members (whether Ordinary, Special or Unanimous) unless during the Development Period, the Developer is represented at such meeting, whether in person or by proxy.

28. VOTING

28.1 Notwithstanding anything to the contrary herein contained, at any general meeting, on a show of hands, each Member who is present in person, by authorised representative or by proxy shall, have 1 (One) vote per Unit of which he is the registered owner, save that during the Development Period the Developer shall have:

28.1.1 1 (One) vote for every Unit in the Development; and

28.1.2 an additional 500 (Five Hundred) votes.

28.2 If a Unit or a portion of a Unit in the Development is registered in the name of more than one person, then all such co-Owners shall jointly have 1 (One) vote.

28.3 Subject to the provisions of this Management Rules, no person other than a duly registered Member who has paid every Levy and other sum, if any, which is due and payable to the Body Corporate in respect of or arising out of his membership and who is not under suspension, shall be entitled to be present or vote on any question, either personally or by proxy, at any general meeting.

28.4 At any general meeting a resolution put to the vote 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 by any person entitled to vote at the meeting. No poll shall, however, be demanded on the election of the Chairperson of the meeting or on any question of adjournment. Unless a poll is demanded, a declaration by the Chairperson of the meeting that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority, or defeated, an entry to that effect in the minute book contemplated in clause 30.1 below shall be conclusive evidence of that fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

28.5 If a poll is demanded:

28.5.1 the poll shall be taken in such manner and at such time as the Chairperson of the meeting shall direct;

28.5.2 the Chairperson of the meeting shall be entitled to appoint scrutineers;

28.5.3 no notice of a poll other than an announcement at the meeting at which it is demanded shall be required;

28.5.4 the demand for a poll shall not prevent the continuation of the meeting for the transaction of any business other than the question on which the poll has been demanded;

28.5.5 a demand for a poll may be withdrawn;

28.5.6 the result of a poll shall be deemed to be the resolution of the meeting on any question on which the poll is taken.

28.6 In the case of an equality of votes, whether on a show of hands or a poll, the Chairperson of the meeting at which the show of hands takes place or at which the poll is taken shall not be entitled to a second or casting vote.

28.7 Any objection to the admissibility of a vote on a show of hands or on a poll shall be raised at the general meeting at which that show of hands or poll is to take place or takes place. That objection shall be determined by the Chairperson of that general meeting and his decision thereon shall be final and binding. Accordingly, any vote not disallowed at that meeting shall be valid for all purposes.

28.8 A resolution shall not be invalid because a vote which should not have been included has been taken into account unless, in the opinion of the Chairperson of that meeting (whose decisions thereon shall be final and binding), the exclusion of that vote would have altered the result of the voting on that resolution. Conversely a resolution shall not be invalid because a vote which should have been included has not been taken into account unless, in the opinion of the Chairperson of that meeting (whose decisions thereon shall be final and binding), the inclusion of that vote would have altered the result of the voting on that resolution.

28.9 The Body Corporate shall be entitled to attend any annual general meeting or general meeting of the Master Association, but may only vote in respect of matters which also materially and directly impact upon the rights and obligations of the Owners of Units in the Scheme as members of the Master Association.

29. **RESOLUTION IN WRITING BY MEMBERS**

Subject to the provisions of the Act, a resolution in writing signed by all the Members entitled to receive notice and attend and vote at the general meeting and inserted in the minute book kept in terms of clause 30.3 shall be as valid and effective as if it had been passed at a general meeting duly called and constituted. A resolution in terms of this clause may consist of several documents of the same form, each of which is signed by one or more Members in terms of this clause, and shall be deemed to have been passed on the date of signature thereof by the last Member entitled to sign the same.

30. **MINUTES AND INSPECTION**

30.1 The Trustees shall cause a record to be made of all resolutions of the Body Corporate in general meeting in a book provided for that purpose.

30.2 The minutes kept in terms of clause 23.3 (or any extract therefrom) which purport to be signed by the Chairperson of the board of Trustees or by any Trustee or the secretary shall be prima facie evidence of the matters therein stated.

30.3 The minute book shall be open for inspection as provided in the Act.

31. PROXIES

- 31.1 A Member entitled to vote at a general meeting shall be entitled to appoint one person or more than one person in the alternative to each other as his proxy to attend, speak and vote at a general meeting on his behalf.
- 31.2 A proxy need not be a Member of the Body Corporate.
- 31.3 The instrument appointing a proxy shall be in writing under the hand of the appointer or his agent duly authorised in writing or, if the appointer is a body corporate, under the hand of the authorised representative. A proxy need not be witnessed. Whether he is himself a Member or not, the holder of a general or special power of attorney given by a Member shall, if duly authorised under that power to attend and take part in meetings and proceedings of the Body Corporate, be entitled to attend general meetings and to vote thereat.
- 31.4 A form of proxy may be issued at the Body Corporate's expense only if it is sent to all Members who are entitled to attend and vote at the general meeting to which the proxy form relates.
- 31.5 The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, (or a notarially certified copy of such power or authority) shall be deposited at the office not less than forty eight hours (or at such other place and such lesser period as the Trustees may determine in relation to any particular meeting) before the time for the holding of the meeting which the person named in the instrument proposes to speak and vote. A form of power of attorney or proxy shall be invalid if this clause is not complied with.
- 31.6 Except insofar as the form appointing a proxy indicates otherwise, the appointment of a proxy shall be deemed to include the right to demand or join in demanding a poll and (except to the extent to which the proxy is specially directed to vote for or against or to abstain from voting on any proposal or resolution), the power generally to act for the Member giving that proxy at the general meeting in question as the proxy may think fit. Unless the contrary is stated thereon, the form appointing a proxy shall be valid for each adjournment of the general meeting to which it relates.
- 31.7 No instrument appointing a proxy shall be valid after the expiration of 6 (Six) months from the date on which it were signed unless specifically stated to the contrary in the instrument of proxy itself.
- 31.8 The instrument appointing a proxy may be in any usual or common form approved by the Trustees but shall be so worded that the holder thereof may vote for or against or abstain from voting on any one or more of the resolutions proposed at the general meeting at which the proxy is to be used.

32. ACCOUNTING RECORDS

- 32.1 The Trustees shall cause to be kept such accounting records as are prescribed in terms of the Management Act and in particular such accounting records as are necessary fairly to present the state of affairs and business of the Body Corporate and to explain the transactions and financial position of the trade or business of the Body Corporate.
- 32.2 The Body Corporate's records shall be kept at the office or such other place or places as the Trustees think fit and shall at all reasonable times be open to inspection by the Trustees and by past Trustees but, in the case of the latter, only in respect of the period during which they held office as Trustees.

32.3 The Trustees shall from time to time determine whether, to what extent and at what times and places and under what conditions or regulations the accounting records of the Body Corporate or any of them may be open for inspection by Members not being Trustees and no Member (not being a Trustee) shall have any right to inspect any accounting record or document of the Body Corporate except as conferred by the Act or authorised by the Trustees or by the Body Corporate in general meeting.

33. **AUDITOR AND AUDITED FINANCIAL STATEMENTS**

33.1 Subject to clause 22.2, an auditor shall be appointed in accordance with the provisions of the Management Act.

33.2 The Trustees shall from time to time and in accordance with the provisions of the Management Act, cause the annual financial statements to be prepared and laid before the Members in general meeting.

33.3 A copy of any annual financial statements which are to be laid before the Members at the annual general meeting shall not less than 21 (Twenty-One) days before the date of that meeting, be sent to every Member of the Body Corporate and, where required by the Management Act, also to the Ombud. The provisions of this clause shall not require a copy of those documents to be sent to any person who has not furnished an address to the Body Corporate.

34. **DISPUTES**

34.1 Any disputes arising out of or in connection with the Management Rules of the Body Corporate, must be determined in accordance with clause 17, except where an interdict is sought for urgent relief which may be obtained from a court of competent jurisdiction.

34.2 On a dispute arising (except for money or a debt owing to the Body Corporate), the parties who wish to have the dispute determined must notify the other party thereof in writing. Unless the dispute is resolved amongst the parties within 14 (Fourteen) days after such notice, either of the parties to the dispute may refer the same for determination to the Chairperson of the Body Corporate, who shall appoint a committee consisting of three Trustees as contemplated in clause 17.5 within 7 (Seven) days of receipt of notification of the dispute in writing. The committee so appointed shall determine the dispute within 14 (Fourteen) days of its Management Rules in accordance with the rules of natural justice and on consideration of such evidence adduced to it, or received by it on its request, in such form and manner acceptable in its discretion.

34.3 Notwithstanding the provisions of clause 28.4, the committee shall be entitled to refer the dispute for determination to an independent party agreed to between the committee and the disputing Members, in which event such dispute shall be referred to the following who shall in each case have a minimum of ten years' experience in their field:

34.3.1 if the dispute is primarily an accounting or financial matter, a practicing chartered accountant;

34.3.2 if the dispute is primarily a legal matter or a matter relating to the behaviour and/or conduct of a member, a practicing attorney or advocate;

34.3.3 if the dispute primarily relates to the nature of buildings, structures, installations or equipment, a practicing architect;

- 34.3.4 if the dispute primarily relates to the size or form of the land or the position, height or size of buildings, structures, installations or equipment, a practicing land surveyor.
- 34.4 If the parties are unable to agree on the appointee as provided for in clause 27.3 within three days of being requested to do so, then the person shall be nominated by the President for the time being of the Legal Practitioners Council of the Western Cape Province.
- 34.5 The person appointed as provided for in clause 34.4 shall in all respects act as an expert and not as an arbitrator.
- 34.6 The proceedings shall be on an informal basis, it being the intention that a decision should be reached as expeditiously as possible, subject only to the due observance of the principles of natural justice.
- 34.7 The parties shall use their best endeavours to procure that the decision of the expert shall be given within 21 (Twenty-One) days or so soon thereafter as possible.
- 34.8 The decision of the expert shall be final and binding upon all parties and capable of being made an order of court on application by any of them.
- 34.9 The costs of and incidental to any such proceedings, including the fees of the expert, shall be in the discretion of the expert who shall be entitled to direct the allocation of the costs, and whether it shall be taxed as between "party and party" or as between "attorney and client".
- 34.10 The provisions of this clause 34 shall be deemed to be severable from the remainder of the Management Rules of the Body Corporate and shall remain binding and effective as between the parties notwithstanding that it may otherwise be cancelled, amended or declared of no force and effect for any reason.
- 34.11 Notwithstanding anything to the contrary contained in this Management Rules, the Trustees shall be entitled to institute legal proceedings of whatsoever nature on behalf of the Body Corporate by way of application, action or otherwise in any court having jurisdiction for any purpose whatsoever relating to any matter in respect of any of the provisions of the Management Rules, including any amendments or additions thereto.

35. **NOTICES**

- 35.1 A notice may be given by the Body Corporate to any Member, in the manner set out in clause 35.3 below, at the address if any within the Republic furnished by him to the Body Corporate for such purpose.
- 35.2 Notice of every general meeting shall be given in writing and shall be delivered either by hand, or sent by email
- 35.2.1 to every Member except those persons who have not supplied an address contemplated in clause 28.1 above;
- 35.2.2 to the Auditor for the time being of the Body Corporate;
- 35.2.3 to every Trustee of the Body Corporate, whether a Member or not,
- and no other person shall be entitled to receive notice of any general meetings.

- 35.3 A notice served by post shall irrefutably be deemed to have been received and brought to the notice of the addressee at the time when the letter containing the same was posted and in proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and posted.
- 35.4 Any notice by the Body Corporate shall be signed by a Trustee or by someone authorised by the Trustee.
- 35.5 The accidental omission to give notice of a meeting to or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.
- 35.6 The Body Corporate shall not be responsible for the loss in transmission of documents sent through the post to the address furnished by any Member to the Body Corporate for the giving of notices to him, whether or not it was so sent at his request.

36. **DOMICILIUM**

- 36.1 The domicilium citandi et executandi of each Member or Trustee shall be the address of the Unit registered in his name within the Development Schemes: provided that such Owner shall be entitled from time to time to change the said domicilium but that any new domicilium selected shall be a physical address situated in the Republic (which shall not be a PO Box or Postnet Suite address) and that the change shall only be effective on receipt of written notice thereof by the Body Corporate at its domicilium.
- 36.2 The domicilium citandi et executandi of the Body Corporate shall be the address of its office, appointed from time to time.
- 36.3 It is accepted therefore that the domicilium address provided will be the address at which the Owner or Body Corporate, as the case may be, agrees to accept service of all court processes for the purpose of matters arising between the Body Corporate and the Member.

37. **GENERAL**

- 37.1 The Trustees may serve notice on any Member to the effect that the Trustees consider the conduct of the Member in contravention of the Management Rules. Should the Member or Members fail to comply therewith, within a reasonable time as specified in such notice, the Trustees may take such steps as they deem necessary to rectify the Member's conduct and recover the cost thereof from the Member or Members concerned, which cost shall be deemed to be a debt due and owing to the Body Corporate.
- 37.2 The Body Corporate may enter into agreements with Members for the provision of amenities and services to the Members and to levy a reasonable charge in respect of the provision thereof.
- 37.3 Should the Body Corporate provide security services and/or other services for Members in the Development, all Members shall be obliged to:
- 37.3.1 permit the installation of any such equipment for the purposes of such services as may be determined by the Body Corporate from time to time;
 - 37.3.2 make payment of charges raised by the Body Corporate in respect of such services;
 - 37.3.3 abide by such terms and conditions of the provisions of such services as may be laid down by the Body Corporate from time to time; and

37.3.4 not interfere in any way with the working or maintenance of such services or equipment.

37.4 The Developer may at any time in writing, cede and assign all or any of its rights or obligations in terms of this Management Rules to any transferee of its choice and such transferee shall be entitled to take transfer of all such rights and obligations.

37.5 The Developer may, at any time in writing, abandon in whole or in part, any of its rights.

38. **INDEMNITY**

Every Trustee, manager, and officer of the Body Corporate and every other person (whether an officer of the Body Corporate or not) employed by the Body Corporate, and the auditor, except the managing agent, shall be indemnified out of the funds of the Body Corporate against all costs, losses, expenses and claims which he may incur or become liable to pay by reason of an act done by him in the discharge of his duties, in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, unless such costs, losses, expenses or claims are caused by the mala fide or grossly negligent act or omission of such person.

39. **AMENDMENTS TO THE MANAGEMENT RULES**

39.1 No provision hereof shall be added to, amended, substituted or repealed without the prior consent in writing of:

39.1.1 the Local Authority if such amendment affects the Local Authority if it in any way amounts to an amendment of the requirements set out in section 29(3) of the By-Law, and

39.1.2 the Ombud, only insofar as may be applicable; and

39.1.3 the Developer for as long as the Developer is a Member.

39.2 Subject to the provisions of clause 39.1, such addition, amendment, substitution, or repeal shall require the passing of a Special Resolution adopted at an annual general meeting or general meeting of the Members.

39.3 The Developer shall be entitled to make additions or amendments to this Management Rules and specifically rule 44, in its discretion, provided that –

39.3.1 such addition or amendment is required by a financial institution, as a prerequisite or condition for the Developer to secure development finance in respect of the Development; and

39.3.2 such addition or amendment is approved by the Local Authority, if required in terms of the By-Law.

40. **EXCLUSION DURING THE DEVELOPMENT PERIOD**

Notwithstanding anything to the contrary contained in this Management Rules, during the Development Period those portions of the Scheme where the Developer has not yet exercised in full its Development Rights, shall be excluded from the operation of this Management Rules until such time as the Development Rights in respect of such portions of the Development Schemes have been exhausted.

41. MANAGEMENT OF THE DEVELOPMENT

41.1 The board of Trustees shall exercise such duties and rights as are required of them by the Act and the Management Rules of the Scheme, as well as any other applicable legislation, and in doing so shall inter alia:

41.2.1 manage, control and administer the Scheme, as well as the communal facilities of the Scheme;

41.2.2 be entitled to appoint such committees or sub-committees from their ranks and to delegate certain tasks to such committees or sub-committees as they deem fit and appropriate;

41.2.3 prepare and apply one budget and to apply as far as possible the relevant participation quotas, applicable to every member with regard to any contributions or Special Levies due by Members in respect of the Scheme.

41.2.4 appoint a Managing Agent for the Scheme, alternatively an Executive Managing Agent of their choice to perform the functions and exercise the powers that would otherwise be performed and exercised by the Trustees under the Act. The Executive Managing Agent shall, including without limitation, shall control, manage and administer the Common Property of the Scheme and the obligations to any public or local authority by the Body Corporate on behalf of the Owners, and exercise such powers and duties as may be entrusted to the Executive Managing Agent in terms of Rule 28(3) and Rule 28(4), including the power to collect levies.

Provided that during the Development Period and for a period of (1) one year thereafter the Managing Agent or Executive Managing Agent shall be appointed by the Developer.

41.2.5 appoint one Auditor; provided that during the Development Period and one year thereafter, the auditor shall be appointed by the Developer;

41.2.6 appoint such employees for the Body Corporate as they deem fit and appropriate and allow the Managing Agent to appoint such employees and service providers as the Managing Agent may deem necessary in the proper execution of its duties;

41.2.7 operate one bank account, as far as possible;

41.2.8 insure all buildings, common property and communal facilities of the Scheme, as required by the Act and Regulations, under one Insurance Policy; provided that any exclusions applicable to the Scheme or communal facilities or any claims not covered adequately or at all in terms of the Insurance Policy in respect of the Scheme or Communal Facilities, shall be the liability of the Members or Owner.

41.2.9 convene a annual general meeting, which general meeting shall be held in accordance with the provisions of this Management Rules;

41.2.10 The rights derived from and the obligations conferred upon the Scheme in terms hereof shall entitle the Scheme irrevocably to sue or to be sued or to take any action for the enforcement of the provisions of the Management Act and the rules pertaining to the Scheme in its own names, without reference or formal cession from the Body Corporate; provided that the board of Trustees approves and oversees the institution or defence of such action and subject to any directions that may be given by the Body Corporate in general meeting.

- 41.2.11 Insofar as any administrative, procedural and management aspects may require amendment in order to attain the objects of this clause, the board of Trustees may constitute a Rules Committee to supplement and/or amend and/or repeal any of the Management and Conduct Rules applicable to the Scheme as they deem appropriate and in a manner they deem fit and proper; provided that these rights do not confer upon the Trustees the right to impose any restrictive conditions on the proprietary rights of any of the Members without their knowledge or consent thereto.
- 41.2.12 For the purposes of any quorum requirement and for approval of a Special or Unanimous Resolution, the Members of the Scheme shall participate jointly, subject to the rights of the Developer; provided that the Members may resolve to adopt the required resolution or amendment.
- 41.2.13 In attaining the objectives of this clause, the Trustees shall not do, or cause to be done, anything, whether expressly, tacitly or implied, in contravention of the Act, the Management Act or the principles of good corporate governance and shall at all times exercise their functions in the utmost good faith.

42. EXCLUSIVE USE AREAS

- 42.1 The Developer has, in terms of sections 10 (7) and 10 (8) of the Management Act, created Exclusive Use areas. The Exclusive Use areas as created in favour of the Owners of the Units from time to time, as set out in Annexures "A" and "B" hereto, respectively.
- 42.2 An Exclusive Use area entitles the Owner of a Unit to which such Exclusive Use area attaches the exclusive use of the Exclusive Use area to the exclusion of all other persons.
- 42.3 The Exclusive Use areas created shall be as follows:
- 42.3.1 each parking bay reflected in Annexure "A" hereto shall be for the exclusive use of the Owner of the Unit, the number of which is reflected in Annexure "A" and as determined in the layout plan attached hereto marked Annexure "B".
- 42.3.2 each ground floor unit shall be allocated a garden area, reflected in Annexure "A" hereto for the exclusive use of the Owner of the Unit, the number of which is reflected in Annexure "A" and as determined in the layout plan attached hereto marked Annexure "B".
- 42.4 The general provisions relating to the use of the Exclusive Use parking bays are as follows:
- 42.4.1 The parking bays may only be utilised for the parking of: -
- 42.4.1.1 motor vehicles;
 - 42.4.1.2 light delivery vehicles;
 - 42.4.1.3 trailers

The parking bay can only be utilised for parking of other vehicles or objects with the prior written consent of the board of Trustees which may withhold such consent in its discretion, or grant such consent subject to such conditions as it may determine.

- 42.5 Where the boundary of an exclusive use area, is defined by walls and a roof, for example a garage, the Owner having such exclusive use shall be responsible for the maintenance of the inside of their exclusive use area as if it were part of their Unit. In addition, the Trustees shall be entitled to determine and collect from the Levies and/or Special Levies to cover the cost of external maintenance and insurance of the exclusive use area, as well as a reasonable charge for water and/or electricity used. The Owner/s shall be liable for any excess charged in the event of an insurance claim pertaining to their exclusive use area/s.
- 42.6 The board of Trustees shall be responsible for the maintenance of any Exclusive Use area to which an Owner may be entitled. The board of Trustees shall be entitled to determine and collect Levies and/or Special Levies to cover the cost of such maintenance from the relevant Owners. The Owner/s shall be liable for any excess charged in the event of an insurance claim pertaining to their area/s.
- 42.7 The holder of the right to an Exclusive Use area shall be entitled to transfer such right to any Owner of a unit in the schemes by entering into a written cession of such right and causing such cession to be minuted at a meeting of the board of Trustees. The Trustees shall be obliged to record such cession at the first meeting of Trustees after the cession document has been handed to any Trustee if:
- 42.7.1 the cession is in writing;
- 42.7.2 the parties to the cession are Owners of Units in the Schemes; and
- 42.7.3 the description of the Exclusive Use Area is clear from the document.

43. **RIGHT TO MARKET**

- 43.1 Notwithstanding anything to the contrary contained in the Rules, and for the duration of the Developer's right to extend the property in terms of Section 25(1) of the Act: -
- 43.1.1 the Developer shall have the right to market and sell all units in respect of the further phases to be constructed in terms of the Right of Extension, and those units still registered in the Developer's name;
- 43.1.2 prospective purchasers shall have the right to enter the Development through the main entrance to view the show units and those units still registered in the Developer's name.
- 43.2 In order to ensure that prospective purchasers or tenants are correctly advised of their rights and obligations relative to the Development, Members who wish to re-sell or let their properties, are obliged to appoint an Estate Agent who is accredited by the Master Association in accordance with its Management Rules and its rules promulgated from time to time in this regard.

44. **INTERNAL WORKS AND SOLAR PANEL SYSTEMS**

- 44.1 For purposes of this clause 44 the term "**Solar System Owner**" means the Developer or its nominee that owns the PV Solar System in the Scheme and the terms "**Solar Panel System**" means a solar panel hardware system (including all generator(s), inverters and batteries) on all the buildings in the Scheme.
- 44.2 All water network, electrical network, sewer network, storm-water network and road network components shall be a private combined system and shall be indicated as such on all documents and plans and the Developer will have an obligation to transfer any such private owned networks, except for the Solar Panel System (if applicable) to the Master Association.

- 44.3 In the event that the electricity infrastructure is not transferred to the Solar System Owner, then for the avoidance of doubt, it is recorded that if the electricity infrastructure is transferred to the Local Authority, it will be owned and maintained by the Local Authority and all Members must apply for their electricity connection directly from the Local Authority subject to all the terms conditions and fees of the Local Authority. Faults must be reported directly to the Local Authority.
- 44.4 All private combined systems (including but not limited to water, sewers, storm-water, roads, and irrigation) shall be a joint and several responsibility (including but not limited to the administration of the joint account and operation and maintenance of the relevant systems) of the Members.
- 44.5 All internal works (including but not limited to water, sewers, storm-water, roads, and irrigation) on the Development shall be constructed in accordance with the operational infrastructure management plan approved by the Local Authority.
- 44.6 The Solar System Owner reserves the right to install and own any Solar Panel System installed in respect of the Scheme or any portion thereof.
- 44.7 Each Member and Resident undertakes not to interfere with or remove the Solar Panel Systems and will not install additional Solar Panel Systems without the prior written consent of the Solar System Owner.
- 44.8 Each Member and Resident shall give reasonable access to the Solar System Owner to maintain and replace the Solar Panel Systems installed on the Buildings if and when required in the reasonable opinion of the Solar System Owner.
- 44.9 Each Member agrees, acknowledges and undertakes (where applicable as a *stipulatio alteri*) in favour of the Solar System Owner that –
- 44.9.1 the Solar System Owner, as owner of the Solar Panel Systems, may, if it so elects in its sole and absolute discretion, register an access servitude over the Property and the Buildings to ensure that the Solar System Owner has access to and can inspect and properly maintain the Solar Panel System;
- 44.9.2 as security for the undertaking given above, each Member hereby nominates and appoints any director of the Solar System Owner to be its lawful attorney and agent *in rem suam* to sign any documents required for the registration of such servitude. Each Member furthermore undertakes to ratify and confirm whatever the aforesaid attorney does or purports to do in good faith in the exercise of any power confirmed in this clause;
- 44.9.3 the Solar Panel System is movable and does not accede to the Member's property and is not subject to any hypothec or other similar right;
- 44.9.4 in the event that a Member disposes of its property on which the Solar Panel Systems have been installed, the Member shall ensure that the new registered owner of the property consents to undertake the same obligations in favour of the Solar System Owner in relation to the Solar Panel System on such property and in this regard the Members agree and undertake to and in favour of the Solar System Owner that the necessary condition to this effect may be inserted in his title deed in respect of such property; and
- 44.9.5 as security for the undertaking given in clause 38.3 above, each Member hereby nominates and appoints any director of the Solar System Owner to be its lawful attorney and agent *in rem suam* to sign any documents required for the inclusion of such condition in the relevant property's title deed. Each Member furthermore undertakes to ratify and confirm whatever the aforesaid

attorney does or purports to do in good faith in the exercise of any power confirmed in this clause.

45 POST-SALE IMPROVEMENTS TO THE DEVELOPMENT

45.1 The Members acknowledge and agree that:

45.1.1 it is in the interests of both the Members and the Developer that the Development be completed, and all of the units be sold, as soon as reasonably possible; and

45.1.2 in order to promote the sale of units in the Development, the Developer may need to change the layout, design and/or number of units and/or parking and/or facilities/amenities in the Development and/or add adjoining properties and/or units and/or parking and/or facilities/amenities (including, but not limited to, hotel/s, conference centre/s, school/s) to the Development and/or register servitudes over, or in favour of, the property on which the Development is being established and/or undertake such other activities as may enhance the marketability and ambiance of the Development including (without limitation) the addition of facilities/amenities (like, for example, hotel/s, conference centre/s and/or school/s), provided that such addition will be to the benefit of the Development and not detrimental to the Members.

45.2 The Members therefore agree that the Developer shall be authorized and directed to take all such steps and do all such things as are necessary to give effect to this clause 46.1.2, after the Signature Date, without the prior consent or approval of the Members. To this end each Member, by his or her membership hereto, irrevocably:

45.2.1 appoints the Developer or its nominee as the Member's proxy to attend any meeting of the Body Corporate at which the Developer seeks the approval of the Body Corporate to undertake any activity referred to in Clause 46 and to vote, in the Member's place and stead, in respect of any resolution in this regard placed before the meeting in such manner as the Developer, in its sole discretion, may deem fit.

45.3 If there is any dispute as to whether any activity to be undertaken by the Developer falls within the ambit of clause 45, such dispute shall be resolved by the Architect. The Architect shall act as an expert and not an arbitrator, and his or her decision, in the absence of manifest error, shall be binding on the parties.

45.4 If the Developer in its sole discretion decides that instead of developing any phase of the Development, it wishes to sub-divide the portion of land on which such phase is situated and take transfer of such subdivided portion and develop such subdivided portion in any manner which it may deem fit, the Body Corporate hereby irrevocably agrees to such subdivision and transfer of such subdivided portion to the Developer and irrevocably agrees and undertakes to take all steps and to sign all papers and do all things necessary to give effect to such subdivision and transfer of the sub-divided portion to the Developer and to do all things ancillary thereto.

45.5 If the Developer in its sole discretion wishes to include new erven to be incorporated into the Development, the Developer is authorised to do so and the Body Corporate hereby irrevocably agrees to such incorporation and irrevocably agrees and undertakes to vote in favour of all motions and resolutions to give effect to the same and to sign all papers and to do all things necessary to give effect to such incorporation and to do all things ancillary thereto.

45.6 It is specifically recorded that the Developer may retain the Advertising Areas for purposes of erecting any sort of advertising boards including without limitation electronic billboards on the Advertising Areas. All income derived from any advertising on the Advertising Areas will be for the sole account of the Developer.

46. EXCLUSION OF LIABILITY

46.1 Neither the Developer nor any of its Directors, Members, Agents, employees, or servants shall be liable for personal injury to or the death of any person nor the loss of or damage to any property of whatsoever nature in the Lifestyle Centre, Server Room or The Scheme or within the vicinity thereof, howsoever arising or caused and whether by reason of the default or negligence of the Developer or of any of the said persons or otherwise.

46.2 The Body Corporate hereby indemnifies the Developer and its Directors, Members, Agents, employees, Trustees and servants against any claim of whatsoever nature, which may be made against the Developer arising out of any of the occurrences mentioned at Clause 39. The Body Corporate shall at its own cost introduce public liability insurance cover any such claims and shall on demand produce the said insurance.

47. EFFECTIVE DATE

This Body Corporate shall be duly constituted with effect from the Commencement Date.

Signed at _____ on this _____ day of _____

First Member

Developer