

**MEMORANDUM OF INCORPORATION OF A  
COMPANY NOT HAVING A SHARE CAPITAL**

DIO VISTA HOMEOWNERS ASSOCIATION

F 2004/026979/08

NAME OF COMPANY: **DIO VISTA HOMEOWNERS ASSOCIATION** (Association incorporated under section 1)

1

PRELIMINARY

The Articles contained in Schedule 1 to the Companies Act shall apply to the Association.

MAIN OBJECT:

To promote and protect the communal interests of the members of the association and to maintain high security, aesthetic and environmental standards in the complex.

2.

DEFINITIONS

2.1 In these presents the following words shall, unless the context otherwise requires, have the meanings hereinafter assigned to them:

"The Act"	"the Act" means the companies act no 71 of 2008 as amended or any Act which replaces it.
"The Association"	means <b>DIO VISTA HOMEOWNERS ASSOCIATION</b> (Association incorporated under section 1)
"Auditors"	means the auditors of the Association;
"Chairman"	"Chairman" means the chairman of the Board of Directors.
"Development"	means Dio Vista, comprising of the total stands and the road;
"In writing"	means written, printed or lithographed or partly one and partly another, and other modes of representing or producing words in a visible form;
"Managing Agent"	means any person or body appointed by the Association as an independent contractor to undertake any of the functions of the Association;
"Member"	means a member of the Association;

- "Stand" means every residential lot, tenure of which is or may be registered in the Land Register of the Deeds Registry;
- "Trustees" means the Trustees of the Association who shall, for the purposes of the Act, be the Directors of the Association;
- "Vice-Chairman" means the vice-chairman of the Board of Trustees

2.2 Unless the context otherwise requires, any word importing the singular number shall also include the plural number and vice versa and words importing any one gender shall include the other genders.

2.3 Subject as aforesaid, to any words or expressions defined in the Act or in the Sectional Titles Act, 1971, or any statutory modifications of such Acts in force at the date on which these presents become binding on the Association shall, if not inconsistent with the subject of context, bear the same meaning in these presents.

### 3.

#### MEMBERSHIP

3.1 Where any unit is owned by more than one person, all the registered owners of the Stand shall together be deemed to be one Member of the Association and have the rights and obligations of one Member of the Association; provided, however, that all co-owners of any Stand shall be jointly and severally liable for the due performance of any obligation to the Association.

3.2 When a Member becomes the registered owner of a Stand, he shall ipso facto become a Member of the Association, and when he ceases to be the owner of any Stand of the Estate, he shall ipso facto cease to be a Member of the Association.

### 4.

No member shall let or otherwise part with occupation of his Stand, whether temporarily or otherwise unless he has agreed with the proposed occupier of such Stand as a stipulation alteri in favour of the Association that such occupier shall be bound by all the terms and conditions of these presents and of the rules made in terms thereof.

### 5.

A registered owner of a Stand may not resign as a Member of the Association.

### 6.

The rights and obligations of a Member shall not be transferable and every member shall:

6.1 Further to the best of his ability the objects and interests of the Association;

6.2 Observe all rules made by the Association or the Trustees; provided that nothing contained in these Articles of Association shall prevent a Member from ceding his rights in terms of these

Articles as security to the mortgagee of that Member's Stand.

## 7.

### LEVIES

- 7.1 The Trustees may from time to time impose levies upon the Members for the purpose of meeting all the expenses which the Association has incurred, or to which the Trustees reasonably anticipate the Association will be put in the attainment of its objects or the pursuit of its business and without derogating from the generality hereof, with specific reference to the maintenance of the internal roads, the boundary fence and security.
- 7.2 The Trustees shall be empowered, in addition to such other rights as the Association may have in law as against its Members, to determine the rate of interest from time to time chargeable upon arrear levies, provided that such rate of interest shall not exceed the rate laid down in terms of the Limitation and Disclosure of Finance Charges Act No 73 of 1968, as amended.
- 7.3 Any amount due by a Member by way of levy and interest shall be a debt due by him to the Association. The obligation of Members to pay a levy and interest shall cease upon his ceasing to be a Member, without prejudice to the Association's right to recover arrear levies and interest.
- No levies or interest paid by a Member shall under any circumstances be repayable by the Association upon his ceasing to be a Member. A Member's successor in title to a Stand shall be liable as from the date upon which he becomes a Member pursuant to the transfer of that Stand, to pay the levy and interest thereon attributable to that Stand.
- 7.4 Any member whose levies are outstanding for more than 60 days, and where no arrangement is made or kept, will be automatically levied a monthly penalty levy equal to the monthly levy until his/her account is settled. Interest at the applicable rate of prime + 13% will apply to all outstanding amounts, except where an arrangement is made and kept. The calculation of interest will be subject to provisions contained in section 7.2.
- Any arrangements for payment must be submitted to the board of directors in writing (in the manner prescribed in section 30) by no later than 10 days after the said levies becomes due. The board of directors reserves the right to accept or deny such arrangement on reasonable grounds such as it becoming clear that the applicant will not be able to settle the outstanding amounts due at the end of a six month period. The outcome from the board of directors must be communicated to the member in written format (in the manner prescribed in section 30) by no later than 10 days after the written application was submitted by the member.

## 8.

### RULES

- 8.1 Subject to any restriction imposed or direction given at a general meeting of the Association, the Trustees may from time to time make rules in regard to:
- 8.1.1 The standard and guidelines for the architectural design of ail buildings and outbuildings, structures of any nature and all additions and alterations to any such buildings, outbuildings or structures erected or to be erected in the Development, and in particular to control the design of the exterior of such buildings, outbuildings or structures and the materials and colours used on such exteriors to ensure an

- attractive, aesthetically pleasing character to all the buildings in the Development;
- 8.1.2 The siting of all buildings, outbuildings, structures of any nature and all additions and alterations to any thereof;
  - 8.1.3 The standards and guidelines for the design of all siteworks, buildings, structures, installations and projections on the properties in the Development, including aerials, pergolas, side walls, swimming pools, awnings, Jacuzzis, carports and paved pathways.
  - 8.1.4 The preservation of the environment including the right to control vegetation and the right to prohibit and/or control the erection of fences, whether upon or within the boundaries of any Stand;
  - 8.1.5 The right to prohibit, restrict or control the keeping of any animal which they regard as dangerous or a nuisance;
  - 8.1.6 The placing or fixing or ornamentation or embellishments upon the outside of buildings including the power to remove any such objects;
  - 8.1.7 The conduct of any persons within the Development for the prevention of nuisance of any nature to any Member;
  - 8.1.8 The control of access to the Development and security measures;
  - 8.1.9 The furtherance and promotion of any of the **objectives** of the Association and/or for better management of the affairs of the Association and/or for the advancement of the interest of Members and/or residents in the Development.
- 8.2 For the enforcement of any of the rules made by the Trustees in terms hereof, the Trustees may:
- 8.2.1 Give notice to the Member concerned requiring him to remedy such breach within such period as the Trustees may determine;
  - 8.2.2 Take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the Member may be guilty, and debit the cost of so doing to the Member concerned, which amount shall be deemed to be a debt owing by the Member concerned to the Association; and/or
  - 8.2.3 Take such other action including proceedings in Court, as they may deem fit.
- 8.3 In the event of the Trustees instituting any legal proceedings against any Member or resident within the Development for the enforcement of any of the rights of the Association in terms hereof, the Association shall be entitled to recover all legal costs on a scale between attorney and own client and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 8.4 The Association may in a general meeting itself make any rules which the Trustees may make and may in a general meeting vary or modify any rules made by it or by the Trustees from time to time, subject to the proviso however, that a minimum of 51% (fifty per cent) of the Members present or by proxy approve any rule, variation or modification thereof.

## 9.1 NUMBER OF TRUSTEES

- 9.1.1 There shall be a Board of Trustees of the Association which shall consist of not less than 4 (four) and not more than 7 (seven);
- 9.1.2 A Trustee shall be an individual but need not himself be a Member of the Association. A Trustee, however, by accepting his appointment of office as such shall be deemed to have agreed to be bound by all the proviso's of these presents;
- 9.1.4 Until Trustees are appointed, every subscriber to the Memorandum of the Association shall be deemed for all purposes to be a Director of the Association.

## 9.2 DUTIES OF TRUSTEES AND OTHERS AND OF ASSOCIATION IN RESPECT OF REGISTER

- 9.2.1 Any person in respect of whom the particulars referred to in Section 24(3) are in terms of that section to be entered in the register mentioned in that section, shall furnish such particulars in writing to the Association concerned:
  - (a) in the case of a person appointed as a Trustee or officer of the Association, within 28 (twenty-eight) days after the date of his appointment; and
  - (b) in the case of a change in such particulars, but excluding any change contemplated in Section 24(5) and a change by way of the vacation of his office by the person concerned, within 14 (fourteen) days after the date of the occurrence of the change; and such particular or any change therein shall upon receipt thereof, and if any Trustee or officer has vacated his office, a statement that such vacation of office has occurred, shall forthwith be entered in such register by the Association.
- 9.2.2 The Association shall within 14 (fourteen) days after receipt of any particulars referred to in Section 24(3) or after any Trustee or officer or a secretary which is a body corporate has vacated his office, lodge a return with the Registrar in the prescribed form reflecting the contents of such register after such particulars of such change therein or a statement that such vacation of office has occurred, have been entered in the register: provided that any entry of such a vacation of office previously advised to the Registrar shall not be reflected in such return.
- 9.2.3 In respect of any of the matters referred to in Section 66(7) the return referred to in subsection (b) shall contain a statement, signed by a Trustee, a secretary who is a body corporate or an officer of the Association, that –
  - (a) the consent, referred to in Section 66, of the Trustee or officer in respect of whom particulars are reflected in such return, has been obtained on a duly completed and signed prescribed form;
  - (b) any person appointed as Trustee or officer of the Association, is not disqualified under Section 69; and
- 9.2.4 Any written consent referred to in Section 66 shall be retained by the Association and the Registrar may from time to time by notice in writing require a Association to transmit to him within 14 (fourteen) days after the date of the receipt of such notice, a

certified copy of the consent of any Trustee or officer of the Association to act as such.

9.2.5 Any person who or Association which fails to comply with any provision of this section shall be guilty of an offence.

### 9.3 DISQUALIFICATION'S OF TRUSTEES

9.3.1 Any of the following persons shall be disqualified from being appointed or acting as a Trustee of a Association:

- (a) a body corporate;
- (b) a minor or any other person under legal disability,
- (c) a Trustee having become disqualified to act as Director in terms of the provisions of the Act;
- (d) a Trustee being removed from office as provided in Section 71 of the Act;
- (e) in the event of him being a Member of the Association, he being disentitled to exercise a vote in terms of Article 33 below;
- (f) save under authority of the court –
  - (i) an unrehabilitated insolvent;
  - (ii) any person who has at any time been convicted (whether in the Republic or elsewhere) of theft, fraud, forgery or uttering a forged document, perjury, and offence under the Prevention of Corruption Act, 1958 (Act No 6 of 1958), or any offence involving dishonesty or in connection with the promotion, formation or management of a Company, and has been sentenced therefore to imprisonment without the option of a fine or to a fine exceeding R100-00 (One Hundred Rand).

9.3.2 Upon any vacancy occurring in the Board of Trustees prior to the next Annual General Meeting, the vacancy in question shall be filled by, a person nominated by those remaining for the time being of the Board of Trustees.

9.3.3 Any person disqualified from being appointed or acting as a Trustee of a Company and who purports to act as a Trustee or directly or indirectly takes part in or is concerned in the management of any Company, shall be guilty of an offence.

9.3.4 Nothing in this section shall be construed as preventing a Association from providing in its Articles for any further disqualifications for the appointment of or the retention of office by any person as a Trustee of such Association.

### 9.4 CHAIRMAN AND VICE-CHAIRMAN

9.4.1 The Trustee shall within 14 (fourteen) days after each Annual General Meeting

appoint from their number a Chairman and Vice-Chairman, who shall hold their respective offices until the Annual General Meeting next after their said appointments, provided that the office of Chairman or Vice-Chairman shall ipso facto be vacated by a Trustee holding such office upon his ceasing to be a Trustee for any reason.

9.42 Except as otherwise provided, the Chairman shall preside at all meetings of the Board of Trustees and all general meetings of Members and in the event of his not being present within 10 (ten) minutes of the schedule time for the start of the meeting or in the event of his inability or unwillingness to act, the Vice-Chairman shall act in his stead, or failing the Vice-Chairman, a chairman appointed by the meeting.

#### 9.5 TRUSTEES EXPENSES

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.

#### 9.6 POWERS OF TRUSTEES

9.6.1 Subject to the express provisions of these presents, the Trustees shall manage and control the business and affairs of the Association, shall have full powers in the management and direction of such business and affairs including the rights of appointing and dismissal of the managing agent, may exercise all such powers of the Association and do all such acts on behalf of the Association as may be exercised and done by the Association and as are not by the Act or by these presents required to be exercised or done by the Association in General Meeting, subject however, to such rules as may have been made by the Association in General Meeting or as may be made by the Trustees as from time to time, further subject to the proviso however, that a minimum of 60% (sixty per cent) of the Trustees is necessary to make any rule, or to vary or modify it

9.6.2 Save as specifically provided in these presents, the Trustees shall at all time; have the right to engage on behalf of the Association the services of accountants, auditors, attorneys, advocates, architects, engineers, a managing agent and 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.

9.6.3 The Trustees shall further have power:

9.6.3.1 To co-opt onto the Board any person or persons chosen by it. A co-opted Trustee need not necessarily be a Member of the Association.

9.6.3.2 The Trustees shall be entitled to appoint committees consisting of such numbers of their members and such outsiders, including the managing agent, as they may deem fit and to delegate to such committees such of their functions, powers and duties as they deem fit, with further power to vary or revoke such appointments and delegations as the Trustees may from time to time deem necessary.

9.6.3.3 To enter into agreements with the Town Council of Nelspruit for the

maintenance of the internal sewer and water pipelines, refuse removal and registration of such servitudes required by the Nelspruit Town Council for the installation and maintenance of any internal services; and to enter into all such agreements, and to sign such documents which may be necessary for the implementation thereof, or anything incidental thereto.

9.6.3.4 To effect transfer of the stand in the estate on which the internal road is situated into the name of the Association and all documents required to be signed for the transfer of the stand into the name of the Association will be signed by any two Trustees nominated by the Board of Trustees.

## 9.7 PROCEEDINGS OF TRUSTEES

9.7.1 The Trustees may meet together for the dispatch of business, adjourn and otherwise regulate the meetings as they think fit, subject to any provisions of these presents.

9.7.3 The Trustees shall cause Minutes to be kept of every Trustees' meeting, which Minutes shall, without undue delay after the meeting has closed, be reduced to writing and certified correct by the Chairman. All Minutes of Trustees' meetings shall, after certification, be placed in a Trustees' Minute Book to be kept in accordance with the provisions of the Law relating to the keeping of the minutes of meetings of directors of Companies. The Trustees' Minute Book shall be open for inspection at all reasonable times by any Trustee, the auditors, the Members and the managing agent.

9.7.4 Save as provided in these presents, the proceedings of any Trustees' meeting shall be conducted in such reasonable manner and form as the Chairman of the meeting shall decide.

9.7.5 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.

In the case of an equality of votes, the Chairperson of that meeting shall have a casting vote in addition to his deliberative vote as director.

10.

## GENERAL MEETINGS OF THE ASSOCIATION

10.1 The Association shall, within 6 (six) months after the end of each financial year, hold a general meeting at its Annual General Meeting in addition to any other general meetings during that year, and shall specify the meeting as such in the notices in terms of Article 27 below calling it

10.2 Such Annual General Meeting shall be held at such time and place as the Trustees shall decide from time to time.

11.

All general meetings other than Annual General Meetings shall be called extraordinary general meetings.

12.

The Trustees may, whenever they think fit, convene an extraordinary general meeting, and an extraordinary general meeting shall also be convened on a requisition made in terms of Section 61(3) of the Act, or in default, may be convened by the requisitionists as provided and subject to the provisions of that Section.

13.

#### NOTICE OF MEETINGS

An Annual General Meeting and a meeting called for the passing of a special resolution shall be called by 21 (twenty-one) clear days' notice in writing at least, and an extraordinary general meeting, other than one called for the passing of a special resolution, shall be called for by 14 (fourteen) clear days' notice in writing at the least. In each case the notice shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting, and in the case of special business, in addition to any other requirements contained in these presents, the general nature of that business, and in the case of a special resolution, the terms and effects of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Trustees to such persons as are under these presents entitled to receive such notices from the Association; provided that a general meeting of the Association shall, notwithstanding that it is called by shorter notice than that specified in these presents be deemed to have been duly called if it is so agreed:

- 13.1 section 64(1)(a) allows for a percentage of 25% of the total voting rights subject to section 64(2) which specifies that the percentage may be higher or lower as stated by the Articles of Association, to constitute a general or special members' meeting.
- 13.2 Resolutions passed by the general members' meetings, requires a 51% of the total voting rights present. Special resolutions (such as amending the constitution) requires a 75% of the total voting rights present. Ordinary resolutions are for general issues, and special resolutions are required for decisions such as:
  - 1. Amendments to the Articles of Association,
  - 2. Winding-Up (N/A)
  - 3. Fundamental transactions such as the alienation of the bulk of the property of the HOA.

14.

- 14.1 Insofar as special notice may be required of a resolution, whether by any provision of the Act or these presents, then the provisions of Section 62 of the Act shall apply.
- 14.2 The Association shall comply with the provisions of Section 65(4) of the Act as to giving of notice and circulating statements of the requirements of Members.
- 14.3 The accidental omission to give notice of a meeting or of any resolution or to give any other

notification, or present any documents required to be given or sent in terms of these presents, or in terms of the Act, or the non-receipt of such notice, notification or document by any member or other person entitled to receive the same, shall not invalidate the proceedings at, or any resolution passed at any meeting.

15.

#### QUORUM

No business shall be transacted at any general meeting unless a quorum is present when the meeting proceeds to business. Three (3) Members personally present shall form a quorum.

16.

If within half an hour from the time appointed for the holding of a general meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same place and time or at such other place as the Chairman of the meeting shall appoint, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the Members present shall be a quorum.

17.

#### AGENDA AT MEETINGS

In addition to any other matter required by the Act or these presents to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:

- 17.1 the consideration of the Chairman's report;
- 17.2 the election of Trustees;
- 17.3 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;
- 17.4 the consideration of the accounts of the Association for the preceding financial year;
- 17.5 the consideration of the report of the Auditors and the fixing of remuneration for the Auditors.

18.

#### PROCEDURE AT GENERAL MEETINGS

- 18.1 The Chairman may, with the consent of any general meeting at which a quorum is present and shall, if so directed by the meeting, adjourn a meeting from time to time and place to place but no business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for 10 (ten) days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, the Members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.
- 18.2 When a meeting has been adjourned as aforesaid the Association shall, upon a date not later than 3 (three) days after the adjournment, publish in a newspaper circulating in the province

where the registered office of the Association is situated a notice stating –

- (a) the time, date and place to which the meeting has been adjourned:
- (b) the matter before the meeting at the time when it was adjourned; and
- (c) the ground for the adjournment: provided that a private Association may, instead of publishing the said notice in a newspaper, send it by registered post to the Members not later than 3 (three) days after the adjournment.

19

### PROXIES

A Member may be represented at a general meeting by a proxy, who need not be a Member of the Association. The instrument appointing a proxy shall be in writing, signed by the Member concerned or his agent, duly authorised in writing, but need not be in any particular form provided that, where a member is more than 1 (one) person, a majority of those persons shall sign the instrument appointing a proxy on such Member's behalf.

20.

The instrument appointing a proxy and the power of attorney or any other authority under which it is signed shall be tabled at the meeting at which the person named in the instrument proposes to vote. No instrument appointing a proxy shall be valid after the expiration of 12 (twelve) months from the date of its execution.

21.

A vote given in accordance with the terms of a proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy, provided that no intimation in writing of the death or revocation shall have been received by the Trustees at any time before a vote is taken in respect of which the proxy exercises such vote.

22.

### VOTING

At every general meeting:

- 22.1 Every Member, in person or by proxy and entitled to vote, shall have 1 (one) vote for each Stand registered in his name;
- 22.2 If a Stand is registered in the name of more than one person, then all such co-owners shall jointly have 1 (one) vote;
- 22.3 Any Member holding undeveloped land in the Estate shall have 1 (one) vote for each separate piece of land registered in his name.

23.

Save as expressly provided for in these presents, no person other than a Member duly registered and

who shall have paid every levy and other sum, if any, which shall be due and payable to the Association in respect of or arising out of his membership and who is not under suspension, shall be entitled to be present or to vote on any question, either personally or by proxy, at any general meeting.

24.

Unless the Chairman of the meeting otherwise directs, all voting shall be on a show of hands.

25.

Every resolution and every amended resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not so seconded, shall be deemed not to have been proposed.

26.

An ordinary resolution (that is a resolution other than a special resolution) or the amendment of an ordinary resolution shall be carried on a simple majority of all votes cast subject to provisions contained in 9.7.5.

27.

Unless any Member present in person or by proxy at a general meeting shall, before the closure of the meeting, have objected to any declaration made by the Chairman of the meeting as to the result of any voting at the meeting, whether by a show of hands or otherwise, or to the propriety or validity of the procedure of such meeting, such declaration by the Chairman shall be deemed to be a true and correct statement of the voting, and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted and an entry in the minutes to the effect that any motion has carried or lost, with or without a record of the number of votes recorded in favour of or against motion, shall be conclusive evidence of the votes so recorded.

28.

#### ACCOUNTS

The accounts and books of the Association shall be open to inspection of Members at all reasonable times during business hours.

29.

Once in each financial year the accounts of the Association shall be examined and the correctness thereof ascertained by Auditors. The duties of the Auditors shall be regulated in accordance with Chapter 3 & 4 Sections 90 - 94 of the Act where applicable.

30.

#### DOMICILIUM

- 30.1 Unless a member shall have nominated an alternative domicilium, being a physical address in the Republic of South Africa, by written notice delivered to the Association, a Member's domicilium citandi et executandi for all purposes in terms hereof and the serving of any legal process shall be at any Erf owned by the Member.
- 30.2 The directors shall from time to time determine the domicilium citandi et executandi of the Association.

- 30.3 Any notice, acceptance, demand or other communication properly addressed by the Association to the Member's domicile in terms hereof of the time being and sent by pre-paid registered post shall be deemed to be received by the latter on the 4<sup>th</sup> (fourth) day after the day following the date of posting thereof. The provision shall not be construed as precluding the utilization of other means and methods for the transmission or delivery of notices, acceptances, demands and other communications, but no presumption shall arise if such other means or method is used.
- 30.4 A Member shall not be entitled to have notices served upon him at any address outside the Republic of South Africa.
- 30.5 It shall be competent to give notice by telefax where the Member's telefax number is recorded with the Directors.

31.

#### INDEMNITY

Every Trustee, servant, agent and employee of the Association and any Managing Agent, his employees', nominees or invitees, shall be indemnified by the Association against all costs, losses and expenses (including travelling expenses) which such person or persons may incur or become liable for by reason of any contract entered into or any act or deed done by such person or persons in the discharge of their respective duties, including in the case of a Trustee, his duties as Chairman or Vice-Chairman. Without prejudice to the generality of the foregoing, the Association shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any bona fide act, deed or fetter done or written by him jointly or severally in connection with the discharge of his duties.

32.

#### GENERAL

Whenever they consider that the appearance of any land or building vested in a Member or Members is such as to be unsightly or injurious to the amenities of the surrounding area of the Estate generally, the Trustees may serve notice on such Member or Members to take such steps as may be specified in the notice to eliminate such unsightly or injurious condition. In the event of the Member or Members failing within a reasonable time, to be specified in such notice, to comply therewith, the Trustees may take such steps as may be necessary, and recover the cost thereof from the Member or Members concerned, which costs shall be deemed to be a debt owing to the Association.

33.

Should any member fail to pay on the due date any amount payable to the Association (subject to 7.4), or breach any other provision of these Articles or the Regulations and fail to remedy within a period of 10(Ten) days after the posting by pre-paid registered mail of a written notice calling upon him to remedy such breach, the Directors on behalf of the Association shall be entitled (in addition to any other rights which they have in terms of these Articles or the Regulations or in law or otherwise):-

1. The constitute action in a Court of Law to recover such monies or to force the Member to remedy such breach; and
2. To take such steps that they may consider necessary to remedy the breach of these Articles or Regulations and to debit the costs of remedying such breach to such member which amounts shall be deemed to be a debt payable by the Member to the Association; and
3. Deny the member concerned the benefits of membership of the Association and suspend his right to vote. In such event the Member shall nonetheless remain bound to perform his obligations in terms of these Articles and the Regulations.
4. Notwithstanding anything to the contrary herein contained, the Association shall at the sole discretion of the Board of Directors, be entitled to institute legal proceedings in any court

having jurisdiction for any relief to which it is entitled under the provisions of these Articles including but not limited to the recovery of arrear levies.

5. In addition to the other rights of the Association referred to in these Articles, the Directors may impose a system of fines or other penalties to be paid by any person breaching the provisions of these Articles or Regulations.

In the event of the breach of these Articles or Regulations on 3 occasions or more within a period of 1 year, the Association reserves the right to increase the levy to double the normal levy until such time as compliance is performed where after the levy will return to normal.

#### 34.

No person, shall within the Estate commence with the construction of any building or structure, or any additions or alterations thereto unless he has submitted to the Trustees, for examination and approval or refusal, such plans for such building, structure, alteration or addition as are required in terms of the By-laws of the Local Authority having jurisdiction over the Estate, and any such additional plan or information relating to the proposed building, structure., alterations or additions as the Trustees may require. The Trustees shall have the power:

- 34.1 to charge a fee for the examination and approval or refusal of building plans;
- 34.2 in approving any plan, to lay down such reasonable conditions as they may deem fit;

#### 35.

No Member shall transfer his Stand until the Board of Trustees under the hand of one of its Members has certified that the Member has at date of transfer fulfilled all his financial obligations of the Association. No Stand or any interest therein shall be alienated without the consent of the Association. Such consent shall not be withheld unless:

- 35.1 such Member is indebted to the Association in any way in respect of levies or other amounts of which the Association may in terms of these presents be entitled to claim from him;
- 35.2 the proposed transferee has not agreed to become a Member of the Association;
- 35.3 such Member remains in breach of any of the provisions of these presents or any rules after notice from the Trustees requiring him to remedy such breach.

#### 36.

The Trustees in issuing the certificate referred to in Article 49 above shall be entitled to charge a reasonable fee therefor to be determined by the Trustees from time to time subject to review by the Association in General Meeting.

#### 37.

The provisions of these Articles shall be binding upon all Members and, insofar as they may be applicable to all persons occupying any Stand by, through or under any Member, whatever the nature of such occupation. No Member shall let or otherwise part with occupation of his Stand without the consent of the Trustees, which consent shall only be withheld if the Trustees is not satisfied that the proposed occupier of the Stand has not complied with the provisions of Article 4 above.

38.

The Trustees may delegate such of their powers to a Managing Agent as they may determine, subject to any restriction imposed or direction given at any general meeting of the Association.

39.

WINDING UP

The winding up of the Association by the Members shall only be carried into effect after three fourths of the Members present have supported the motion at an Annual General Meeting or at a Special Meeting, and shall be carried out in accordance with the provisions of sub-clause 6.2 of the Memorandum of Association of the Association.