

LEADWOOD HOMEOWNERS ASSOCIATION

# MEMORANDUM OF INCORPORATION

LEADWOOD HOMEOWNERS ASSOCIATION NPC

COMPANY NUMBER 2013/002159/08

MEMORANDUM OF INCORPORATION OF LEADWOOD HOME OWNERS  
ASSOCIATION NPC  
("the Company")

A. In this Memorandum of Incorporation –

- a) a reference to a section by number refers to the corresponding section of the Act;
- b) words that are defined in the Act bear the same meaning in this Memorandum of Incorporation as in that Act;
- c) the headings to the clauses of this Memorandum of Incorporation are for reference purposes only and shall in no way govern, or affect the interpretation of nor modify nor amplify the terms of this Memorandum of Incorporation nor any clause hereof.

B. Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

- a) "**Act**" means the Companies Act, 71 of 2008;
- b) "**Architectural and Building Rules**" means the Architectural and Building Rules incorporating the "Control of Building Activities" and "Rules of Conduct for Contractors" set out in Schedule B hereto;
- c) "**Auditors**" means the auditors of the Company;
- d) "**Alienate**" means to alienate any individual Portion, or part thereof or undivided share therein including by way of sale, exchange, deed, donation, intestacy, will, cession, assignment, court order or insolvency, irrespective of whether such alienation shall have a corresponding meaning;
- e) "**Board**" means the board of directors of the Company appointed in terms of this Memorandum of Incorporation;
- f) "**Building Area**" means the building area as defined in the Management Rules.
- g) "**Chairman**" means the chairman of the Board;
- h) "**Common Property**" means the Property other than the Building Area and the Management Site;

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- i) **“Conditions of Establishment”** means the statement of conditions to establish a development area on part of the Property as approved by the Limpopo Province Development Tribunal in terms of the DFA;
- j) **“Conservancy”** means the Blue Canyon Game Conservancy or any Conservancy that Leadwood is a member of from time to time;
- k) **“Conservancy Agreement”** means the agreement in terms of which the Conservancy is regulated, which agreement is available for inspection at the offices of the offices of Jordan Properties situated at No. 1 Safari Junction, Hoedspruit, Limpopo, 1380;
- l) **“Council”** means the Maruleng Local Municipality;
- m) **“Developer”** means Leadwood Development Company Proprietary Limited (Registration No. 2007/012730/07) and its successor-in-title or, should Leadwood Development Company Proprietary Limited no longer exist, reference to the Developer shall be reference to the Company;
- n) **“Development Period”** means the period from the registration of this Memorandum of Incorporation until all of the Portions have been transferred away from the Developer (other than those retained for investment by the Developer) or, alternatively, until the Developer notifies the Company in writing that the Development Period has ceased, whichever is the earlier;
- o) **“DFA”** means the Development Facilitation Act, 67 of 1995;
- p) **“EMP”** means the Environmental Management Plan developed for the Property;
- q) **“Lodge”** means the lodge built or to be built on the Lodge Portion not exceeding 32 beds;
- r) **“Lodge Portion”** means the Portion on which the Lodge may be erected;
- s) **“Managing Agent”** means any person or body appointed by the Developer or the Company as an independent contractor to undertake any of the management functions of the Company;
- t) **“Management Agreement”** means the management agreement to be concluded between the Developer and the Managing Agent in terms of which, amongst other things, the Developer shall appoint the Managing Agent to manage the Property;
- u) **“Management Rules”** means the Management Rules that apply to the use, enjoyment and management of the Property, including the Architectural and Building Rules and the Conservancy Rules set out in Schedule A hereto;

- v) “**Management Site**” means a site not exceeding 2 (two) hectares in extent in a position to be determined by the Developer and after the Development Period, by the Company, to be used and demarcated for workshops, management facilities and other functions for the necessary maintenance of the Common Property;
- w) “**Member**” means a person who has voting rights in the Company and is registered as such in the Company’s members register;
- x) “**Members Meeting**” means with respect to any particular matter concerning the Company, a meeting of the Members of the Company who are entitled to exercise voting rights in relation to that matter;
- y) “**Objects**” means the main objects and ancillary objects of the Company as set out in clause 1.2;
- z) “**Office**” means the registered office of the Company;
- aa) “**Portion**” means a subdivided portion of the Property registered or capable of being registered in the name of any person or any portion arising out of a subdivision of the Property, including the Lodge Portion;
- bb) “**Property**” means the Remaining Extent of Portion 2 of the Farm Happyland 241, Registration Division K.T. Limpopo Province, measuring 943.5840 (nine four three comma five eight four zero) hectares;
- cc) “**Republic**” means the Republic of South Africa, as constituted from time to time;
- dd) “**Property**” means the remainder of the Property which after all the Portions have been transferred is to be stocked with general game, including “dangerous” game over which Members shall have traversing rights for game viewing and other related activities subject to the Management Rules;
- ee) “**ROD**” means the Record of Decision, being the environmental authorisation issued by the Department of Economic Development Environment and Tourism of the Limpopo Provincial Government;
- ff) “**Scheme**” means the scheme as approved by the Limpopo Development Tribunal in terms of the DFA;
- gg) “**Statutes**” means the Act and any and every other statute or ordinance from time to time in force concerning companies and necessarily affecting the Company;

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- hh) **“Voting rights”** means the rights of a member to vote in connection with any matter to be decided by the Company.
  
- C. If any provision in a definition is a substantive provision conferring rights or imposing obligations on any person, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision of this Memorandum of Incorporation.
  
- D. Unless inconsistent with the context, an expression which denotes:
  - a) any gender includes the other genders;
  - b) a natural person includes an artificial person and *vice versa*;
  - c) the singular includes the plural and *vice versa*.
  
- E. The schedules to this Memorandum of Incorporation, if any, form an integral part hereof and words and expressions defined in this Memorandum of Incorporation shall bear, unless the context otherwise requires, the same meaning in such schedules.
  
- F. When, in this Memorandum of Incorporation, a particular number of business days are provided for between the happening of one event and another, the number of days must be calculated by:
  - a) excluding the day on which the first such event occurs;
  - b) including the day on or by which the second event is to occur; and
  - c) excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in paragraphs (a) and (b), respectively.
  
- G. Where any term is defined within the context of any particular clause in this Memorandum of Incorporation, 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 same meaning ascribed to it for all purposes in terms of this Memorandum of Incorporation, notwithstanding that that term has not been defined in this interpretation clause.

**1. Clause 1 - Incorporation and Nature of the Company**

**1.1 Incorporation**

- (1) The Company is incorporated as from the date on which the Commission issues a registration certificate entitling the Company to operate as a non-profit company.
- (2) The Company is incorporated in accordance with and governed by:
  - (a) the unalterable provisions of the Act;
  - (b) the alterable provisions of the Act, subject to the limitations, extensions, restrictions, variations or substitutions set out in this Memorandum of Incorporation; and
  - (c) the provisions of this Memorandum of Incorporation.

**1.2 Objects of the Company**

**(1) Main Objects**

- (a) The main objects of the Company shall be:
  - (i) to promote, advance and protect the overall interests of the Property and the Conservancy as one wildlife area, and to implement and participate in the security and control thereof and to implement anti-poaching measures;
  - (ii) to be party to the sound environmental practices of the Property in terms of the Conditions of Establishment, ROD, EMP and the constitution of the Conservancy and to ensure there are no fences, barriers or restrictions between the Property and the Conservancy;
  - (iii) to participate in the promotion, advancement and protection of the communal and group interests of the Members in a coordinated and integrated manner to benefit from the Property;
  - (iv) to act as a body for the representation, promotion and advancement of the communal interests of Members, and to integrate those interests as far as possible with practical measures that will enhance the Property generally;
  - (v) to establish structures and committees to promote voluntary self-regulation of the activities of the Members; and

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- (vi) to contribute financially to the operation and maintenance of the common benefits and Objects of the Company and the Property.

### (2) **Ancillary Objects**

- (a) The ancillary objects of the Company shall be:
  - (i) to promote and conserve wildlife, fauna, flora, archaeological and historical sites and artefacts on the Property and as a sanctuary for every type of endemic wildlife and flora;
  - (ii) to implement any environmental management plan of the Property based on universal principles of sound, integrated environmental management and in terms of the conditions of the environmental impact assessment;
  - (iii) to promote, support or oppose legislation or other official or unofficial measures affecting the Property as a whole, and, if necessary, represent the Members in dealings with government departments, other authorities and the public generally in regard to any matter which may be in the interest of the Members;
  - (iv) to ensure compliance by Members with the conditions of the DFA and ROD, with particular reference to the conditions dealing with aesthetics, design and building restrictions and requirements and where necessary, to ensure that the local or any other competent authority enforces any relevant conditions of establishment of the Property;
  - (v) to, in conjunction with the Developer and the Managing Agent, formulate the Management Rules and bylaws for the control of buildings, walls, fences, exterior lighting, signage, aesthetic planning and landscaping of the Portions at all times having regard to the interest of the Property and to ensure compliance with any such Management Rules and bylaws by Members;
  - (vi) to implement, in conjunction with the Developer and the Managing Agent, best practice strategies for the Property and the Property as a whole relating to security, vegetation, parking, signage and exterior finishes;
  - (vii) to ensure that all Members maintain their Portions in a clean and tidy condition and adhere to the specifications and Management Rules imposed from time to time by the Company, the Developer and the

Managing Agent, relating to landscaping and ecological planning of Portions;

- (viii) to undertake the maintenance of roads situated within the Property; and
- (ix) to, in conjunction with the Developer and the Managing Agent, create, maintain and administer the general security arrangements of the Property in keeping with the needs of the Property as a whole, with particular reference to controlling access, and the nature and type of security to be provided from time to time.

### 1.3 **Powers of the Company**

- (1) This Memorandum of Incorporation does not:
  - (a) contain any restrictive or procedural requirement in addition to the requirements set out in clause 1.4, impeding the amendment of any particular provision hereof; and
  - (b) prohibit the amendment of any particular provision hereof.
- (2) The Company has all of the legal powers and capacity of an individual, which are not subject to any restrictions, limitations or qualifications arising from this Memorandum of Incorporation.

### 1.4 **Memorandum of Incorporation and Company rules**

- (1) This Memorandum of Incorporation of the Company may be altered or amended only:
  - (a) in compliance with a court order to be effected by a resolution of the Board;
  - (b) by a special resolution of the Members but subject to that special resolution having been proposed by i) the Board, or ii) by Members entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution.
- (2) An amendment may take the form of:
  - (a) a new Memorandum of Incorporation in substitution for the existing Memorandum of Incorporation; or
  - (b) one or more alterations to the existing Memorandum of Incorporation by:
    - (i) changing the name of the Company;
    - (ii) deleting, altering or replacing any of its provisions;

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- (iii) inserting any new provisions; or
    - (iv) making any combination of such alterations.
- (3) After amending its Memorandum of Incorporation, the Company shall file a Notice of Amendment with the Commission in accordance with the requirements contemplated in section 16(7) and (8) of the Act.
- (4) An amendment to this Memorandum of Incorporation shall take effect:
  - (a) in the case of an amendment that changes the name of the Company, on the date set out in the amended registration certificate issued by the Commission; or
  - (b) in any other case, on the later of:
    - (i) the date on, and time at, which the Commission accepts the filing of the Notice of Amendment; or
    - (ii) the date, if any, set out in the Notice of Amendment.
- (5) The Board shall have authority to make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in this Memorandum of Incorporation or the Act, by:
  - (a) delivering a copy of those rules, or any amendment or repeal thereof, to the Members by hand, by ordinary mail (at such Member's registered address) or by publishing in the press in a newspaper circulating in the area in which the Company's registered office is located. Alternatively, delivery may be by email, provided that the Member has given the Company an email address for the purposes of receiving communications; and
  - (b) filing a copy of those rules, or any amendment or repeal thereof, with the Commission.
- (6) Any necessary or incidental rules made, amended or repealed shall:
  - (a) take effect on the later of:
    - (i) 10 business days after the rule is filed with the Commission; or
    - (ii) the date, if any, specified in the rule; and
  - (b) be binding:

- (i) on an interim basis from the time it takes effect until it is put to a vote at the next general meeting of Members of the Company; and
  - (ii) on a permanent basis only if it has been ratified by an ordinary resolution at a Members Meeting.
- (7) In addition the Company shall have management rules, the first of which are attached as Annexure A to this Memorandum of Incorporation. Those rules may be added to or amended as set out therein.

**1.5 Alterations of Memorandum of Incorporation and Company rules, translations and consolidations of Memorandum of Incorporation**

- (1) The Board, or an individual authorised by the Board, may alter the Company's rules, or its Memorandum of Incorporation, in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document, by:
  - (a) delivering a notice of the alteration; and
  - (b) filing a notice of the alteration with the Commission.
- (2) At any time after having filed its Memorandum of Incorporation with the Commission, the Company may file one or more translations thereof, in any official language or languages of the Republic, provided that every such translation must be accompanied by a sworn statement by the person who made the translation, stating that it is a true, accurate and complete representation of the Memorandum of Incorporation, as so translated.
- (3) At any time after having filed its Memorandum of Incorporation with the Commission, and having subsequently filed one or more alterations or amendments to it, the Company may (or if the Commission requires it to, must) file a consolidated revision of its Memorandum of Incorporation, as so altered or amended, provided that every such consolidated revision filed with the Commission must be accompanied by:
  - (a) a sworn statement by a director; or
  - (b) a statement by an attorney or notary public.

**1.6 Non-Profit company provisions**

- (1) The Company is a non-profit; and

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- (a) must apply all of its assets and income, however derived, to advance its stated objects, as set out in this Memorandum of Incorporation; and
- (b) subject to clause (a) may:
  - (i) acquire and hold securities issued by a profit company; or
  - (ii) directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to the Company's stated object(s).

### 2. **Clause 2 – Members**

#### 2.1 **Membership**

- (1) Membership of the Company shall be limited to the Developer and to any other person who is in terms of the Deeds Registries Act reflected in the records of the Deeds Office concerned as the registered owner of any Portion. No other person shall be entitled to be a Member of the Company.
- (2) Where any of the Portions are owned by more than one person, all the registered owners of that Portion shall together be deemed to be one Member of the Company and have the rights and obligations of one Member of the Company; provided, however, that all co-owners of any Portion shall be jointly and severally liable for the due performance of any obligation to the Company.
- (3) When a person or legal entity becomes the registered owner of a Portion, an application for membership in the Company shall be made to the Board, or a person appointed for this purpose by the Board, giving such details as the Board may from time to time require.
- (4) No person or legal entity shall be admitted as a Member unless such person or legal entity has agreed in writing to be bound by the terms and conditions of this Memorandum of Incorporation.
- (5) No Member shall Alienate or otherwise part with occupation of his or her Portion, whether temporarily or otherwise, unless he or she has agreed in writing with the proposed occupier of such Portion as a stipulatio alteri in favour of the Company that such an occupier shall be bound by the terms and conditions of this Memorandum of Incorporation.
- (6) A registered owner of a Portion may not resign as a Member of the Company.

#### 2.2 **Rights and obligations of Members**

- (1) The rights and obligations of a Member shall not be transferable and every Member shall:
  - (a) further the Objects and interests of the Company to the best of his or her ability;
  - (b) observe all Management Rules made by the Developer and/or the directors;
  - (c) sign all documents and do all things necessary in order to implement the spirit and intent of the Memorandum of Incorporation and the Objects of the Company; and
  - (d) not cede or assign his or her rights and obligations in terms of this Memorandum of Incorporation to any person other than as security to the mortgagee of the Member's Portion.

### 2.3 Cessation of Membership

- (1) Should a Member cease to be a registered owner of a Portion, then such Member shall immediately cease to be a Member.
- (2) Upon the death, insanity or insolvency of any Member, such Member shall be represented by his or her executor, curator or trustee as the case may be from the date of death or issue of a certificate by a medical practitioner certifying the insanity of such Member or the grant of a provisional order of sequestration or liquidation.

### 2.4 Register of Members

The Company shall maintain a register of members as required by section 24.

### 2.5 Non-transferability of membership

Subject to clause 2.3, membership shall be personal to the Member concerned and may not be assigned or transferred to any other person, company or concern.

### 2.6 Members' right to information

Other than the rights to access information set out in section 26 and section 31, a Member has no further rights to information pertaining to the Company

### 2.7 Members' authority to act

- (1) If the Company has only one Member, the ability of that Member to exercise any or all of the voting rights pertaining to the Company on any matter, at any time, without notice or compliance with any other internal formalities, is not restricted or varied by this Memorandum of Incorporation.

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- (2) If, at any time, every Member is also a director, the authority of the Members to act on any matter that is required to be referred by the Board to the Members for decision at any time after being referred by the Board, without notice or compliance with any other internal formalities, is not restricted or varied by this Memorandum of Incorporation.
- (3) A resolution which could be voted on at a Members Meeting may instead be adopted by written consent of the Members, given in person or by electronic communication, provided that the resolution was submitted for consideration to the Members entitled to exercise voting rights in relation to the resolution and the resolution is voted on in writing or by electronic communication by such Members within 20 business days after the resolution was submitted to them.
- (4) An election of a director that could be conducted at a meeting of Members may instead be conducted by written polling of all the Members entitled to exercise voting rights in relation to the election of that director.
- (5) Within 10 business days after adopting a resolution or conducting a written poll to elect a director, the Company shall deliver a statement describing the results of the vote, consent process or election to every Member who was entitled to vote on or consent to the resolution, or vote in the election of the director, as the case may be.

### 2.8 **Members Levies**

- (1) The Conservancy will from time to time impose levies on the Company, in terms of the Conservancy Agreement, of which the Company is a party. The levies imposed by the Conservancy on the Company will be paid by the Company.
- (2) Pursuant to clause (1) the directors shall from time to time determine the levies payable by the Members, for the purpose of meeting all the expenses which the Company has incurred, or to which the directors reasonably anticipate the Company will be put in the attainment of its Objects or the pursuit of its business. It is specifically recorded that included in those expenses will be expenses that are necessary to achieve the requirements that are common to the Portions and relate to services, facilities and amenities that are for the benefit of or used by all of the Members whether or not such use is subject to other Management Rules, or constitutions and that require further Membership or use fees to be paid. Such common expenses shall include but not be limited to the maintenance and upkeep of the big game fence, ongoing and seasonal maintenance of the Property's dams, the road network of the Property, management of game quotas, gate security and general security throughout the Property, staff

accommodation, sewerage plants, general water and electricity services, common communication services and general administration and management fees.

- (3) Members other than the Developer shall be liable in respect of any levy determined by the directors from time to time in terms of (2), which levy shall be based on one levy per Portion pro-rated to the total number of Portions permitted on the Property, provided that the directors may after direction of a Members Meeting of the Company give certain rebates or increase levies on cost items, the cost of which is directly related to usage.
- (4) The directors shall also recover through levies or direct charges, the cost of any metered services provided to a Member such as water and electricity services, and any other additional service charges including but not limited to housekeeping and laundry services, garden services and maintenance.
- (5) The directors shall not less than 30 days prior to the end of each financial year, or as soon thereafter as is reasonably possible, prepare an itemised estimate of the anticipated income and expenditure (which may include a reasonable provision for contingencies to meet anticipated expenditure not of an annual nature) of the Company during the ensuing financial year, in respect of the Common Property and therefrom calculate the amount required to be levied upon the Members other than the Developer during such ensuing financial year and impose a levy on the Members in such estimated amount having regard to clause (3).
- (6) For the sake of clarity, the Developer shall not be liable for levies. Further members shall only be liable for levies as envisaged in (3) above. Any shortfall of costs relating to the Property shall be borne and paid for by the Developer during the Development Period.
- (7) The directors shall, as soon as possible after the imposition of the levy in terms of (1), advise each Member in writing of the amount payable by him or her. Such amount shall be payable in equal monthly instalments due in advance on the first day of each month.
- (8) In the event of the directors for any reason whatsoever failing to prepare and serve the estimate referred to in clause (5) timeously, every Member shall until service of such estimate as aforesaid, continue to pay the levy previously imposed, and shall after such notice pay such levy as may be specified in the notice referred to in clause (5).
- (9) The directors may from time to time impose special levies upon the Members or call upon them to make special contributions in respect of all such expenses as are mentioned in clause (2) (which are not included in any estimate made in terms of clause (5)) and such

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levies and contributions 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 directors, and at such time or times as the directors shall think fit.

- (10) **Interest shall be payable on arrear levies** and the directors shall be empowered in addition to such other rights as the Company may have in law 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 prescribed by legislation from time to time.
- (11) Any amount due by a Member by way of levy and interest shall be a debt due by him or her to the Company. Notwithstanding that a Member ceases to be such, the Company shall have the right to recover arrear levies and interest from him or her. No levies or interest paid by a Member shall under any circumstances be repayable by the Company upon his or her ceasing to be a Member. Further, a Member on ceasing to be such, shall have no claims whatsoever on any other monies held by the Company, whether obtained by way of a sale of Company assets or otherwise. A Member's successor in title to a Portion shall be liable as from the date upon which he or she becomes a Member pursuant to the transfer of that Portion, to pay the levy and interest thereon attributable to that Portion.
- (12) A Member shall be liable for and pay all legal costs, (including costs as between attorney and client and collection commission), expenses and charges incurred by the Company in obtaining the recovery of arrear levies or any other arrear amounts due and owing by such Member to the Company.
- (13) No Member shall be entitled to any of the privileges of Membership unless and until he or she shall have paid every levy and interest thereon, and any other sum, if any, which may be due and payable by that Member to the Company, from whatsoever cause arising.
- (14) Save for a Portion being transferred from the Developer, no Portion shall be capable of being transferred without a certificate first being obtained from the Company confirming that all the levies and interest have been paid up to and including the date of registration of transfer of such Portion.
- (15) The directors may elect to levy a different levy upon any owner of a Portion depending upon the services available to that Portion.

- (16) The Developer shall not, during the Development Period, be liable for levies on the same basis as any other Member in respect of the Portions registered in its name and during the Development Period, and for the purposes of this clause 2.8, "Member" shall exclude the Developer.
- (17) All Members hereby agree to sign debit orders in favour of the Company for payment of levies and other amounts due to the Company.

## 2.9 **Alienation**

- (1) A Member shall not in any manner Alienate or transfer a Portion or any undivided share therein without the prior consent of the Company. The Company is obliged to give such consent provided:
  - (a) the proposed transferee consents and agrees in such a manner as the Company may require to become and remain a Member of the Company for the duration of his or her ownership of the Portion;
  - (b) the selling Member pays to the Company a levy equal to 1% (one percent) of the total purchase price, or fair value, whichever is the greater, to the Company, or such payment is guaranteed to the satisfaction of the Company;
  - (c) a clearance certificate has been issued by the Selling Company to the effect that all monies due to the Company by the Member have been paid, or that provision has been made to the satisfaction of the Company for the payment thereof; and
  - (d) the Company has certified that the Member is not in breach of any provisions of this Memorandum of Incorporation or the Management Rules.
- (2) Should a Member be a body corporate, any change in ownership of such corporate body shall be notified in writing to the Company within 21 (twenty one) days of such change of ownership.
- (3) The registration of transfer of the Portion in the name of the transferee shall ipso facto constitute the transferee as a Member of the Company.
- (4) The provisions of 1 shall apply mutatis mutandis to any alienation of an undivided share of any Portion.
- (5) No Member shall let or otherwise part with the occupation of his or her Portion whether temporarily or otherwise unless the proposed occupier has agreed to be bound by this Memorandum of Incorporation and the Management Rules.

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- (6) The rights and obligations of a Member shall not be transferable.
- (7) The director's in issuing the certificate referred to in (1)(c) shall be entitled to charge a reasonable fee therefore to be determined by the Board from time to time, subject to approval by the Company in Members Meeting.
- (8) The provisions of 1 shall be registered as a condition of title of each Member's title deed.

### 2.10 **Votes of Members**

- (1) Subject to the Act, if voting on a particular matter is:
  - (a) by a show of hands, any Member present and entitled to exercise voting rights has one vote; and
  - (b) by polling, any Member who is present at the meeting, whether in person or by proxy and is entitled to exercise voting rights, has one vote for each Portion registered in their name.
- (2) For the duration of the Development Period the Developer shall have one vote more than the total votes of all Members present, in person or by proxy, at the Members Meeting.
- (3) If a Portion is registered in the name of more than one person, a body corporate or a share block company, then all such co-owners shall jointly have one vote.
- (4) No person other than a duly registered Member, whose levies and/or any other amounts which are due and payable to the Company in respect of or arising out of their membership to the Company are fully paid up, and who is not under suspension, shall be entitled to be present and vote at a Members Meeting.
- (5) A polled vote must be held on any particular matter to be voted on at a meeting if a demand for such a vote is made by:
  - (a) at least five persons having the right to vote on that matter, either as a Member or a proxy; or
  - (b) a person who is, or persons who together are, entitled, as a Member or proxy, to exercise at least 10% of the voting rights entitled to be voted on that matter.
- (6) An objection to the admissibility of a vote on a poll must be raised at the Members Meeting at which that poll is to take place. The objection shall be determined by the

chairman of that Members Meeting, and his decision thereon shall be final and binding. Accordingly, any vote not disallowed at the meeting shall be valid for all purposes.

- (7) 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 chairman of that meeting (whose decision 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 chairman of that meeting (whose decision thereon shall be final and binding) the inclusion of that vote would have altered the result of the voting on that resolution.

#### 2.11 **Developer's rights and powers**

- (1) The Developer shall, during the Development Period, on behalf of the Company, appoint an architectural and aesthetic committee which shall consist of:
- (a) the estate architect appointed from time to time by the Developer;
  - (b) a director of the Company;
  - (c) the Managing Agent of the Property;
  - (d) a representative of the Developer.
- (2) After the Development Period the Company shall appoint the architectural and aesthetics committee from the class of persons referred to in (1) should they still exist. Members of the architectural and aesthetic committee shall not be required to be Members.
- (3) All plans for buildings, outbuildings, structures, walls, fences, additions, alterations and signage within the Property shall be submitted in terms of the Architectural and Building Rules to the architectural and aesthetic committee and the Developer shall not sign off any plan unless such plan has first been approved by the architectural and aesthetic committee
- (4) The Developer shall have the sole and exclusive right, which it may exercise in its sole discretion during the Development Period as and when it so requires, to upgrade or to alter facilities and amenities existing within the Property:
- (a) to move and re-route roads over the Property and over Portions;

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- (b) to register servitudes over the Property and over Portions to protect roads, infrastructure and any other services that are reasonable and necessary and to fence all such areas for protection of all wildlife;
  - (c) to develop a building of not more than 100 (one hundred) square meters in floor area on the site overlooking the dam at the entrance to the Property for the use by members and from time to time to close access to that building for privacy purposes;
  - (d) develop the management site for the benefit of the Company provided such development is not contrary to the rights granted under the DFA; and
  - (e) to erect other facilities within the Property, provided that any upgrading or alteration of the facilities shall require the prior approval of the architectural and aesthetic committee, and not be contrary to the rights granted under the DFA.
- (5) The cost of any upgrades referred to in clause (4) above will be borne by the Developer.
- (6) In the event of the Developer upgrading facilities and amenities within the Property, as referred to in clause (4) above, the Members acknowledge that during such upgrading they may suffer a certain degree of inconvenience. Provided that the Developer at all times acts reasonably and does not act negligently, the Company and the Members shall have no right to claim any rebate of levies during the period in which the said work may be in progress nor shall the Members have any claim for any damages of whatsoever nature.
- (7) For the purposes of (6) the Developer shall be entitled at any time:
- (a) to erect the building equipment required for the carrying out of that work; and such other equipment or devices as may be required by law or which the Developer's architect considers reasonably necessary for the protection of any person or property against injury arising out of that work; and
  - (b) to such right of access to the Property as is reasonably necessary for the carrying out of that work, provided that any security arrangements established by the Company are abided by and disrupted to the minimum extent possible.
- (8) In exercising its rights in terms of (6) and (7) the Developer shall:
- (a) not unnecessarily or unreasonably interfere with the beneficial occupation of the Members;

- (b) carry out such work as quickly as possible in the circumstances;
  - (c) not be responsible for any loss or damage to any person or property arising out of the execution of that work; and
  - (d) not be liable to the Members for or in respect of loss of beneficial occupation or otherwise arising out of the execution of that work.
- (9) The Developer shall at all times represent the Company in all its dealings with and participation in the Conservancy and to hold the seat allocated to the Company on the Conservancy committee, until the Developer elects not to do so. The Developer may appoint any person to undertake this function in its stead, permanently or for a limited period of time. In addition, the Developer will be entitled to commit the Company to decisions of the Conservancy that affect the Company, and to make decisions regarding the extension of the Conservancy or the participation by the Company in other Conservancies.
- (10) The Developer shall at all times undertake the security and anti-poaching activity of the Company and in so doing is entitled to appoint security companies or other anti-poaching units on behalf of the Company to undertake this task. This entitlement and obligation shall remain with the Developer until it elects not to do so.
- (11) The Developer shall at all times (even beyond the Initial Period) have to sole right to develop and operate the Lodge, and to cede rights to the Lodge or parts thereof to any person or persons it may decide from time to time.
- (12) The Developer has the right to operate and sell on a time sharing basis or syndication basis, the Lodge, to members of the public, provided the provisions of this Memorandum of Incorporation shall at all times apply, together with the rules and management rules from time to time.

#### 2.12 **Proxies and voting under power of attorney**

- (1) A Member may, at any time, appoint any individual, including an individual who is not a Member, as a proxy to:
- (a) participate in, and speak and vote at, a Members Meetings on behalf of the Member; or
  - (b) give or withhold written consent on behalf of the Member to a decision contemplated in section 60.

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- (2) The instrument that appoints a proxy shall:
  - (a) be in writing, dated and signed by the Member;
  - (b) be given by the person appointing such proxy or his attorney duly authorised in writing or, if the appointor be a corporation, given by an officer or attorney so authorised.
- (3) The holder of a power of attorney from a Member may, if so authorised by the power of attorney, vote for and represent such Member at any meeting of the Company.
- (4) Every instrument of proxy, whether for a specified meeting or otherwise, shall comply with section 58 and subject thereto be in the following format, or in such other form as the Company's Board may approve, and the Board may, if they think fit, send out with the notice of any meeting forms of instrument of proxy for use at the meeting:

"I/We

.....

Of

.....

being a member/members of the above named Company do hereby appoint .....of .....or failing him ..... of ..... or failing him the chairman of the Company or failing him the chairman of the meeting as my / our proxy to:

[participate in, and speak and vote for me / us at a meeting of members of the Company to be held at .....  
 on ..... 20..... at (time appointed) and at any adjournment thereof.] /

For	Against	Abstain
-----	---------	---------

[give or withhold written consent on my / our behalf to the written resolutions to which this form of proxy is attached, as contemplated in section 60 of the Act.] /


[participate in, and speak and vote for me / us at any meeting of members held by the Company, or give or withhold written consent on my / our behalf in respect of any decision contemplated in section 60 of the Act, between the date of this proxy instrument and ..... 20.....

Dated this ..... day of ..... 20

Name (in full)

.....

Address

.....

.....

.....

Signature

\* Delete as applicable

I / We desire to vote as follows:

Resolution No. 1

Resolution No. 2

(Set out the numbers of the resolutions if more than 1)

\*Mark with an X whichever is applicable."

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### 2.13 **Representation by concurrent proxies**

The right of a Member to appoint two or more persons concurrently as proxies, is not restricted or varied by this Memorandum of Incorporation.

### 2.14 **Authority of proxy to delegate**

The authority of a Member's proxy to delegate that proxy's authority to act on behalf of the Member, subject to any restriction set out in the instrument appointing that proxy, is not restricted or varied by this Memorandum of Incorporation.

### 2.15 **Requirement to deliver proxy instrument to the Company**

The instrument of proxy or power of attorney appointing a proxy for any particular meeting shall be delivered to the Company at its Office not less than 24 (twenty four) hours (or such lesser period as the directors may determine in relation to any particular meeting) before such meeting is due to take place, failing which the instrument of proxy or power of attorney shall not be treated as valid.

### 2.16 **Deliberative authority of proxy**

The authority of a Member's proxy to decide without direction from the Member whether to exercise, or abstain from exercising, any voting right of the Member, except to the extent that the instrument appointing that proxy provides otherwise, is not restricted or varied by this Memorandum of Incorporation.

### 2.17 **Validity of appointment**

- (1) The proxy appointment remains valid only for its intended purpose, provided that it may be revoked at any time by cancellation in writing, or the making of a later inconsistent appointment of another proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company.
- (2) The appointment of a proxy is suspended at any time and to the extent that the Member chooses to act directly and in person in the exercise of any rights as a Member.
- (3) A vote given in accordance with the terms of an instrument of proxy or power of attorney appointing a proxy shall be valid notwithstanding the previous legal incapacity of the Member or revocation of the instrument or power of attorney unless notice in writing of such legal incapacity, or revocation shall have been received by or on behalf of the Company not less than forty-eight hours (or such lesser period as the Board may

determine in relation to any particular meeting) before the time appointed for holding the meeting.

**2.18 Record date for exercise of Member's rights**

- (1) If, at any time, the Company's Board fails to determine a record date for any action or event, the record date for the relevant matter is:
  - (a) in the case of a meeting, the latest date by which the Company is required to give Members notice of that meeting; or
  - (b) in any other case, the date of the action or event.

**3. Clause 3 - Meetings of Members of the Company**

**3.1 Requirement to hold meetings**

The Company is not required to hold any general meetings other than those specifically required by section 61 of the Act and this clause, but may do so.

**3.2 Members' right to requisition a meeting**

The right of Members to requisition the Company's Board to call a Members Meeting may be exercised if, in aggregate, written and signed demands for substantially the same purpose are made by the holders of at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, provided that each such demand describes the specific purpose for which the meeting is proposed.

**3.3 Location of Members Meetings**

The authority of the Company's Board to determine the location of any meeting of Members and the authority of the Company to hold any such meeting in the Republic or in any foreign country, is not restricted or varied by this Memorandum of Incorporation.

**3.4 Calling a Members Meeting**

If the Company is unable to convene a Members Meeting because it has no directors or because all of its directors are incapacitated, any Member may convene a meeting.

**3.5 Notice of Members Meetings**

- (1) The minimum number of days for the Company to deliver a notice of a Members Meetings to the Members is at least 15 (fifteen) business days before the meeting is to

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begin or twenty four hours if agreed on in writing by Members holding not less than ninety percent of the votes exercisable at such meeting.

- (2) A notice of a meeting must be in writing and include the information set out in sections 62 (3) and 63 (3) of the Act.

### 3.6 **Electronic participation in Members Meetings**

The authority of the Company to conduct a meeting of Members entirely by electronic communication, or to provide for participation in a meeting by electronic communication, provided that the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting, is not restricted or varied by this Memorandum of Incorporation.

### 3.7 **Quorum for Members Meetings**

- (1) Subject to the provisions of clause (2) to clause (5) (both inclusive), the quorum requirement for:
- (a) a meeting of Members to begin is sufficient persons present at the meeting to exercise, in aggregate, at least 25% of all of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
  - (b) a matter to begin to be considered at the meeting is sufficient persons present at the meeting to exercise, in aggregate, at least 25% of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.
- (2) Notwithstanding clause (1), where the Company has more than two Members, a meeting may not begin, or a matter begin to be considered, unless at least three Members are present at the meeting and the requirements of clause (1) are satisfied.
- (3) If, within 30 minutes after the appointed time for a meeting to begin, the requirements of clause (1), or (2) if applicable:
- (a) for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, to a date not earlier than seven days and not later than twenty-one days after the date of the meeting;
  - (b) for consideration of a particular matter to begin have not been satisfied:

- (i) if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
  - (ii) if there is no other business on the agenda of the meeting, the meeting is adjourned to a date not earlier than seven days and not later than twenty-one days after the date of the meeting, without motion or vote.
- (c) The person intended to preside at a meeting, where the quorum requirements in clause (1), or clause (2) if applicable, are not satisfied, may extend the 30 (thirty) minute limit allowed for a reasonable period on the grounds that:
  - (i) exceptional circumstances affecting weather, transportation or electronic communication have impeded, or are impeding, the ability of Members to be present at the meeting; or
  - (ii) one or more delayed Members have communicated an intention to attend the meeting, and those Members, together with others in attendance, would satisfy the quorum requirements; or
  - (iii) any other reason such person considers appropriate.
- (4) After a quorum has been established for a meeting, or for a particular matter, the meeting may continue, or the matter may be considered, so long as at least one Member with voting rights entitled to be exercised at the meeting, or on that matter, is present at the meeting.
- (5) If the quorum requirements in clause (1), or clause (2) if applicable, have not been satisfied at the time appointed for a postponed meeting to begin, or for an adjourned meeting to resume, the Members present in person or by proxy shall be deemed to constitute a quorum.

### **3.8 Adjournment of Members Meetings**

- (1) Subject to clauses 3.7, (2) and (3), a meeting of Members or the consideration of any matter at the meeting, may be adjourned from time to time, on a motion supported by persons entitled to exercise, in aggregate, a majority of the voting rights held by all of the persons who are present at the meeting at the time and that are entitled to be exercised on at least one matter remaining on the agenda of the meeting, or on the matter under consideration, as the case may be.

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- (2) An adjournment of a meeting, or the consideration of a matter at the meeting, in terms of clause (1), may be either to a fixed time and place or until further notice, as agreed at the meeting.
- (3) A meeting may not be adjourned beyond the earlier of:
  - (a) 120 business days after the record date determined in accordance with clause 2.18; or
  - (b) 60 business days after the date on which the adjournment occurred;

### 3.9 **Members resolutions**

- (1) For an ordinary resolution to be approved by Members, it must be supported by the holders of more than 50% of the voting rights exercised on that resolution.
- (2) For a special resolution to be approved by Members, it must be supported by the holders of at least 75 % of the voting rights exercised on that resolution.

### 3.10 **Chairman of the Members Meetings**

- (1) In event of an equality of votes, the chairman of a Members Meeting shall not be entitled to a casting vote.
- (2) If the chairman of a Members Meeting is not present within ten minutes from the time appointed for a Members Meeting or in the event that the chairman is unwilling to act, then the vice-chairman shall act as chairman and failing the vice-chairman, a chairman appointed at the meeting.

### 3.11 **Annual General Meeting**

- (1) The Company shall be required to hold an annual general meeting:
  - (a) initially, no more than 18 months after its date of incorporation; and
  - (b) thereafter, once in every calendar year, but no more than 15 months after the date of the previous annual general meeting.
- (2) The notice calling an annual general meeting shall include:
  - (a) the financial statements to be presented, or a summarised form thereof; and
  - (b) directions for obtaining a copy of the complete annual financial statements for the preceding financial year.

- (3) The agenda at an annual general meeting shall include but not be limited to:
  - (a) presentation of the directors' report and annual financial statements for the immediately preceding financial year;
  - (b) election of directors, to the extent required by the Act or this Memorandum of Incorporation; and
  - (c) any matters raised by Members, with or without advance notice to the Company.

4. **Clause 4 - Directors and Officers**

4.1 **Composition of the Board**

- (1) The Company's Board shall comprise not less than three directors and not more than five directors, to be elected by the Members.
- (2) Each incorporator of the Company is a first director, and serves until sufficient other directors to satisfy the minimum requirements of the Act and/or this Memorandum of Incorporation have been elected.
- (3) Subject to clause (8), each director, other than the first directors and any directors appointed in this Memorandum of Incorporation, must be elected by the persons entitled to exercise voting rights in such an election to serve for an indefinite period, or for a term as set out in this Memorandum of Incorporation.
- (4) Notwithstanding clause (3), the Developer shall until the Development Period has ended, have the right to appoint three of the directors referred to in clause 1 above by notification to the Company and shall have the right to remove and replace such directors on written notice to the Company.
- (5) In any election of directors, the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy.
- (6) In each vote to fill a vacancy, each voting right entitled to be exercised may be exercised once and the vacancy is filled only if a majority of the voting rights exercised are in support of the candidate.
- (7) Other than set out in clause 4 above, there are no ex officio directors in addition to any directors appointed in terms of this Memorandum of Incorporation and the elected directors.

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- (8) The authority of the Board to fill any vacancy on the Board on a temporary basis, is not restricted or varied by this Memorandum of Incorporation, save that if the vacancy is created prior to the next annual general meeting by a director who was appointed by the Developer then the Developer shall be entitled to nominate a director to replace the aforesaid director.
- (9) A director appointed on a temporary basis has all the powers, functions and duties, and is subject to all the liabilities, of any other director.
- (10) To become or to continue to act as a director or a prescribed officer of the Company, a person must not be:
- (a) a juristic person;
  - (b) an unemancipated minor, or a person under a similar legal disability;
  - (c) a person who has been declared a delinquent or placed under probation by a court in terms of section 47 of the Close Corporations Act, 1984 or section 162 of the Act, except to the extent permitted by the order of probation;
  - (d) an unrehabilitated insolvent;
  - (e) prohibited in terms of any public regulation to be a director;
  - (f) removed from an office of trust, on the grounds of misconduct involving dishonesty;
  - (g) a person who has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than the prescribed amount, for theft, fraud, forgery, perjury or any offence:
    - (i) involving fraud, misrepresentation or dishonesty;
    - (ii) in connection with the promotion, formation or management of a company, or having been appointed or elected as a director or acting as a director, or having been placed under probation by a court; or
    - (iii) under the Act, the Insolvency Act, 1936, the Close Corporations Act, 1984, the Competition Act, 1998, the Financial Intelligence Centre Act, 2001, the Securities Services Act, 2004, or Chapter 2 of the Prevention and Combating of Corruption Activities Act, 2004.
- (11) A person need not satisfy any further eligibility requirements or qualifications.

- (12) Save for the directors appointed by the Developer in terms of clause (4) each director will hold office from the date of their appointment to the date of the annual general meeting following their appointment, at which meeting each director shall be deemed to have retired from office. Each director shall be eligible for re-election to the Board.

#### 4.2 **Alternate directors**

- (1) Each director may appoint and remove any person, including another director, to act as an alternate director in such director's place and during their absence, provided that such person has been approved for that purpose by a resolution of the Company's Board. Any appointment or removal of an alternate director shall be effected by a written notice to the Company signed by the person appointing or removing that alternate.
- (2) An alternate director shall, except as regards the power to appoint an alternate and to receive remuneration, be subject in all respects to the terms and conditions applicable to the other directors, and each alternate director shall be entitled:
- (a) to receive notices of all meetings of the directors or of any committee of the directors of which the alternate's appointor is a Member;
  - (b) to attend and vote at any such meetings at which the alternate's appointor is not personally present;
  - (c) to furnish written consent to adopt a decision which could be voted on at a Board meeting;
  - (d) to be appointed as an alternate to more than one director and shall have a vote for each director for whom such alternate acts, in addition to their own vote, if any; and
  - (e) generally, to exercise and discharge all the functions, powers and duties of the alternate's appointor in such appointor's absence as if such alternate were a director.
- (3) An alternate director shall cease to be an alternate director if the alternate's appointor ceases for any reason to be a director, provided that if any director retires but is re-elected at the same meeting, any appointment made by such director shall remain in force as though the director had not retired.

#### 4.3 **Authority of the Board**

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- (1) The authority of the Company's Board to exercise all of the powers and perform any of the functions of the Company and to manage and direct the business and affairs of the Company, is not restricted or varied by this Memorandum of Incorporation.
- (2) If, at any time, the Company has only one director, the authority of that director to act without notice or compliance with any other internal formalities, is not restricted or varied by this Memorandum of Incorporation.

### 4.4 **Directors' meetings and committees**

- (1) A director authorised by the Board of the Company:
  - (a) may call a meeting of the Board at any time; and
  - (b) must call such a meeting if required to do so by at least:
    - (i) 25% of the directors, in the case of a Board that has at least 12 members; or
    - (ii) two directors, in any other case.
- (2) Notwithstanding clause (1), any director may call a meeting of directors if such director considers there is good reason to do so.
- (3) The authority of the Board to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, provided that the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the meeting, is not restricted or varied by this Memorandum of Incorporation.
- (4) The authority of the Board to adopt a decision which could be voted on at a Board meeting may instead be adopted by written consent of a majority of the directors, given in person or by electronic communication, provided that each director has received notice of the matter to be decided, is not restricted or varied by this Memorandum of Incorporation. Any decision made in the manner contemplated in this clause (4) has the same effect as if it had been approved by voting at a meeting.
- (5) The Board may determine the form and time for giving notice of its meetings but such a determination must comply with any requirements set out in this Memorandum of Incorporation or the Company's rules, provided that no meeting of the Board shall be

convened without notice to all of the directors subject, however, to the provisions of clause (6).

- (6) The authority of the Board to proceed with a meeting even if there was a failure to give the required notice or there was a defect in the giving of such notice, provided that all of the directors acknowledge actual receipt of the notice or are present at the meeting or waive notice of the meeting, is not restricted or varied by this Memorandum of Incorporation.
- (7) The quorum requirement for a meeting is three directors and at least one of the three directors present must be a director appointed by the Developer.
- (8) If no quorum is present within thirty minutes of the time appointed for a meeting, the meeting shall stand adjourned to the same time and day the following week, or such other time and place as the Chairman may direct, and if a quorum is not present within thirty minutes of the time appointed for the adjourned meeting, then the persons present at the adjourned meeting shall constitute a quorum for that meeting.
- (9) For the duration of the Development Period, the directors appointed by the Developer shall, notwithstanding the number of directors present, have one vote more than the total votes of the other directors present at the meeting. After the expiry of the Development Period each director, including any directors appointed by the Developer, shall have only one vote on a matter and a majority of votes cast on a resolution is sufficient to approve that resolution.
- (10) The Developer shall be entitled to appoint the first Chairman. Thereafter the Board shall be entitled to elect a chairman or vice-chairman from one of its number at the first director's meeting after the annual general meeting. The Chairman or vice-chairman shall hold office until the next annual general meeting provided that the office of the Chairman and/or vice-chairman shall be ipso facto vacated in the event that the director holding such office ceases, for whatever reason, to be a director. In the event of a vacancy occurring the Board shall immediately appoint one of its number as Chairman.
- (11) If the Chairman is not present within 10 minutes from the time appointed for a meeting of the Board or in the event that the Chairman is unwilling to act, then the vice-chairman shall act as chairman and failing the vice-chairman, a chairman appointed at the meeting.

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- (12) In the case of a tied vote the chair shall not have a deciding vote and the resolution shall not pass.

### 4.5 **Directors' power to affect borrowing**

The directors shall not be entitled to borrow money and to mortgage or bind the undertaking and property of the Company or any part thereof, and to issue debentures, and other securities whether outright or as security for any debt, liability or obligation of the Company or of any third party, unless approved at an annual general meeting or a Members Meeting.

### 4.6 **Directors' powers**

- (1) Subject to this clause 4.6, the directors shall manage and control the business affairs of the Company, shall have full powers in the management and direction of such business and affairs (where such management and direction does not vest in the Managing Agent), and may exercise all such powers of the Company and do all such acts on behalf of the Company which are not required by the Act or by this Memorandum of Incorporation to be exercised or done by the Company in a Members Meeting, subject however to such rules as may be made by the directors pursuant to clause 1.4.
- (2) Save as provided herein, the directors shall at all times have the right to engage on behalf of the Company 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 directors as on such terms as the directors may decide, subject to any restrictions imposed or direction given at any General Meeting of the Company.
- (3) The directors shall further have power:
- (a) to require the submission for approval of such plans, drawings, and other information as they may deem necessary to ensure compliance by Members with this Memorandum of Incorporation and the Management Rules made in terms hereof;
  - (b) to require that any works being constructed within the Property shall be supervised to ensure that the provisions of this Memorandum of Incorporation and the Management Rules are complied with and that all work is performed in a proper and workmanlike manner;

- (c) within the Objects and subject to the requirements of the Company in conjunction with the Developer and in terms of the EMP and ROD to determine access to the Portions.
- (4) The directors shall nominate such nominees for election to serve on the board of trustees of the Conservancy, as may be permitted in terms of the Constitution of the Conservancy. The nominees shall be from the Members of the Company or their respective directors, members or trustees.

#### 4.7 **Directors' compensation and financial assistance**

- (1) The authority of the Company to pay reasonable remuneration to the directors, in accordance with a special resolution approved by the Members within the previous two years, is not restricted or varied by this Memorandum of Incorporation.
- (2) The Company shall not, directly or indirectly pay any portion of its income or transfer any of its assets, regardless of how the income or asset was derived, to any person who is or was an incorporator of the Company, or who is a Member or director, or person appointing a director, of the Company, except –
  - (a) as reasonable remuneration for goods delivered or services rendered to, or at the direction of, the Company; or payment of, or reimbursement for, expenses incurred to advance a stated object of the Company;
  - (b) as payment of an amount due and payable by the Company in terms of a *bona fide* agreement between the Company and that person or another;
  - (c) as payment in respect of any rights of that person, to the extent that such rights are administered by the Company in order to advance a stated object of the company; or
  - (d) in respect of any legal obligation binding on the Company.

#### 4.8 **Indemnification of directors**

- (1) The Company shall not directly or indirectly pay any fine that may be imposed on a director or on a director of a related company, who has been convicted of an offence, provided that this shall not apply to the Company if one individual is the sole member and sole director or two or more related individuals are the only members and there are no directors other than those one or more individuals.

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- (2) The authority of the Company to advance expenses to a director to defend litigation in any proceedings arising out of the director's service to the Company and to directly or indirectly indemnify a director in respect of such expenses if those proceedings are abandoned or exculpate the director or arise in respect of any liability for which the Company may indemnify the director, is not restricted or varied by this Memorandum of Incorporation.
- (3) The authority of the Company to indemnify a director in respect of any liability for which the Company may indemnify a director, is not restricted or varied by this Memorandum of Incorporation.
- (4) The authority of the Company to purchase insurance to protect:
  - (a) a director against any expenses or liability for which the Company may indemnify a director as contemplated in clause (2) or clause (3); or
  - (b) the Company against any contingency including but not limited to any expenses that the Company is permitted to advance or for which the Company is permitted to indemnify a director as contemplated in clause (2) or any liability for which the Company is permitted to indemnify a director as contemplated in clause (3) is not restricted or varied by this Memorandum of Incorporation.
- (5) The Company shall be entitled to claim restitution from a director or a related Company for any money paid directly or indirectly by the Company to or on behalf of that director in any manner inconsistent with this clause 4.8 or the Act.

### 4.9 **Committees of the Board**

- (1) The authority of the Company's Board to appoint any number of committees for managing any of the affairs of the Company and to appoint any persons to be members of such committees and to delegate to any such committee any authority of the Board, is not restricted or varied by this Memorandum of Incorporation
- (2) Subject to the powers and authorities granted by the Board to any such committee, the authority of any such committee to:
  - (a) include persons who are not directors, provided that such persons are not ineligible or disqualified from being a director as contemplated in clause 4.1(10) and that no such person shall vote on a matter to be decided by the committee;
  - (b) consult with or receive advice from any other person; and

- (c) exercise the full authority of the Board in respect of a matter referred to it, is not restricted or varied by this Memorandum of Incorporation.

#### 4.10 **Authentication of documents**

- (1) Any director or any person appointed by the directors for this purpose shall have power to authenticate any resolutions passed by the Members or the directors, and any books, records, documents and accounts relating to the Company, and to certify copies thereof or extracts therefrom as true copies or extracts and where any books, records, documents or accounts are elsewhere than at the registered office, the local manager or other officer of the Company having the custody at such other place shall be deemed to be the person appointed by the directors aforesaid.
- (2) A document purporting to be a copy of a resolution of the directors or an extract from the minutes of a meeting of the directors which is certified as such in accordance with the provisions of clause (1) shall be conclusive evidence in favour of all persons dealing with the Company that such resolution has been duly passed or, as the case may be, that such extract is a true and accurate record of a duly constituted meeting of the directors.

### 5. **Clause 5 - General Provisions**

#### 5.1 **Application of optional provisions of the Act**

The Company, being a non-profit company, does not elect to comply voluntarily with the extended accountability requirements contained in Chapter 3 of the Act.

#### 5.2 **Accounts**

- (1) The Company's Board shall keep such accounting records and books of account as are prescribed by the Act.
- (2) The accounting records shall be kept at the office of the Company or (subject to the provisions of section 25 of the Act) at such other place as the Board think fit, and shall at all times be open to inspection by the Board. Except as provided by the Act, or by the authority of the Board, no Member (other than a Member who happens to be a director) shall have any right to inspect any accounting record book, account or document of the Company.
- (3) The directors shall, in accordance with sections 30 and 31 of the Act, cause to be prepared and laid before the Company at its annual general meeting such annual financial statements, as required by the Act.

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- (4) Subject to the provisions of the Act, a copy of the annual financial statements and reports referred to in clause (3) shall be delivered or sent by post to the registered address of each Member at least 10 business days before the annual general meeting. Alternatively, a Member may give the Company an address for the purposes of receiving electronic communications, in which case a copy of such documents may be delivered to that Member at that address. This clause shall not require a copy of such documents to be delivered or sent to any person who is not entitled to receive notice of Members Meetings of the Company or of whose address the Company is not aware.

### 5.3 **Conversion of the Company to a profit company, disposal of assets and mergers**

- (1) The Company may not merge or convert to a profit company, or dispose of any part of its assets, undertaking or business to a profit company, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the Company.
- (2) Any proposal to dispose of all or the greater part of the Company's assets or undertaking or any proposal to amalgamate or merge with another non-profit company must be submitted to the Members for approval, in a manner comparable to that required of profit companies in accordance with sections 112 and 113 of the Act, respectively.
- (3) Sections 115 and 116 of the Act, read with the changes required by the context, apply with respect to the approval of a proposal contemplated in clause (2) above.

### 5.4 **Winding-up**

- (1) Upon the winding-up or dissolution of the Company, no past or present Member or director of the Company, or person appointing a director of the Company, is entitled to any part of the net value of the Company after its obligations and liabilities have been satisfied.
- (2) The entire net value of the Company must be distributed to one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts which have similar objects to the Company's main Objects.
- (3) The Company's main objects may be determined in terms of the Company's Memorandum of Incorporation or by its Members, or directors immediately before the time of its dissolution; or by the court, if the Memorandum of Incorporation, or the Members or directors fail to make such a determination.

Schedule A

MANAGEMENT RULES

**1. Definitions**

Words and expressions defined in the Memorandum of Incorporation of the Company shall bear the same meaning wherever they appear in these Management Rules.

**2. Object of the Management Rules**

The object of these Management Rules is to enable all the Members, their families, guests and invitees to live in and enjoy a high quality lifestyle in a clean and desirable environment on the Portion and within the Property.

**3. Background**

- 3.1. The Company was formed for the purpose of managing, administering and controlling the Property for the benefit of the Members.
- 3.2. In terms of the Memorandum of Incorporation of the Company, it has the power to make these Management Rules. These include house Management Rules.
- 3.3. The Management Rules consist of 3 (three) categories namely, Category 1, Category 2 and Category 3.
- 3.4. The Developer shall during the Development Period appoint a Managing Agent to assist the Directors to fulfil their functions and perform their obligations as Directors of the Company.

**4. Management Rules**

**4.1. Category 1 Management Rules**

- 4.1.1. The Category 1 Management Rules, are as follows:

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- 4.1.1.1. an owner of a Portion may not Alienate or transfer the Portion or any undivided share therein without the prior written consent of the Company and in compliance with the provisions of clause 2.9 of the Memorandum of Incorporation of the Company;
- 4.1.1.2. an owner of a Portion will not vote for or propose any motion or resolution in terms of which the Company is wound up or dissolved;
- 4.1.1.3. notwithstanding the provisions of any law, no further subdivision in respect of any of the Portions shall be allowed;
- 4.1.1.4. owners of Portions will at all times be permitted access along the main roads within the Property to access the use of the facilities that are open to Members as a whole, subject to any Management Rules that may be made by the Directors from time to time;
- 4.1.1.5. the owners will at all times abide by and be subject to these Management Rules of the Property;
- 4.1.1.6. the Building Area shall at all times be an area the shape of a regular circle with a building peg placed by the Developer being the central point, with an area equal to a radius of 17.5 (seventeen point five) meters. The Developer may in its sole discretion move the building peg before building plans have been approved on a site;
- 4.1.1.7. no fences may be erected on or around any Portion. Fences may be erected around a dwelling, provided the fence design and construction pre and post completion is approved by the Developer and the Company after the Development period.

- 4.1.1.8. all sales of Portions shall only be through an agent appointed by the Developer during the Development Period, and thereafter by the Company;
- 4.1.1.9. only signage erected or approved by the Developer may be erected on the Property;
- 4.1.1.10. the Company, as owner of the Common Property, will be a member of the Conservancy;
- 4.1.1.11. the Developer shall at all times be entitled to the Management Site in a position determined by it;
- 4.1.1.12. only builders accredited by the Developer during the Development Period, and thereafter by the Company, may build on the Portions;
- 4.1.1.13. no more than 10 (ten) persons (excluding servants) may be accommodated in any house erected on a Portion.
- 4.1.1.14. These Management Rules will not be amended, added to, substituted or repealed save and unless such amendments have been approved by a unanimous resolution of the Members.

#### **4.2. Category 2 Management Rules**

The Category 2 Management Rules are the Architectural Guidelines and Building Specifications which are set out in Schedules B to the Memorandum of Incorporation. These can only be changed with 75% approval by members of the Company once the Development phase is completed by the Developer.

#### **4.3. Category 3 Management Rules**

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The Category 3 Management Rules, can only be changed with 75% approval by members of the Company once the Development phase is completed by the Developer and are as follows:

- 4.3.1. The Member is the registered owner of a Portion and in addition to having the use of said Portion and the Common Property and common facilities, he or she will have traversing rights over the Property under the following terms and conditions:
  - 4.3.1.1 Private vehicles may only drive on the main vehicular roads including access roads and link roads to and from Members' residences;
  - 4.3.1.2 Game drive roads may only be traversed in approved game viewing vehicles in an appropriate bush colours, as approved by the directors from time to time. Road closure notices posted by the Company for example after periods of heavy rain must be strictly adhered to by all members. Members should purchase their own game drive vehicles. Non members may not drive a game viewing vehicle on the Property. Only a qualified guide may drive a game drive vehicle, if the member or if the member is a company, close corporation or trust, an authorised representative (as notified to the Company) is not present. Safari companies and persons approved by the Company or Developer may commercially operate game drives and guided walks for the benefit of Members, their guests or invitees;
  - 4.3.1.3 Walking or hiking anywhere on the Property must be exercised with caution, and at the member's sole risk as the Property is in a game Property. The Company assumes no responsibility in this regard; and

- 4.3.1.4 No motorcycles, bicycles or quad bikes are permitted on the Property, other than for use by management as the Directors may permit from time to time for management purposes, or for Members to access their Property.
- 4.3.1.5 Members may not allow their tenants to traverse the Property without being accompanied by a qualified ranger. Tenants should arrange game drives through operators authorised by the Company from time to time.
- 4.3.2. A Member shall not:
  - 4.3.2.1 hunt, cull, capture or shoot game on the Portion or the Common Property or permit the same to be done, provided that this shall not be construed as affecting any person's right to take reasonable steps to prevent injury or death to himself or any other person, or the right of the Developer or the Managing Agent to do so in times of necessity;
  - 4.3.2.2 make any excavation on or remove any soil from the Common Property, unless the prior written consent of the Developer and/or the Managing Agent is obtained;
  - 4.3.2.3 cause any refuse or the accumulation thereof on the Portion and no rubble, waste or refuse of any kind shall be discarded or dumped in any undeveloped area, or Portions, public areas, Common Property, open spaces, roads, dams, waterholes, ponds or rivers;
  - 4.3.2.4 damage, remove or plant any flora on the Portion or the Common Property or introduce or cultivate any flora on the Common Property without the prior

written consent of the Developer and/or the Managing Agent;

- 4.3.2.5 Pets may only be kept in compliance with and subject to the Pet Policy of the company, from time to time. Should such consent be given, the Developer or the Company may prescribe reasonable conditions, and the Developer or the Company may also withdraw such consent in the event of any breach of a condition prescribed by the Developer or the Company.
- 4.3.2.6 create any disturbing noises on the Property;
- 4.3.2.7 make any roads on the Property;
- 4.3.2.8 establish or create or interfere with any drinking points for game on the Property;
- 4.3.2.9 make fires anywhere on the Property other than in properly built boma's and braai units or collect any wood from anywhere on the Property, and a Member shall take all reasonable steps to ensure that all fires are properly extinguished after use;
- 4.3.2.10 drive in or traverse river beds, unless specifically designated as game drive or thoroughfare road;
- 4.3.2.11 park caravans (it being recorded that any caravan must be housed in a garage) or any temporary accommodation on the Portion or on the Common Property;
- 4.3.2.12 set up camp on a temporary or permanent basis on the Portion or Common Property;
- 4.3.2.13 collect, damage, disturb or take anything from the Portion or the Common Property or anywhere on the

Property, including without affecting the generality of the foregoing, wood, stones, wildlife, birdlife, or flora;

- 4.3.2.14 drill any holes, including bore holes on the Portion or the Common Property without the prior written consent of the Developer and/or the Company;
- 4.3.2.15 use any Common Property or part of the Property in a manner or through conduct, which may unreasonably interfere with the use and enjoyment thereof by other persons, or in such a way as to cause a nuisance which may detrimentally affect the amenity of such Common Property or the Property
- 4.3.2.16 pollute any dam, waterhole, pond, stream or river on the Property;
- 4.3.2.17 fish in any dam, waterhole, pond, stream or river on the Property other than those designated for this purpose from time to time;
- 4.3.2.18 picnic or braai anywhere on the Property other than areas specifically designated for such use.
- 4.3.2.19 swim in a river, waterhole, stream, pond or dam situated within the Property and no boats of any description will be permitted on any of the aforementioned, other than as designated for such purpose.

The aforesaid restrictions shall not to the extent necessarily apply to the Developer or the Managing Agent in conducting the Development or management of the Property.

#### **4.4. Roads**

- 4.4.1. The speed limit on the Property is 30Kkm/h;

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- 4.4.2. No motorcycles, bicycles or quad bikes are permitted on the roads or on the Common Property or Portion, other than if used by management on management business or approved by the Developer or the Company, or for Members to access their Property;
- 4.4.3. The Directors of the Company will determine if and under what conditions that any vehicle may be allowed off road on the Property or to traverse river beds, and Members shall obey such signage signifying roads, game viewing paths, no entry and such like;
- 4.4.4. Due care is to be exercised when driving on the Property and animals shall at all times have right of way;
- 4.4.5. No person shall operate a vehicle upon any place within the Property unless he or she is the holder of a valid driving license;
- 4.4.6. Operating any vehicle on the Property while under the influence of alcohol or drugs which may impede the driver's ability to control the vehicle, is prohibited;
- 4.4.7. Operating any vehicle in such a manner as to constitute a danger or nuisance to any other person, animal or property within the Property is prohibited;
- 4.4.8. The use of car hooters or other noise making devices within the Property to beckon or attract residents or staff is prohibited.
- 4.4.9. The directors will arrange a two way radio system for the use of members from time to time and will establish usage guidelines for the use of this radio system to which members will be bound.
- 4.4.10. All residents (per household) must sign the Game Drive Guidelines which must be held on file by the Company. Furthermore, all safari guides operating commercially must also

sign the Properties game drive Guidelines, unless they have signed a similar code of conduct with the Conservancy, in order to be allowed to operate on the property.

#### **4.5. Buildings and Portions**

- 4.5.1. A Member is obliged to maintain both the interior and the exterior of his or her improvements in a good and sound condition to the reasonable satisfaction of the Directors. In the event of the Directors / Managing Agent finding that the Portion and/or improvements thereon are not kept to the standards as laid down by the Company, they may call upon such Member to rectify the situation within 14 days, failing which the Directors / Managing Agent shall cause the situation to be remedied at the Member's expense, such costs to be a debt to become immediately due and payable by the Member to the Company;
- 4.5.2. A Member shall not construct or erect after completion of approved improvements, any further improvements to the Portion or make any material external alterations to the improvements on the Portion without the prior written approval of the Company having been first obtained, which consent shall not unreasonably be withheld;
- 4.5.3. A Member is only allowed to make improvements in terms of the Memorandum of Incorporation, the Architectural Guidelines and Building Management Rules, and in particular the maximum number of beds allowed in any improvements as set out in the Architectural Guidelines and Building Management Rules must be adhered to;
- 4.5.4. No garments, household linen or general washing of any nature may be hung out or placed anywhere to dry except in a screened drying yard or other designated screened area. No laundry, washing lines, rotary dryers or similar devices may be visible from the roads, the game Property or any Common

Property, and must be reasonably screened from the direct view of neighbours;

- 4.5.5. A Member may only plant flora indigenous to the relevant ecozone including plants and trees on his or her Portion and make a garden on his or her Portion in accordance with a landscape plan referred to in the Building Management Rules. No non-endemic flora may be planted;
- 4.5.6. A member may be restricted in their use of water for gardens and plants by the Directors in order to protect the supply of water for all members assigning priority to member's domestic needs and that for wildlife drinking.
- 4.5.7. A Member may only erect signage indicating his improvements or access to his or her improvements which are approved by the Directors from time to time. No signage advertising contractors, estate agents or other external businesses and such like are permitted. No flagpoles, lightening conductors, flags, radio aerials or poles, above the roof line height restriction may be erected on any private dwelling or Portion within the Property.

#### **4.6. Use and Occupation of the Improvements**

- 4.6.1. Unless consented to by the Developer in writing the use and occupation of a dwelling and other improvements on a Portion may only be used for residential purposes and may be rented out on an ad hoc basis but not operated as a 'commercial' lodge, bed and breakfast or other such establishment. No trading or commercial enterprise of whatever nature may be conducted from a Portion without the written consent of the Developer;
- 4.6.2. The maximum number of persons allowed to occupy one dwelling at any one time shall not exceed the number of

legitimate approved bedrooms in the dwelling multiplied by two, but subject to a maximum of 10 (ten) persons;

- 4.6.3. A Member shall obey all instructions, the Management Rules and regulations imposed by the Company, from time to time, in respect of the Portion, and the Common Property, and procure that his or her guests, invitees and lessees also obey all such instructions, Management Rules and regulations The Member hereby acknowledges and agrees that he or she shall be liable for and responsible for paying or enforcing, as the case may be, any fines or other sanctions which the Company may impose from time to time on the Members and invitees, as part of the administration and management of the Property;
- 4.6.4. A Member shall not direct or introduce any motorised generators or power plants or any noise making objects or apparatus on the Portion without the prior written consent of the Developer and/or the Management Agent;
- 4.6.5. A Member shall not bring or allow to be brought onto the Property or Portion any pets or other domesticated animals without the written approval of the Developer; and subject always to the Pet Policy from time to time.
- 4.6.6. A Member shall use and enjoy his dwelling and Portion in a manner and only for purposes which do not cause a nuisance to any other occupier on a dwelling or Portion, and ensure that others use and enjoy such areas in the same manner.

**4.7. Domestic Staff**

A maximum of 2 Domestic staff are permitted to reside on a Portion and the Lodge, subject to the bed capacity constraints, provided they shall not be permitted to walk on the Property, given the dangers thereof.

**4.8. Domestic and Garden Refuse**

- 4.8.1. All domestic refuse shall be put into black plastic bags and kept in an animal proof bin in a suitable place within the Member's Portion and screened from public or neighbours view. Until such time as the Company has set up the relevant infrastructures and Management Rules to carry out household refuse removal, the Member shall be obliged to take all household refuse to the specified dump site which may not be on the Property;
- 4.8.2. No burying or burning of domestic or garden refuse is permitted on the Portion or on the Common Property.

#### **4.9. Building**

The Architectural Guidelines and Building Management Rules are set out in Schedule B to the Memorandum of Incorporation and form part of the Management Rules.

#### **4.10. Storage of (In)flammable and other Dangerous Material**

No harmful or (in)flammable substances may be kept on the Portion or the Property. This shall not apply to the keeping of such substances and in such quantities as may be reasonably required for domestic purposes. No poisonous chemicals may be discharged anywhere on the Property or the Portion.

#### **4.11. Noise**

- 4.11.1. No Member shall direct or introduce any motorised generators or power plants or any noise making objects or apparatus on the Portion or the Property without the prior written consent of the Developer and/or the Managing Agent;
- 4.11.2. The lighting or letting off of fireworks within the Property is strictly prohibited;
- 4.11.3. No Member may cause or allow his family, guests or invitees to cause a disturbance to other residents or the wildlife on the Property or the Portion by the gratuitous shining of spot lights,

playing of loud music, hooting, shouting or the creation of any other disturbing noise howsoever.

**4.12. Damage, Alterations or Additions to the Common Property or Common Facilities**

No Member or occupant of a Portion may damage or alter any part of the Common Property or common facilities without first obtaining the written consent of the Directors.

**4.13. Renting of Dwellings**

4.13.1. No leases may be entered into by a member without the written consent of the Company. The consent of the Company will be given provided reasonable rules for non members to enter the Property are complied with, which rules shall be set by the Developer and the Company from time to time.

4.13.2. All tenants and other persons who are granted rights of occupation of a dwelling by a Member are obliged to comply with the Management Rules. These Management Rules override any rights of conflicting provision in any lease or rental agreement or other rights of occupancy;

4.13.3. Any contravention of the Management Rules by a lessee shall be deemed to be a contravention by the Member;

4.13.4. Should an owner rent his or her dwelling, he or she shall inform the Managing Agent / Property Manager in writing in advance of the lessee taking occupancy.

**4.14. Access and Security**

4.14.1. Security protocol at the gate shall be adhered to at all times;

4.14.2. No person may access the Property without in each case completing such indemnity forms and giving such other

acknowledgements as the Directors may from time to time require.

- 4.14.3. Any ID card system for permanent workers, temporary workers, Property staff and contractor representatives and their employees must be conscientiously enforced by every Member and every person in his or her employ;
- 4.14.4. Every Member must ensure that his or her visitors, contractors and staff adhere to security protocol. Formalities and Management Rules relating to access by visitors shall be determined by the Company from time to time.
- 4.14.5. Should a Member require security in their dwelling they shall install their own silent security system of the type recommended by the Company;
- 4.14.6. Security will be provided 24 hours a day either on a manned basis or via remote access for residents, or, on a basis to be determined from time to time by the Company;
- 4.14.7. Vehicle security permits must be affixed to vehicle windscreens to assist guards in the performance of their duties;
- 4.14.8. All Members and approved lessees shall be provided with security access cards of a type to be determined and consistent with the central security system selected by the Company;
- 4.14.9. Property security will also be responsible for the enforcement of certain Management Rules of the Company. They carry the authority to issue the prescribed fines and should the same Member, his visitors, employees, contractors or tenants accumulate three fines, such matter will be referred to the Directors for the necessary action;

- 4.14.10. Members and other residents shall not give instructions to any security personnel. All requests and complaints are to be lodged with the Manager;
- 4.14.11. Conservancy security personnel shall also have jurisdiction within the Property in terms of the Conservancy Constitution;
- 4.14.12. All vehicles and / or persons entering and leaving the Property may be subjected to a search;
- 4.14.13. No firearms are permitted onto the Property without first being declared to the Manager, and recorded in an estate firearms register, then on such terms the Company may reasonably permit. In the event that firearms or any weapons are not so declared, these will be confiscated and handed over to the police for later collection by the owner.

## **5. Levies**

Levies are made up of 2 different types of charges, namely

### **5.1. Common Levies**

“Common Levies”, being the monthly levy raised to meet all the expenses which the Company has incurred, or which the Directors reasonably anticipate the Company will be put in the attainment of Objects or the pursuit of its business, and without in any way derogating from the generality of the foregoing shall include:

- 5.1.1. levies imposed by the Conservancy;
- 5.1.2. rates, taxes and any local authority charges;
- 5.1.3. the supply of electricity, water or any other services to be utilised by the Company (not charges for specific usage by individual Members);

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- 5.1.4. the costs of and for the staff required for the repair, upkeep, control, management and administration of the Common Property;
- 5.1.5. a reasonable provision to be held in Property to meet the anticipated expenditure not of an annual nature;
- 5.1.6. a reasonable provision for contingencies not included in the estimate of expenditure required to be made by the Directors and / or Managing Agent;
- 5.1.7. the “essential services” which shall include:
- 5.1.8. once installed by the Developer, maintenance of boreholes and a supply of potable water to the boundary of the Portion and the maintenance of the infrastructure relating thereto;
- 5.1.9. once provided by the Developer, the maintenance of all roads and fences, including the access road from the boundary of the Members Portion;
- 5.1.10. fire-fighting services;
- 5.1.11. soil erosion prevention;
- 5.1.12. security services;
- 5.1.13. provision and maintenance of necessary equipment and implements, including vehicles; and
- 5.1.14. maintenance of the Common Property.

### **5.2. Optional Levies**

“Optional Levies” being the monthly levy raised by the Company on individual Members for each Member’s specific use of any of the services provided by the Company to the Member, and charged at market related rates. The optional services may include the following:

- 5.2.1. maintenance of the improvements both inside and outside;
  - 5.2.2. the provision and transport of servants;
  - 5.2.3. the provision of firewood and charcoal;
  - 5.2.4. the management of a laundry and the rendering of a laundry service;
  - 5.2.5. the gardening and cleaning of building areas on the Portion;
  - 5.2.6. the cleaning of windows of the improvements;
  - 5.2.7. refuse removal;
  - 5.2.8. maintenance of water installations, electrical installations and any other installation to the improvements on the Portion;
  - 5.2.9. provision of a cleaning service before, during and after visits to the improvements;
  - 5.2.10. the regular airing of improvements and pest control;
  - 5.2.11. provisioning service; and
  - 5.2.12. catering services.
- 5.3. The Directors shall establish a charge list in respect of the optional services that are offered. The charges for optional services shall be market related. The Directors shall be entitled to amend, add or repeal such charge list or the optional services from time to time.
- 5.4. The charges made to Members for optional services they choose to use shall be charged to Members accounts monthly in arrears, based on their specific utilisation of said services, and payment shall be collected at the time and in the manner payments are made for “Common Levies”
- 5.5. Each year the Directors and/ or the Managing Agent, shall prepare a budget in reasonable detail of the amount that shall be required by the

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Company to meet the common expenses which the Directors and/or Managing Agent reasonably anticipates the Company will be put to in the following financial year for the attainment of its objects or the pursuit of its business, and shall specify separately such estimated deficiency, if any, as shall result from the preceding year.

- 5.6. The Directors and/or Managing Agent shall then calculate the levy to be raised against each Member in terms of clause 5.1 hereof, and in doing so shall be entitled to round off the levy as they see fit to ease the calculation and administration thereof.
- 5.7. The budget so prepared and the levy so calculated shall then be placed before the board of Directors for their approval of the budget and Levies for the following financial year by their passing a resolution to such effect.
- 5.8. Levies shall be paid by means of an irrevocable debit order, with common levies being paid monthly in advance and optional levies, if any, payable monthly in arrears.
- 5.9. The levy may be recovered by the Company by action in any court of competent jurisdiction from the person who is a Member at the time when such levy became due and payable. A Member consents to the jurisdiction of the Magistrates Court in regard to the institution of any action by the Company to recover the levy. The Company shall be entitled in its sole discretion to refuse access to a Member in the event of the Member not having paid the levy.
- 5.10. The Company shall on the application of any Member or any person authorised in writing by such Member be obliged to certify in writing the levy determined as a contribution of that Member, the manner in which such levies are payable and the extent to which such levy has been paid by the Member.
- 5.11. The Directors may from time to time impose Special Levies upon the Members in respect of all such expenses as are mentioned herein and which were not included in any estimate made, and may in imposing such levy further determine the terms of payment thereof.

- 5.12. The Directors shall be empowered, in addition to such other rights as the Company may have in law against its Members, to determine the rate of interest from time to time chargeable upon arrear levies. Such rate of interest shall not exceed the rate laid down by relevant legislation, or any re-enactment thereof as if the amount was due in terms of the money lending transaction in the requisite category as defined in the said act.
- 5.13. Should any Member's levy be in arrear at the seventh day of the month, he or she shall pay interest as determined by the Directors, and such interest shall be applied to the full amount overdue inclusive of 'optional service charges', from the first day of the month up until the date of payment.
- 5.14. Members still in arrears after thirty days shall have the services to their Portion terminated and pay immediately on being billed the full amount due, plus the next levy due, plus interest on the full overdue amount up until the date of payment. In addition, the Member may be obliged to pay a reconnection fee, the amount of which shall be determined by the Directors.
- 5.15. After sixty days, Members shall have their overdue account and the full interest thereon handed over for collection and possible legal action. Any costs incurred by these proceedings and all additional interest up to the date of final settlement shall be for the Member's account. Any interest on, or collection fees for overdue levies including the re-connection fee for services which have been terminated may be considered to be part of the levy and treated as such.
- 5.16. Levy amounts may not be reduced to offset against real, perceived, partial or non-provision of services or for any other reason unless previously discussed with and sanctioned by the Directors.
- 5.17. In calculating the contribution required to be made to the fund, the Directors shall as far as is practically possible:
  - 5.17.1. differentiate between expenditure of a capital nature and of a current nature; and

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- 5.17.2. indicate clearly on the estimate what is capital expenditure and what is current expenditure, provided that in arriving at such decision the Directors shall act as experts and not arbitrators.
- 5.18. The Directors have the right and power to subcontract the provision of optional and essential services.
- 5.19. The budget so approved by the Directors shall be sent to each Member together with the notice convening the annual general meeting of the Company.

SCHEDULE B

ARCHITECTURAL GUIDELINES

**1. Introduction**

- 1.1. The purpose of the Leadwood Architectural Guidelines is to encourage individual design creativity within prescribed architectural parameters. The aim is to harmonise materials and design styles with the natural elements to create a balanced lifestyle for all residents in the estate.
- 1.2. These Architectural Guidelines do not apply to the Lodge.
- 1.3. The following guidelines will be implemented to ensure a sensitively constructed environment with a high quality aesthetic management, coupled with attention to individual privacy.
- 1.4. Furthermore, the aim of the guidelines is to direct the aesthetics and environmental quality of the development and establish a collective architectural language, to protect the investment of the neighbours and to ensure the adherence to the environmental principles and conditions established in the Environmental Management Plan.
- 1.5. Residences within the development are to be designed and constructed so as to enhance the natural landscape and general style and character of the development.
- 1.6. The concept emphasizes simplicity, human scale, vertical proportions and traditional plan form.
- 1.7. Sustainability is encouraged and the use of rainwater tanks, solar heating, passive solar control, solar heat collection and passive cooling systems to reduce artificial heating and cooling are recommended.
- 1.8. Careful attention will be paid to the positioning and type of domestic and landscape lighting implemented in buildings and landscaping to minimise light pollution within the estate.

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- 1.9. The bulk, scale and roof height of residences will be carefully monitored so as not to present overpowering architectural elements which dominate the landscape.
- 1.10. The design of the individual dwellings should be done in a sensitive manner taking the natural vegetation and trees into consideration, reducing the potential of damaging or removing indigenous trees.
- 1.11. Rehabilitation of the veld around the building site and disturbance area is mandatory and will receive priority. The surrounding landscaped areas should be treated sensitively and kept as natural as possible making use of similar approved materials.

### **2. Architectural styles**

The design philosophy at Leadwood Estate is to create an atmosphere whereby owners design and construct contemporary and/or traditional bush style homes. Designs sympathetic to outdoor living are encouraged such as gazebos, canvas awnings or curtaining verandas.

### **3. Design guidelines**

#### **3.1. Dwellings per erf:**

- 3.1.1. Only one dwelling with satellite free standing bedrooms and associated outbuildings will be permitted per site.
- 3.1.2. Outbuildings must be attached to the main dwelling with a wall, pergola or walkway. Such a wall may not exceed 1.8m in height and must not encroach over building lines or the disturbance area boundary.

#### **3.2. Footprint of construction:**

- 3.2.1. A maximum area of 35m diameter, or 17.5 metres radius from the centre beacon pin, may be used to construct the footprint of the dwelling. No building operations or structures may be erected outside this disturbance area except for an access

road, which shall conform to the relevant Landscape Design Guidelines.

- 3.2.2. Verandas, balconies, patios, staircases, gazebos, pergolas, built-in braais and barbeques, or any other structure more than 300mm high are generally considered to be part of the building structures and must be within the disturbance area.
- 3.2.3. Decks are generally not to be higher than 500mm above ground level (without filling). Higher decks, if required due to site topography, will only be considered if not intrusive to neighbours. All decks constructed shall not extend more than 5 metres beyond the footprint.
- 3.2.4. Pools and pool filters must be situated within the building lines.
- 3.2.5. A maximum of 2 garages shall be permitted on each site and same must be situated within the disturbance area.
- 3.2.6. Beacon Certificate - Prior to the start of construction, the building contractor must obtain a beacon certificate from the appointed land Surveyors. They will visit the site to point out the correct site boundary pegs and disturbance area and issue a certificate to this effect. The position of any building along a boundary must also be certified by the Land Surveyors.

### **3.3. Maximum Building Height**

The maximum height of buildings on residential stands is up to a maximum of 8.5 metres above Natural Ground Level (NGL). The 8,5 metres shall be measured from foundations to highest point of the roof judging from the approach to the dwelling. Provided that this may be relaxed by approval of the Company in respect of Portions situate along a river, or large trees as canopy, where elevated decks and platforms are required because of flood-lines. In such cases double storey buildings, dormer windows or upstairs decks are permitted.

### **3.4. Permitted Colours**

- 3.4.1. The colours permitted for the wall construction of dwelling must be brown based and examples of the colour scheme will be available from the Developer or the controlling architect.
- 3.4.2. Roof colours are to be close to charcoal colours or as close as possible to mature thatch.
- 3.4.3. Where guttering and down pipes are installed, owners must ensure that the colour scheme must be the same or correspond with the colour of the roof and downpipes must correspond with the colour of the walls.

### **3.5. Dormer windows and Skylights**

The contemporary or traditional bush style envisaged in these guidelines does not allow for the installation of dormer windows and or skylights other than set out in 3.3 above.

### **3.6. Windows and Doors**

Only wooden or brown powder coated aluminium door and window frames are permitted.

### **3.7. Roof styles**

- 3.7.1. Roofs may be set to any angle but must comply with the maximum height restriction and solar panels and solar water installation should not be visible from neighbouring stands or from general access roads
- 3.7.2. Owners may use corrugated iron, natural thatch or tiles, provided that where corrugated iron is used the edge surrounds must be covered.

### **3.8. Lighting**

- 3.8.1. All outside lighting must take cognisance that light pollution is to be kept to an absolute minimum with exposed bulbs never visible from other Portions.
- 3.8.2. Accordingly, outside lights must be designed in such a manner that light is only directed downwards and the light sources is a maximum half a metre off the ground.
- 3.8.3. No floodlights are permitted.
- 3.8.4. To ensure minimum disturbance to neighbours and the environment, all plans submitted for approval must clearly indicate the placing of all exterior lights.

### **3.9. Brown and Grey Water Systems**

- 3.9.1. Brown and grey water systems must be split.
- 3.9.2. The brown water disposal system will consist of toilets, washing machines and kitchen sinks draining into a storage or conservancy tank on the Property. The placing of the tanks and layout of the proposed septic tank system is to be approved by the Developer and clearly indicated on any plans submitted for approval.
- 3.9.3. Grey water systems should be used for irrigation. Grey water from baths, showers and washing basins will be drained into a storage or conservancy tank with associated pump for irrigation. The placing of the tanks, soak away systems and layout of the proposed conservancy tank system is to be approved by the Developer.

### **3.10. Flood Lines**

No buildings shall be located below the 1:100 year flood line.

### **3.11. Prohibited Materials**

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The following materials are not permitted in an effort to promote the contemporary and or traditional bush style of the development:

- 3.11.1. Unpainted plaster (except cement oxide or if shown on approved elevations);
- 3.11.2. Asbestos;
- 3.11.3. Unpainted or reflective metal sheeting;
- 3.11.4. Highly reflective or mirror like glass;
- 3.11.5. Standard pre-cast concrete walls or swimming pool type steel mesh fencing and bonnox fencing;
- 3.11.6. Razor wire, devils fork, security spikes or similar features; and
- 3.11.7. Shade netting.

### **3.12. Gardens**

- 3.12.1. No gardens are permitted other than in closed courtyards, or immediately around a swimming pool.
- 3.12.2. As protection for the natural fauna and flora, owners must try and incorporate as much of the natural bush into their design and where trees are to be planted, only indigenous trees are permitted.

## **4. General notes**

- 4.1. A new home owner will require specific design catalogues from the controlling architect for three main items:
- 4.2. Building Designs;
- 4.3. External Materials and Colours; and
- 4.4. Landscaping.

- 4.5. Other items that require approval/specifications from the Estate Architects / Developers are:
  - 4.5.1. Externally mounted air conditioning units and evaporative coolers;
  - 4.5.2. Outbuildings (garden sheds, store areas and carports);
  - 4.5.3. Solar hot water heaters – residential dwellings and swimming pools;
  - 4.5.4. Pergolas, patios and verandas;
  - 4.5.5. Swimming pool and associated structures which must be designed / situated in a manner that discourages game drinking from the pool.
  - 4.5.6. Satellite dishes and communication devices;
  - 4.5.7. TV and radio antennae;
  - 4.5.8. Security systems;
  - 4.5.9. All extensions and renovations to the dwelling;
  - 4.5.10. Signage to the home shall conform to the general standard as employed by the developer elsewhere in the estate; and
  - 4.5.11. Driveways must not reach beyond the disturbance area.
- 4.6. Under no circumstances may any caravans, quad bikes or off road trailers be parked on the property other than inside the garages.

## 5. **Building regulations**

- 5.1. All owners and their building contractors will be further subject to the building contract of the Company from time to time.

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- 5.2. At all times, all owners, contractors, workmen and employees must observe the national building regulations and the management and conduct rules of the development.
- 5.3. All owners must observe and comply with the directives issued from time to time by the development's board and estate management in relation to use of the estate infrastructure and construction guidelines in general.
- 5.4. When appointing a contractor, owners must at all times be cognisant of the style of building required and the competency of their contractor in complying with these architectural guidelines.
- 5.5. Building time limits: Maximum time frame from start to finish – 9 months. This is imposed to facilitate the use and enjoyment of the development by all land owners and rules may have to be varied from time to time depending on the scale and amount of construction prevalent on the estate.
- 5.6. Estate management will also deal with the following aspects and more information can be obtained from the Developer or estate management once an owner commences construction:
  - 5.6.1. Infringements;
  - 5.6.2. Large delivery vehicles;
  - 5.6.3. Control of building activities;
  - 5.6.4. Site regulations;
  - 5.6.5. Building activity times;
  - 5.6.6. Workers' access tokens/security;
  - 5.6.7. Refuse disposal;
  - 5.6.8. Offloading of material and delivery times;
  - 5.6.9. Enclosing of building site;

- 5.6.10. Site works;
- 5.6.11. Storm/rain water management; and
- 5.6.12. Communication connections

## **5.6 Building Levy**

- 5.6.1 All building activity on the Property will be charged a building levy based on the square meters under roof on the plan submitted to the Leadwood Home Owners Association Board for approval;
  - 5.6.1.1 The levy amount will be determined by the Directors or its delegated sub-committee from time to time;
  - 5.6.1.2 Should the plans submission not include additional not under roof areas the levy amount will be calculated by the Directors or its delegated sub-committee at a reasonable rate.
- 5.6.2 The levy will be payable in full, immediately the building plans are approved and prior to any builders being granted access to the Property or the owners Portion.
- 5.6.3 The levy will be used by the Company to compensate for following
  - 5.6.3.1 Any additional security deemed necessary by the Company for the duration of the building period;
  - 5.6.3.2 Road repairs and maintenance required due to builders and delivery vehicles accessing to the Property
  - 5.6.3.3 To remunerate a suitable building inspector to comply with the Record of Decision as granted for the development by the Environmental Authorities
- 5.6.4 The building levy is not negotiable.