

MEMORANDUM OF INCORPORATION OF A NON-PROFIT COMPANY

PORT PROVENCE HOME OWNERS ASSOCIATION NPC

Registration Number of Company

2002/026229/08

The Memorandum of Incorporation of the Company is as follows:

1. **INTERPRETATION:**

In this Memorandum of Incorporation, unless the context otherwise requires:

- 1.1. *"The Companies Act"* means Act 71 of 2008, as amended or any Act which replaces it;
- 1.2. *"The Company"* means Port Provence Home Owners Association NPC;
- 1.3. *"Erf or Erven"* means a subdivided portion of land in the township registered or capable of being registered in the name of any person, or any consolidation thereof; including any Erf which may be developed as a sectional title scheme in terms of the Sectional Titles Act, Act 95 of 1986. In these articles "freehold residential erven" and "boathouse erven" will collectively be referred to as "erven" and will include both types of properties. In these articles, any reference to "Erf" will include both reference to a freehold residential erf or boathouse erf.
- 1.4. *"The Freehold Residential Erven"* means all the erven on the property registered to a member in terms of a title deed on which free standing residential dwellings have been erected or will be erected as determined by the company from time to time;
- 1.5. *"The Boathouse Erven"* means all the erven on the property registered to a member in terms of a title deed on which a boathouse have been erected or will be erected as determined by the company from time to time;
- 1.6. *"The land"* means any portion of land comprised within the property;
- 1.7. *"The Manager"* means the managing agent, manager or managers with specified functions appointed from time to time in terms of article 11;
- 1.8. *"Members"* means the persons referred to in article 5;
- 1.9. *"Memorandum"* means the Memorandum of Incorporation of the company.

- 1.10. “*Estate d’Afrique Master Owners Association NPC*” means Estate d’Afrique Master Owners Association NPC (Registration Number 2002/021395/08) established to take transfer of common property in the township and any shared private engineering services that are identified to be for the benefit of the estate and to promote, administer, manage and regulate the communal interests of owners, residents, Home Owners Associations and residents in the estate;
- 1.11. “*The open spaces*” means the common areas, including but not limited to: servitude areas, landscape areas, private streets, street lights, pavements, kerbs, sidewalks, traffic islands and road reserve, water, irrigation dams, sewerage pumps owned or used by the company and other amenities and open spaces situated on the property.
- 1.12. “*The common property*” means such parts of the property that is indicated as such on a general plan of the property or is being utilized by the company or the Estate d’Afrique Master Owners Association NPC as a street, road, thoroughfare, sanitary passage, town square, open space or servitudes in favour of all erven in the township and all land other than erven, the control and/or ownership of which is vested in the company or the Estate d’Afrique Master Owners Association NPC and to which the owners of the erven have a common right.
- 1.13. “*Over-budgeted income*” includes revenue, profits and capital income.
- 1.14. “*The Property*” means collectively the proclaimed townships namely Port D’Afrique Extension 1, Port D’Afrique Extension 2 and Port D’Afrique Extension 3.
- 1.15. “*Register*” means the register of members kept in terms of the statutes;
- 1.16. “*Sell*” will incorporate donation, any option granted, alienate, granting any pre-emptive right or transfer;
- 1.17. “*the Republic*” means the Republic of South Africa;

- 1.18. “*the Rules*” mean the estate and/or village rules adopted by the directors in terms of article 8 as they apply from time to time;
- 1.19. “*the financial policy*” means the company’s approved financial policy and determination of decision-making powers (including notification requirements) between the company’s directors, members and employees.
- 1.20. “*the statutes*” means the Companies Act and any and every other statute or ordinance from time to time in force concerning companies and necessarily affecting the company;
- 1.21. “*Estate*” or “*Estate d’ Afrique*” means the following portions or subdivisions thereof of the farm Welgegund No 491JQ and townships which jointly forms Estate d’Afrique:

- Ville D’Afrique Township (previously known as Portion 93 (a portion of portion 85) Welgegund 491); and
- Ville D’Afrique Extension 1 Township (previously known as Portion 94 (a portion of portion 85) Welgegund 491); and
- Port D’Afrique Extension 1 Township (previously known as Portion 97 (a portion of portion 84) Welgegund 491); and
- Port D’Afrique Extension 2 Township (previously known as a Portion of the remaining extent of Portion 84 Welgegund 491); and
- Port D’Afrique Extension 3 Township (previously known the Remaining extent of Portion 84 (a portion of portion 4) Welgegund 491); and
- Beau Rivage Township (previously known as Portion 87 (a portion of portion 4) Welgegund 491); and
- Remaining extent of Portion 85 Welgegund 491; and
- Remainder of Portion 4 Welgegund 491; or

- Any other adjacent land that may be incorporated into the joint planning, development, regulation and management thereof.
- 1.22. “*Township services*” means the shared services required on the property, including, but not limited to, security facilities, communal gatehouses, roads and sidewalks, bridges, fencing, sewer and sanitary services, refuse removal, electricity reticulation, water supply and services and storm water drainage; whether such shared services are regulated by way of registered servitude or not.
- 1.23. Reference to members represented by proxy shall include members represented by an agent appointed under a general or special power of attorney and references to members present or acting in person shall include trusts, corporate bodies and corporations represented or acting in the manner prescribed in its statutes or the statutes;
- 1.24. Expressions defined in the Companies Act, or any statutory modification thereof, in force at the date on which these articles become binding on the company shall have the meanings so defined; and
- 1.25. Words in the singular number shall include the plural and words in the plural number shall include the singular and words importing the masculine gender shall include feminine, and
- 1.26. Reference to persons shall include any natural person, partnership, firm, syndicate, society and bodies corporate, close corporations, trusts and companies, and
- 1.27. Reference to notices shall include electronic notices in any form of electronic communication utilized to issue, present, deliver, serve or record *inter alia* circulars, statutory notices, annual financial statements, and any other reports, notifications, proxies and any other information pertaining to the company.

2. **NON-PROFIT COMPANY:**

The company is a Non-Profit Company.

3. **PRELIMINARY:**

- 3.1. If the provisions of this Memorandum of Incorporation are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail and these provisions of the Memorandum of Incorporation shall be read in all respects subject to the Companies Act.
- 3.2. In the interpretation of this Memorandum of Incorporation, regard should be given to the purpose describing the main business and the main object of the company, in particular the promotion and advancement of communal interests of the members and residents of the township and the estate.
- 3.3. Notwithstanding the omission from this Memorandum of Incorporation or any provision to that effect, the company may do anything which the Companies Act empowers a company to do if so authorised by its Memorandum of Incorporation.
- 3.4. The company's Memorandum of Incorporation must be read and interpreted in conjunction with the Memorandum of Incorporation of Estate d'Afrique Masters Owners Association NPC as well as any service level agreement that may be in existence between the company and Estate d'Afrique Masters Owners Association NPC.
- 3.5. The Company shall not be liable for any injury or loss (including loss resulting from theft) to any member, their visitors, employees, contractors or any other person, regardless of the cause thereof. In the event of any injury or loss, members shall have no claim and will not be entitled to withhold payment due to the company. Each and every member shall indemnify the company, its employees, agents and lawful invitees against any claim by any person(s) arising from any injury, loss or damage to any person/property.

4. **MAIN OBJECTIVES AND BUSINESS OF THE COMPANY:**

- 4.1. The main objectives of the company are to carry on, to promote, to advance and to protect the communal interests of its members as well as the safety and welfare of its members by, including, but not limited to, properly maintaining the open spaces, controlling the aesthetic appearance of land and dwellings, controlling traffic, implementing security measures for the controlled access to the property.
- 4.2. The main business of the company is the promoting, advancing and protecting the interests as well as the safety and welfare of the members of the company by, including, but not limited to:
 - 4.2.1. Promoting the communal interests of members and residents; and
 - 4.2.2. Ensuring compliance by the members of the company to the conditions of establishment of the townships or any servitude on the property; and
 - 4.2.3. Enforcing the village/estate rules created in terms of article 8; and
 - 4.2.4. Administering the general security arrangements on the property, controlling the access to and exit from the property, determine the nature and type of security to be provided from time to time by the company to its members; and
 - 4.2.5. Considering and consent to applications for proposed consolidation or subdivision or rezoning or notarially tying of any erf or land; and
 - 4.2.6. Stipulating the landscaping and aesthetic conditions, especially in keeping with the Provencal character of the Estate, in respect of any land, boathouse, structure or dwelling erected on any erf or to be erected on any erf; and
 - 4.2.7. Maintaining all internal township services including, but not limited to all civil, roads, water, storm water, sewerage, electrical reticulation systems and future developments/improvements on the property, and

4.2.8. That the company, as member, adhere to the Memorandum of Incorporation of Estate d'Afrique Masters Owners Association NPC.

4.3. The Company binds itself to become and remain a member of the Estate d'Afrique Master Owners Association NPC on the terms and conditions as set out in its Memorandum of Incorporation.

5. **MEMBERS:**

Members of the Company are limited to:

5.1. Any person who is the registered owner in terms of the Deeds Registry Act, Act 17 of 1937, of any erven on the property and an owner will include: the trustee in an insolvent estate, a liquidator or trustee elected in terms of the Agricultural Credit Act, 28 of 1966, the liquidator of a company or close corporation which is a member, the executor of a member who has become deceased, or a representative of a member, recognised by law of a member who is a minor or of unsound mind or is under disability if such trustee, liquidator, executor or representative is acting within the scope of his authority.

5.2. Membership will include any sectional title scheme that may be developed in terms of the Sectional Titles Act, Act 95 of 1986, and applicable township development legislation on any erf or consolidated erven.

5.3. No other person than a person referred to in Article 5.1 and 5.2 shall be entitled to be a member of the company.

5.4. Where two (2) or more persons are registered as the co-owners of any erven, all the registered owners of the land shall be deemed to be one member of the company. Joint owners or corporate members shall nominate and appoint one (1) person in writing as representative of the registered owner(s).

5.5. Subject to articles 5.6 and 12, when a member ceases to be the registered owner of an erf, he shall *ipso facto* cease to be a member of the company;

- 5.6. A member shall not sell or otherwise agree to alienate any erf of which he is the registered owner unless it is a condition of such agreement to alienate any erf that:
- 5.6.1. The person to whom the erf is to be sold to or otherwise to be alienated ("*the transferee*") has bound himself, to the satisfaction of the company, as a contract for the benefit of the company, to become a member of the company upon transfer of such erf to him and to be bound by the provision of this Memorandum of Incorporation; and
- 5.6.2. The registration of transfer of the erf to the transferee shall *ipso facto* constitute the transferee to become a member of the company.
- 5.7. A member may not resign as a member of the company.
- 5.8. The company shall keep a register of its members as prescribed by the Companies Act.
6. **OBLIGATIONS OF MEMBERS:**
- 6.1. Each and every member shall abide by the Memorandum of Incorporation and comply with all the rules of the Company made in terms of Article 8.
- 6.2. Each and every member shall pay the levies and special levies as raised by the company on the due date, without deduction.
- 6.3. Each and every member shall maintain his erf, dwelling and/or boathouse in a clean and tidy condition.
- 6.4. The obligations of a member shall not be transferable and every member shall:
- 6.4.1. Reasonably further to the best of his ability the main business, objects and interest of the company; and

- 6.4.2. Not interfere in the day to day management of the company's business or the exercise of the director's powers in terms of article 20; and
- 6.4.3. Not unreasonably refuse to sign necessary documents and take all action necessary to enable registration of servitudes required for services, whether over or in favour of any erf or unit.

7. **LEVIES:**

- 7.1. The directors shall annually, prior to the end of each financial year prepare, establish and maintain in their opinion, an itemised estimate of the anticipated income and expenditure (which may include a reasonable provision for contingencies) of the company during the ensuing financial year in the furtherance of the company's objectives and business as stated in the Memorandum of Incorporation and which estimate will include the anticipated contribution the company will have as member of Estate d'Afrique Masters Owners Association NPC.
- 7.2. For the purposes of meeting all the itemised estimated income and expenses which the company has incurred, or which the directors reasonably anticipate the company will incur, in the furtherance of the company's objectives and business as stated in the Memorandum of Incorporation or the levies the company has to contribute as member to Estate d'Afrique Masters Owners Association NPC, the directors will establish a levy fund.
- 7.3. The directors shall estimate the contributions to be levied upon the members during such ensuing financial year and require members to pay such levy contributions in such instalments as they may in their discretion determine or in 12 (twelve) equal monthly instalments due in advance on the first day of each and every month of the financial year
- 7.4. During and up to the end of each annual financial period of the company:
 - 7.4.1. Contributions to the levy fund shall be made by all members who are the registered owners of all the erven (inclusive of boathouse erven), in such

contributions and proportions and upon such instalments as the directors may resolve upon in their discretion; and

7.4.2. Provided that any member who has consolidated two (2) or more erven as shown on a general plan from date of incorporation of this Memorandum, shall be liable to contribute monthly his levy together with an additional 50% (fifty *per centum*) of the levy monthly payable; and

7.4.3. Provided further, that any member who has notarially tied two (2) or more erven as shown on a general plan, from date of incorporation of this Memorandum, shall be liable to contribute monthly his share in respect of each such notarially tied erven owned by him.

7.4.4. Subject to any restriction imposed or direction given at a general meeting of the company, the directors may in their discretion from time to time impose the contribution of additional levies upon members who have not commenced building on their freehold residential erven on the 01st of January 2018 and completed by the 31st of December 2018. Such members shall be liable to contribute monthly double his share in levies in respect of each such portion owned by him for the first year following the 31st of December 2018, contribute monthly triple his share in levies in respect of each such portion owned by him for the second year following the 31st of December 2018, contribute monthly four times his share in levies in respect of each such portion owned by him in the third year following the 31st of December 2018 and contribute five times his share in levies in respect of each such portion owned by him in the fourth year following the 31st of December 2018 as well as thereafter until building commences on his erf and is completed to the satisfaction of the directors or the prevailing rules of the company. The directors may, in their discretion, allow for a grace period in terms of additional levies.

7.5. The levies shall not include the following:

7.5.1. Electricity consumed, which shall be based on the actual electricity

consumption of the erf and which will be payable by the member in accordance with the monthly electricity meter reading for such erf to the supplier thereof or its duly authorised agent; and

- 7.5.2. Water consumed, which shall be based on the actual water consumption of the erf and which will be payable by the member in accordance with the monthly water consumption meter reading for such erf to the company or to the authorised supplier thereof or its duly authorised Agent; and
- 7.5.3. Rates and taxes and other imposts payable by each member to the local authority.
- 7.6. Subject to any restriction imposed or direction given at a special general meeting of the company, the directors may from time to time impose special levies upon the members who are liable in terms of paragraph 7.4.1 in such proportions and in such instalments as the directors may resolve and call upon members to make special contributions in respect of emergency and out-of-budget expenses of a capital nature, which have not been included in any estimates made in terms of Paragraph 7.1, or to fund projects which cannot be funded from reserves.
- 7.7 A member shall not be entitled to withhold payment for any reason whatsoever of any levy or special levy due by him to the company.
- 7.8 Interest shall be payable on arrear levies and special levies at such rate as determined by the directors from time to time.
- 7.9 Any amount due by a member by way of a levy, special levy or interest thereon shall be a debt due by him to the company.
- 7.10 Where two (2) or more persons are registered as the owners of an erf, their liability to pay levies shall be jointly and severally.
- 7.11 The obligation of a member to pay levies shall cease upon him ceasing to be a member, without prejudice to the company's rights to recover arrear levies and interest thereafter.

- 7.12 A member's successor-in-title to any erf shall be liable, with effect from the date upon which he becomes a member pursuant to the transfer of such erf, to pay the levy attributable to that erf.
- 7.13 A member shall be liable for and pay all legal costs, including costs as between attorney and his own client, and any 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 or in the enforcement of the rules and penalties of the company.
- 7.14 No member shall be entitled to the privileges of membership unless and until he shall have paid every levy, special levy and interest thereon, or any other sum, if any, which may be due and payable by that member to the company, from whatsoever cause arising and he is a member in good standing with the company. A member is regarded as in good standing and will be entitled to attend, vote and speak at any meeting of the company and to hold office as director of the company when he has paid all levies, special levies and interest due to the company and is not in conflict with or in breach of any rule of the company.
- 7.15 From date of acceptance of this Memorandum of Incorporation by the company and upon the subsequent transfer of any freehold residential erf thereafter, the proposed transferee will be obliged to pay R10, 000.00 (Ten Thousand Rand), or such amount and in such instalments as the directors may resolve upon in their discretion, to the company or the Estate d'Afrique Master Owners Association NPC for the purposes of establishing and maintaining a levy stabilization fund.
- 7.16 From date of acceptance of this Memorandum of Incorporation by the company the obligation referred to in article 7.15 will not be enforceable in the event that an existing member of the company sells his erf and acquires a different erf on the property; and

- 7.17 From date of acceptance of this Memorandum of Incorporation by the company the obligation referred to in article 7.15 will be enforceable in the event that an existing member of the company acquires an additional erf or erven on the property.

8. **RULES:**

- 8.1. Subject to any restriction imposed or direction given at a general meeting of the company, the directors may from time to time make, add to, amend, repeal or suspend rules regarding:

- 8.1.1. Security and safety of the property and all persons thereon; and
- 8.1.2. Controlled access to and egress from the land and property; and
- 8.1.3. The use of common property; and
- 8.1.4. The design, building and aesthetic control of any improvements to be erected on any erven and/or existing dwellings and/or the open spaces and/or any facilities which may exist on the property which are intended for the general use, enjoyment and amenity of the members, and building / construction regulations, site specifications and accreditations, and
- 8.1.5. Environmental control including the preservation of the environment, including the right to control the prevention of the removal of indigenous trees and shrubs and to require the cultivation of trees and other vegetation, and
- 8.1.6. The conduct and behaviour of members, their employees, contractors, visitors, tenants, delivery personnel; and
- 8.1.7. Pets and other animals; and
- 8.1.8. Letting and reselling of property.
- 8.1.9. The financial conduct of the company

- 8.2. For the enforcement of any of the rules made by the directors in terms hereof, the directors may:
 - 8.2.1. Take or cause to be taken such steps as they may consider necessary to remedy the breach of the rule of which the member may be guilty including and without limiting the generality of the foregoing, summarily terminating the supply of services to the member's land and/or denying or restricting access to the property by the member and to debit the cost of so doing to the member concerned, which amount shall then be deemed to be a debt owing by the member concerned to the company; and/or
 - 8.2.2. Take such other action such as arbitration or mediation or court proceedings, as they may deem fit; or
 - 8.2.3. Give written notice to the person (which shall include any member, occupant or visitor) concerned requiring him to remedy any breach; and
 - 8.2.4. Impose a system of fines and/or other penalties.
- 8.3. In the event of any breach of the rules by any member's household, his guests, lessees, occupants, employees, contractors or *bona fide* occupants, such breach shall be deemed to have been committed by the member himself, but, without prejudice to the foregoing, the directors may take or cause to be taken such steps against the person actually committing the breach as they in their discretion may deem fit.
- 8.4. In the event of any member disputing the fact that he, his household, or his guests, lessees, occupants, employees or contractors have committed a breach of any of the rules aforesaid, a committee of three (3) members, appointed by the chairman of the company, shall adjudicate upon the issue at such time and in such manner and according to such procedure as the chairman may direct. In cases where the ruling by the committee is not unanimous, the chairman will have a casting vote.

- 8.5. Rules adopted, varied or amended by the directors in terms of this article will have interim enforceability and permanent enforceability upon the company ratifying the rules at the annual general meeting.
- 8.6. The directors may in the name of the company enforce the provisions of any rules by proceedings in a court of competent jurisdiction and for this purpose may appoint such attorneys and counsel as they may deem fit.
- 8.7. It shall be the duty of the manager, or such other person or body as may be empowered by the directors, to ensure compliance by the members with the rules, and to this end to issue such notices or do such things as may be necessary or requisite.
- 8.8. All rules adopted by a sectional title body corporate will be subservient to rules of the company and shall in no way conflict with the rules.

9. **MAINTENANCE:**

The directors shall have the power, without prejudice to any other rights of the company:

- 9.1. To whenever they consider that the appearance of any land, erf or any building thereon or any landscaping owned by a member as unsightly or injurious to the amenities of the surrounding area of the property, to serve notice on such member to take steps as may be specified in the notice to rectify such unsightly or injurious condition within a stated period; and
- 9.2. Should a member on whom a notice in terms of article 9.1 is served, fail to take such steps as may be specified in the notice within the stated period, or takes steps but not sufficient in the opinion of the directors as specified in the notice, the company may take such steps as may be necessary to rectify such unsightly or injurious condition and to recover the costs of so doing from the member concerned, which costs shall be deemed to be a debt owing by such member to the company.
- 9.3. To from time to time determine the routine maintenance requirements of the open spaces and common property and to instruct the manager or other appointed person to attend to such maintenance requirements on behalf of and at the cost of the company; and
- 9.4. To pay the costs of employing such staff members as they deem necessary to further the company's objects and/or business.

10. **AMENITIES:**

- 10.1. The directors shall have control of all social and recreational facilities and amenities situated on common areas and may accept and/or amend, add to or delete from time to time such rules as they may consider necessary for the use of any such facilities and amenities by members, including the charging of such fee as they may deem reasonable for the use thereof.
- 10.2. The directors may establish or permit the establishment of clubs or associations of members to control and regulate the use of any such social

and recreational facilities and amenities, and may delegate to the committees of such clubs or associations any or all of their functions, powers and duties in relation to the particular facility or amenity convened as they may deem fit.

11. **MANAGER:**

- 11.1. The directors may from time to time, and shall, if required by the members of the company in general meeting, appoint in terms of a written contract a managing agent, manager or managers with specified functions of the control, manage and to administer the company and to exercise such powers and duties as may be entrusted to a manager / managing agent, including the power to collect contributions levied by the company.
- 11.2. The contract with the manager / managing agent shall further provide for the appointment to be terminated and the manager / managing agent shall cease to hold office if:
- 11.3. Where the manager / managing agent is a company or close corporation, an order is made for its provisional or final liquidation, or, where the manager / managing agent is a natural person, he surrenders his estate as insolvent or his estate is sequestrated, whether provisionally or finally;
- 11.4. The manager / managing agent is convicted of an offence involving fraud or dishonesty, or, where the manager / managing agent is a company or close corporation, any of its directors is convicted of an offence involving fraud or dishonesty; or
 - 11.4.1. A special resolution of the members of the company is passed to that effect, provided that in such event the manager / managing agent so removed from office shall not be deprived of any right he may have to claim compensation or damages for breach of contract

- 11.5. The manager / managing agent shall keep full records of his administration and shall report to the company on all matters which in his opinion detrimentally affect the value or amenity of any freehold residential erf, boathouse, the land or open spaces, as well as for the property.
- 11.6. The directors shall give reasonable prior notice to the manager / managing agent of all meetings of the directors and the manager / managing agent shall be entitled to be present thereat.
- 11.7. The directors shall from time to time furnish to the manager / managing agent with copies of the minutes of all meetings of the directors and of the company.
- 11.8. Should there be no manager / managing agent in office at any time, then all references in these articles to the manager / managing Agent shall be deemed to be a reference to the directors.

12. **RESTRICTIONS ON TRANSFER OF THE LAND:**

- 12.1. No member shall transfer any erf of which he is the registered owner unless:
 - 12.1.1. The company, under the hand of the directors or their duly authorised agent, has certified in writing that the member has fulfilled all his financial obligations to the company in respect of the period up to and including the date specified in such notice; and
 - 12.1.2. The transfer takes place prior to or on that specified date; and
 - 12.1.3. The proposed transferee has agreed in writing to become a member of the company and such written agreement has been lodged with the company; and
 - 12.1.4. A clearance certificate has been issued by the company that the dwelling, structure or boathouse erected on the erf and all improvements erected on that erf, conforms to the building plans lodged with the company in respect of that dwelling or boathouse; and

- 12.1.5. The company is in receipt of an original duly issued occupation certificate from the local council.
- 12.2. The company may claim from any member or his estate any arrears or levy or interest or other amount due by him to the company at the time of his ceasing to be a member.
- 12.3. No boathouse erven may be sold, leased or the use thereof transferred to any person who is not the registered owner of a freehold residential erf on the property referred to as Estate d'Afrique

13. **MEETINGS OF MEMBERS:**

- 13.1. The company, at such time as prescribed in the Companies Act, shall hold general meetings of members to be known and described in the notices calling such meetings as annual general meetings or special general meetings.
- 13.2. The annual general meeting of the company shall be convened within six (6) months after the end of the financial year of the company and within fifteen (15) months of the date of the previous annual general meeting.
- 13.3. The Directors may, whenever they think fit, convene a general meeting, and a general meeting shall also be convened on a written requisition by members representing not less than one-twentieth of the total voting rights of all the members of the company having at the date of the lodgement of the requisition a right to vote at general meetings of the company or, in default by the directors, may be convened by the requisitions as provided by and subject to the provisions of the Companies Act.
- 13.4. If at any time there shall not be within the Republic sufficient directors capable of acting to form a *quorum*, any director and six (6) members of the company may convene a general meeting of the company in the same manner as nearly as possible as that in which meetings may be convened by the directors.

- 13.5. Every meeting of members shall, unless otherwise resolved by the directors, be held on the Property or in the District in which the company's registered office is for the time being situated.
- 13.6. Subject to the provisions of the Companies Act relating to the meetings of which special notice is required to be given, an annual general meeting and a meeting called for the passing of a special resolution shall be called by twenty one (21) clear days' notice in writing at the least, and a meeting of the company, other than an annual general meeting or a meeting for the passing of a special resolution, shall be called by fourteen (14) days' notice in writing at the least.
- 13.7. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, the day and the hour of the meeting and, in case of special business, the general nature of the special resolution, expressed with sufficient clarity and specificity accompanied by sufficient information or explanatory material, and shall be given, in a manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company at a meeting of members, to such persons as are, under these articles, entitled to receive such notices from the company, provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed by a majority in number of the members having right to attend and vote at the meeting.
- 13.8. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings of that meeting.

14. **PROCEEDINGS AT MEETINGS OF MEMBERS:**

- 14.1. All business that is transacted at a special general meeting and all that is transacted at the annual general meeting, with the exception of:
 - 14.1.1. The consideration of the audited financial statements; and

- 14.1.2. The selection and approval of external auditors; and
 - 14.1.3. The fixing and approval of the remuneration of the external auditors; and
 - 14.1.4. The election of nominated directors
- shall be deemed to be special business.
- 14.2. Business may be transacted at any meeting of members of the company only when and while a *quorum* is present.
 - 14.3. Save as herein otherwise provided, the *quorum* at a meeting of members shall be 10% (ten *per centum*) of the total number of members entitled to vote, personally present or represented by proxy and entitled to vote.
 - 14.4. If within thirty (30) minutes from the time appointed for the meeting, a *quorum* is not present, the meeting, if convened upon the requisition of members, shall be dissolved. Any other meeting convened by the directors shall stand adjourned to the same day in the next week, at the same time and place or, if that day be a public holiday, to the next succeeding day other than a public holiday, and if at such adjourned meeting a *quorum* is not present within thirty (30) minutes from the time appointed for the meeting the, subject to the Companies Act, the members or member present shall form a *quorum*.
 - 14.5. The chairman, if any, of the board of directors shall preside as chair at every meeting of members of the company.
 - 14.6. If there is no such chairman, or if at any meeting he is not present within fifteen (15) minutes after the time appointed for holding the meeting or is unable or unwilling to act as chair, the members present shall choose another director or, if no director be present or, if all the directors present are unable and unwilling and decline to chair, they shall choose some member of the company present to chair the meeting.

- 14.7. The chairman may, with the consent of any meeting at which a *quorum* is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned as a result of a direction given in terms of any applicable provision in the statutes, notice of the adjourned meeting shall be given in the manner prescribed by such provision but, save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 14.8. At any meeting of members a resolution put to the vote of the meeting shall be decided on a show of hands, unless before or on the declaration of the result of the show of hands, a poll is demanded by any person entitled to vote at the meeting. Unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by particular majority, or lost, and an entry to that effect is made in the minute book of the company, it shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution.
- 14.9. A special resolution of the company is a resolution adopted with the support of at least 75% (seventy five *per centum*) of the members present personally or represented by proxy and entitled to vote.
- 14.10. No objection shall be raised as to the admissibility of any vote except at the meeting itself and at which the vote objected to is raised an every vote not disallowed at such meeting shall be valid for al purposes. Any objection shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 14.11. If a poll is duly demanded it shall be taken in such manner as the chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers shall be elected at the meeting to declare the result of the poll, and their decision, which shall be

given by the chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll is demanded.

- 14.12. In the case of an equality of votes, whether on a show of hands or on a poll; the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

15. **VOTES OF MEMBERS:**

- 15.1. At any meeting of the company each member of the company who is the owner of a freehold residential erf, present in person or represented by proxy or, if a member is a body corporate duly represented, shall have 10 (ten) votes for each residential erf of which he is the owner; and
- 15.2. Every member who is the owner of a boathouse erf, present in person or represented by proxy shall have 1 (one) vote for each boathouse erf of which he is the owner.
- 15.3. A member will be entitled to appoint a proxy to participate in, speak and vote on the member's behalf.
- 15.4. A proxy holder need not be a member of the company.
- 15.5. The form appointing a proxy shall be in writing under the hand of the appointer or his agent duly authorised thereto in writing or, if the appointer is a corporate body, under the hand of an officer or agent authorised by that body.
- 15.6. The holder of a general or special power of attorney given by a member shall be entitled to vote, if duly authorised under that power to attend and take part in the meetings and proceedings of the company or companies generally, whether or not he be himself a member of the company.
- 15.7. The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be electronically transmitted or deposited by hand at the registered office of the company not less than forty eight (48) hours (or such

lesser period as the directors may unanimously determine in relation to any particular meeting) before the time for holding the meeting (including an adjourned meeting) at which the person named in the form proposes to vote, and in default, the form of proxy shall not be treated as valid. No form appointing a proxy shall be valid after the expiration of six (6) months from the date when it was signed, except at an adjourned meeting unless otherwise specifically stated in the proxy itself.

- 15.8. A vote given in accordance with the terms of a proxy, shall be valid notwithstanding the death of the principal, or revocation of the proxy, provided that the directors did not receive notice of the death or revocation at any time before a vote is taken.
- 15.9. Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form.

16. **DIRECTORS:**

- 16.1. Unless otherwise determined by a meeting of the members of the company, the number of directors shall not be less than 3 (three) but no more than 5 (five);
- 16.2. The company may from time to time at any meeting of members, increase or reduce the number of directors.
- 16.3. A director need not be a member of the company provided that the majority of the board of directors shall be members of the company.
- 16.4. Unless otherwise decided by a meeting of members of the company, any casual vacancy occurring in the board of directors may be filled by the directors.
- 16.5. The company, at a meeting of members, or the directors shall have power at any time, and from time to time, to appoint any person as a director in the event of a permanent vacancy in the board for any reason whatsoever, but so that the total number of directors shall not at any time exceed the

maximum number fixed by or in terms of these articles or a resolution of a meeting of members of the company.

- 16.6. A third of the board of directors of the company will annually stand down but nothing precludes the members of the board of directors who stands down, to make themselves immediately available for re-election on the board of directors.

17. **REMUNERATION OF DIRECTORS:**

- 17.1. Save as provided for in the Companies Act or resolved by a meeting of members of the company, a director shall not directly or indirectly receive any remuneration for holding office as a director of the company, provided that nothing in this Memorandum of Incorporation shall prohibit a director from being reimbursed any travelling, accommodation or other expenses incurred by him in the execution of his duties as director in or about the business of the company and which is authorised or approved by the board of directors.

- 17.2. Notwithstanding article 17.1, the Board of directors of the company may, from time to time, resolve to contract a director for consulting and other services.

- 17.3. If any director commits a breach of article 17.1, he shall forthwith cease to be a director and shall not be eligible for re-election.

18. **ALTERNATE DIRECTORS:**

- 18.1. Any director shall have the power to nominate another director to act as alternate director in his place during his temporary absence or temporary inability to act as director, and on such appointment being made, the alternate director shall, in all respects, be subject to the terms and conditions existing with reference to the other directors of the company.

- 18.2. A director may not be appointed as alternate to more than one director.

- 18.3. Where a director is an alternate to another director, he shall have a separate vote in addition to his own vote.
- 18.4. The alternate director, whilst acting in the place of the director who appointed him, shall exercise and discharge all the duties and functions of the directors he represent.
- 18.5. The appointment of an alternate director shall cease on the happening of any event which, if he were a director, would cause him to cease to hold office in terms of these articles of if the director was appointed him ceases to be a director, or gives notice to the secretary of the company that the alternate director representing him shall have ceased to do so.

19. **BORROWING POWERS OF DIRECTORS:**

- 19.1. Subject to any restriction imposed or direction given at a general meeting of the company, the directors may borrow from the members or other persons or entities any sums of money for the purpose of meeting the objects and business of the company not included in the company's financial policy and as set out in this Memorandum of Incorporation and which have not been raised in terms of article 7.
- 19.2. The directors may secure the payment or repayment of any sums of money borrowed in terms of article 19.1 or the payment of any debt, liability or obligation whatsoever of the company in such manner and upon such terms and conditions as they resolve upon in their discretion.

20. **GENERAL POWERS AND DUTIES OF DIRECTORS:**

- 20.1. The business of the company shall be managed by the directors who may exercise all such powers of the company as are not prohibited by the statutes or by these articles or required to be exercised by the company at any meeting of members.

- 20.2. The directors may from time to time appoint one (1) or more of their body to the office of chairperson for such period and generally on such terms as the directors may think fit.
- 20.3. The appointment of a chairperson shall cease *ipso facto* if he ceases for any reason to be a director, or if the company at any meeting of members shall resolve that his position of chairman is terminated.
- 20.4. The directors may from time to time entrust to and confer upon a chairperson for the time being such of the powers vested in them as they may think fit, and may confer such powers for such time and to be exercised or such objects and upon such terms and with such restrictions as they may think expedient, and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the directors, and may from time to time revoke or vary all or any of such powers.
- 20.5. The directors shall have the power from time to time to delegate to any one (1) of their body or to any other person, such of the powers as are vested in the directors pursuant to the statutes or under these articles, as they may deem fit.
- 20.6. The directors may delegate any of their powers to committees consisting of such member or members of their body and/or the company as they think fit, any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on it by the directors. Save as aforesaid, the meetings and proceedings of a committee consisting of a director and two (2) or more members shall be governed by the provisions of these articles regulating the meetings and proceedings of directors.
- 20.7. Without prejudice to the general powers above and so as not in any way to limit or restrict those powers, and without prejudice to the other powers conferred by these articles, it is hereby expressly declared that the directors shall have the following powers:
 - 20.7.1. To pay the costs incidental to the promotion of the company;
 - 20.7.2. To purchase or otherwise acquire for the company any property or related

rights or privileges which the company is authorised to acquire, at such price and generally on such terms and conditions as approved at a general meeting of the members of the company;

- 20.8.3 To secure the fulfilment of any contracts or engagements entered into by the company, by mortgage or pledge of all or any of the property of the company, subject to a normal resolution at a general meeting of the members of the company.
- 20.8.4 To appoint, and remove or suspend, a chairperson, such managers, secretaries, officers, clerks, agents and staff for permanent, temporary or special services, as they may from time to time think fit, within the applicable labour legislation and to determine their powers and duties and to determine their salaries and employment to such amounts as they deem fit.
- 20.8.5 To engage or terminate the services of accountants, attorneys, advocates, architects, engineers and any other professional person(s) whatsoever for any reasons deemed necessary by the directors and on such terms as the directors may decide.
- 20.8.6 To institute, conduct, defend, compound, or abandon any legal proceedings by or against the company, or its officers, or otherwise concerning the affairs of the company, and also to compound and allow time for payment or satisfaction of any debts due, and of any claims or demands by or against the company;
- 20.8.7 To make and give receipts, releases and other discharges for money payable to the company, and for the claims and demands of the company;
- 20.8.9 To determine who shall be entitled to sign on the company's behalf bills, notes, receipts, acceptances, clearance certificates, endorsements, cheques, releases, contracts and documents;

- 20.8.10 To invest any of the surplus funds of the company not immediately required for the business and purposes of the company, subject to prescriptions and restrictions contained in the financial policy of the company.
- 20.8.11 To enter into all negotiations and contracts, and rescind and vary all such contracts and execute and do all such acts, deeds and things in the name and on behalf of the company as they may consider expedient for or in relation to any of the matters aforesaid, or otherwise for the purposes of the company;
- 20.8.12 To levy subscriptions, contributions and/or levies on members of the company upon such proportions as they may determine from time to time, if they deem it advisable and determine the due date of payment thereof;
- 20.8.13 To suspend the voting rights of any member or any member's representative or proxy for so long as any subscription, contribution and/or levy, notice of which has been given to such member, as contemplated in these articles, remains due but unpaid;
- 20.8.14 To attend to all aspects of the maintenance and management of the township services and communal facilities and *inter alia* to the application for, renewal of, compliance with and the use of water and all other licenses required in the operation of the company.
- 20.8.15 To determine or amend the budgeted number of permanent and casual employees of the company;
- 20.8.16 To affect amendments to the company's financial policy;
- 20.8.17 The initiation of disciplinary action against the chairman.

20.9 The directors shall not be entitled to exercise the following powers on behalf of the company unless prior approval by members of the company obtained at a general meeting of the company:

20.9.1 The sale of immovable property owned by the company;

21. **DISQUALIFICATION AND PRIVILEGES OF DIRECTORS:**

21.1. A Director shall cease to hold office as such if:

21.1.1. He ceases to be a director by virtue of any of the provisions of the Companies Act or becomes prohibited from being a director by reason of any order made under the Companies Act; or

21.1.2. His estate is sequestrated or he files for a petition for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the insolvency law for the time being in force, or if he makes any arrangement or composition with his creditors generally; or

21.1.3. He is found lunatic or becomes of unsound mind; or

21.1.4. He is removed by a resolution of the company as provided in the Companies Act; or

21.1.5. He resigns his office by notice in writing to the company; or

21.1.6. A notice removing him from office is signed by members having a right to attend and vote at a meeting of members who hold more than 51% (fifty one *per centum*) of the total voting rights of all the members who are at the time entitled so to attend and to vote and is delivered to the company or lodged at its registered office; or

21.1.7. He is otherwise removed in accordance with any provisions of these articles; or

21.1.8. He is absent for 3 (three) consecutive board meetings without proper excuse and apology

- 21.2. No director or intending director shall be disqualified by his office from contracting with the company in any manner whatsoever whether directly or indirectly, provided that the director shall notify the other directors at the earliest opportunity of the nature and extent of any direct or indirect material or financial interest he has in any contract with the company and the company has by an ordinary resolution resolved on the agreement and the director has disclosed the nature and extent of the direct and indirect material or financial interest to the members.

22. **PROCEEDINGS OF DIRECTORS:**

- 22.1. A director may, and the secretary shall on the requisition of a director, at any time summon a meeting of the directors.
- 22.2. The directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they deem fit, but no less than four (4) times per annum.
- 22.3. Unless otherwise resolved by the directors, all their meetings shall be held on the property or in the district where the company's registered office for the time being is situated.
- 22.4. Questions arising from any meeting of directors shall be decided by a majority of votes.
- 22.5. The chairman shall not have a second or casting vote in the case of an equality of votes.
- 22.6. The directors may determine what period of notice shall be given of meetings of directors and may determine the means of giving such notice.
- 22.7. Unless otherwise determined by the directors, a *quorum* shall consist of two (2) directors for the purpose of convening a meeting of directors. For the purpose hereof a director who has authorised another director to vote for him at a meeting in terms of article 18 shall, if the director so authorised is present at the meeting, be deemed to be present himself and each director

whose alternate is present at a meeting (even if the latter is alternate to more than one director) shall be deemed to be so present.

- 22.8. The continuing directors (or sole continuing director) may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to these articles as a *quorum*, the continuing director or directors may act only for the purposes of summoning a general meeting of the company. If there are no directors or directors able and willing to act, and no specific provision is made in these articles for the appointment of directors, then any six (6) members may summon a general meeting only for the purpose of appointing directors.
- 22.9. Subject to the Companies Act, a resolution in writing signed by all the directors and being not less than the required quorum, is sufficient to form a *quorum* shall be as valid and effectual as if it had been passed at a meeting of the directors duly called and constituted.
- 22.10. A director unable to attend a directors' meeting may authorise any other director to vote for him at that meeting, and in that event the director so authorised shall have a vote for each director by whom he is so authorised in addition to his own vote. If both the director so authorised and an alternate of the director who granted the authority are present at the meeting, the alternate shall not be entitled to vote on behalf of the absent director. Authority in terms of this article must be in writing (which may take the form of an email or telefax) and must be handed to the person presiding at the meeting at which it is to be used.
- 22.11. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within fifteen (15) minutes after the time appointed for holding it, the directors present may choose one of their number to be chairman of the meeting.

VALIDITY OF ACTS OF DIRECTORS AND COMMITTEES:

- 22.12. As regards all persons dealing in good faith with the company, all acts done by any meeting of the directors, or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment or continuance in office of any such directors or persons acting as aforesaid, or that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be as valid as if every such person had been duly appointed or was qualified or had continued to be a director or was entitled to vote, as the case may be.
- 22.13. No director shall, in his personal capacity or in his capacity as director of the company, be liable for any loss/damage/misfortune which occurs as a result of the execution of his duties unless it occurs as a result of his own dishonesty, gross negligence, breach of duty or breach of trust.

23. **ACCOUNTING RECORDS OF THE COMPANY:**

- 23.1. The board of the company shall cause such accounting records to be kept as are prescribed by the Companies Act.
- 23.2. The accounting records shall fairly represent the state of affairs and business of the company and explain the transactions and financial position of the company.
- 23.3. The accounting records shall be kept at the registered office of the association or at such other place as the directors think fit, and shall always be open for inspection by the members.

24. **ANNUAL FINANCIAL STATEMENTS AND INTERIM REPORTS:**

24.1. The directors shall from time to time, in accordance with the Companies Act, cause to be prepared and placed before the company's annual general meeting, audited annual financial statements.

24.2. A copy of the audited annual financial statements which are to be placed before the annual general meeting, shall not less than twenty one (21) days before the date of the meeting, be sent to every member of the company accompanied by the notice convening the annual general meeting, provided that this article shall not require a copy of those documents to be sent to any person of whose address the company is not aware of.

25. **AUDITORS:**

25.1. An auditor or auditing company shall be appointed for the company as per the provisions of the Companies Act.

25.2. The appointment, powers, rights, remunerations and duties of the auditors shall be regulated by the provisions of the Companies Act.

25.3. The appointed auditor may not be a member, director or employee of the company or a direct family member (including spouse or life partner) of any member, director or employee of the company.

26. **RESERVES:**

26.1. The directors may set aside out of the income of the company or contingencies as budgeted for and carry to reserve such sums as they think proper.

- 26.2. All sums standing to the credit of revenue and general reserve shall at the discretion of the directors be applicable for meeting contingencies, for the gradual liquidation of any debt or liability of the company, for repairing, improving or maintaining any property of the company, for meeting losses on realisation of, or writing down investments either individually or in the aggregate, or to extend on loan to Estate d'Afrique Masters Owners association NPC such sums of money as they in their discretion may resolve, or for any other purpose to which Income of the company may appropriately be applied. Pending such application such sums may either be employed in the business of the company (without being kept separate from other assets of the company) or be invested and may not be repaid to members.
- 26.3. The directors may divide the reserve into such special reserves as they think fit and reallocate the amounts of such reserves either in whole or in part to other special or general reserves and may consolidate into one reserve any special reserves or any parts of special reserves into which the reserve may have been divided. The directors may also carry forward any income without placing them to reserve.

27. **NOTICES:**

- 27.1. A notice by the company to any member shall be regarded as validly given if it is delivered personally to the member by hand, or sent by prepaid registered post to him at his registered address or transmitted electronically to the member's registered email address.
- 27.2. A member entitled to a notice shall be bound by every notice given in terms of article 28.1.
- 27.3. The company shall not be bound to enter any person in the register of members of the company until that person gives the company a postal address, physical address and electronic email address for entry in the company register.

27.4. Any notice if given by post, shall be deemed to have been served on the seventh (7th) day following that on which the letter or envelope containing such notice is posted, and in proving the giving of the notice sent by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office.

27.5. Any notice sent by hand and electronic communication shall be deemed to have been sent and served on the day following the date of service or the date upon which such electronic communication is released.

28. **INDEMNITY:**

28.1. Every director, manager and officer of the company and every person, whether an officer of the company or not, shall be indemnified out of the funds of the company against all liability incurred by him as such director, manager, officer or auditor in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted.

29. **WINDING-UP:**

29.1. The company does not have a share capital.

29.2. The liability of each member is limited to the following amount upon the company being wound-up in that each member undertakes to contribute to the assets of the company while he is a member or within one (1) year after he has ceased to be a member upon the company being wound-up, the amount of R1.00 (One Rand) in respect of each freehold residential stand and boathouse stand of which he is the owner.

29.3. Winding up of the company by members shall only be carried into effect after 75% (seventy five *per centum*) of members present at a general meeting have resolved the winding up of the company.

29.4. Upon the winding-up of the company its assets will be transferred to another non-profit company.