

Companies and Intellectual Property Commission  
Republic of South Africa

## **MEMORANDUM OF INCORPORATION**

of

### **WIERDA GLEN ESTATE HOMEOWNERS ASSOCIATION NPC**

with registration number 2000/001400/08, which is a Non-Profit Company with voting members as described in Item 4 of Schedule I of the Companies Act No. 71 of 2008 (the “Act”) and is referred to in the rest of this Memorandum of Incorporation (“MOI”) as the “**Company**”.

#### **ADOPTION OF THE MOI**

This MOI was adopted by a special resolution of the voting members of the Company in terms of section 16(1)(c)(ii) of the Act, during an Special General Meeting of Members held on the 13<sup>th</sup> day of July 2022. This MOI replaces the previous MOI in its entirety and is accepted and signed by the Chairman for identification purposes:

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## **I. GENERAL INTERPRETATION**

### **I.1. In this MOI:**

- I.1.1. a reference to a “section” by number refers to the corresponding section of the Act, unless otherwise specifically indicated in the context;
- I.1.2. a reference to a “clause” by number refers to the corresponding clause in this MOI;
- I.1.3. a reference to a “Regulation” by number refers to the corresponding regulation in the Companies Regulations;
- I.1.4. words that are defined in the Act or the Income Tax Act bear the same meaning in this MOI as in those Acts;
- I.1.5. the headings to the clauses of this MOI are for reference purposes only and shall in no way govern nor affect the interpretation of nor modify nor amplify the terms of this MOI nor any clause hereof;
- I.1.6. unless the context indicates a contrary intention, an expression which denotes any gender includes the other genders; a natural person includes a juristic person and vice versa and the singular includes the plural and vice versa;
- I.1.7. references to any enactment shall be deemed to include references to such enactment as re-enacted, amended or extended from time to time;
- I.1.8. when any number of days is prescribed in this MOI, same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a day which is not a business day, in which case the last day shall be the next business day;
- I.1.9. the words "include", "includes", and "including" means "include without limitation", "includes without limitation" and "including without limitation". The use of the word "including" followed by specific examples shall not be construed as limiting the meaning of the general wording preceding it;

- 1.1.10. terms other than those defined within the MOI or the Act will be given their plain English meaning, and those terms, acronyms, and phrases known in general commercial or industry-specific practice, will be interpreted in accordance with their generally accepted meanings;
- 1.1.11. any schedules attached to this MOI form an integral of and are part of this MOI and words and expressions defined in this MOI shall bear, unless the context otherwise requires, the same meaning in such schedules;
- 1.1.12. in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this MOI and –
  - i) an alterable or elective provision of the Act, the provision of this MOI shall prevail to the extent of the conflict; and
  - ii) an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the conflict;
- 1.1.13. any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost; and
- 1.1.14. references to this “MOI” or any agreement or document shall be construed as a reference to this MOI or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

## **2. DEFINITIONS**

- 2.1. Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:
  - 2.1.1. “Companies Act” or shall refer to the Companies Act, No. 71 of 2008 as the “Act” amended, unless the context clearly indicates otherwise;

- 2.1.2. “Agreement” shall refer to the MOI of the Company, which is a contract between the Company and each person who is or shall become a member;
- 2.1.3. “Association of persons” shall have the corresponding meaning as defined by the Income Tax Act, which includes non-profit companies that –
- a. has been formed solely for the purpose of managing the collective interests common to all its members, which includes expenditure applicable to the common immovable property of such members and the collection of levies for which such members are liable; and
  - b. is not permitted to distribute any of its funds to any person other than a similar association of persons;
- 2.1.4. “Annual General Meeting” or “General Meeting” refers to a Meeting of Members in accordance with section 61 of the Companies Act, as amended;
- 2.1.5. “Board” means the Board of Directors of the Company from time to time;
- 2.1.6. “Buy-In-Levy” means a levy payable by buyers into the Estate in an amount calculated at 1% (one percent) of the purchase price;
- 2.1.7. “Capital Reserve Fund” means a fund that allows the company to set aside money for future construction projects and major purchases;

- 2.1.8. “CIPC” means the Companies and Intellectual Property Commission;
- 2.1.9. “Company” shall mean Wierda Glen Estate Homeowners Association NPC;
- 2.1.10. “Companies Regulations” means the Companies Regulations promulgated by the Minister responsible for the companies in terms of section 223 of the Companies Act, as amended;
- 2.1.11. “Common Property” shall mean –
- (a) the streets and other public places held by the Company or designated by written notice in terms of the township development and establishment as gazetted as being part of the Common Property;
  - (b) any Erf in the Estate held by the City of Tshwane;
  - (c) any other areas originally intended and designed by the Company as common to all Members including the areas developed and/or used as parks;
- 2.1.12. “Director” shall mean a member of the board of the Company;
- 2.1.13. “Estate” shall mean the townships known collectively as the Wierda Glen Residential and Security Estate developed on the Rooihuiskraal North Extension 16 township, Registration division J.R., including the total of the land and all improvements and services thereon including Erf 1076 of Rooihuiskraal North Extension 14, but the

exclusion of Erven 1091, 1092, 1093, 1094 and 1095 as well as 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309 and 1310;

- 2.1.14. “Erf”, “Erven” or “Unit” shall refer to a stand in the Estate which has been allocated a cadastral number by the surveyor general in a general plan relating to the estate as approved by the surveyor general, irrespective of whether such stands consist of full titles, duets or sectional title schemes;
- 2.1.15. “Good Standing” shall refer to a Member whose levies and other charges are paid up to date, having fulfilled all its financial obligations towards the Company, is in compliance with the rules of the Company and is not involved in a rule dispute, litigation or pending litigation against the Company and/or its members;
- 2.1.16. “Income Tax Act” means the Income Tax Act 58 of 1962, as amended from time to time;
- 2.1.17. “Levies”, “levy” or “levy income” means the amount received or accrued from Members for the purposes of funding expenditure relating to their collective interests;
- 2.1.18. “Member” or “Members” shall mean a voting member in good standing who holds membership in the Company and who shall qualify as a member of the Company in accordance with the terms of this MOI;
- 2.1.19. “MOI” means this Memorandum of Incorporation;
- 2.1.20. “Occupier” shall mean any person lawfully occupying an erf or unit by virtue of his relationship to or with a member of the

company, including but not limited to visitors, tenants, family, and other persons accidental or occasional occupying the erf or unit irrespective of the time period of such occupation;

- 2.1.21. “Ordinary Resolution” means a resolution adopted with the support of more than 50% of the voting rights of members exercised on the resolution;
- 2.1.22. “Proxy” shall mean a specifically nominated person, nominated on the prescribed forms of the company that acts as the duly authorised representative of a member;
- 2.1.23. “Property” shall mean any individual erf or stand or unit in the Estate;
- 2.1.24. “Publish” shall mean any notice given by sending information to the nominated contact details of the members or occupiers on the company information database, whether by written letter, which can be by ordinary mail or registered mail, in any electronic format by e-mail, hand delivery to the member or occupiers’ erf registered to such member, facsimile, posting on the company official website, text message (sms), flyers or notice posted on the notice board at the entrance gates;
- 2.1.25. “Republic” means the Republic of South Africa;
- 2.1.26. “Resident” shall mean any member, occupier, rental paying persons, occupational renting persons, tenants, sub-tenants to any degree of members or tenants, employees of members or occupiers living on the property or any person visiting anyone resident or non-resident for any length of time



whatsoever;

- 2.1.27. “Rules” shall mean the rules as contemplated in sections 15(3) to 15(6) of the Act, duly issued and published by the Board in terms of this MOI, which is attached to this MOI as **Schedule I**;
- 2.1.28. “Sectional Titles Act” means the Sectional Titles Act 95 of 1983, as amended from time to time;
- 2.1.29. “Special Resolution” means a resolution adopted with the support of more than 75% of the voting rights of Members exercised on the resolution;
- 2.1.30. “Statutes” shall include the Companies Act and all other South African legislation, whether national, provincial or local, and all subsequent legislation;
- 2.1.31. “Qualifying entity” means a body corporate, share block company or any association of persons as referred to in section 10(1)(e)(i) of the Income Tax Act, provided that such entities are not party to any type of transaction, operation or scheme with the sole purpose of the reduction, postponement or avoidance of liability for any tax, duty or levy which would otherwise have been payable under the Income Tax Act or any other law administered by the Commissioner for the South African Revenue Services;

### **3. INCORPORATION AND NATURE OF THE COMPANY**

- 3.1. The Company is incorporated as a Non-Profit Company with Members, as defined in Schedule I of the Companies Act.
- 3.2. The Company is incorporated in accordance with and governed by –
  - 3.2.1. the unalterable provisions of the Companies Act that are applicable to non-profit companies, specifically the provisions of Schedule I of the Companies Act; and
  - 3.2.2. the alterable provisions of the Companies Act that are applicable to non-profit companies, subject to any limitation, extension, variation or substitution set out in this MOI; and
  - 3.2.3. the provisions of this MOI.

### **4. INCOME TAX EXEMPTION**

- 4.1. The Company has been formed solely for the purpose of managing the collective interests common to all its Members, which includes expenditure applicable to the common immovable property of such Members and the collection of levies for which such Members are liable.
- 4.2. In terms of section 10(1)(e) of the Income Tax Act, the Company is recognised as a Qualifying Entity to be exempted from normal tax on any levy received by or accrued to it from its Members, due to the fact that the Company is recognised as an Association of Persons as defined by the Income Tax Act, which includes a non-profit company formed solely for the purpose as set out in clause 4.1 above.
- 4.3. In terms of section 10(1)(e)(ii) of the Income Tax Act, the Company, as a Qualifying Entity, also qualifies for basic exemption from normal tax on any receipts and accruals, to the extent that the aggregate of those receipts and accruals does not exceed R50 000 (Fifty Thousand Rand).

- 4.4. On dissolution of the Company, its remaining assets must be distributed to a similar Association of Persons that is also exempt from income tax under section 10(1)(e) of the Income Tax Act.

## 5. AMENDMENT OF THE MOI

- 5.1. This MOI of the Company may be altered or amended only in the manner set out in section 16 (“*by court order or special resolution*”), 17 (“*patent errors*”) or 152(6)(b) (“*business rescue*”), more specifically –

5.1.1. in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document, by publishing a notice of alteration in any manner required or permitted by the MOI and filing a notice of the alteration with CIPC;

5.1.2. in compliance with a court order, effected by a resolution of the Board;

5.1.3. at any other time only if a special resolution to amend the MOI is proposed by the Board and adopted by the Members of the Company at a duly constituted meeting of Members or in accordance with the terms of section 60 (*Shareholders acting other than at meeting*) of the Companies Act.

- 5.2. The Directors must file a notice of amendment of the MOI within 10 (Ten) business days after the amendment has been effected and the amendment will take effect on the date the notice of amendment is filed or such later date as specified in the notice of amendment.

- 5.3. The Company shall submit to the Commissioner for the South African Revenue Services, a copy of any amendment to this MOI, if the Company is tax-exempt or if this is required by the Income Tax Act.

## 6. COMPANY RULES

- 6.1. The rules of the Company are attached to this MOI as **Schedule I**.

- 6.2. The authority of the Company's Board to make rules for the Company, as contemplated in section 15(3) to (5), is not limited or restricted in any manner by this MOI;
- 6.3. Board of the Company may make, amend, alter, substitute, add or repeal any necessary or incidental rules, policies and/or procedures relating to the governance of the Company in respect of matters that are not addressed in the Companies Act or this MOI or which deals with any other matter, including but not limited to –
  - 6.3.1. the furtherance and promotion of any of the objects of the Company;
  - 6.3.2. the better management of the affairs of the Company;
  - 6.3.3. the advancement of the interests of Members;
  - 6.3.4. the governance of the Estate and the Common Property;
  - 6.3.5. acceptable aesthetic, architectural and environmental standards in the Estate;
  - 6.3.6. the regulation and control of the conduct of its Members and occupiers while in the Estate, whether on erven or on the common property;
  - 6.3.7. the payment of levies;
  - 6.3.8. the settlement of disputes;
  - 6.3.9. Governing the manner and methods of the use of the common property by or on behalf of the members of the company or any occupier;
- 6.4. All rules pertaining to Members shall apply equally to all Members.
- 6.5. Company must inform its Members of any alteration, amendment, substitution or repeal of the rules of the Company by publishing a notice of the alteration in any manner required or permitted by the MOI or the rules of the Company and by filing a copy of those rules with CIPC in accordance with section 15(3).
- 6.6. The rules of the Company is binding –
  - 6.6.1. on an interim basis from the time it takes effect until it is put to vote at the next general meeting of Members; and

- 6.6.2. on a permanent basis only if it has been ratified by an ordinary resolution of Members during the general meeting as referred to in clause 6.6.1 above.
- 6.7. Any failure to ratify the rules of a Company does not affect the validity of anything done in terms of those rules during the period that they had an interim effect.
- 6.8. The rules of the Company are binding between the Company, its Members, Directors, prescribed officers and members of a committee of the Board.
- 6.9. The rules of the Company will take preference above any other rules issued by any other governing body, committee and/or any other body corporate of the Estate. However, should the rules of the Company conflict with that of a body corporate of a sectional title scheme established in terms of the Sectional Titles Act, then –
- 6.9.1. to the extent that the rules of the Company are in conflict with the provisions of the Sectional Titles Act, then the provisions of the Act shall prevail; or
- 6.9.2. in any other event, then the rules of the Company shall prevail.

## **7. ENHANCED ACCOUNTABILITY AND TRANSPARENCY**

- 7.1. To the extent within the election of the Company and not otherwise mandatorily required by the Companies Act, the Company elects, in terms of section 34(2) (*additional and extended accountability requirements*), not to voluntarily comply with the provisions of Chapter 3 (*Enhanced Accountability and Transparency*) of the Act, save for electing to be voluntarily audited as provided for in section 30(2)(b)(ii)(aa) of the Act, and in so doing, appointing auditors in terms of sections 90 to 93 of Chapter 3 of the Act.

## **8. OBJECTS AND POWERS OF THE COMPANY**

- 8.1. The main business of the Company is to promote, advance and protect the interests of its Members, relative to their ownership of erven in the Estate.
- 8.2. The main object and purpose of the Company is to provide for-
- 8.2.1. the promotion and enforcement of standards in keeping with the character of the Estate, in such a way that Members derive the maximum collective benefit;

- 8.2.2. acceptable aesthetic, architectural and environmental standards in the Estate and, in doing so, promoting, advancing and protecting such common interests of its Members in the Estate;
  - 8.2.3. control over and protection and maintenance of the common property, and to apportion the expenses in relation thereto between Members by the charging of levies;
  - 8.2.4. setting policy guidelines and operational procedures governing the communal issues within the Estate, including but not limited to the provision of security, access control, perimeter walling and control, maintenance, cleaning, advertising, signage and related issues and generally for the promotion of the communal interest of owners and occupiers of erven within the Estate;
  - 8.2.5. the enforcement of construction management agreements entered into by the Company containing a code of conduct entered into with any contractors to govern their and their subcontractors' construction activities on erven within the estate; and
  - 8.2.6. any other activities generally performed by a homeowners association.
- 8.3. The Company is not subject to any provisions contemplated in section 15(2)(b) or (c) (*special requirements and prohibition on amendment*) of the Companies Act.
- 8.4. Except to the extent necessarily implied by the stated objects, the purposes and powers of the Company are not subject to any restriction, limitation or qualification as contemplated in section 19(1)(b)(ii) ("*full legal capacity of Company*").

## **9. MEMBER AND MEMBERSHIP**

- 9.1. Membership of the Company shall be limited to registered owners of an erf or unit in the Estate, which membership shall commence simultaneously with the registration of any Deed of Transfer of an erf or unit in the Estate into the name of each owner concerned and shall *ipso facto* constitute the introduction of each transferee, as a Member of the Company *mutatis mutandis*, subject thereto that –
- 9.1.1. when two or more persons own the same erf or unit, they shall be deemed, jointly and severally, to be one Member and have the rights and obligations to

the Company of one Member. Similarly, where a legal entity or trust own an erf or unit and has one or more representatives, then the representatives are seen collectively as one Member;

- 9.1.2. every registered owner of an erf or unit in the Estate is a Member as well as any owner who has signed an acceptance to be a Member of the Company through power of attorney or notarial amendment, subject to clause 9.1.1 above;
- 9.1.3. when a Member ceases to be the registered owner of an erf or unit, it shall simultaneously cease to be a Member of the Company;
- 9.1.4. the registered owner of an erf or unit may not resign as a Member of the Company;
- 9.1.5. any obligation, known or unknown, which a Member may have had to the Company while such person was a Member, will remain binding and enforceable after termination of such membership;
- 9.1.6. the rights and obligations of a Member are not transferable and every Member shall-
  - i) to the best of its ability further the aims and objects of the Company;
  - ii) observe and be bound by this MOI and the rules and regulations made by the Company or by the Directors from time to time; and
  - iii) accept liability for and pay all amounts attributable to the erf or unit as from date of registration of the property on the name of the Member.
- 9.2. Nothing contained in this MOI shall prevent a Member from ceding his rights in terms of this MOI, as security to the mortgagee of that Member's erf or unit;
- 9.3. Each Member shall ensure that the occupiers and residents, including visitors, accidental or on invitation, contractors, sub-contractors, employees and/or other persons on invitation of the occupiers and/or residents of the erf or unit owned by that Member, complies with the provisions of this MOI and the rules issued in terms thereof which apply to occupiers and residents including visitors, accidental or on

invitation, contractors, sub-contractors, employees and/or other persons on invitation of the occupiers and/or residents.

- 9.4. It shall be the sole responsibility of the Member and/or resident to ensure that the Company is in possession of the Member's and/or resident's latest contact particulars including but not limited to the telephone and mobile numbers, e-mail addresses, physical and postal addresses.
- 9.5. No Member shall be entitled to any of the privileges of membership unless and until any and all monies due, owing and payable to the Company, from whatsoever cause arising, has been paid in full or where a member is in breach of any rules, should rectify the breach to the satisfaction of the Directors. Only then will the member be considered to be in Good Standing.
- 9.6. Only Members considered in Good Standing are entitled to vote at any meeting of the Company and can be eligible for election as director. Any member, with whom the Company has entered an agreement with pecuniary or other interest, must declare such agreement on nomination, can be considered on condition that a copy of which will be available from the Company on request by any Member.

## **10. LEVIES**

- 10.1. Each Member of the Company shall be jointly liable to the Company for any expenditure duly incurred by the company pursuant to this MOI and rules of the Company in connection with the main object or purpose of the Company and for anything done by the Company with the intention of benefiting its members as from the date on which such Member's membership commenced in terms of this MOI.
- 10.2. The Company shall charge monthly levies which shall be borne by each Member per erf or unit owned by such Member, regardless of the size of the erf or unit, save in the instances where a Member consolidates erven or units after the adoption of this MOI, as the Member shall then be liable to pay for the two or more erven even if consolidated as a unit.
- 10.3. The monthly levies shall cover the cost of all services to be provided by the Company, which shall include but not be limited to, landscaping, maintenance, security, refurbishment and repair of the parking areas, roads and other common property and



facilities, insurance of any such common property and facilities, and rates and other taxes imposed by local or other government authorities from time to time on the Company in respect of the common property, and reasonable provision for all future such expenses which are anticipated will be incurred. The directors have the right to repair and/or maintain municipal services and/or items when necessary and in the best interest of the Company on condition that such expenses be published.

10.4. When imposing levies, special levies, other charges or amounts payable to the Company, the Directors must, where possible –

10.4.1. assign any specific cost of the Company to the erf or unit it relates to;

10.4.2. assign a cost applying generally to a number of erven to the erven as it relates to, in an appropriate proportion;

10.4.3. assign a cost applying generally to a number of units to the units as it relates to, in an appropriate proportion;

10.4.4. assign a cost applying generally to a number of erven and units to the erven and units as it relates to, in an appropriate proportion; and

10.4.5. assign the costs relating to the company generally, to all erven and units equally.

10.5. The Directors shall prepare a budget, with reasonable detail, setting out the amount of the levy not less than thirty days before the end of the Company's financial year. The directors must distribute this budget to all Members on completion thereof. The budget shall include, but is not limited to:

10.5.1. The estimated financial requirements as projected by the Directors to fulfil the financial requirements for the next financial year;

10.5.2. Anticipating the deficit from the preceding financial year, if any;

10.5.3. Detailing the amount to be held in reserve, as per the Directors' estimate, which will be required to meet any unexpected financial obligations, and

10.5.4. The levy contribution payable by each Member for that financial year, noted in monthly payments.

- 10.6. Should the Directors not prepare a budget timeously, the Members must continue to pay the same levies as the previous financial year, until due notice has been given to the Members as provided for in this MOI of the levy for the new financial year.
- 10.7. New and/or existing Members shall contribute to the capital reserve fund by way of a Buy-In-Levy which is generally payable by a first-time buyer in the Estate in an amount calculated at 1% (one percent) of the purchase price as noted in the duly signed and binding purchase and sale agreement entered into by the existing Member and prospective Member. The Company shall determine whether the Buy-In-Levy is payable depending on the circumstances of each case and will have the right to withhold its consent for the registration of the transfer of the property in the name of the new owner, should the payment not be made or should alternative arrangements not be agreed upon with the Company. The Buy-In-Levy shall, however, not be payable in the following circumstances:
- 10.7.1. Where the property is inherited by the member's heirs after his/her death;
- 10.7.2. Where the property has been awarded to the ex-spouse as part of a divorce decree/settlement in the member's divorce matter; and/or
- 10.7.3. Where the property is donated by the member to another person or to an *inter vivos* trust of which the member is the founder/trustee.
- 10.7.4. If you exchange your primary property for another primary property within the boundaries of Wierda Glen Estate
- 10.8. Levies are due in advance on the first day of each month and are payable within seven days, after which interest at the rate determined from time to time by the Directors, which rate shall at least annually be reconsidered, will be payable thereon, which interest may not be in excess of the National Credit Act requirement or regulations promulgated in terms thereof. If a Member fails to pay any levy amount due by him to the Company, then the Company may institute legal proceedings against that Member to recover the outstanding amount, and that Member shall be liable for all legal costs and expenses incurred by the Company in connection therewith on the scale as between an attorney and client, including any expenses and disbursements, including collection commission, as incurred by the Company so that the company and its other

members are fully refunded by the Member whom failed to adhere to the obligations towards the Company.

- 10.9. No Member shall be entitled to withhold payment for any reason whatsoever of any levy or special levy or other contribution due to the Company.
- 10.10. All co-owners of erven or units will be jointly and severally liable for any and all amounts relating to that property, as indebted to the Company.
- 10.11. The Directors of the Company shall be entitled to impose special levies from time to time on Members for any necessary but unforeseen or unscheduled financial responsibility or outlay not included in the budget including a payment schedule of such special levy imposed.
- 10.12. The Directors must publish notice of the intention to impose a special levy and include the decided payment schedule thereof to the Members and must call a meeting of all Members, at least 10 (ten) days before its implementation date to vote on the imposition of the levy. Such meeting shall be deemed as a special general meeting. The implementation of the special levy will be suspended until the Members have voted thereon, which special levy has to be passed by a special resolution by the Members present and/or proxies represented at such meeting.

## **II. DEALINGS IN ERVEN, UNITS AND TITLE CONDITIONS**

- 11.1. No Member shall be entitled to transfer, consolidate, subdivide, notarial tie or rezone an erf or unit, unless a duly authorized representative of the Directors has in writing consented thereto, and the following provisions are inserted in the title deed of the erf or unit in the form hereinafter set out or in such form as may be determined by the Registrar of Deeds:

*“Die eiendom hiermee getranspoteer is onderhewig aan die volgende voorwaardes opgelê en afdwingbaar deur die WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08) of diese opvolgers in Titel of Regverkrygendes:*

- a) *Elke eienaar van die erf of eienaar van onderverdeling daarvan, of eienaar van enige eenheid daarop sal outomaties lid van die WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08) word en bly onderworpe wees*

*aan die WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08) se Akte van Oprigting totdat hy ophou om 'n eenaar soos vermeld te wees.*

- b) Nóg die erf nóg enige onderverdeling daarvan nóg enige eenheid daarop, mag nie aan enige persoon oorgedra word wie hom nie tot bevrediging van die WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08) verbind het om 'n lid van die WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08) te word nie..*
- c) Die eenaar van die erf, of die eenaar van die onderverdeling daarvan, of die eenaar van enige onderverdeling daarvan, of enige belang daarin, of enige eenheid daarop, oor te dra sonder 'n uitklaringstifikaat van die WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08) dat daar aan die bepalings van die Akte van Oprigting van WIERDA GLEN ESTATE HUISEIENAARSVERENIGING (No 2000/001400/08), voldoen is.”*

- 11.2. The Directors may, by regulation, provide for the issue of a membership certificate, which certificate shall be in such form as may be prescribed by the Directors.
- 11.3. Each Member shall on disposing of its erf or unit ensure that the transferee thereof is made fully aware of the Company and that it will acquire the erf or unit subject to becoming a Member thereof.
- 11.4. No member shall transfer the erf or unit of which he is the registered owner unless:
  - 11.4.1. The Company, under the hand of the designated Director has certified in writing that the Member is in Good Standing, has fulfilled all the obligations to the Company in respect of the period up to and including the date specified in such certificate; and
  - 11.4.2. The transfer takes place prior to or on that specified date and if not, a new certificate will be obtained on payment of the required fee; and
  - 11.4.3. The Member has certified in writing that the dwelling and/or other buildings erected on the erf or the unit to be transferred complies with local municipal building regulations;

11.4.4. The proposed transferee has agreed in writing to become a Member of the Company and such written agreement has been lodged with the Company;

11.4.5. The Company may withhold the issue of a certificate in terms of clause 11.4.1 herein above until a member has fulfilled all the obligations to the Company.

## **12. CESSATION OF MEMBERSHIP**

12.1. No Member ceasing to be a Member of the Company for any reason shall (nor shall any such Member's executors, curators, trustees or liquidators) have any claim upon or interest in the funds or other property of the Company, and the provisions hereof shall be without prejudice to the rights of the Company to claim from such Member or his/her estate, any arrears of levies or other sums due from him/her to the Company at the time of it so ceasing to be a Member.

## **13. DIRECTORS**

13.1. The management of the affairs of and activities of the Company shall be under the control of the Board of Directors, in accordance with the stated objects of the Company and as envisioned in terms of section 66(1) of the Companies Act. The Board may exercise all the powers of the Company which are not excluded by any statute or this MOI.

13.2. The Board of the Company shall consist of a minimum number of 5 (Five) Directors and a maximum number of 7 (Seven) Directors.

13.3. The Directors shall be appointed by and comprise of –

13.3.1. At least 4 (Four) Directors who are elected by Members; and

13.3.2. Any vacancy on the Board of Directors (if any) may be filled by the Board in accordance with clause 13.7 and/or 13.9.

13.4. The directors shall appoint from amongst themselves a chairperson and a vice-chairperson, provided that the office of the chairperson and vice-chairperson shall *ipso facto* be vacated by the director holding such office upon his ceasing to be a director for any reason.

- 13.5. Each member of the Board must satisfy the qualification and eligibility requirements set out in section 69 of the Companies Act to become or remain a member of the Board.
- 13.6. On election of Directors, the Company may nominate and elect persons to the Board whom need not be a Member of the Company, but should at least for the duration of the directorship, reside in the Company area, but such Directors may be no more than two directors in number.
- 13.7. The Directors may from time to time co-opt any person as a Director in order to provide the Board with specialised skills, knowledge and/or know-how provided that the total number of directors shall not at any time exceed the maximum number in terms of this MOI. Any Director so appointed shall automatically retire from office at the first Annual General meeting of the Company following his/her appointment, but may be re-elected as a Director of the Company by the Members which shall be valid until the next Annual General Meeting or as otherwise specified.
- 13.8. The Board of the Company shall include a **treasurer**, which must be a suitable person and in Good Standing.
- 13.9. Upon any vacancy occurring on the Board prior to the next annual general meeting, the vacancy in question may, on discretion of the Board of Directors in compliance with the minimum requirement, be filled by a person nominated by those remaining Directors for the time being.
- 13.10. The Company shall not allow the number of Directors to decline below the minimum of 5 (five) number of Directors confirmed in clause 13.2, in which event –
- 13.10.1. a general meeting, whether annual or special, must be held within 3 (three) months from the date that the number of directors decreased below the prescribed minimum number of Directors; and
- 13.10.2. the Directors shall immediately, in a notice to the Members, publish the fact that the number of Directors has decreased to below the prescribed minimum number of Directors; and
- 13.10.3. from that date onwards, until a general meeting has been held, all Members shall receive a published notice of Directors' meetings at least 5 (five) days

prior to such meeting to be held, which notice shall advise to the time, date and agenda for the meeting; and

13.10.4. such Directors' meetings shall be open for all members in Good Standing to attend.

#### **14. ELECTION AND TERM OF DIRECTORS**

14.1. In any election of Directors –

14.1.1. 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 with a series of votes continuing until all vacancies on the Board at that time have been filled; and

14.1.2. 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 voting rights exercised, support the candidate.

14.2. Save as otherwise provided in this MOI, the chairperson or nominated agent or representative, or in his absence, the vice-chairperson, shall preside at all meetings of the Directors and all general meetings of Members, and shall perform all duties incidental to the office of chairperson and such other duties as may be prescribed by the Directors or by the Members, and to allow or refuse to permit invitees to speak at any such meetings. In the absence of the chairperson and vice-chairperson, or their inability or refusal to act as chairperson of a Directors' and/or general meeting, the directors may elect another person from the Board for the time being, who shall act as chairperson in the absence of the chairperson and vice-chairperson.

14.3. In the event of any decision resulting in a deadlock, the matter shall be deferred to the next meeting upon which the matter will be re-presented for voting until a majority vote has been noted.

14.4. Nomination forms for directors must be included in the published notice of a general meeting.

14.5. Any person such proposed for appointment by the Members, must accept the nomination and provide a brief resume for publication at least 48 (Forty eight) hours prior to the general meeting, as confirmed in the notice.

- 14.6. If the nominated members have accepted their nomination and informed the Company thereof in accordance with clause 14.5 above, then they shall become eligible for election as directors. If, however, the nominations received prior to the general meeting are not sufficient to meet the minimum requirements contemplated in clause 13.2, then, and only then, additional nominations of directors may be submitted by members during the general meeting.
- 14.7. A Director shall hold office for a period of 2 (Two) years, commencing on the date of the relevant meeting at which they had been appointed and terminating on the relevant meeting held 2 (two) years thereafter. They shall thereafter be eligible for re-election immediately, with a maximum of two such consecutive two-year terms, whereafter such Director shall retire. A Director who served on the Board for three consecutive two-year terms, shall only be available for re-election at the relevant meeting in the second year following the meeting of his retirement from the last of the three consecutive terms.
- 14.8. If, however, a director resigns before he/she has served his/her full term, then he/she may not, for a period of 5 (Five) years after his/her resignation date, stand and/or be nominated to serve as a Director.
- 14.9. A director shall be deemed to have vacated his office as such upon-
- 14.9.1. His/her estate being sequestrated, whether provisionally or finally or his surrendering his estate;
  - 14.9.2. Him/her making any arrangement or compromising with his creditors;
  - 14.9.3. His/her conviction for any offence involving dishonesty;
  - 14.9.4. His/her becoming of unsound mind;
  - 14.9.5. His/her removal from any office of trust on account of misconduct;
  - 14.9.6. His/her resigning from such office and/or term in writing delivered to the Company, 30 (Thirty) days prior to the date of resignation;
  - 14.9.7. His/her death;



- 14.9.8. His/her being removed from office by resolution of the Members as provided in section 71 of the Act;
- 14.9.9. Any other ground disqualifying a person from acting as a director of a company in terms of the Companies Act;
- 14.9.10. Upon his/her expiry of term as Director.

## **15. PROCEEDINGS OF THE DIRECTORS**

- 15.1. The conduct of meetings shall be governed in terms of section 73 of the Companies Act.
- 15.2. The Directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 15.3. Any Director may call a meeting of the Directors at any time, however no meeting of the Board of Directors may be convened without notice to all Directors, unless all of the Companies' Directors are present at the meeting and waive the required notice of the meeting, then the meeting may proceed even if the Company failed to give notice of such meeting.
- 15.4. Unless the Board determines otherwise, meetings of Directors shall be held at least once every month.
- 15.5. A majority of Directors must be present at a meeting before a vote may be called at a meeting of Directors.
- 15.6. Each Director has one vote on a matter before the Board.
- 15.7. The chairperson shall preside as such at all meetings of the Directors, provided that should the chairperson at any meeting of the Directors not be present within fifteen minutes after the time appointed for the holding thereof, then the vice-chairperson shall act as chairperson at such meeting, provided further that should the vice-chairperson also not be present within fifteen minutes of the time appointed for the holding of such meeting, those present of the Directors shall vote to appoint a chairperson for the meeting, who shall thereupon exercise all the powers and duties of the chairperson in relation to such meeting.

- 15.8. A Director, or a duly appointed person, shall take minutes of every meeting, which minutes shall be reduced to writing without undue delay after the meeting will have closed and shall then be certified correct by the chairman of the meeting, or by the chairman of the next meeting of the Board, which shall constitute adequate evidence of a true record of the proceedings of that meeting.
- 15.9. All competent resolutions recorded in the minutes of any meeting of Directors shall be valid and of full force and effect as therein recorded with effect from the passing of such resolutions and until varied or rescinded, but no resolution or purported resolution of the Directors shall be of any force or effect or shall be binding upon the members or any of the directors unless such resolution is competent within the powers of the directors.
- 15.10. Save as otherwise provided in this MOI, the proceedings at any meeting of the board of directors shall be conducted in such reasonable manner and form as the chairperson of the meeting shall decide.
- 15.11. A meeting of Directors may be conducted by electronic communication or one or more Directors may participate in a meeting by electronic communication so long as it enables all persons participating in that meeting, to communicate concurrently with one another without an intermediary, and to participate effectively in the meeting.
- 15.12. A resolution signed by all the Directors shall be valid in all respects as if it had been duly passed at a meeting of the Directors duly convened.

## **16. STANDARDS OF DIRECTORS' CONDUCT**

- 16.1. A Director of the company when acting in that capacity, must exercise its power and perform its function as Director –
  - 16.1.1. in good faith and for a proper purpose;
  - 16.1.2. in the best interest of the company; and
  - 16.1.3. with the degree of care, skill and diligence that may reasonably be expected of a person-

- i) carrying out the same function in relation to the company as those carried out by that director; and
- ii) having the general knowledge, skill and experience of that director.

16.2. A Director of this company must –

- 16.2.1. not use the position of director, or any information obtained while acting in the capacity of a director to gain an advantage for the director, or for another person other than the company or knowingly cause harm to the company or a subsidiary of the company; and
- 16.2.2. communicate to the Board any information that comes to the director's attention, unless the director, reasonably believes that the information is immaterial to the company, or generally available to the public or known to other directors, or if the director is bound not to disclose the information by a legal or ethical obligation of confidentiality

**17. BOARD COMMITTEES**

- 17.1. The Directors shall be entitled to appoint committees consisting of such number of Directors and/or Members and/or non-members as they deem fit and to delegate to such committees such of their functions, powers and duties as they deem fit, with further power to vary or revoke such appointments and delegations as the Directors may from time to time deem necessary.
- 17.2. The Directors shall remain accountable despite the delegation referred to in 17.1.

**18. REMUNERATION OF DIRECTORS AND CHAIRPERSON**

- 18.1. Directors shall be entitled to a remuneration and be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as directors and/or chairperson, as the case may be, which remuneration shall be ratified and/or approved whichever the case may be, annually by the Members at the annual

general meeting. The remuneration shall not exceed one month's operational levy payment per director per month.

## **19. OTHER PROFESSIONAL OFFICERS**

19.1. Save as specifically provided otherwise in these articles, the Directors shall at all times have the rights to engage on behalf of the company, the services of accountants, auditors, attorneys, advocates, architects, engineers, any other professional person or firm and/or any other employee/s for any purpose or reasons deemed necessary by the Directors and on such terms as the Directors may decide.

## **20. GENERAL MEETINGS OF THE COMPANY**

20.1. The company shall hold an annual general meeting at least once each financial year, which may not be more than eighteen months but no less than six months apart.

20.2. Such annual general meeting shall be held at such time and place, subject to the foregoing provisions, as the directors shall decide from time to time.

20.3. All general meetings other than annual general meetings shall be called "*special general meetings*".

20.4. Special general meetings may be called by the Board at any time; however, a special meeting must be called by the Board if written and signed demands for such meeting are delivered to the Company, and –

20.4.1. each such demand describes the specific purpose for which the meeting is proposed; and

20.4.2. In aggregate, demands for substantially the same purpose are made and signed by at least 10% of the Members of the Company.

20.5. The Members attending or participating at either an annual general meeting or a special general meeting, their proxies or representatives are to register their attendance beforehand and if required, must be able to present satisfactory identification to the chairperson. Such identification must reasonably satisfy the chairperson by verifying the right of the person to attend participate and vote. If required, only the following forms of identification shall be considered in verification:

- 20.5.1. validly issued South African identity document, driver's license or passport or in the event of foreigners a validly issued passport or official residency;
  - 20.5.2. a certified copy of any of the mentioned documents;
  - 20.5.3. Original power of attorney, letter of authority or any other valid instrument of appointing a proxy, representative, executor, liquidator or any other office bearer must accompany the identification document of such person duly appointed.
- 20.6. In the event of the identification process not completed at the time of the scheduled start of the meeting, the meeting shall be delayed until the verification process has been finalized and completed.

## **21. NOTICE OF MEETINGS**

- 21.1. The Company must deliver a notice of an annual general meeting or special general meeting to all the Members of the Company, with at least 15 (Fifteen) business days' notice in writing.
- 21.2. The notice shall be exclusive of the day on which it is given, and shall specify the place, the day and the hour of the meeting and, in the case of special business, in addition to any other requirements contained in these presents, the general nature of that business, and in the case of a special resolution, the terms and effect of the resolution and the reasons for it shall be given in the manner hereinafter mentioned or in such other manner, if any as may be prescribed by the Directors to such persons as are under these presents entitled to receive such notices from the Company and shall comply with the requirements of Section 62(3) of the Act.
- 21.3. The Company may call a meeting with less notice than required by clause 20.1 above, but such a meeting may proceed only if every person who is entitled to exercise voting rights in respect of any item on the meeting agenda –
  - 21.3.1. is present at the meeting; and
  - 21.3.2. votes to waive the required minimum notice of the meeting.

## **22. SERVICE OF NOTICES**

- 22.1. A notice shall be in writing and shall be given or served by the Company upon any Member, either personally or by post, including electronic mail, registered mail or any other manner of publishing, as elected by the Directors, properly addressed to the Member noting the address of the erf or unit owned by it, or at the address as specifically nominated by the Member.
- 22.2. The property registered to the Member shall be considered the domicilium citandi et executandi address for the Member, unless the member specifically and in writing nominated an alternative address on condition that no member shall be entitled to have a notice served on it at any address not within the Republic of South Africa, but any member may require the Company, by notice, to record an address within the Republic of South Africa which shall be deemed to be its address for the purpose of the service of notices.
- 22.3. Any notice by post shall be deemed to have been served at the time when the letter containing the same was posted, including electronic mail, and proof of the giving of the notice by post, including electronic mail shall be sufficient to prove that the letter containing the notice was properly addressed and posted and/or send.
- 22.4. The accidental omission to give notice of a meeting to or the non-receipt of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.

## **23. VENUE OF MEETINGS**

- 23.1. General meetings of the Company shall take place at such place/s as shall be determined by the Directors from time to time.

## **24. QUORUM**

- 24.1. No business shall be transacted by any general meeting unless a quorum is present when the meeting proceeds to business.
- 24.2. A quorum shall be at least 5% of the total number of Members of the Company, present either in person or by proxy. Proxy forms must detail the resolution and the

Member must indicate his vote on the proxy for each resolution to be tabled, including special resolutions.

- 24.3. If, within 30 minutes (half an hour) from the time appointed for the holding of a general meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same place and time, or at such other place as the Chairman of the meeting shall appoint, and if at such adjourned meeting a quorum is not present within 30 minutes (half an hour) from the time appointed for holding the meeting, the Members present shall constitute a quorum.

## **25. AGENDA AT MEETINGS**

- 25.1. In addition to any other matters as would be required by the Companies Act to apply to a Company or to these present to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:

25.1.1. the consideration of the chairperson's report to the Directors;

25.1.2. the election of the Directors;

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

25.1.4. the consideration of the annual financial statements and/or balance sheet of the Company for the last financial year preceding the date of such meeting;

25.1.5. the consideration of the report of the auditors; and

25.1.6. any and all rules imposed and effected by the Board of Directors since the last annual general meeting.

## **26. PROCEDURE AT GENERAL MEETINGS**

- 26.1. The chairperson shall preside as such at all general meetings, provided that should he not be present within 15 (Fifteen) minutes after the time appointed for the holding thereof, then the vice-chairperson shall act as chairperson at such meeting provided further that should the vice-chairperson also not be present within 15 (Fifteen) minutes of the time appointed for the holding of such meeting, then the members

present at such meeting are entitled to vote to appoint a chairperson for the meeting who shall thereupon exercise all the powers and duties of the chairperson in relation to such meeting.

- 26.2. The chairperson may, with the consent of any general meeting at which a quorum is present (and if so, directed by the meeting) adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given in the same manner as of an original meeting. Save as aforesaid, the members shall not be entitled to any notice of adjournment or of the business to be transacted at an adjourned meeting.

## **27. PROXIES**

- 27.1. A Member may be represented at the annual general meeting by a proxy, who need not be a member of the Company. The instrument appointing a proxy shall be in writing signed by the Member concerned or his duly authorized agent in writing, on the instrument specific for such meeting whether a general or special meeting, including the indication of the vote of the Member on the noted resolutions provided for on the instrument provided that where a Member is more than one person any one of those persons may sign the instrument appointing a proxy on such Member's behalf, where a Member is a company, the same may be signed by a duly authorised representative of the company or by its secretary, where an company of persons by the secretary thereof, where a close corporation by any member, and where a trust by any trustee.
- 27.2. The instrument appointing a proxy, and the power of attorney or other authority (if any) under which it is signed, or a certified copy thereof, shall be deposited at the office at any time before the time appointed for the commencement of the meeting, or adjourned meeting, at which the person named in the instrument is proposed to vote. No instrument appointing a proxy shall be valid after the expiration of thirty days from the date of its execution.
- 27.3. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death of the principal or revocation of the proxy,



provided that no intimation in writing of the death or revocation shall have been received by the directors at least one hour before the time fixed for the holding of the meeting.

## **28. VOTING**

- 28.1. At every general meeting, every Member in person or by proxy and entitled to vote shall have one vote for each erf or unit registered in its name, subject to the provisions of clause 9 above. Members' must be in Good Standing as defined in this MOI, for the member to be entitled to vote.
- 28.2. Save as expressly provided for in this MOI, no person other than a Member duly registered, who is in good standing, shall be entitled to be present or to vote on any question, either personally or by proxy, at any general meeting.
- 28.3. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless, either prior to or on the declaration by the chairperson of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.
- 28.4. Notwithstanding the provisions of clause 27.3 aforesaid, voting on the election of a chairperson of a general meeting (if necessary) or on any question of adjournment, shall be decided on a show of hands by a majority of the members present in person or by proxy and entitled to vote.
- 28.5. Every resolution and every amendment of a resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall not be voted upon.
- 28.6. An ordinary resolution shall be carried out on a simple majority of all the votes cast thereon, and an abstention shall not be counted as a vote for or against the resolution in question. In the case of an equality of votes, whether on a show of hands or on a poll, the matter shall be deemed as defeated.
- 28.7. For a special resolution to be approved by Members, it must be supported by at least 75% (three quarters) of the voting rights of Members present at the meeting. A special resolution is required to:

- 28.7.1. amend this MOI;
  - 28.7.2. amend or repeal clause 11 above governing dealings in erven or units and title conditions;
  - 28.7.3. amend or repeal the rules dealing with building standard and aesthetics approval;
  - 28.7.4. ratify actions by the Company or members of the Board in excess of their authority;
  - 28.7.5. approve the voluntary winding up of the Company; and
  - 28.7.6. approve any proposed fundamental transaction to the extent required by Part A of Chapter 5 of the Companies Act.
- 28.8. Unless any Member present in person or by proxy at a general meeting before closure of the meeting, objects to any declaration made by the chairperson of the meeting as to the result of any voting at the meeting, whether by show of hands or by poll, or to the propriety or validity of the procedure at such meeting, such declaration by the chairperson shall be deemed to be a true and correct statement of the voting and the meeting shall in all respects be deemed to have been properly and validly constituted and conducted, and an entry in the minutes to the effect that any motion has been carried or lost, with or without a record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the vote so recorded if such entry conforms with the declaration made by the chairperson of the meeting as to the result of any voting at the meeting.

## **29. FINANCIAL YEAR END**

- 29.1. The financial year end of the Company is on the 31<sup>st</sup> day of March each year.

## **30. ANNUAL FINANCIAL STATEMENTS/ MANAGEMENT ACCOUNTS**

- 30.1. The Company in a general meeting, or the Directors, may from time to time make reasonable conditions and regulations as to the time and manner of the inspection by the Members, of the financial statements/ management accounts and books of the Company, and, subject to such conditions and regulations, the financial statements/

management accounts and books of the Company shall be open to the inspection of Members during normal office hours or by prior appointment.

- 30.2. At each annual general meeting the directors shall lay before the Company a proper income and expenditure account for the immediately preceding financial year of the Company, or in the case of the first account, for the period since the incorporation of the company, together with a proper balance sheet made up as at the last financial year end of the Company. Every such balance sheet shall be accompanied by proper and extensive reports of the Directors and the auditors, and there shall be attached to the notice sent to Members convening each annual general meeting, copies of such accounts, balance sheet and reports (all of which shall be framed in accordance with the provisions of the act) and any other documents required by law to accompany same.

### **31. AUDIT**

- 31.1. Once at least in every year, the financial records of the Company shall be examined and the correctness of the income and expenditure account and balance sheets ascertained by the Auditor.
- 31.2. The Auditors shall perform such duties as are performed by Auditors of any registered company.
- 31.3. The directors shall reconsider the appointment of the auditor at least every three years after the appointment of such auditor.

### **32. INDEMNITY**

- 32.1. All Directors shall be indemnified out of the funds of the company against any liabilities *bona fide* incurred by them in their respective said capacities and, in the case of a Director, in his capacity as chairperson or vice-chairperson as the case may be, whether defending any proceedings, civil, criminal or otherwise, in which relief is granted to any such person by the court.
- 32.2. Every Director, every servant, agent and employee of the Company, and the auditors, shall be indemnified by the company against (and it shall be the duty of the directors out of the funds of the company to pay) all costs, losses and expenses (including

travelling expenses) which such person or persons may incur or become liable for by reason of any act or deed done, by such person or persons in the discharge of any of his/their respective duties, including the case of Directors, his/her duties as chairperson or vice-chairperson. Without prejudice to the generality of the above, the company shall specifically indemnify every such person against all losses of whatsoever nature incurred arising out of any *bona fide* act or omission by him jointly or severally in connection with the discharge of his duties, provided that any such act or omission does not happen through any negligence, default, breach of duty or breach of trust of which he/she may be guilty in relation to the Company.

- 32.3. A Director shall not be liable for the acts, neglects or defaults of the auditors or of any of the other Directors, whether in their capacities as Director or as chairperson or vice-chairperson, or for any loss or expense sustained or incurred by the company through the insufficiency or deficiency of title to any property acquired by the directors for or on behalf of the company, or for the insufficiency or deficiency of any security in or upon which any of the monies of the Company shall be invested, or for any loss or damage arising from the insolvency or tortuous act of any person with whom any monies, securities or effects shall be deposited, or for any loss or damage occasioned by any error of judgment or oversight on his part, or for any other loss, damage or misfortune whatever which shall happen in the execution of any of the duties of his/her office/s or in relation thereto, unless the same shall happen through negligence, default or breach of duty or breach of trust.

### **33. INCOME AND WINDING UP**

- 33.1. The income of the Company, from all sources, shall be applied solely toward the achievement of its main objectives and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever, to the Members of the Company, provided that nothing herein contained shall prevent the payment, in good faith, of reasonable remuneration to any officer or servant of the Company.
- 33.2. Upon its winding up, deregistration or dissolution, the assets of the Company remaining after the satisfaction of all its liabilities, shall be given or transferred to some other Company or institution or Companies or Institutions having objects similar to its

main object, to be determined by the Members of the Company at or before the time of its dissolution or, failing such determination, by the court.