

## **MEMORANDUM OF INCORPORATION**

of

**CATHKIN ESTATES  
HOME OWNERS' ASSOCIATION NPC**  
Registration Number 2004/012469/08

### **Adoption of Memorandum of Incorporation**

This Memorandum of Incorporation was adopted by a special resolution of the members on 29 May 2021, in terms of section 16 of the Companies Act No. 71 of 2008.

## **1. Interpretation**

In this Memorandum of Incorporation:

- 1.1 **"Act"** means the Companies Act No. 71 of 2008, as amended;
- 1.2 **"Alienate"** means to alienate any Erf, Properties, or part thereof whether by way of sale, exchange, donation, deed, intestacy, will, cession, assignment, court order or insolvency, irrespective of whether such alienation is subject to a suspensive or resolute condition, and alienation shall have a corresponding meaning;
- 1.3 **"Architectural Rules and Guidelines"** means the set of Architectural and Building Rules incorporating the 'Control of Building Activities' and 'Code of Conduct for Contractors' adopted by the Association from time to time, which shall be the set of aesthetic guidelines promulgated by the Association to ensure consistency of architectural style and building materials throughout the development in order to create an acceptable built environment;
- 1.4 **"Architectural Review Committee"** means the committee referred to in clauses 37.3 to 37.6;
- 1.5 **"Association"** means Cathkin Estates Home Owners Association NPC, Registration Number 2004/012469/08;
- 1.6 **"Auditors"** means the auditors of the Association, appointed from time to time;
- 1.7 **"Board"** means the board of Directors of the Association;
- 1.8 **"Building"** means any building on the Properties;
- 1.9 **"Bulk"** means the square meterage of habitable development to which an owner is entitled to build. An Erf carries an automatic entitlement of 150 square meters of habitable space which may be increased by purchasing additional square meters (bulk) to limits set in the Town Planning Scheme and the Architectural Rules and Guidelines;
- 1.10 **"Chairperson"** and **"Vice-Chairperson"** means the Chairperson of the Board;
- 1.11 **"Commission"** means the Companies and Intellectual Property Commission established in terms of section 185 of the Act;
- 1.12 **"Common Property"** means collectively, any land, roads, parks, open spaces and other areas whether owned or held or controlled by the Association (by way of usufruct or servitude or in any other manner whatsoever), or held or vesting in the relevant Local Authority or any other authority but not being properly or adequately maintained by that authority and, including without any limitation, road reserves, landscaping, verges, pavements, embankments, flood plains, dams, water bodies and water

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courses, Buildings, fences, walls, gate and guard houses or other security facilities and security equipment on the Properties;

- 1.13 **“Conduct Rules”** means the Code of Conduct for Members and their guests;
- 1.14 **“CSOSA”** means the Community Schemes Ombud Service Act No. 9 of 2011;
- 1.15 **“Debt”** means any amount howsoever arising, owed by a Member to the Association, including but not limited to amounts owed in respect of levies, special levies, statutory levies, interest, penalties, clubhouse services, Services and legal fees;
- 1.16 **“Deeds Registries Act”** means the Deeds Registries Act No. 47 of 1937, as amended;
- 1.17 **“Deliver”** means deliver in the manner in which the Association is entitled to give notice or deliver documents in accordance with the Act, and shall, where permitted by the Act, include delivery of an abridged document together with instructions as to how the recipient may obtain an unabridged version of such document, comprehensive methods of deliveries are attached to this MOI as schedule 2;
- 1.18 **“Developer”** means Entabeni Development Company Proprietary Limited, registration number 1989/005553/07 or its successor in title as developer of the Properties;
- 1.19 **“Development”** means any sales activity and/or action by the Developers to alter the manner of use or physical appearance of any portion of the Properties, including but not limited to earthworks, the construction, alteration or extension of Buildings, the preparation or submission to relevant authorities of plans in respect of earthworks, construction, alteration or extension and the preparation or submission to relevant authorities of applications in respect of the zoning of any of the Properties;
- 1.20 **“Development Period”** means that period from the establishment of the Association until:
- (a) the Developer has sold all allocated Erven and Bulk as defined in the Town Planning Scheme of the Okhahlamba Local Municipality; or
  - (b) the Developer notifies the Association that it has ceased Development of the Estate; or
  - (c) the Developer, without notifying the Association, actually ceases all form of Development on the Estate for a continuous period of 5 (five)

years, then upon the expiry of such 5 (five) year period, the Development Period shall be deemed to have ceased.

- 1.21 **“Directors”** means the directors as appointed or elected in terms of this MOI;
- 1.22 **“Erf”** means any area defined and recorded on any Surveyor General maps as having an erf number and as provided for in the Town Planning Scheme, whether or not such will accommodate a dwelling and includes any Erven resulting from the sub-division of the Properties including consolidated Erven;
- 1.23 **“Estate”** means Cathkin Estates;
- 1.24 **“Financial Year”** means the financial year of the Association which shall run from the first day of March in any year to the last day in February in the subsequent year;
- 1.25 **“Local Authority”** means the local municipality in which the Estate it situate;
- 1.26 **“Loss”** means “any loss, damages, liabilities, costs (including legal costs on an attorney and own client basis), claims, charges, expenses, payments or penalties;
- 1.27 **“Member”** means a member of the Association, as referred to in clause 13;
- 1.28 **“MOI”** means this memorandum of incorporation;
- 1.29 **“Ordinary Resolution”** means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution at a Members’ meeting or by Members acting other than at a meeting, as contemplated in section 60 of the Act and clause 29 below;
- 1.30 **“Properties”** means
  - (a) Erf 145 Cathkin Estates, Registration Division FS, Province of KwaZulu-Natal, in extent 25,9402 (two five comma nine four zero two) hectares;
  - (b) Erf 146 Cathkin Estates, Registration Division FS, Province of KwaZulu-Natal, in extent 6,8918 (six comma eight nine one eight) hectares;
  - (c) Erf 147 Cathkin Estates, Registration Division FS, Province of KwaZulu-Natal, in extent 20,5013 (Twenty comma five nought one three) hectares;
  - (d) Erf 148 Cathkin Estates, Registration Division FS, Province of KwaZulu-Natal, in extent 15,6011 (fifteen comma six nought one one) hectares;

- (e) Erf 149 Cathkin Estates, Registration Division FS, Province of KwaZulu-Natal, in extent 25,7921 (twenty five comma seven nine two one) hectares;
- (f) Erf 150 Cathkin Estates, Registration Division FS, Province of KwaZulu-Natal, in extent 27,5242 (twenty seven comma five two four two) hectares;
- (g) Remainder of the Farm Cathkin Estates No 17591, Registration Division FS, Province of KwaZulu-Natal, in extent 799,1308 (seven nine nine comma one three zero eight) hectares; and
- (h) any other Erven owned by the Cathkin Estates Home Owners' Association;

as amended from time to time;

- 1.30 **"Services"** means the provision of water, sewerage, electricity, storm-water drainage, roads and refuse removal and such other utilities and amenities as may be provided by the Association;
- 1.31 **"Special Resolution"** means a resolution adopted with the support of more than 75% of the voting rights exercised on the resolution at a Members' meeting or by Members acting other than at a meeting, as contemplated in section 60 of the Act and clause 29 below;
- 1.32 **"Town Planning Scheme"** means the Town Planning Scheme TPS2 of Okhahlamba Local Municipality, in which the Properties fall, together with amendments thereto applicable to the village of Cathkin Park, KwaZulu-Natal;
- 1.33 **"Township"** means the development taking place on the Properties;
- 1.34 **"Unit"** means a dwelling for a single family, as defined in the Town Planning Scheme constructed and erected or to be constructed or erected on any Erf in terms of approved building plans and the Architectural Rules and Guidelines, with or without outbuildings situated on an Erf; and
- 1.35 Words defined in the Act which are used but not defined in this MOI bear the same meaning in this MOI as in the Act. Unless the context otherwise requires, words importing the singular number shall include the plural and vice versa, and words importing any gender shall include the other genders and words importing persons shall include bodies corporate.

## **2. Incorporation**

- 2.1 The Association is a pre-existing non-profit company, as defined in the Act. The Association is governed by:
  - (a) the unalterable provisions of the Act that are applicable to non-profit companies;

- (b) the alterable provisions of the Act that are applicable to non-profit companies subject to the limitations, extensions, variations and substitutions set out in this MOI; and
- (c) the provisions of this MOI.

### **3. Objects of the Association**

#### **3.1 The main objects of the Association shall be:**

- (a) to promote, advance and protect the overall interests of the Members of the Association;
- (b) to participate in the promotion, advancement and protection of the communal and group interests of the Members;
- (c) to act as a body for the representation, promotion and advancement of the communal interest of Members, and to integrate those interests as far as possible with practical measures that will enhance the Properties; and
- (d) to contribute financially to the operation and maintenance of the common benefits and objectives of the Association.

#### **3.2 The ancillary objects of the Association shall be:**

- (a) to own or hold or control (by way of usufruct or servitude or any other manner whatsoever) land, roads, improvements, landscaped area, infrastructure and facilities on the Properties;
- (b) to control any Common Property, to implement security measures relating to Common Property and to manage and maintain the Common Property;
- (c) to incur and discharge expenditure in relation to the control, implementation, management and maintenance of Common Property;
- (d) to impose and collect Levies for the purposes of discharging such expenditure;
- (e) to promote, support or oppose legislation or other official or unofficial measures affecting the Properties as a whole, and if necessary, represent the Members in dealings with government departments, other authorities and the public generally in regard to any matter which may be in the interest of the Members;
- (f) in the event of any Member failing to adhere to the specifications

and/or rules, a managing agent appointed by the Board shall be entitled but not obliged, to perform the necessary acts and services and recover from the Member the cost thereof; and

- (g) to undertake the maintenance of road verges and common areas.

#### **4. Powers of the Association**

4.1 The Association is a juristic person which has all of the legal powers and capacity of an individual except to the extent that:

- (a) a juristic person is incapable of exercising any such power, or having any such capacity; or
- (b) this MOI or the Act places restrictions on the powers of the Association.

#### **5. Restrictions on the Powers of the Association**

5.1 The Association:

- (a) must apply all of its assets and income, however derived, to advance its objects;
- (b) must not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless of how the income or asset was derived, to any person who is or was an incorporator of the Association, or who is a Member or Director, or person appointing a director, of the Association, except:
  - (i) as reasonable remuneration for goods delivered or services rendered to, or at the direction of, the Association;
  - (ii) as reasonable payment of, or reimbursement for, expenses incurred to advance an object of the Association;
  - (iii) as payment of an amount due and payable by the Association in terms of a *bona fide* agreement between the Association and that person or another;
  - (iv) as a payment in respect of any rights of that person, to the extent that such rights are administered by the Association in order to advance a stated object of the Association; or
  - (v) in respect of any legal obligation binding on the Association;
- (c) must not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to, a Director of the Association or of a related or inter-related company, or to a

person related to any such Director, unless it is a transaction contemplated in Item 5(4) of Schedule 1 to the Act; and

- (d) must not directly or indirectly distribute any of its funds to any person other than to an association of persons similar to the Association.

## **6. Alterations and Amendments to the MOI**

6.1 This MOI may be altered or amended in accordance with the provisions of section 16 of the Act:

- (a) by the Board to the extent necessary to comply with an order of court;
- (b) by the Board in order to correct a patent error in spelling, punctuation, reference, grammar or similar defects by Delivering a notice of the alterations to every Member and filing a notice of the alteration with the Commission as provided for in section 17(1) of the Act; or
- (c) by a Special Resolution of the Members.

6.2 A copy of any amendment or alteration to this MOI must be submitted to the commissioner for the South African Revenue Service.

## **7. Common Property and Further Development**



- 7.1 All Members will permit the Common Property to be used by the Association and the Members and the owners of an Erf.
- 7.2 Neither the whole nor any portion of the Properties owned by the Association shall be sold, let or Alienated or otherwise disposed of, subdivided or transferred, except in circumstances laid down in the conditions of establishment of the Township and in accordance with the Town Planning Scheme. Any Alienation of the Properties permitted by the conditions of establishment of the Township or the Town Planning Scheme will only be undertaken with the consent of a Special Resolution, or to the Developer in terms of a right which entitles the Developer to exercise any or all future development rights in respect of the Properties.
- 7.3 The Properties shall not be mortgaged or subject to any rights, save a right in favour of the Developer and save for servitudes which are for the purposes of protecting the rights of Members and ensuring that services may be maintained and protected for the benefit of Members of the Association without the sanction of a Special Resolution. No Member shall be entitled to vote unreasonably against a Special Resolution which may be proposed in the interests of achieving the objects of the Association.
- 7.4 Nothing contained in this MOI shall prevent the Developer from erecting, at its own cost, such Units on the said Erven in accordance with the Town Planning Scheme, provided that it shall not do so without the prior written approval of the Architectural Review Committee.
- 7.5 The Developer undertakes that prior to exercising any rights it may have in respect of the Development of the Properties it shall notify the Board in writing of its intention to do so.
- 7.6 The Developer shall provide the Board with all information relating to the exercise of its rights including any documents that may be requested by the Board and shall afford the Board a reasonable opportunity to assess the impact of the Development on the Association.
- 7.7 If additional infrastructure on the Common Property is required to support the further Development by the Developer then the Developer shall be responsible for the costs thereof and ensuring that such infrastructure is undertaken by suitably qualified contractors, that the infrastructure meets the required standards applicable by any law or regulations to such infrastructure and that the infrastrucure is fit for purpose.
- 7.8 The Developer indemnifies and holds the Association harmless against any Loss which it may incur as a result of a breach of this clause 7.

## **8. Rules**

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- 8.1 There shall be sets of Conduct Rules to regulate the conduct of Members, their guests and persons entering the Estate and, a set of Architectural Rules and Guidelines which shall regulate the conduct of builders on the Estate and the aesthetics of Buildings on the Estate.
- 8.2 The Conduct Rules and Architectural Rules and Guidelines applied during the Development Period shall be prepared, changed or amended and approved by the Board only, these rules are not governance rules and therefore do not need to comply with section 15 of the Act.
- 8.3 A Member or any other occupier of a Unit or Erf must not:
- (a) contravene the provisions of any law or by-law relating to the use of a Unit or Erf;
  - (b) contravene the conditions of title applicable to the Unit or Erf; or
  - (c) construct or place any structure or building improvement on Common Property.
- 8.4 The owner of an Erf may not subdivide any Erf, erect a second dwelling on the same Erf, rezone an Erf or in any way change the use for which an Erf has been zoned, whether by way of rezoning or a consent to use or otherwise, without the prior written approval of the Association.
- 8.5 No business or any part thereof shall be conducted from an Erf without the prior written consent of the Association and provided further that all conditions of the relevant Town Planning Scheme and/or title deed have been complied with.
- 8.6 After the expiry of the Development Period such Conduct Rules and Architectural Rules and Guidelines which are in force at the time of such expiry, shall continue to operate and may thereafter only be changed or amended by an Ordinary Resolution of the Members.
- 9. Architectural Rules and Guidelines**
- 9.1 The Architectural Rules and Guidelines shall, *inter alia*, provide for:
- (a) the standards and guidelines for the design of Units in the Township, and in particular to control the design of all Units;
  - (b) the siting of all Units;
  - (c) the standards and guidelines for the design of all site works, Buildings, structures, installations and projections on the Properties in the Township, including materials, pergolas, side walls, swimming pools, awnings, jacuzzis, carports and paved pathways;

- (d) the placing or fixing of ornamentation or embellishments upon the outside of Buildings including the power to remove any such objects; and
  - (e) the furtherance and promotion of any of the objects of the Association and / or for the better management of the affairs of the Association and / or for the advancement of the interests of Members and / or residents in the Township.
- 9.2 Subject to the provisions of the Town Planning Scheme building regulations, no Member (nor body corporate) in whom any Common Property is vested may, without the written consent of the Architectural Review Committee:
  - (a) change the colour of the exterior walls of the property concerned, nor the colour of the exterior of the doors and window frames thereof, nor any fixture or fitting excluding, however, door and window handles, locks, knockers and similar ornaments upon the exterior thereof; and replace any appurtenances, including but without limiting the generality of the afore-going, pergolas, blinds, shutters, awnings or ornaments upon the exterior walls or surfaces of the Units concerned, save only to renew such items as may initially have been so placed upon construction of the Unit, with such items of the same nature and of similar appearance; and
  - (c) make any additions or extensions to the Unit or to erect any further Units or structures or fences whether of a temporary or permanent nature upon any Erf vested in him in the Township; and
  - (d) remove any fixtures, fittings, doors, windows nor to demolish any portion of the exterior of any Unit; and
  - (e) in the event of the destruction of any Unit, and the owner thereof deciding to rebuild such Unit, the plans for such rebuilding shall prior to such rebuilding taking place, be submitted to the Association, which shall review such plans, whether such rebuilding shall be a total or partial rebuild, as provided for in the Architectural Rules and Guidelines and shall be subject to approval both by the Association and the Town Planning Department of the Local Authority.

## **10. Conduct Rules**

10.1 The said Conduct Rules shall, inter alia, provide for the following:

- (a) the use by Members, the Members of their household, their guests, occupiers of their Erven/Units and lessees of the roads, open space and sporting amenities, including the right to prohibit, restrict or control such use of the roads and open space or any portions thereof

as may from time to time be determined by the Board in their sole discretion; and

- (b) the rehabilitation and preservation of the natural environment, vegetation and fauna in the Township; and
- (c) the use of the parking area; and
- (d) the right to prohibit, restrict, or control the keeping of any animal which they regard as dangerous, a nuisance or a threat to any wildlife on the Estate; and
- (e) the use of services, entertainment and recreation areas, amenities and facilities, including the right to make a reasonable charge for the use thereof; and
- (f) the control of business premises; and
- (g) the placing of movable objects outside of Buildings, including the power to remove any such objects; and
- (h) the keeping of flammable substances; and
- (i) the conduct of any person within the estate for the prevention of nuisance of any nature to any other Member; and
- (j) the use of land within any residential Erf in the estate; and
- (k) where an Erf or Unit is owned in undivided shares, for regulating the use of such Erf or Unit by the co-owners thereof and their right *inter se*; and
- (l) to require that each Member obtains and maintains adequate insurance cover for the Unit the Member owns and to produce satisfactory proof of such to the Association as when requested by the Association to do so. Such insurance is to be inclusive of cover of the actual property and improvements as well as a level of public liability cover which shall be determined and advised from time to time by the Directors.

- 10.2 Each Member undertakes to the Association that they shall comply with any rules made in terms of the MOI. Further, that any tenant or other occupier that the Member may allow to reside in a Unit shall be deemed to have given such undertaking as is described herein for such times as the person concerned shall be in the Unit.

## **11. Enforcement of Rules and Regulations**

- 11.1 For the enforcement of any of the rules and regulations of the Association, the Directors may give notice to a Member to remedy any breach within a time period deemed reasonable by the Board and, if the breach is not remedied within the time period afforded to the Member concerned, in their sole discretion:
- (a) call for an explanation and/or an apology;
  - (b) withdraw any consent previously given in respect of the matter in question;
  - (c) cause to be taken such steps as they may consider necessary to remedy the breach and debit the cost of doing so to the Member, which shall then be deemed to be a Debt owing by the Member to the Association; and/or
  - (d) impose a system of fines or other penalties in respect of the breach of any rule(s) and regulation(s), as the Board deems fit, the amounts of such fines shall be reviewed and confirmed at each annual general meeting of the Association until varied at a general meeting shall be subject to a maximum of R10 000,00 (Ten thousand Rand) for every offence committed.
- 11.2 In the event of any Member being in persistent or flagrant breach of any of the rules or regulations, the Directors may:
- (a) after at least 7 (seven) days' written notice to the Member concerned that they intend to do so, discontinue any Services provided to the Member by the Association for such period as the Directors may deem fit; and/or
  - (b) take such other action including proceedings in Court, as they may deem fit.
- 11.3 Any Member who is in persistent breach of any of the rules or regulations will be deemed to be guilty of a separate breach for every 24 (twenty-four) hours or part of such period during which the breach continues.
- 11.4 It shall be the duty of Board or such other person or body as may be empowered by the Directors (including a managing agent if one has been

appointed), to ensure compliance by the Members, their guests, staff, or lessees and all other persons within the Township, with the Conduct Rules and to this end, to issue such notices, impose such fines or do such things as may be necessary or requisite.

## **12. Application of Enforcement Provisions**

- 12.1 In the event of any breach of the rules or regulations of the Association by the Members of any Member's household, or his guests, or lessees, 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 may deem fit.
- 12.2 In the event of any person disputing the fact that they have committed a breach of any of the rules or regulations of the Association, a committee of 3 (three), persons appointed by the Board for the purpose, shall adjudicate upon the issue at such time and in such manner and according to such procedure (provided that natural justice shall be observed) as the Chairperson may direct. The committee shall comprise of at least 1 (one) Director and such other parties as the Chairperson may appoint. The remaining two parties need not necessarily be Members of the Association.
- 12.3 Only after the remedies available to a Member in terms of the Rules or this MOI have been exhausted may a Member lodge such a dispute as provided for in CSOSA and the dispute resolution provisions of CSOSA will then apply.
- 12.4 A Member is liable for and must pay to the Association all reasonable legal costs and disbursements, as taxed on an attorney and own client scale or agreed with the Member, incurred by the Association in enforcing compliance with this MOI, the Conduct Rules, the Architectural Rules and Guidelines, any other rules applicable to the Members or the Act.

## **13. Members of the Association**

- 13.1 The Association has Members who are all in a single class, being voting Members.
- 13.2 Membership of the Association shall consist of any person who is in terms of the Deeds Registries Act reflected in the records of the Deeds Office concerned as the registered owner of any Erf on the Estate.
- 13.3 Where any Erf is owned by more than one person, all the registered owners of that Erf shall together be deemed to be one Member of the Association. They shall be jointly and severally liable for the due performance of any obligation of a Member to the Association. However, all notices which may

be required to be given to the Member of that Erf or otherwise in respect of that Erf, whether in terms of the Act or this MOI, will be Delivered to the person first named as a Member of the Association in respect of that Erf in the Members' register.

- 13.4 Where a Member is not a natural person, that Member shall be represented by a duly authorised natural person in its dealings with the Association and/or other Members. The instrument authorising such person to represent a Member must be lodged with the Association as soon as possible after it becomes a Member.
- 13.5 Where a Member is a legal entity, the shareholders, directors, trustees and/or Members (as the case may be) of such legal entity shall be personally liable, jointly and severally with such Member, for the due performance by the Member of all its obligations in terms of the MOI and/or Rules.
- 13.6 The Association shall maintain a Members' register as required by section 24(4)(a) of the Act.
- 13.7 The register of Members shall be open to inspection on reasonable notice during normal business hours of the Association.
- 13.8 Each Member shall be required to provide the Association with written details of their service address, it being competent for any Member to alter such service address by written notice to the Association at its registered office, provided however that any physical address and/or postal address for delivery purposes shall be in the Republic of South Africa.
- 13.9 For the purposes of service of any document, notice, consent, approval or other communication in connection with this MOI, the physical address shown in the records of the Estate's managing agents for the Member shall be the *domicilium citandi et executandi* of the Member. If he wishes to change such *domicilium* address they must give written notice to that effect to the Association.
- 13.10 The *domicilium citandi et executandi* of the Association for purposes of service of any document, notice, consent, approval or other communication in connection with this MOI is 55 Thembi Place, 15 Calderwood Road, Lonehill, Sandton, 2191.
- 13.11 The *domicilium citandi et executandi* for any tenant / occupier of a Unit or Erf for purposes of service of documents or notices in legal proceedings in connection with this MOI is the address of the Unit or Erf.
- 13.12 The rights and obligations of Membership commence on the day when a person becomes a registered owner of an Erf or Unit and ceases on the day when a person ceases to be a registered owner.



- 13.13 No Member ceasing to be a member of the Association for any reason shall (nor shall any such Member's executors, curators, trustees or liquidators) have any claim upon or interest in or rights to the funds or other property of the Association.
- 13.14 The Association may claim from any Member or his estate any arrear levies and interest or other sums due by that Member to the Association at the time of their ceasing to be a Member.
- 13.15 The registered owner of an Erf may not resign as a Member of the Association.

#### **14. Transferability of Rights and Obligations**

The rights and obligations of a Member as a Member of the Association shall not be transferable other than with the prior written consent of the Board or as contemplated in clause 15 below.

#### **15. Alienation of Units and Erven**

- 15.1 In the event of any sale of a Unit or Erf the Member shall procure that the following conditions of title are inserted into the deed of sale and title deed in terms of which any purchaser takes title to the relevant Erf or Unit:

*"No Erf shall be transferred to any person until he/she has bound himself/herself to become and remain a member of the Cathkin Estates Home Owners Association" for the duration of his/her ownership and a clearance certificate has been issued by such association to the effect that its memorandum of incorporation has been complied with."*

- 15.2 The fact that a person ceases to be a Member of the Association as a result of the transfer of an Erf to another person, shall not release such Member from any liability to the Association in respect of and Debt, the cause of which arose prior to the transfer of such Erf nor otherwise relieve such erstwhile Member from any other obligations owed to the Association during the period of his membership.
- 15.3 A person desiring to take transfer of an Erf or any undivided share of an Erf shall complete and sign all such documentation as may be presented to it by the Association, including an undertaking to agree to be bound by this MOI, the rules of the Association and other requirements of the Association.
- 15.4 A Member shall not in any manner Alienate an Erf or any undivided share of an Erf unless the Association has consented to the alienation, which consent shall be given if:



- (a) the proposed transferee, has undertaken to be bound by this MOI, the rules of the Association and the other requirements of the Association;
  - (b) the Board is satisfied that the proposed transferee of the undivided share in an Erf which is subject to an arrangement whereby the co-owners are entitled to occupy the Erf at particular times during the year, is aware of such arrangements and has bound themselves to abide by them; and
  - (c) the Member has satisfactorily settled all of the Member's obligations to the Association.
- 15.5 The consent of the Association must be evidenced by the execution of the Member's sale agreement on behalf of the Association.
- 15.5 In order to procure compliance with the provisions of this clause, it shall be registered as a condition of ownership of the Erf.
- 15.6 Where a Member is a private company or close corporation the consent of the Association shall not be required to dispose of any shares in the private company or members' interest in the close corporation, however, the agreement to dispose of the shares or members interest must record that the transferee has had sight of and agrees to be bound by this MOI and the rules of the Association in place at the time of the transfer.
- 15.7 All estate agents which intend to sell property on the Estate must undertake to adhere to all Rules and Regulations which the Developer and/or Association may impose from time to time.
- 15.8 Before his Erf or undivided share in an Erf is transferred, a Member who has sold an Erf or undivided share in an Erf must pay to the Association an amount determined by the Directors to cover the administration expenses of the Association in respect of the transfer.
- 15.9 If the Developer in one transaction Alienates all its rights and all undeveloped land vested in it in respect of the Property and the Estate, it shall be entitled to cede to the transferee all its rights as a Member of the Association, including without limitation its rights in terms of this MOI and the transferee shall be entitled to exercise all such rights. The Developer shall, when it is no longer the owner of any Erf on the Estate, cease to be a Member of the Association.

## **16. Access to Association Records**

Each Member has the right to inspect and copy without charge the records listed in section 26(1) of the Act.

## **17. Members' Meetings**

Save as required by this MOI, or by the Act or pursuant to a requisition contemplated in clause 19 below, the Association is not obliged to hold any meetings of Members.

## **18. Annual General Meeting**

The Association shall hold an annual general meeting in accordance with the requirements of the Act. In addition to those items required to be considered in terms of section 61(8) of the Act, the following shall be dealt with at each annual general meeting:

- 18.1 the consideration of the Chairperson's report to the Directors;
- 18.2 the election of Directors as contemplated in clause 33; and
- 18.3 the noting of the levy for the current Financial Year;

provided that if, in the opinion of the Board, it becomes impossible for the Board to call the annual general meeting within the time frame required because of an event or circumstances that was neither foreseen nor reasonably foreseeable by the Board then the Board shall be entitled to delay calling the annual general meeting until the calling of such meeting becomes possible.

## **19. Requisitions**

- 19.1 The Board may call a meeting of Members at any time. As provided for in section 61 of the Act the Board must call a Members meeting if one or more written and signed demands for such a meeting are delivered to the Association and:
  - (a) each such demand describes the specific purpose for which the meeting is proposed;
  - (b) in aggregate, demands for substantially the same purpose are made and signed by Members holding at least 10% of the voting rights of all Members (as provided for in clause 23 below).

## **20. Location of Members' Meetings**

Subject to clause 22, the Board may not, without the consent of all of the Members, determine a location for any Members' meeting which is beyond a radius of 10km of the Estate.

## **21. Notice of a Members' Meeting**

- 21.1 The Association must Deliver a notice of each Members' meeting to all of its Members as of the record date for the meeting at least 15 (fifteen) business days before the meeting is to begin. The notice may be posted or it may be transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient. Every notice must contain the information listed in section 62(3) and, if applicable, section 63(3) of the Act. In addition a notice transmitted electronically must comply with regulation 7(4) of the Act.
- 21.2 Short notice and immaterial and material defects in notices may be excused in the manner provided for in section 62(2A), (4), (5), (6) and (7) of the Act.

## **22. Electronic Participation in Members' Meetings**

The Association may conduct a Members' meeting entirely by electronic communication or it may provide for one or more Members, or proxies of Members, to participate by electronic communication in all or a part of the meeting as provided for in section 63(2) of the Act.

## **23. Voting Rights of Members**

- 23.1 At every Members' meeting and in adopting written resolutions of the Members, every Member shall have one vote for each Erf registered in his name, subject to clauses 23.2 and 23.3 below. If a Unit or Erf is registered in the name of more than one person, then all such co-owners shall jointly have one vote.
- 23.2 During the Development Period, the Developer shall have a number of votes equivalent to the number of Members of the Association excluding the Developer, plus one additional vote at every Members' meeting and in adopting written resolutions of the Members. After the Development Period the Developer shall have one vote for each Erf registered in its name.
- 23.3 No person other than a Member duly registered, and who has paid every levy and other sum due and payable to the Association in respect of or arising out of his or her Membership, shall be entitled to be present or to vote on any matter, either personally or by proxy, at any Members' meeting, or to participate in a written resolution of the Members.

**24. Quorum for Members' Meetings**

A Members' meeting may not begin until the holders of 25% of the voting rights of Members, apart from the voting rights held by the Developer, are present at the meeting in person or by proxy.

**25. Postponement of a Members' Meeting**

25.1 If within 20 (twenty) minutes of the appointed time for a meeting a quorum is not present the meeting will automatically be postponed for 1 (one) week. In such event it shall not be necessary to give further notice of the meeting unless the location for the meeting is different from the location of the postponed meeting.

25.2 The period of 20 (twenty) minutes specified in clause 25.1 may be extended by the Chairperson presiding at the meeting for a reasonable period on the grounds that:

- (a) exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of the Members to be present at the meeting; or
- (b) one or more particular Members having been delayed, have communicated an intention to attend the meeting, and those Members, together with others in attendance, would constitute a quorum.

25.3 If at the appointed time for a postponed meeting to begin a quorum is not present the Members present in person or by proxy will be deemed to constitute a quorum.

**26. The Chairperson**

The Chairperson of the Board shall chair meetings of Members. If the Chairperson of the Board is not present within 5 (five) minutes of the time appointed for the start of a Members' meeting, or if he recuses himself, the Vice-Chairperson shall act as Chairperson at such meeting failing which those Members present or represented by proxies may choose another one of the directors or one of the Members to chair the meeting. The chairperson shall not have a second or casting vote.

**27. Members' Resolutions**

27.1 For an Ordinary Resolution of the Members to be approved it must be supported by more than 50% of the voting rights (as contemplated in

clause 23 above) actually exercised on the resolution at the meeting in question.

- 27.2 Subject to clause 46.1, for a Special Resolution of the Members to be approved it must be supported by more than 75% of the voting rights (as contemplated in clause 23 above) actually exercised on the resolution at the meeting in question.

## **28. Voting at Members' Meetings**

- 28.1 Subject to clause 28.2, all voting shall be by way of polling. Where voting on a particular matter is by polling, any person who is present at the meeting of Members, whether as a Member or as proxy for a Member, has the number of votes determined in accordance with clause 23 above.
- 28.2 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. If voting is by show of hands, any person who is present at the meeting of Members, whether as a Member or as proxy for a Member, has one vote, irrespective of the number of voting rights that person would otherwise be entitled to exercise.
- 28.3 Every resolution and every amendment of a resolution proposed for adoption by a Members' meeting, shall be seconded at the meeting and, if not so seconded, shall be deemed not to have been proposed.
- 28.4 Unless any Member present in person or by proxy at a Members' meeting shall before the closure of the meeting, have objected 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. Adoption of a Resolution in Writing**

As provided for in section 60 of the Act, resolutions of the Members may be adopted in writing.

### **30. Proxies**

- 30.1 Any Member is entitled to appoint a proxy or proxies to attend, speak and to vote in his stead.
- 30.2 Where a Member is more than one person, a majority of those persons shall sign the instrument appointing a proxy on such Member's behalf. Where a Member is a company the proxy shall be signed by a director of the company or by its secretary, where a close corporation, by a member of the close corporation, where a trust, by a trustee of the trust and where an association of persons, by a duly authorised representative of such association.
- 30.3 A proxy need not be a Member of the Association.
- 30.4 A Member may appoint more than one proxy to attend on the same occasion.
- 30.5 A proxy appointment remains valid until whichever is the earlier of:
- (a) the expiry of one year after the date upon which it was signed;
  - (b) the period expressly set out in the appointment;
  - (c) the date upon which it was revoked by the Member by Delivering a copy of the revocation instrument to the proxy and to the Association or the date stated in the revocation instrument, if any, whichever is the later; and
  - (d) the end of the meeting at which the proxy was intended to be used, if the proxy was appointed in response to an invitation to appoint a proxy, issued by the Association.
- 30.6 A copy of the instrument appointing a proxy must be delivered to the Association at least 48 (forty eight) hours before the time scheduled for the commencement of the meeting at which the proxy is intended to be used.
- 30.7 A specimen form of proxy is set out in Schedule 1 to this MOI.

### **31. Verification of Right to Attend Meeting**

A person who wishes to attend or participate in a Members' meeting whether as a Member or as a proxy for a Member must present reasonably satisfactory identification to the chairperson of the meeting before the time scheduled for the start of the meeting. In order for the Member or proxy to participate in the meeting the chairperson must be reasonably satisfied that

such person's right to participate and vote at the meeting has been reasonably verified.

### **32. Adjournment of a Members' Meeting**

A Members' meeting, or the consideration of any matter being debated at a Members' meeting, may be adjourned as contemplated in section 64(10) to (12) of the Act, on a motion supported by a majority of the Members present at the meeting at the time. No business shall be transacted at any adjourned meeting other than business which might have been transacted at the meeting from which the adjournment took place.

### **33. Election of Directors**

- 33.1 The Board shall consist of not less than 2 (two) and not more than 7 (seven) Directors.
- 33.2 A person may not serve as a Director of the Association if they are ineligible to do so in terms of section 69 of the Act.
- 33.3 During the Development Period, the Developer shall be entitled to appoint 3 (three) of the Directors on the Board and may directly remove any Director appointed by it. Appointments by the Developer shall be announced at the annual general meeting of the Members. The remaining Directors ("**Elected Directors**") shall be appointed by the Members (excluding the Developer) at the annual general meeting, in the manner described in clause 33.5.
- 33.4 After the Development Period, all of the Directors shall be appointed by the Members at the annual general meeting, as described in clause 33.5 provided that any reference to "Elected Directors" shall be substituted for a reference to "Directors".
- 33.5 At least 1 (one) month before the date scheduled for the next annual general meeting of the Members, the Members may deliver written nominations, including for each nominee a résumé of no more than two pages, for Directors of the Association. At each annual general meeting, the current Elected Directors shall be deemed to have retired from office but will be eligible for re-election to the Board at the meeting. They shall retain office until the election of Directors at that meeting has been completed. At the annual general meeting, the Members shall vote to fill the vacancies on the Board to be left by the retiring Elected Directors.

### **34. Alternate directors**

- 34.1 Each Director shall have the power to appoint with the approval of the Board, any person, whether he is a Member or not, to act as alternate director in his

place during his absence or inability to act as such director. On such appointment being made, the alternate director shall in all respects be subject to the terms, qualifications and conditions existing with reference to the other Directors of the Association. A Director whilst also acting as an alternate Director, shall at any meeting of Directors be entitled to one vote.

- 34.2 The alternate Directors, whilst acting in the stead of the Directors who appointed them, shall exercise and discharge all the powers, duties and functions of the Directors they represent. The appointment of an alternate Director shall be revoked, and the alternate director shall cease to hold office, whenever the Director who appointed him ceases to be a director or gives notice to the Board that the alternate Director representing him has ceased to do so.

### **35. Removal of Directors and Vacancies on the Board**

Subject to clauses 33.3 and 33.5, the removal of Directors from the Board and the creation and filling of vacancies on the Board is regulated by sections 70 and 71 of the Act.

### **36. Proceedings of Directors**

- 36.1 If so authorised by the Board a Director may call a meeting of the Board at any time.
- 36.2 The Directors must meet at least once per quarter and at any time if required to do so by 2 (two) Directors or more. The requirement to meet once per quarter may be waived, in respect of any quarter, by all of the Directors in writing.
- 36.3 The Board may determine the form and time for giving notice of its meetings, subject to any requirements regarding notice set out in this MOI or the rules of the Association, if any. No meeting of the Board may be convened without notice to all of the Directors. However, if all of the Directors are present at a meeting, or waive notice of a meeting, the meeting may proceed if the Association failed to give the required notice of the meeting. A meeting may proceed despite a defect in the giving of the notice if all of the Directors acknowledge actual receipt of the notice, or are present at the meeting, or waive notice of the meeting.
- 36.4 The Chairperson will chair meetings of the Board. If the Chairperson is not present within 10 (ten) minutes of the time appointed for the start of a meeting, or if he recuses himself, the Vice-Chairperson shall act as chairperson at such meeting failing which those Directors present may choose another one of the Directors to chair the meeting.



- 36.5 Each Director has one vote on a matter before the Board and matters shall be decided by a majority of votes cast on the matter. If there is an equality of votes the Chairperson shall not have a second or casting vote, unless the Members determine otherwise in general meeting.
- 36.6 The Directors shall cause minutes to be taken of every Directors' meeting, although not necessarily verbatim, which minutes shall be reduced to writing without undue delay after the meeting has closed and shall then be certified as correct by the chairperson of the meeting.
- 36.7 A meeting of the Board may be conducted by electronic communication or one or more of the Directors may participate in a meeting by electronic communication, as provided for in section 73(3) of the Act.
- 36.8 A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of the majority of the Directors given in person or by electronic communication provided each of the Directors has received notice of the matter to be decided.

### **37. Board Committees**

- 37.1 The Directors may delegate any of their powers to committees which may include persons who are not Directors of the Association provided that any such person must not be ineligible or disqualified to be a director and no such person shall have a vote on any matter to be decided by the committee.
- 37.2 A committee of the Board may consult with or receive advice from any person and has the full authority of the Board in respect of a matter referred to it.
- 37.3 The Directors shall appoint an Architectural Review Committee which shall consist of:
  - (a) a practising professional architect duly qualified to practise as such on his own account in the Republic of South Africa, should the Directors regard this as necessary; and
  - (b) 3 (three) Directors; and
  - (c) such other Members as the Directors may determine from time to time.
- 37.4 Members of the Architectural Review Committee shall not necessarily be required to be Members of the Association.
- 37.5 All plans for all Units to be submitted in terms of clause 9 shall be submitted

for approval by the Members to the Architectural Review Committee in terms of laid down procedures. No plans will be approved unless they comply with the Site Development Plan approved by the Local Authority in respect of the total development of the Township.

- 37.6 In addition to such other powers as may be conferred upon it by the Directors, the Architectural Review Committee shall have power, without prejudice to any other rights of the Association, either in terms of this MOI or at law:
- (a) whenever it considers that the appearance of any Unit vested in a Member or Members is such as to be unsightly or injurious to the amenities of the surrounding area or the Township generally, to serve notice on such Member or Members to take such steps as may be specified in the notice to eliminate such unsightly or injurious condition; and
  - (b) in the event of the owner failing to make the necessary repair within 30 (thirty) days of the written notice referred to above, the Architectural Review Committee shall advise the Board of Directors who shall determine, at their sole discretion, what further steps will be taken.
  - (c) from time to time to determine the routine maintenance requirements:
    - (i) of all open space and roads in the Township, in accordance with the provisions of the town planning scheme and the statement lodged in terms thereof or as they may otherwise deem fit; and
    - (ii) of all other ground with the Township not covered by Units, whether held by the Association or by Members either individually or in undivided shares.

### **38. Powers of the Directors**

- 38.1 The business of the Association shall be managed by the Directors who may exercise all such powers and perform all such functions of the Association as are not by the Act or this MOI required to be exercised or performed by the Members.
- 38.2 Without prejudice to the generality of clause 38.1, the Directors shall not be entitled to borrow money, save in accordance with a Special Resolution.
- 38.3 Also without prejudice to the generality of clause 38.1, the Directors shall at all times have the right to engage on behalf of the Association, the services

of accountants, auditors, attorneys, advocates, architects, engineers, estate managers, any other professional person or firm and/or any other employees whatsoever for any reason deemed necessary by the Directors and on such terms as the Directors shall decide.

### **39. Chairperson and Vice-Chairperson of the Board**

- 39.1 The Directors shall appoint from their number a Chairperson and Vice-Chairperson at the first Board meeting after the annual general meeting at which the Board is re-constituted or re-appointed, as the case may be.
- 39.2 Save as otherwise provided in this MOI, the Chairperson shall preside at all meetings of the Board and all meetings of Members, and shall perform all duties incidental to the office of Chairperson and such other duties as may be prescribed by the Board or the Members.
- 39.3 The Vice-Chairperson shall assume the powers and duties of the chairperson in the absence of the Chairperson or his inability or refusal to act as Chairperson, and shall perform such other duties as may from time to time be assigned to him by the Chairperson or the Board.

### **40. Directors' Expenses**

The Directors shall be entitled to be repaid all reasonable and *bona fide* expenses incurred by them respectively in or about the performance of their duties as Directors and/or Chairperson, and/or Vice-Chairperson as the case may be.

### **41. Levy Fund**

- 41.1 The Board shall establish and maintain a levy fund sufficient in their opinion for the repair, upkeep, control, management and administration of the Association and of the Estate including the provision of security services for the Estate, garden maintenance services, verge and private road maintenance, insurance premiums, the payment of rates and taxes and other charges on the Estate levied by the Local Authority or any other authority, any charges for the supply of electric current and any other Services to the Estate and any services required by the Association to enable it to carry out its main and ancillary objects, for the covering of any losses suffered by the Association and of all other expenses incurred or to be incurred in relation to the Estate and for the discharge of any other obligation of the Association (provided that nothing in this MOI shall be construed as obliging the Association to pay service charges due by Member to the relevant authority).

- 41.2 All levies due by Members shall be payable to the Association immediately and shall become due and owing without deduction, demand or set-off.
- 41.3 The Directors shall not less than 30 (thirty) days prior to the end of each Financial Year, or so soon thereafter as is reasonably possible, prepare an itemised estimate of the anticipated income and expenditure (which may include a reasonable provision for contingencies and to meet anticipated expenditure not of an annual nature) of the Association during the ensuing Financial Year, in respect of the Properties and Common Property and therefrom calculate the amount required to be levied upon the Members.
- 41.4 The Directors shall, as soon as possible after the imposition of the levy in terms of clause 41.3, advise each Member in writing of the amount payable by it. Such amount shall be payable in equal monthly instalments due in advance on the first day of each month.
- 41.5 In the event of the Directors for any reason failing to prepare and serve the estimate referred to in clause 41.3 timeously, every Member shall until service of such estimate as aforesaid, continue to pay the levy previously imposed, and shall after such service pay such levy as may be specified in the notice referred to in clause 41.4
- 41.6 The Board shall determine the proportions in which Members shall contribute towards the levy fund in accordance with the following principles, having regard to all circumstances prevailing at the time and to equity:
- a) They shall assign those costs proportionately to each Member in accordance with the Bulk (in square metres) owned by each member.
  - b) The total Bulk for the estate shall be the approved Bulk set out in the Town Planning Scheme.
  - c) The formula for the calculation of the levy for each Member shall be:

$$x = \frac{y}{z} \times m$$

$x$  = the levy payable by a member

$y$  = the Estimate of Anticipated Expenditure referred to in clause 41.3

$z$  = amount of the approved Total Bulk for the Estate in square metres

$m$  = the Bulk owned by a Member

- 41.7 All contributions received from Members shall forthwith be deposited in a separate account which the Association shall open and keep with a financial institution.

- 41.8 The monies in the levy fund shall be utilised to defray the expenses of the Association.
- 41.9 Notwithstanding any person ceasing to be a Member, all levies attributable to any period whilst such person was a Member, shall continue to be of full force and effect and recoverable from such person.
- 41.10 Any amount due by a Member whether in respect of a levy or any other amount falling due for payment under this MOI, which remains unpaid after the same has fallen due, shall bear interest as from the due date for payment to the date of payment at a rate of interest determined by the Board from time to time and notified to the Members provided that the rates shall not exceed the rate stipulated in the National Credit Act, 2005. Such interest shall be calculated and compounded monthly.
- 41.11 The Board shall have the power to impose additional special levies on Members in respect of any unforeseen expenditure and shall determine how such levies are to be paid in accordance with the principles set out in clause 41.3.
- 41.12 All contributions levied under the provisions of this MOI shall be due and payable by Members on the passing of a resolution to that effect by the Board and may be recovered by the Association by action in any Court (including any Magistrates Court) of competent jurisdiction from the persons who were Members at the time when such contributions became due (and shall be entitled to claim the costs incurred in this regard as contemplated in clause 12.4).
- 41.13 Should a Member be in arrears with the payment of any levies due in terms of this MOI or any other amount of any nature whatsoever due to the Association by such Member (including by not limited to any fine that may be imposed by the Association on any such Member) and remain in arrears notwithstanding demand for payment by the Association, then in that event such Member shall not be entitled either in person or by proxy to speak or vote at a meeting of Members of the Association. A certificate by the Chairperson of the Board, dated not more than 14 (Fourteen) days prior to any such meeting, shall constitute proof of non-payment of any arrear levies by such Member and shall entitle the Chairperson of such meeting of the Members of the Association to prevent such Member or his proxy speaking or voting at such meeting (even if payment is made by such Member before such meeting but subsequent to the aforesaid certificate having been signed by the Chairperson of the Board).
- 41.14 The Association shall be entitled to appropriate any payments made by a Member against any amounts owing by a Member to the Association, in its sole discretion, irrespective of when the amount fell or became due.

- 41.15 In the event of there being a dispute as to the amount of any levy due by the Member, such dispute shall be referred to the Association's Auditors for a decision, whose decision shall be final and binding on the parties.

## **42. Annual Financial Statements**

- 42.1 The annual financial statements of the Association must be prepared within 6 (six) months after the end of the Association's Financial Year. The annual financial statements must be:
- (a) audited or independently reviewed as provided for in section 30 of the Act read with regulation 28 of the Act;
  - (b) approved by the Board and signed by an authorised director; and
  - (c) presented to the first Members' meeting after the statements have been approved by the Board.
- 42.2 A copy of the annual financial statements must be posted to each Member or sent by e-mail.

## **43. Annual Return**

The Association must file an annual return by lodging Form CoR 30.1 with the Commission within 30 (thirty) business days after the anniversary of its incorporation.

## **44. Service of Notices**

- 44.1 The giving of notices required for any purpose contemplated in the Act or in the regulations is regulated by Table CR 3 (Annexure 3) to the regulations, a copy of which is attached as Schedule 2 to this MOI.
- 44.2 A Member who has provided the Association with an electronic address will be deemed to have authorised the Association to use that address for the purpose of giving notices and Delivering documents. Notices to Members served by post or hand Delivery shall be served on the address last furnished by the Member to the Association for that purpose, failing which to the address of any Unit owned by the Member.

## **45. Indemnity**

The Association may advance expenses to and indemnify any Director, prescribed officer or Board committee Member and purchase insurance in respect thereof, as contemplated in section 78 of the Act. In addition, the

provisions of section 78 of the Act shall apply to any employee, agent and servant of the Association to the extent it is capable of application to a person who is not a director as defined in that section of the Act.

#### **46. Winding Up**

- 46.1 For a Special Resolution for the winding-up of the Association to be approved it must be supported by more than 90% of the voting rights exercised on the resolution.
- 46.2 No resolution for the winding-up of the Association shall be taken unless the Association shall have made adequate provision for the rights of Members to obtain access to their units and their rights of exclusive use of any areas to be safeguarded, if necessary, by registration of servitudes at the cost of the Member concerned if the Member so requires.

#### **47. Distribution of Net Assets**

Upon the dissolution of the Association, the entire net value of the Association must be distributed to an organisation similar to the Association, which is also exempt from income tax in terms of section 10(1)(e)(i)(cc) of the Income Tax Act No. 58 of 1962.

**Policies, Procedures & Operations Manual – Appendix A1**Page 32**Schedule 1 - Proxy****CATHKIN ESTATES HOME OWNER'S ASSOCIATION NPC  
REGISTRATION NO. 2004/012469/08****PROXY**

*To be delivered to the Association at least 48 (forty eight) hours before the time scheduled for the commencement of the meeting at which the proxy is intended to be used.*

I, .....

of .....

being a Member of the Cathkin Estates Home Owner's Association NPC appoint

.....

and/or .....

and/or the chairperson of the meeting as my proxy to vote for me and on my behalf at a Members meeting of the Association to be held on the ..... day of ..... and at any adjournment thereof as follows:

	In favour of	Against	Abstain
Resolution No.			
Resolution No.			
Resolution No.			

Indicate instructions to the proxy by way of a cross in the space provided above. If no instruction is given to the proxy the proxy may vote as the proxy thinks fit.

Indicate whether or not the proxy may delegate the proxy's authority to act on your behalf to another person ..... Yes ..... No.

A Member entitled to attend, speak and vote at the meeting is entitled to appoint a proxy or proxies to attend, speak and vote on the Member's behalf. A proxy need not be a Member of the Association.

The appointment of a proxy may be revoked by a written notice of cancellation given to the Association and to the proxy. A later inconsistent appointment of another proxy will also have the effect of cancelling this proxy.

The appointment of the proxy will be suspended to the extent that the Member chooses to act directly and in person.

The Member may issue a written notice to the Association directing the Association to copy to the proxy any notice which the Association is obliged to give to the Member.

The appointment of a proxy must be in writing and must be dated and signed by the Member. If not revoked the proxy will remain valid for whichever is the earlier of the expiry of one year from the date on which the proxy was signed or the end of the meeting at which the proxy was intended to be used.

Date .....

Signature .....



**Policies, Procedures & Operations Manual – Appendix A1**Page 33**Schedule 2 - Table CR 3 (Annexure 3) to the Companies Regulations**

A notice or document to be delivered for any purpose contemplated in the Act or the regulations may be delivered in any manner set out in this Table. Subject to regulation 7(2)(b), a document delivered by a method listed in the second column of this Table will be deemed to have been delivered to the intended recipient on the date and at the time shown opposite that method, in the third column of that table.

<b>Nature of Person to whom the document is to be delivered</b>	<b>Method of Delivery</b>	<b>Date and Time of Deemed delivery</b>
<b>ANY PERSON</b>	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.
	By any other means authorised by the High Court; or	In accordance with the order of the High Court.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.
<b>ANY NATURAL PERSON</b>	By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
<b>THE TRIBUNAL</b>	By entering the required information in an electronic representation of that form on the internet website, if any, maintained by the Tribunal, if the document is a prescribed form; or	On the date and at the time recorded by the Tribunal's computer system, as verified by written reply to the sender of the information.

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	By transmitting the document as a separate file attached to an electronic mail message addressed to the recording officer of the Tribunal; or	On the date and at the time recorded by the Tribunal's computer system, unless, within 1 business day after that date, the recording officer advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the recording officer of the Tribunal; or	On the date and at the time of delivery of the registered post to the recording officer of the Tribunal, as recorded by the post office, unless, within 1 business day after that date, the recording officer advises the sender that the disk is unreadable.
	By handing the document, or a computer disk containing the document in electronic form, to the recording officer of the Tribunal.	On the date and at the time noted in a receipt issued by the recording officer of the Tribunal unless, the document is on a computer disk, and, within 1 business day after that date, the recording officer advises the sender that the disk is unreadable.
<b>THE COMMISSION</b>	By entering the required information in an electronic representation of that form on the internet website, if any, maintained by the Commission, if the document is a prescribed form; or	On the date and at the time recorded by the Commission's computer system, as verified by written reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or	On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or	On the date and at the time of delivery of the registered post to the Commission, as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
	By handing the document, or a computer disk containing the document in electronic form, to the Commission, or a responsible employee who is apparently in charge of the Commission's office.	On the date and at the time noted in a receipt issued by the Commission unless, the document is on a computer disk, and, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
<b>A COMPANY OR SIMILAR BODY CORPORATE</b>	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or	On the date and at the time recorded on a receipt for the delivery.

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	If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
<b>THE STATE OR A PROVINCE</b>	By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.
<b>A MUNICIPALITY</b>	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any person acting on behalf of that person.	On the date and at the time recorded on a receipt for the delivery.
<b>A TRADE UNION</b>	By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees in terms of these regulations, at that office.	On the date and at the time recorded on a receipt for the delivery.
	If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
<b>EMPLOYEES OF FIRM</b>	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
<b>A PARTNERSHIP, FIRM OR ASSOCIATION</b>	By handing the notice or a certified copy of the document to a person who is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of the partnership, firm or association; or	On the date and at the time recorded on a receipt for the delivery.
	If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairperson or secretary of the managing or other controlling body of the association, as the case may be.	On the date and at the time recorded on a receipt for the delivery.
<b>A STATUTORY BODY OTHER THAN THE COMMISSION AND TRIBUNAL</b>	By handing the notice or a certified copy of the document to the secretary or similar officer or Member of the Board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.