

**Companies and Intellectual Property Commission
Republic of South Africa**

MEMORANDUM OF INCORPORATION

of

RENISHAW HILLS HOMEOWNERS ASSOCIATION (RF) NPC

Registration Number 2016/211003/08

**(which is referred to in the rest of this Memorandum of Incorporation
as the Association)**

The Association is a Non Profit Company with Members, with the following objects:-

1. to promote, advance, protect and manage the collective interests common to the Members generally and to co-operate with the Municipality, the KwaZulu-Natal Provincial Government and all other appropriate authorities for the benefit of the Association and its Members;
2. to represent the interests of Members and to provide a united voice by which such interests may be expressed;
3. to collect levies and other contributions from Members toward funds of the Association for the attainment of the objectives of the Association;
4. to accept and acquire private roads, private open spaces and conservation areas, and to make and enforce regulations governing the use thereof by Members;
5. to enforce compliance by Members of the Environmental Management Plan applicable within the Development;
6. to impose fines and other penalties upon Members disobeying or in contravention of the Memorandum and the Rules made in terms thereof;

7. to maintain private roads, private road verges, public road verges, street furnishing, private open spaces and conservation areas within the Development as indicated on the Plan annexed to the Memorandum;
8. to provide security within the Development and make and enforce regulations in this regard;
9. to enforce adherence to the Architectural Guidelines, Building Design Code, Developers and Contractors Protocol, Development Plan, Landscaping Protocol, Security Procedures and Environmental Management Plan for the Development;
10. in particular and in no way detracting from the generality of the aforesaid to ensure that all buildings and other structures erected within the Development, as well as any external fixtures and fittings thereto, comply with the aforesaid and generally to ensure that the external appearance of all buildings and other structures and all gardens and other areas in the Development comply with standards set out in the aforesaid documentation.
11. to co-operate with any other management associations created within the Development.

Adoption of Memorandum of Incorporation

This Memorandum of Incorporation was adopted by the incorporators of the Association, in accordance with Section 13(1) of the Companies Act, as evidenced by the following signatures made by each of them, or on their behalf.

Name of Incorporator	Identity Registration	or	Signature	Date
GUY STANLEY CLARKE	5605085090083			
PHILLIP JOHN BARKER	5301255125087			
RICHARD MICHAEL MAURICE CROCKER	6801066213187			

The Memorandum of Incorporation is as follows:

1. **INTERPRETATION**

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

- 1.1.1. "Act" means the Companies Act, No. 71 of 2008, as amended and any Regulations in force thereunder from time to time;
- 1.1.2. "Architectural Guidelines" means the Architectural Guidelines for the Development as formulated by the Developer, a copy of which is available from the offices of the Association and which during the Development Period, may be amended by the Developer and after the expiry of the Development Period, may be amended by the Association with the prior written consent of the Developer;
- 1.1.3. "Association" means the Renishaw Hills Homeowners Association (RF) NPC;
- 1.1.4. "Board" means the Board of Directors of the Association for the time being;
- 1.1.5. "Body Corporate" means a Body Corporate as defined in Section 1 of the Sectional Titles Act or a Share Block Company as defined in Section 1 of the Share Blocks Control Act;
- 1.1.6. "Building Design Code" means the Building Design Code for the Development as formulated by the Developer, a copy of which is available from the offices of the Association and which during the Development Period, may be amended by the Developer and after the expiry of the Development Period, may be amended by the Renishaw Estate Management Association with the prior written consent of the Developer;
- 1.1.7. "Community Facilities" means any areas or facilities designated as community facilities within the Development;
- 1.1.8. "Conservation Areas" means the areas designated as conservation areas or conservation servitudes in the Development;
- 1.1.9. "Developer" means Renishaw Property Developments Proprietary Limited, Registration Number 2009/019296/07, including its successors and assigns;
- 1.1.10. "Developer Facilities" means the facilities and services to be provided by the Developer within the Development;
- 1.1.11. "Developers and Contractors Protocol" means the Developers and Contractors Protocol for the Development as formulated by the Developer, a copy of which is available from the offices of the

Association and which during the Development Period, may be amended by the Developer and after the expiry of the Development Period, may be amended by the Association with the prior written consent of the Developer;

- 1.1.12. "Development" means the development to be undertaken by the Developer in phases on the Land as depicted on the Diagram as well as any additional land in the Renishaw Development which the Developer may during the Development Period determine be incorporated within such area. The Developer shall have the right during the Development Period by notice to the Association to include additional land in the Development or to exclude existing Land from the Development;
- 1.1.13. "Development Constraints" means the Environmental Management Plan, Security Procedures, Landscaping Protocol, Developers and Contractors Protocol and Building Design Code of and relating to the Development;
- 1.1.14. "Development Period" means the period reckoned from the date of registration of the Association until the date upon which the Developer gives written notice to the Association of the termination of such period;
- 1.1.15. "Diagram" means the diagram showing the Development prepared by Plankonsult having Reference – Plan No. 11E04P06 dated April 2015, a copy of which is annexed marked Annexure "RHHOA 2";
- 1.1.16. "Directors" means the Directors of the Association for the time being, and "Director" shall mean 1 (one) of the Directors, as the context may indicate;
- 1.1.17. "Environmental Management Plan" means the Environmental Management Plan for the Development amended from time to time by the relevant authorities, a copy of which is available from the Offices of the Association;
- 1.1.18. "Inclusionary Housing Units" means demarcated immovable property within the Development which will be reserved for occupation and/or ownership by persons meeting certain prescribed criteria as may be determined from time to time by the Developer and/or the Municipality or other competent Authority;
- 1.1.19. "Health Care Centre" means the health care centre to be established within Development by the Developer;
- 1.1.20. "Individual Ownership" means ownership by a natural or juristic person or persons;
- 1.1.21. "Land" means any land in the Development, including any subdivision capable of individual ownership, whether such land is

improved or not, or a sectional title unit under the provisions of the Sectional Titles Act, where a sectional title scheme has been established on any such land or the right to extend a sectional title scheme by the erection of a unit (as contemplated in section 25 of the Sectional Titles Act) where a sectional title scheme has been established on any such land;

- 1.1.22. "Landscaping Protocol" means the landscaping protocol set out in the document entitled "Renishaw Landscaping Protocol" as formulated by the Developer, a copy of which is available from the offices of the Association and which during the Development Period, may be amended by the Developer and after the expiry of the Development Period by the Association with the prior written consent of the Developer;
- 1.1.23. "Manager" means the person, corporation or association appointed by the Association, from time to time, to undertake the management of the Association's affairs in respect of the Development;
- 1.1.24. "Member" means:-
- 1.1.24.1. an Owner; and
- 1.1.24.2. the Developer during the Development Period (although, it is recorded that, the Developer shall continue to be a Member after the expiry of the Development Period, if the Developer is then an Owner);
- 1.1.25. "Memorandum" means the Memorandum of Incorporation for the time being of the Association;
- 1.1.26. "Municipality" means a municipality as an entity as defined in the Municipal Systems Act, No. 32 of 2000;
- 1.1.27. "Municipal Services" means electricity, water, sewage, refuse removal, telecommunications and such other utilities and services as may be provided by a Municipality, other designated authority or contracted services provider to the Development from time to time;
- 1.1.28. "Office" means the registered office of the Association for the time being;
- 1.1.29. "open space" means the areas designated as open spaces in the Development;
- 1.1.30. "Owner" means any person who is the registered owner of Land or an undivided share in Land, provided that, for the purposes of this Memorandum, the Body Corporate of any sectional title scheme established on Land shall not be the owner of Land. (It is specifically recorded, for the purposes of clarity, that only an owner

of a sectional title unit shall be an "Owner" for the purposes of this Memorandum);

- 1.1.31. "Plan" means the Development Plan showing the Renishaw Development prepared by Plankonsult having Reference – Plan No. 11E04P04R03 dated December 2015, a copy of which is annexed marked Annexure "RHHOA 1";
- 1.1.32. "Property Time Share Control Act" means the Property Time Share Control Act, No. 75 of 1983 as amended and any Regulations in force thereunder from time to time;
- 1.1.33. "Renishaw Estate Management Association" means the Renishaw Estate Management Association (RF) NPC, established at the instance of the Developer to fulfill certain purposes in respect of the Renishaw Development, and about to be registered in terms of the Companies Act, No. 71 of 2008;
- 1.1.34. "Renishaw Development" means the development to be undertaken by the Developer in phases on the immovable property as depicted on the Plan as well as any additional land which the Developer may determine to be incorporated within such area.
- 1.1.35. "Rules" mean the rules made by the Directors in accordance with the provisions of Article **8.5**;
- 1.1.36. "Scheme" means the Town Planning scheme/s applicable to the Development from time to time;
- 1.1.37. "Sectional Titles Act" means the Sectional Titles Act, No. 95 of 1986 as amended and any regulations in force thereunder from time to time;
- 1.1.38. "Security Procedures" means the security procedures of the Association, a copy of which is available from the Offices of the Association, which may be amended from time to time by the Directors;
- 1.1.39. "Services" means security, maintenance of private roads and private road verges and such other utilities or services as may be provided or managed by the Association from time to time;
- 1.1.40. "Share Blocks Control Act" means the Share Blocks Control Act, No. 59 of 1980 as amended and any regulations in force thereunder from time to time;
- 1.1.41. "Special Resolution" means a resolution adopted with the support of at least 75 % (seventy five percent) of the voting rights exercised on the resolution:-
 - 1.1.41.1. at a Shareholders' meeting; or

- 1.1.41.2. by Members acting other than at a meeting, as contemplated in Section 60 of the Act;
- 1.1.42. “Subdivision” means any portion of freehold property in the Development capable of separate individual ownership but excluding any immovable property owned by the Developer or the Association;
- 1.1.43. “unit” means an immovable property within the Development, either as freehold or sectional title, and includes a residential, commercial and industrial unit.
- 1.2. Words and expressions used and not otherwise defined in this Memorandum shall have the meaning assigned to them by the Act.
- 1.3. Words importing the singular shall include the plural; words importing the masculine, feminine and neuter shall include the others of such genders; and words importing persons shall include bodies corporate, and vice versa in each instance, as the context may require.
- 1.4. The heading above any of the Articles in this Memorandum is intended for reference purposes only and shall not influence the interpretation of the Memorandum.
- 1.5. 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 the manner and form permitted in terms of the Act and/or the Regulations.
- 1.6. Any reference to “days” shall be construed as calendar days unless qualified by the word “business” in which instance a “business day” will be any day other than a Saturday, Sunday or public holiday as Gazetted by the Government from time to time.

2. **MEMBERSHIP**

- 2.1. Membership of Association
- 2.1.1. Membership of the Association shall be obligatory for an Owner.
- 2.1.2. During the Development Period, the Developer shall be:-
- 2.1.2.1. a Member of the Association;
- 2.1.2.2. entitled to cede and assign all its rights and obligations to a third party under this Memorandum.
- 2.1.3. The Renishaw Estate Management Association shall be a Member of the Association.

- 2.1.4. No Owner shall transfer Land unless it is a condition of such transfer that the transferee, in a manner acceptable to the Association, agrees to become a Member and is admitted as a Member in terms of Article **2.2**.
- 2.1.5. In order to procure compliance with the provisions of the Memorandum, it shall be registered as a condition of ownership of land that no Land shall be alienated without the written consent of the Association first being had and obtained, which consent shall be not be withheld:-
- 2.1.5.1. if the proposed transferee (new Owner) is or will be admitted as a Member of the Association and has bound himself, in writing, to abide by and comply with the provisions of this Memorandum; and
- 2.1.5.2. the Owner (transferor) has complied with all his obligations to the Association.
- 2.1.6. For the purposes of Article **2.1.5**, "alienate" means to alienate any Land or part thereof, (other than in respect of any transfer from the Developer and any mortgage bond registered simultaneously therewith) and includes by way of mortgage, sale, exchange, donation, deed, intestacy, will, cession, assignment, court order or insolvency, irrespective as to whether such alienation is voluntary or involuntary, and further irrespective as to whether such alienation is subject to a suspensive or resolute condition. In the case of an artificial person, such as a company, close corporation or trust, the material change in the "beneficial ownership" or in the "controlling interest" thereof, shall be deemed to constitute an alienation for the purposes of this Memorandum and, in the event of there being any dispute as to whether there has been a material change in "beneficial ownership" or in the "controlling interest", such matters shall be resolved by way of procedures provided for in Article **23**.
- 2.1.7. In the event of any Land being owned in undivided shares by more than 1 (one) Owner such co-owners shall nominate one of them to be the Member for the purpose of this Memorandum provided that all joint Owners shall be bound by this Memorandum as if they were Members. Such nomination shall be made in writing to the Association within 7 (seven) days of such co-owners becoming Members of the Association.
- 2.1.8. A Member may not tender resignation of his membership of the Association.
- 2.2. Admission of Members
- 2.2.1 The Members of the Association shall be the Developer during the Development Period, and those persons who, from time to time,

become a Member in accordance with the provisions of this Memorandum.

2.2.2 The right to determine admission to membership of a proposed acquirer of Land is hereby conferred upon the Board. The Board shall not unreasonably decline to admit to membership an applicant in the event of the applicant having undertaken to comply with and abide by this Memorandum and all the Association's requirements, Rules and regulations and the party from whom the applicant is taking transfer of Land, has complied with this Memorandum and all the Association's requirements, Rules and regulations (and in no way detracting from the generality of the aforesaid), has made payment of any amounts due by such transferor to the Association. The Board shall be entitled to call for the provision of a suretyship by a natural person where the Member is to be a company, close corporation, trust or other corporate entity.

2.2.3 Members shall be of a single class, being voting Members each of whom shall have a vote, the value of which shall be calculated in accordance with the provisions of Article **3.3.7**.

2.3 Rights and Duties of Members

2.3.1 Subject to the rights of membership as prescribed by the Act, membership of the Association shall confer upon each Member, unless otherwise stipulated, the following rights:

2.3.1.1 the right to inspect and/or receive copies of the annual financial statements of the Association;

2.3.1.2 the right to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for such copy, the information contained in the records of the Company as listed in Section 26 of the Act, which it is recorded includes the following, namely:

2.3.1.2.1 the Memorandum and any amendments to it and any Rules made by the Company;

2.3.1.2.2 the records in respect of the Company's Directors;

2.3.1.2.3 the reports to Members' meetings and annual financial statements;

2.3.1.2.4 the notices and Minutes of Members' meetings and any communications to the Members; and

2.3.1.2.5 the register of Members;

2.3.1.3 the right to vote, either personally or by proxy, at all general meetings of the Association in accordance with the provisions of this Memorandum;

2.3.1.4 the right to receive notices of, attend and speak at all general meetings of the Association, whether ordinary or extra-ordinary, in accordance with the provisions of this Memorandum;

2.3.1.5 should Members holding between them, in aggregate, not less than 10% (ten percent) of the voting rights in the Association, collectively so decide, the right to convene a general meeting.

2.3.2. No Member shall, by reason of membership of the Association, be entitled or permitted to share in or receive any distributions from or profit of the Association.

2.4. Cessation of Membership

2.4.2. Membership of the Association shall cease:

2.4.1.1. upon a Member ceasing to be an Owner;

2.4.1.2. upon the issue of a final order of sequestration or liquidation of the Member concerned;

2.4.1.3. upon the death of a Member, or upon the Member being declared insane or incapable of managing his affairs;

2.4.1.4. in the case of the Developer, on delivery of written notice to the Association as contemplated in Article **1.1.14**.

2.4.3. In the event of a Member ceasing to be a Member in terms of Articles **2.4.1.2** or **2.1.4.3** the legal representative of such Member shall, for all purposes, be recognized and bound as the Member under this Memorandum.

2.5. Liability of each Member

The liability of each Member as a Member of the Association, shall be limited to R1.00 (One Rand) together with such other amount as may be owing by a Member to the Association, from time to time, from whatever cause arising.

2.6. Register of Members

The Association shall maintain at its Office a register of Members as provided in Section 24 of the Act. The register of Members shall be open to inspection as provided in Section 26 of the Act.

3. **GENERAL MEETINGS**

3.1. Annual General Meeting

The Association shall hold a general meeting in every year as its annual general meeting on such date and at such time and place as may be determined by the Board, and shall specify the meeting as such in the notice calling it, provided, however, that the annual general meeting shall be held not later than 6 (six) months after the end of each financial year of the Association, and provided that not more than 15 (fifteen) months shall elapse after the holding of the last preceding annual general meeting.

3.2. Notice of General Meeting

The annual general meeting and any meeting called for the passing of a Special Resolution shall be called by not less than 21 (twenty one) clear days notice in writing and any other general meeting shall be called by not less than 14 (fourteen) clear days notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it was given, and shall specify the place, the day and the hour of the meeting and shall be given in the manner hereinafter mentioned or in such other manner, if any, as may prescribed by the Association in general meeting, to such persons as are, under this Memorandum, entitled to receive such notices from the Association: provided that a meeting of the Association shall, notwithstanding the fact that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed by all the Members having a right to attend the meeting.

3.3. Proceedings at General Meetings

3.3.1. Business

The annual general meeting shall deal with and dispose of all matters prescribed by the Act, including the consideration of the audited annual financial statements and the estimates of income and expenditure and levies for the ensuing year, a decision on the number of Directors subject to the provisions of Article 5.1; and election of Directors when such decision is required in accordance with the provisions of this Memorandum, and the appointment of an auditor, and any other business laid before it. All business laid before any other general meeting shall be considered special business.

3.3.2. Quorum

A quorum for:

- 3.3.2.1. a general meeting shall be Members holding between them, in aggregate, not less than 5% (five percent) of the voting rights in the Association, present, in person or by proxy, and entitled to vote (subject to a minimum of 3 (three) Members personally present), provided that during the Development Period, 1

(one) of such Members shall be the Developer (which shall be represented by an individual authorized thereto by the Developer);

3.3.2.2. a general meeting called for the passing of the Special Resolution shall be Members holding between them, in aggregate, not less than 25% (twenty five percent) of the voting rights in the Association, present, in person or by proxy, and entitled to vote, provided that during the Development Period, 1 (one) of such Members shall be a nominee of the Developer.

3.3.3. If within 30 (thirty) minutes after the time for the meeting, a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case, the meeting shall stand adjourned to a date not earlier than 7 (seven) days and not later than 21 (twenty one) days after the date of the meeting and if at such adjourned meeting a quorum is not present within 30 (thirty) minutes after the time appointed for the meeting, the Members present in person shall be a quorum, provided that during the Development Period, 1 (one) of such Members shall be a nominee of the Developer.

3.3.4. Where a meeting has been adjourned as aforesaid, the Association shall, upon a date not later than 3 (three) days after the adjournment, send written notice to each Member of the Association, stating:

3.3.4.1. the date, time and place to which the meeting has been adjourned;

3.3.4.2. the matter before the meeting when it was adjourned; and

3.3.4.3. the grounds for the adjournment.

3.3.5. Chairman

The Chairman, if any, of the Board shall preside as Chairman at every general meeting of the Association. If there is no such Chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as Chairman, the Members shall elect one of their Members to be Chairman. Notwithstanding the aforesaid, during the Development Period, the Chairman shall be a nominee of the Developer.

3.3.6. The Chairman may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place. When a meeting is adjourned, the provisions of Articles 3.3.3 and 3.3.4 shall *mutatis mutandis* apply to such adjournment.

3.3.7. Voting

Subject to the provisions of Article **3.4**, at any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (at any time before or on the declaration of the result of the show of hands) demanded by the Chairman or by any Member, and unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried (by a particular majority) or negatived, and an entry to that effect in a book containing the minutes of the proceedings of the Association, shall be conclusive evidence of the fact, without proof of the number or proportion of votes recorded in favour of or against such resolution. A demand for a poll may be withdrawn. If a poll is duly demanded, it shall be taken in such a manner as the Chairman directs, and the results of the poll shall be deemed to be the resolution of the meeting in which the poll was demanded. Scrutineers shall be appointed by the Chairman to determine the result of the poll. In case of equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which a show of hands took place, or at which a poll is demanded, shall be entitled to a second or casting vote, subject to the provisions of Article **3.4**.

3.3.8. Proxy

The instrument appointing a proxy shall be under the hand of the appointer and shall be in such form as the Directors shall approve.

3.3.9. The instrument appointing a proxy shall be deposited at the Office of the Association not less than 24 (twenty four) hours before the time for the holding of the meeting at which the person named in such instrument purports to attend or vote pursuant thereto or in respect thereof. In default of compliance herewith the instrument shall be treated as invalid for the purpose of attending or voting at that meeting or any adjournment thereof. No instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution, unless the proxy otherwise provides.

3.3.10. A vote 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 no intimation in writing of the death or revocation shall have been received at the office or by the Chairman of the meeting before the vote is given.

3.3.11. In the event of a Member being a juristic person, such as a close corporation, company or trust, such Member shall lodge at the Office of the Association, a resolution authorising a particular natural person to represent the Member generally and to exercise the Member's vote on its behalf. Such resolution shall be lodged at the Office of the Association at least 24 (twenty four) hours before the time for the holding of any meeting at which a Member wishes to be represented and/or vote.

3.4. Votes of Members

Each Member present at a meeting of the Association, in person or by proxy, shall be entitled to 1 (one) vote for every piece of Land which such member (or the Owner of which he is the nominee) owns, provided always that:-

- 3.4.1. for the Development period, the Developer shall have at least 1 (one) vote and, no vote shall be carried unless the nominee of the Developer present, in person or by proxy, votes in favour of any special or ordinary resolution;
- 3.4.2. the Renishaw Estate Management Association shall have at least one vote;
- 3.4.3. if an Owner owns a piece of Land on which more than 1 (one) unit may be erected in terms of the Scheme and a sectional title register has not been opened on such piece of land, then in that event, for the purposes of this Article **3.4.3**, each such unit shall be regarded as a separate piece of Land entitling an Owner to the following votes :
 - 3.4.3.1. from the date of transfer of the Land to the Owner to the date of site handover for the purpose of commencement of construction, 1 (one) vote for every 2.5 units that the Owner is entitled to erect on the Land, rounded down. By way of example, should the Owner be entitled to erect 12 (twelve) units on the Land the Owner will have $12 \div 2.5 = 4.8 = 4$ votes.
 - 3.4.3.2. from the date of site handover of the Land for the purpose of commencement of construction, the number of votes of an Owner shall be equal to the maximum number of units the Owner is entitled to erect on the Land;
 - 3.4.3.3. once any unit has been transferred to a third party the number of units the Owner is entitled to erect shall be reduced by such number and the number of votes shall be reduced accordingly.
- 3.4.4. if an Owner owns the right to extend any sectional title scheme in the Development by the erection of more than 1 (one) unit, each such unit shall be deemed to be a separate piece of Land for the purposes of this Article (entitling the Owner of same to the same votes as calculated in **3.4.3**).

3.5. Resolutions of Members

- 3.5.1. For an ordinary resolution to be approved of by Members, it must be supported by more than 50% (fifty percent) of the voting rights exercised on the resolution, subject however to the provisions of Article **3.4**.

3.5.2. For a special resolution to be approved of by Members, it must be supported by at least 75% (seventy five percent) of the voting rights exercised on the resolution.

4. **MEMBERS ACTING OTHER THAN AT A MEETING**

4.1. In accordance with the provisions of section 60 of the Act, a resolution that could be voted on at a Members' meeting (other than in respect of the election of Directors) may instead be –

4.1.1. submitted by the Board for consideration to the Members entitled to exercise the voting rights in relation to the resolution; and

4.1.2. voted on in writing by such Members within a period of 20 (twenty) business days after the resolution was submitted to them.

4.2. A resolution contemplated in Article 4.1 –

4.2.1. will have been adopted if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted as an ordinary or special resolution, as the case may be, at a properly constituted Members' meeting; and

4.2.2. if adopted, will have the same effect as if it had been approved by voting at a meeting.

4.3. Within 10 (ten) business days after adopting a resolution in accordance with the procedures provided in this Article 4, the Company shall deliver a statement describing the results of the vote, consent process, or election to every Member who was entitled to vote on or consent to the resolution.

5. **DIRECTORS (TERMS OF OFFICE)**

5.1 The number of Directors and the election thereof shall be determined from time to time by the Members in a general meeting subject to the following provisions:

5.1.1 during the Development Period, there shall be a maximum of 5 (five) Directors and a minimum of 3 (three) Directors, 3 (three) of whom shall be nominees of the Developer;

5.1.2 on the expiry of the Development Period, there shall be a maximum of 5 (five) Directors and a minimum of 3 (three) Directors;

5.1.3 a retiring Director shall be eligible for re-election;

5.1.4 a nominee of the Developer shall be a Director for so long as the Development Period continues or the Developer does not revoke his appointment.

5.2 Except as is set out in Article 5.3 and Article 10, and except for Directors nominated by the Developer in terms of Article 5.1.1, each Director shall continue

to hold office from the date of his commencement of office until the next annual general meeting following the said appointment, at which meeting each Director shall be deemed to have retired from office as such but will eligible for re-election to the Board of Directors at such meeting.

- 5.3 If, as a result of retirement, resignation or otherwise, the total number of Directors falls below the prescribed number, the Board shall act promptly to bring the number of Directors up to the level as specified in this Memorandum. If the Director so retiring or resigning was the nominee of the Developer, then during the Development Period, his successors shall be appointed by the Developer. The validity of any resolutions taken or acts performed by Directors to bring the number up to the prescribed level in terms of the foregoing only during a period when the number falls short of that provided in Article 5.1, shall not be prejudiced by such shortfall.
- 5.4 Any Director, with the exception of a Director appointed by the Developer, may be removed by a majority Board decision, for any reason whatsoever.
- 5.5 The appointment by the Board of any Director to fill any vacancy for whatever reason, shall be made within 45 (forty five) days of the date upon which such vacancy occurs.
- 5.6 The Directors shall have the power to co-opt persons onto the Board for the purposes of assisting the Directors in carrying out any of their functions. Any person so co-opted onto the board shall not be entitled to vote on any matter which comes up for consideration by the Board.
- 5.7 The Chairman shall be elected by a majority Board decision at the first Board meeting after the annual general meeting, provided that for and during the Development Period, the Chairman shall always be a nominee Director of the Developer. The Chairman shall chair all meetings of the Board and of the Members.

6. **ALTERNATE DIRECTORS**

- 6.1. Any Director appointed by the Developer may for any reason, and at or for any time, appoint an alternate.
- 6.2. Any other Director may obtain leave of absence by a resolution of the majority of the Directors, and the Board may thereupon appoint an alternate to act for him during his absence with all powers and privileges enjoyed by him. The appointment of such alternate shall not, however, be valid unless confirmed by a resolution of the majority of Directors present at the meeting.

7. **REMUNERATION OF DIRECTORS**

- 7.1. A Director shall not directly or indirectly receive any remuneration for his services as a Director of the Association, provided that nothing in this Memorandum shall prohibit him reimbursement of any travelling, subsistence and other expenses properly incurred by him in the execution of his duties in or about the business of the Association and which is authorised or approved by the Board.

- 7.2. If any Director commits a breach of Article 7.1 he shall forthwith cease to be a Director and shall not be eligible for re-election.

8. **POWERS AND DUTIES OF DIRECTORS**

- 8.1. The business of the Association shall be managed by the Directors who may on behalf of the Association pay all expenses incurred in promoting and incorporating the Association, and may exercise all such powers of the Association as are not required by the Act, or by this Memorandum, to be exercised by the Association in a general meeting.
- 8.2. Without in any way affecting the generality of Article 8.1 the Directors shall have the power to enter into contracts and agreements with third parties to give proper effect to the provisions of this Memorandum.
- 8.3. The Directors may, pursuant to their rights, obligations and duties in terms of this Memorandum and as provided for and contemplated under this Memorandum, incur such expenditure as is necessary and/or requisite and howsoever arising to enable them to give proper effect to the provisions of this Memorandum.
- 8.4. After the termination of the Development Period, the Association in general meeting, shall have the right to limit and restrict the powers of the Directors, provided that no resolution of the Association shall invalidate any prior act of the Directors which would otherwise have been valid.
- 8.5. Rules

The Directors shall have the power to make Rules from time to time as well as the power to substitute, add to, amend or repeal same, for the management, control, administration, use and enjoyment of the Development, for the purposes of giving proper effect to the provisions of this Memorandum and for any other purpose which powers shall include the right to impose reasonable financial penalties to be paid by those Members who fail to comply with the provisions of this Memorandum or the Rules. The Directors shall further have the power to adopt rules made by the Renishaw Estate Management Association as rules of the Association.

- 8.5.1. In no way detracting from the generality of the Director's powers outlined in Article 8.1, the Directors may from time to time make Rules, applicable within the Development, with regard to:

- 8.5.1.1. the preservation of the natural environment;
- 8.5.1.2. vegetation and flora and fauna in the Development;
- 8.5.1.3. the placing of movable objects upon or outside the buildings included in the Development, including the power to remove any such objects;
- 8.5.1.4. the storing of flammable and other harmful substances;

- 8.5.1.5. the conduct of any persons within the Development and the prevention of nuisance of any nature to any Owner of immovable property in the Development;
- 8.5.1.6. the use and maintenance of private roads, private road verges, pathways, private open spaces and conservation areas;
- 8.5.1.7. the imposition of fines and other penalties to be paid by Members of the Association;
- 8.5.1.8. the management, administration and control of private roads, pathways, private open spaces and conservation areas;
- 8.5.1.9. the erection of all buildings and other structures, including service connections to buildings;
- 8.5.1.10. the establishment, installation and maintenance of private gardens;
- 8.5.1.11. the use by Owners or tenants of buildings and other structures and the upkeep, aesthetics and maintenance of such buildings
- 8.5.1.12. the maintenance of the stormwater system by members on their land;
- 8.5.1.13. the right to keep animals, reptiles or birds;
- 8.5.1.14. the control of premises, including commercial, residential and other usage types in the Development (if any) and the use of Land within the Development;
- 8.5.1.15. the provision of security within the Development;
- 8.5.1.16. the sale and letting of residential units in the Development;
- 8.5.1.17. the appointment and conduct of estate agents in respect of the sale of property within the Development, provided that:-
 - 8.5.1.17.1. such rule does not conflict in any way with the rights of the Developer or the rights of any person to whom the Developer has ceded its rights; and
 - 8.5.1.17.2. the Developer shall at times (even after expiry of the Development Period) have

the right to nominate an estate agent to sell properties within the Development;

8.5.1.18. the use by Owners, tenants or other occupiers in the Development of the Health Care Centre and its facilities;

and generally in regard to any other matter which the Directors from time to time consider appropriate.

8.5.2. Enforcement of Rules

8.5.2.1. The Directors may take or cause to be taken such steps as they may consider necessary to remedy the breach of any Rules of which the Member may be guilty and debit the costs of so doing to the Member concerned which amount shall be deemed to be a debt owing by the Member to the Association. In addition the Directors may impose a system of fines or other penalties. The amounts of such fines and/or penalties shall be determined by the Board from time to time.

8.5.2.2. In the event of any breach of the aforesaid conduct Rules or this Memorandum by any tenant, or occupier of any Land owned by the Member, or any person who goes upon the Development by virtue of a Member's rights thereto, such breach shall be deemed to have been committed by the Member and the Directors shall be entitled to take such action as they deem fit against the Member responsible.

8.5.2.3. Notwithstanding the foregoing, the Directors may in the name of the Association enforce the provisions of any Rules by any application in a Court of competent jurisdiction and for this purpose may appoint such attorneys or counsels they may deem fit.

8.6. Any Rules made by the Directors shall reasonably be in the interest of the Association and the Development and shall apply equally to all Owners.

8.7. The Rules made by the Directors from time to time in terms of the powers granted to them shall be binding on all Members.

8.8. In no way detracting from the generality of any other provision of this Memorandum, in the event of the Association incurring any legal costs as a result of any breach of this Memorandum by any Member, the Association shall be entitled to recover all such legal costs from such Member on an attorney and own client scale in full whether or not legal action is actually instituted.

8.9. The Members acknowledge that the Association shall be obliged to become and remain a member of the Renishaw Estate Management Association which

association shall in turn impose rules on its members. The Members of the Association shall at all times comply with any rules imposed by the Renishaw Estate Management Association, and the Association shall be entitled also to enforce such rules against Members.

9. **MINUTES**

- 9.1. The Directors shall in terms of the Act cause Minutes to be kept;
- 9.1.1. of all appointments of officers;
- 9.1.2. of names of Directors present at every meeting of the Association; and
- 9.1.3. of all proceedings at all meetings of the Association and / or the Directors.
- 9.2. Such Minutes once they are approved as a true record of proceedings, shall be signed by the Chairman of the meeting at which the proceedings took place or by the Chairman of the following meeting.

10. **DISQUALIFICATION OR RESIGNATION OF DIRECTORS**

- 10.1. The office of Director shall be vacated if the Director:-
- 10.1.1. ceases to be a Director by effluxion of the period of appointment, or becomes prohibited from being a Director by virtue of any provision of the Act or this Memorandum; or
- 10.1.2. resigns his office by notice in writing to the Association and the Registrar; or
- 10.1.3. becomes insolvent or assigns his estate for the benefit of or compounds with his creditors; or
- 10.1.4. is found to be a lunatic or of unsound mind; or
- 10.1.5. is absent for three consecutive regular meetings of the Directors without obtaining prior leave of absence;
- 10.1.6. is otherwise ineligible or disqualified from serving as a Director on the grounds set out in Section 69 of the Act.
- 10.2. The office of the Director, in the case of a Director being a nominee of the Developer, shall be vacated on the Developer either revoking his appointment or terminating the Development Period.

11. PROCEEDINGS AT MEETINGS OF DIRECTORS

- 11.1. The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit but shall meet at least 4 (four) times during a financial year.
- 11.2. A Director may, on 7 (seven) days written notice to all other Directors, at any time summon a meeting of the Directors.
- 11.3. The quorum necessary for the transaction of the business of the Directors shall be at least 50% (fifty percent) of the total number of Directors, provided that for the Development Period 1 (one) of such Directors must be a nominee of the Developer.
- 11.4. If at a meeting the Chairman is not present within 10 (ten) minutes after the time appointed for holding the same, the Directors present may choose 1 (one) of their number to be Chairman for that meeting, subject to the provisions of Article 5.7.
- 11.5. Questions arising at any meeting of the Directors shall be decided by a majority of votes of the Directors, present in person or by an alternate. Each Director shall be entitled to exercise 1 (one) vote, provided that during the Development Period, no resolution of Directors shall be carried unless the nominees of the Developer votes in favour of same. Subject to the aforesaid, in the event of an equality of votes the Chairman shall have a second or casting vote. Where a person is an alternate Director to more than one Director, or where an alternate Director is also a Director in his personal capacity, he shall have a separate vote on behalf of each of the Directors he is representing.
- 11.6. All acts done in terms of any resolution passed at any meeting of the Directors or a committee of Directors or by any person acting as Director, notwithstanding that it be afterwards discovered that there was some defect in their acting as aforesaid or that they or any of them were disqualified so to act, shall be as valid as if any such person acting as Director in a meeting of Directors or a committee of Directors had been duly appointed and had qualified to be a Director.
- 11.7. A Resolution signed by all of the Directors shall be a valid Resolution notwithstanding that such Resolution may not have been passed at a meeting of Directors.
- 11.8. A meeting of the Board of Directors may be conducted by electronic communication or one or more Directors may participate in a meeting by electronic communication, as contemplated, and subject to the provisions of Section 73(3) of the Act.
- 11.9. Committees
- 11.9.1. The Directors may delegate any of their powers to committees consisting of such persons as they think fit, the chairman of which committees may be appointed by the Directors. Any committee so formed shall be in an advisory capacity to the Board and shall report to and be responsible to the Board and in the exercise of the

powers so delegated, conform to the rules that may be imposed on it by the Directors.

11.9.2. Should the Directors not appoint the chairman of a committee, the members of that committee shall elect a chairman of its meetings. If at any meeting the chairman is not present within 10 (ten) minutes after the time appointed for holding the same, the committee members present may elect 1 (one) of their number to be chairman for that meeting.

11.9.3. A committee may meet and adjourn as it thinks fit. Questions at any meeting shall be determined by a majority of votes of the committee members present and in the event of an equality of votes the chairman of the committee shall have a second or casting vote.

11.10. Limitation of Liability of Directors

11.10.1. Subject to the provisions of the Act, no Director shall be liable for any loss, damage or misfortune whatsoever which shall happen in the execution of the duties of his office or in relation thereto unless the same occurs as a result of his own dishonesty, gross negligence or default, breach of duty or breach of trust.

11.10.2. The Association may:-

11.10.2.1. advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4);

11.10.2.2. indemnify a Director in respect of liability as set out in section 78(5); and/or

11.10.2.3. purchase insurance to protect the Association or a Director as set out in section 78(7),

and the power of the Association in this regard is not limited, restricted or extended by this Memorandum.

11.10.3. The provisions of Article **11.10.1** shall apply *mutatis mutandis* in respect of any former Director or Member of any committee of the Board.

12. **DELEGATION OF POWERS OF DIRECTORS**

The Board may from time to time entrust to and confer upon the Manager, or any other designated official of the Association or consultant or any other person or firm, for the time being, such of the powers and authorities vested in it as it may

think fit, and may confer such powers and authorities for such time and to be exercised for such objects and purposes and subject to such terms and conditions and restrictions as it may think expedient, and they may confer such powers and authorities either collaterally or to the exclusion of, or in substitution for, all or any of the powers and authorities of the Directors and may from time to time revoke or vary all or any of such powers and authorities.

13. **DELEGATION AND ASSIGNMENT OF POWERS AND FUNCTIONS**

- 13.1. The Association shall carry out all the functions and assume all powers as provided for in the Sectional Titles Act (and in particular Sections 37 and 38 thereof) as the Association may require to be delegated to it by the relevant Body Corporate and those functions imposed in terms of the Share Blocks Control Act (and in particular Sections 13, 15 and 19 thereof), as the Association may require to be delegated to it by a Share Block Company, in relation to any sectional title or share block scheme in the Development.
- 13.2. Any controlling body of any share block scheme or Body Corporate of any sectional title scheme that is a Member of the Association, shall assign such powers and functions to the Association as may be required of it by the Association.

14. **FINANCE**

- 14.1. The Directors shall establish and maintain a levy fund sufficient in their opinion to enable the Association to meet its obligations for the repair, upkeep, maintenance, control, management and administration of the Association, and the Development in general, including any matter arising from the provisions of Article 14, 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, for the payment of any premiums of insurance and of all other expenses incurred or to be incurred in relation to the Development and for the discharge of any other obligations of the Association (provided that nothing in this Memorandum shall be construed as obliging the Association to pay service charges due by Owners to the relevant authority).
- 14.2. All levies due by Owners to the Association shall be payable annually in advance, without deduction, demand or set-off, provided that the Association shall be entitled to collect the annual levy from Members, and the Members shall pay the annual levy, in 12 (twelve) equal monthly instalments on the first day of each month of the ensuing year.
- 14.3. Notwithstanding anything to the contrary contained in this Memorandum or elsewhere, during the Development Period the Developer shall not be obliged to make any contributions as levies to the Association irrespective of the number of pieces of Land owned by the Developer, provided that should the Developer alone in its sole and absolute discretion, make any payment during the Development Period in settlement of the expenses of the Association then such payments shall be interest free loans to the Association, the repayment of which loans will be made by setting off such loan amounts against the Developer's levy liabilities as are incurred after the Development Period.

- 14.4. Subject to the provisions of Article **14.3**, the Directors 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:
- 14.4.1. those costs arising directly out of the Land itself shall be assigned to the Member owning such Land;
 - 14.4.2. if an Owner :
 - 14.4.2.1. owns more than 1 (one) piece of Land, he shall be deemed to be a separate Owner in respect of each piece of Land for the purposes of this Article;
 - 14.4.2.2. owns a piece of Land on which more than 1 (one) unit may be erected in terms of the Scheme, then in that event the Owner shall, for the purposes of this Article, be deemed to be a separate Owner in respect of each unit he has the right to erect on that piece of Land, until the end of the Association's financial year within which a sectional title register is opened on such Land, (if any), from whence the provisions of Article **14.4.2.3** shall apply; and
 - 14.4.2.3. owns the right to extend any sectional title scheme in the Development by the erection of more than one unit, he shall be deemed to be a separate Owner in respect of each unit he has the right to extend the sectional title scheme by, for the purposes of this Article;
 - 14.4.3. where the Member is the Renishaw Estate Management Association no levies shall be payable to the Association in respect of any private roads, open space, Community Facilities or Conservation Areas registered in the name of the Renishaw Estate Management Association within the Development;
 - 14.4.4. where Crookes Brothers Limited, Registration Number 1913/000290/06, is the registered owner of Land within the Development, then notwithstanding anything to the contrary contained in these Articles, no levies shall be payable to the Association;
 - 14.4.5. a distinction may be drawn between the levies imposed by the Association, and the services rendered by the Association to a particular piece of Land, Owner or a particular group of Owners (such as Owners in a sectional title scheme, Owners of Land used for Inclusionary Housing Units, commercial purposes or places of public worship), again taking into account the nature and the extent of the services rendered to that particular piece of Land, Owner or group of Owners;

- 14.4.6. the Directors are aware that the Developer shall, when opening the sectional register for the sectional title scheme wherein the Health Care Centre is situate, make a determination whereby the liability of the Owner of the section comprising the Health Care Centre to make levy contributions is reduced to ensure the economic viability of the Health Care Centre.
- 14.4.7. notwithstanding the provisions of Articles **14.4.2.2** and **14.4.2.3**, the Board on behalf of the Association shall not be obliged to impose levies on each unit an Owner has the right to erect or on each potential unit an Owner has the right to erect in terms of a right to extend the sectional title scheme, but shall, from time to time, be entitled to determine an equitable contribution to be paid by such Owner and the duration of such contribution. In this regard the Association shall be entitled (but not obliged) to be guided by the principles adopted in determining the votes of Members as set out in Articles **3.4.3** and **3.4.4**. In applying these principles:-
- 14.4.7.1. if an Owner owns a piece of Land on which more than 1 (one) unit may be erected in terms of the applicable town planning scheme and a sectional title register has not been opened on such piece of land, then in that event, for the purposes of this Article, in respect of each such unit the Owner shall be regarded as a separate Owner obliging the Owner to pay a separate levy subject to the following:-
- 14.4.7.1.1. from the date of transfer of the Land to the Owner to the date of site handover for the purpose of commencement of construction, 1 (one) levy for every 2.5 units that the Owner is entitled to erect on the Land, rounded down. By way of example, should the Owner be entitled to erect 12 (twelve) units on the Land the Owner will be obliged to pay $12 \div 2.5 = 4.8 = 4$ separate levies;
- 14.4.7.1.2. from the date of site handover of the Land for the purpose of commencement of construction, the number of separate levies of an Owner shall be obliged to pay shall be equal to the maximum number of units the Owner is entitled to erect on the Land;
- 14.4.7.1.3. once any unit has been transferred to a third party the number of units the Owner is entitled to erect shall be reduced by such number and the number of separate levies shall be reduced accordingly;

- 14.4.7.2. if an Owner owns the right to extend any sectional title scheme in the Development by the erection of more than one unit, each such unit shall be deemed to be a separate piece of Land for the purposes of this Article (obliging the Owner to pay the same number of separate levies as calculated in Articles **14.4.2.1**);

provided, however that the Directors may (subject to the provisions of Article **14.3** above) in any case where they consider it equitable to do so, assign to any Member any greater or lesser share of the costs as may be reasonable in the circumstances; and provided further that any replacement or other reserves shall be determined by the Directors.

- 14.5. Subject to the provisions of Article **14.3**, where an Owner has not completed the erection of all potential units on his Land within the time period stipulated by the Developer, the Board shall be entitled, but not obliged, to require such Owner to pay double the levy amount that such Owner would otherwise have paid had all potential units been completed, until such time as all the units have been completed.
- 14.6. All levy payments received from Owners and the Developer shall forthwith be deposited in a separate account which the Association shall open and keep with a financial institution.
- 14.7. The monies in the levy fund referred to in Article **14.1** shall be utilised to defray the expenses of the Association referred to in Article **14.1**.
- 14.8. Notwithstanding any person ceasing to be an Owner, all levies attributable to any period whilst such person was an Owner, shall continue to be of full force and effect and recoverable from such person.
- 14.9. Any amount due by an Owner whether in respect of a levy or any other amount falling due for payment under this Memorandum, 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 equal to the prime rate of interest charged by First National Bank Limited from time to time plus 3 (three) percentage points thereon. Such interest shall be calculated and compounded monthly in arrears.
- 14.10. Subject to the provisions of Article **14.3**, the Directors shall have the power to impose additional special levies on Owners in respect of any unforeseen expenditure and shall determine how such levies are to be paid in accordance with the principles set out in Article **14.4**.
- 14.11. An Owner shall not be entitled to demand repayment or a refund of any amount standing to the credit of his levy account.
- 14.12. All contributions levied under the provisions of this Memorandum shall be due and payable by Owners on the passing of a resolution to that effect by the Directors and may be recovered by the Association by action in any Court (including any Magistrate's Court) of competent jurisdiction from the persons who were Owners at the time when such contributions became due.

- 14.13. The Association shall in addition to the levy fund established in Article **14.1** establish a levy stabilisation fund for the purposes of meeting any extraordinary expenditure, or expenses of a capital nature, to be incurred by the Association and the Renishaw Estate Management Association in carrying out its main objects and the provisions of this Memorandum and the Memorandum of the Renishaw Estate Management Association with the view to stabilising (and minimising) any increases in the amounts to be paid by Owners in respect of their levy obligations to the Association. In the event of any Land being sold, alienated or otherwise disposed of by an Owner other than the Developer, a new Owner shall be obliged to pay a levy to the levy stabilisation fund in accordance with the provisions of Article **14.14**. An ex-owner shall not be entitled to any refund of the levy paid to the levy stabilisation fund or any portion thereof. In the case of deemed alienation of Land by artificial persons (see Article **2.1.6**), a levy payment to the levy stabilisation fund shall, upon alienation, become due by the artificial person to the Association, notwithstanding that the artificial person remains the Owner of the Land as provided for in Article **14.14.3**. The object, in this regard, shall be to ensure that where a material change in the beneficial ownership or controlling interest of the artificial person (for example, by the members of the close corporation selling their interest to 1 (one) or more persons or by the beneficiaries of a trust ceding their interest to 1 (one) or more persons the artificial person shall become liable for a levy payment to the levy stabilisation fund on the same basis that would have applied if the artificial person had become a "new Owner" of the Land). Notwithstanding the above, a material change in the beneficial ownership or the controlling interest in an artificial person, being an Owner which results from an alienation by way of succession, whether testate or intestate, shall not give rise to an obligation on the part of the artificial person or its new representative member to pay a levy to the levy stabilisation fund.
- 14.14. With specific regard to the levy stabilisation fund to be established in terms of **14.13**:-
- 14.14.1. No Land shall be transferred, alienated (excluding the registration of a mortgage bond) or otherwise disposed of, (including the registration of a long lease) other than by the Developer, nor shall any shares, member's interest or beneficial interest in a company, close corporation or trust being an Owner be transferred, alienated, or otherwise disposed of without the prior written consent of the Developer, which consent shall not be withheld if a levy in the amount equal to 20% (twenty per cent) of the profit on the transfer, alienation or disposal of such Land, shares, member's interest or beneficial interest shall have been paid to the levy stabilisation fund. The Board shall, in its sole discretion, be entitled from time to time to vary the amount of the levy payable by an Owner to the levy stabilisation fund, provided that any variation is applied equally to all Owners, other than the Developer (who is exempt as provided for in Article **14.13**).
- 14.14.2. For the purposes of this Article **14.14**, "profit" shall be the difference between the selling price as declared to the South African Revenue

Service when such Land was sold by the Owner to a third party (less any selling commission on such sale), or the market value of such Land as determined by an estate agent appointed by the Association in the event of there being no sale, and the purchase price paid by the Owner (transferor) when purchasing the Land (provided that where the Owner is the first purchaser of such Land from the Developer, the Owner shall add to the purchase price any amounts paid for extras, and as pre-approved by the Association, at the time the buildings on such Land were constructed), or the market value thereof, when the Owner (transferor) originally acquired the Land, as the case may be, and provided further that any transfer fees and transfer duty paid by the Owner (transferor) when originally acquiring the Land shall be deducted in the calculation of the profit.

- 14.14.3. In the case of shares, member's interest or beneficial interest respectively in a company, close corporation or trust owning Land, "profit" shall be the difference between the selling price of such shares, member's interest or beneficial interest (including loan accounts) when sold to a third party (less any selling commission on such sale), or the market value of the Land as determined by an estate agent appointed by the Association in the event of there being no sale, and the purchase price paid by the company, close corporation, trust when it originally purchased the Land (provided that should such company, close corporation or trust be the first purchaser of such Land from the Developer it shall add to the purchase price any amounts paid for extras, and as pre-approved by the Association, at the time the buildings on such Land were built, or the market value thereof, when the Owner (i.e. company, close corporation or trust) originally acquired the Land, as the case may be, and provided further that any transfer fees and transfer duty paid by the company, close corporation or trust as Owner when originally acquiring the Land shall be deducted in the calculation of the profit.
- 14.14.4. The provisions of Article **14.13** and this Article **14.14** shall not prejudice or affect the rights of any bondholder of any Land who shall be entitled to the full proceeds due from any sale in execution of the Land. Should the Land be sold at a sale in execution to the bondholder, the Association shall waive payment of the levy to the levy stabilisation fund on transfer of the Land to the bondholder, provided that the bondholder does not develop the Land. Any action by a bondholder of the Land shall not prevent the Association from recovering from the Owner the amount of the levy payable by such Owner to the levy stabilisation fund.
- 14.15. The Association shall be obliged upon receipt of all payments into the levy stabilisation fund to pay over an amount equal to 25% (twenty five percent) of such sums or such lesser amount determined by the Renishaw Estate Management Association from time to time in its entire discretion, to the Renishaw Estate Management Association to enable it to meet its extra-ordinary

expenditure or expenses of a capital nature and carry out its main objects and the provision of its Articles.

- 14.16. Should an Owner be more than 60 (sixty) days in arrears with payment of any levies due in terms of this Article **14** or any other amount of any nature whatsoever due to the Association by such Owner (including but not limited to any fine that may be imposed by the Association on any such Owner) and remain in arrears notwithstanding demand for payment by the Association, then in that event such Owner shall not be entitled either in person or by proxy to speak or vote at a meeting of Owners of the Association. A letter addressed to the Chairman of a meeting of Owners of the Association by the Board, dated not more than 2 (two) days prior to any such meeting, shall constitute proof of non-payment of any arrear levies by such Owner and shall entitle the Chairman of such meeting of the Owners of the Association to prevent such Owner or his proxy speaking or voting at such meeting (even if payment is made by such Owner before such meeting but subsequent to the aforesaid letter having been signed on behalf of the Board).
- 14.17. 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.
- 14.18. The Association shall not be entitled to borrow money, save in accordance with a Special Resolution of Members. This provision shall not apply to any amounts due to the Developer by the Association in respect of amounts the Developer may have expended on the Association's behalf as provided for in Article **14.3**.
- 14.19. Although the obligation to pay the levy to the Association shall rest with the individual Owner, it shall be the responsibility of the Body Corporate of any sectional title scheme in the Development, to collect the levy, due to the Association, from the Body Corporate's members, on the Association's behalf, and to pay same over to the Association timeously.
- 14.20. Should the Association engage attorneys or any other lawfully regulated debt collection agency to recover outstanding levies and other amounts due by an Owner to the Association, then such Owner shall pay all costs associated with and incurred by the Association with the attorney or debt collection agency, as the case may be, in connection with the recovery of the outstanding amounts.
- 14.21. All amounts received by the Association from Members on account of levies or any other amounts which are due to the Association shall be appropriated firstly to outstanding interest due to the Association, then to legal costs, if any, and lastly towards the reduction of the capital debt due to the Association.

15. **ACCOUNTING RECORDS**

- 15.1. The Directors shall cause such accounting records as are prescribed by the Act to be kept. Accounting records shall be deemed to be proper if they represent fairly the state of affairs and business of the Association and explain the transactions and financial position of the trade or business of the Association.

- 15.2. The accounting records shall be kept at the registered Office of the Association or at such other place or places as the Directors think fit, and shall always be open to inspection by the Owners.

16. **ANNUAL FINANCIAL STATEMENTS**

- 16.1. The Directors shall from time to time, in accordance with the Act, cause to be prepared and laid before the Association in general meeting such financial statements as are prescribed by the Act.

- 16.2. A copy of the audited financial statements shall be laid before the Association in annual general meeting. A summary of the aforesaid audited financial statements, shall, not less than 21 (twenty one) days before the date of such meeting, be sent to every Owner of the Association: Provided that this Article shall not require a copy of those documents to be sent to any person of whose address the Association is not aware.

17. **AUDITOR**

An Auditor shall be appointed in accordance with the Act.

18. **NOTICES**

- 18.1. All notices shall be given by the Association to each Member in writing in any manner authorised by the Act and the Regulations, and particularly Table CR3 annexed to the Regulations.

- 18.2. Any notice sent by any means permitted in Table CR3 annexed to the Regulations shall be deemed to have been delivered as provided for that method of delivery in such Table.

- 18.3. Each Member of the Association:-

18.3.1. shall notify in writing to the Association an address within the Republic of South Africa for the purposes of receiving written notices from the Association by post and if he has not named such an address, it shall be considered sufficient for the Association to serve notice at the Owner's address; and

18.3.2. may notify in writing to the Association an email address and/or facsimile number; which address shall be his address for the purposes of receiving notices by way of electronic communication.

- 18.4. The failure to give notice to any Member or the failure of any Member to receive a notice shall not vitiate any proceedings of the Association.

19. **WINDING-UP OF ASSOCIATION**

In the event of the Association being wound up, subject to the provisions of Article **20.8.2** its assets (if any) shall devolve upon such other corporation as the Members in such winding-up order determine, provided that such corporation has aims and objectives similar to those of the Association.

20. **REPAIR, UPKEEP, ADMINISTRATION, MANAGEMENT AND CONTROL OF THE DEVELOPMENT**

20.1. Buildings and improvements

20.1.1. In order to procure and ensure compliance with the nature and amenity of the Development nothing shall be placed on or attached to a building or any other structure, visible from outside of the building or such other structure without the consent of the Association and where such rights and obligations have been ceded and assigned by the Developer to the Association or have in any other way been allocated to the Association, no building, extension or alteration to an existing building or any other structure shall be built or erected on any land, other than in accordance with the Scheme, the Development Constraints and plans approved by the Association which approval shall be in writing and signed by a duly authorised representative of the Association. Before giving such approval, the Association may require, *inter alia*, that there be lodged with them:

20.1.1.1. such descriptions and/or drawing and/or plans as may be necessary, in the opinion of the Association, to enable them to consider the matter;

20.1.1.2. details of construction materials to be used;

20.1.1.3. the payment of a scrutiny fee, set by the Association, to peruse the aforesaid documentation (which fee shall be set by the Association in its sole and absolute discretion).

20.1.2. Any approval as contemplated in this Article **20.1** may be subject to such conditions as the Association may deem fit. In the event of any building or other structure being erected on Land, save in accordance with the plans approved of by the Association as set out in this Article, then in that event, the Association shall be entitled to enforce compliance by the Owner, at the Owner's cost, with the building plans approved of by the Association and recover any costs incurred by the Association from the relevant Owner of the Land in question, which amount shall be deemed to be part of the levy due by the Owner to the Association. Notwithstanding the foregoing, the provisions of this Article shall not be binding on the Developer during the Development Period. The provisions of Article **20.1** shall in no way alter or supersede any requirements of or obligations to the Municipality, other designated authority or the Developer.

20.1.3. Members shall ensure that their Land is kept in a neat and tidy state at all times. In no way detracting from the generality of the aforesaid, Members shall ensure that, while their Land is undeveloped, it is kept grassed and mowed. (If not attended to in reasonable time after request by the Association then Association can make good and charge the Owner all costs incurred in undertaking such remedial action.)

20.2. Landscaping

Any landscaping on Land to be undertaken by a Member shall be undertaken in accordance with the Landscaping Protocol and a landscape plan approved by the Association and no Member shall commence landscaping of any Land until such time as such landscaping plan has been approved in writing.

20.3. Provision of Services

The Association may, from time to time, contract with suppliers of services to provide services to the Development.

20.4. Maintenance of Buildings

Save where such work is carried out by the Association, the exterior of every building shall be maintained and kept in a clean, tidy and neat condition by the Member owning such building (or in the event of the building being a sectional title unit by the Body Corporate of such sectional title scheme) and no Member or Body Corporate shall be entitled to alter, apply paint or any similar material to any exterior part of the building comprising his unit without the prior written consent of the Association which consent shall not unreasonably be withheld. A Member shall, on receipt of a notice given by the Association, undertake such work as may be specified in such notice relative to such Member's unit. Should any Member fail to carry out any work as required by the Association, after the Association has given the Member notice which the Association deems reasonable in the circumstances, so to comply, the Association shall be entitled to carry out such work and to recover the reasonable cost thereof from the Member concerned which amount shall be deemed to be part of the levy due by the Member of the Association.

20.5. Occupation and Use of Buildings

20.5.1. Occupation and use of a building and a unit comprised thereof shall, at all times, be in compliance with the Scheme, the Rules and this Memorandum. No Member shall use any building or unit on any Land or allow any other person to use such building or unit for purposes not permitted by the Scheme or this Memorandum or the Rules.

20.5.2. Under no circumstances whatsoever shall an Owner operate a time share arrangement or scheme on and in respect of a unit, whether or not in terms of the Property Time Share Control Act.

20.6. Services

Inasmuch as the provision, establishment, maintenance and repair of Municipal Services may be required to take place in the Development, Members shall be obliged to accept the laying out and installation of such Municipal Services across their Land, in such places as the Municipality or other designated authority determines, from time to time. The Municipality or other designated authority, or persons authorised by it, shall be entitled to enter upon such land for the purposes of providing, establishing, maintaining and/or repairing the Municipal Services, provided that such work shall be carried out with as little inconvenience to the affected party as reasonably possible. Further, the Association, or any person authorised by it, shall be entitled to enter upon Land for the purposes of providing, establishing, maintaining and/or repairing Services, provided that such work shall be carried out with as little inconvenience to the aforesaid party as reasonably possible.

20.7. Maintenance Private Roads and Services

20.7.1. The Association shall be responsible for the maintenance and upkeep of all private roads, verges and rights of way within the Development.

20.7.2. Further, in the event of the Municipality, other designated authority, or any other service provider, not having the means or being unwilling to maintain or provide the Municipal Services normally provided by a Local Authority or, in the event of the Municipality, or other designated authority or any other service provider not maintaining the services normally provided by a Local Authority to a standard acceptable to the Association, then in that event, the Association may in consultation with the Municipality, other designated authority, provide and maintain such services.

20.7.3. The Members acknowledge that a similar authority shall be provided in the Memorandum of Incorporation of the Renishaw Estate Management Association and that should the Renishaw Estate Management Association elect to provide and maintain such services the Association shall not (whilst such right is exercised by the Renishaw Estate Management Association) exercise its right so as to prevent an overlap of responsibility.

20.8. Use of Private Roads

20.8.1. Members and their invitees shall be entitled to use all private roads and rights of way in the Development which are necessary to enable the Member to gain ingress to and egress from their property subject to such rules and directions as may be laid down by the Board from time to time, provided that at all times Owners shall have vehicle and pedestrian ingress to and egress from their property, via private roads or otherwise, to a public road.

- 20.8.2. No resolution for the winding up of the Association shall be passed prior to the rights of vehicle and pedestrian ingress and egress referred to above being secured by way of servitudes registered against the title deeds of the properties comprising the Development or the transfer of such accesses to the Municipality or other designated authority as public roads.

20.9. Security

- 20.9.1. Subject always to the provisions of Article **25**, the Association shall provide such security within the Development as it deems appropriate, from time to time. The Association shall be entitled to enforce the provisions of the Security Procedures in the same manner as other provisions of this Memorandum and the Rules of the Association as provided for elsewhere in this Memorandum. The Association shall be entitled to draw a distinction between the level of security provided to particular pieces of Land, Owners or particular groups of Owners.

- 20.9.2. The Members acknowledge that a certain level of security may also be provided by the Renishaw Estate Management Association in respect of the Renishaw Development and that any security provided by the Association shall be in addition to such security. Should a conflict arise between the Association and the Renishaw Estate Management Association, the views of the Renishaw Estate Management Association shall prevail.

20.10. Environmental Controls and Sensitive Development Areas

In no way detracting from the generality of any other Article, a Member shall comply generally with all provisions contained in the Environmental Management Plan insofar as it affects his Land and his activities within the Development.

20.11. Planting in Conservation Areas on Members Land

In no way detracting from the generality of any other Article a Member shall plant any Conservation Area on the Member's Land in accordance with the Landscaping Protocol and shall maintain such area as a Conservation Area in accordance with any other direction given from time to time by the Association. Such planting and maintenance shall be entirely at the Owner's cost. In the event of a sectional title scheme having been opened on the Land where there is a Conservation Area then the maintenance obligations in this regard shall fall to a Body Corporate of such scheme.

21. **DEVELOPER'S FACILITIES**

21.1. The Developer's Facilities shall include:-

- 21.1.1. the provision of electricity to all residential units, subject to the Developer's election to provide this service;

- 21.1.2. the provision of sewage reticulation and treatment, subject to the Developer's election to provide this service;
 - 21.1.3. the provision of utilities services to all residential units;
 - 21.1.4. the establishment and operation of the Health Care Centre;
 - 21.1.5. the establishment and operation of the commercial activities and enterprises in the Development, including but not limited to the community centre, bar and restaurant, kitchen, convenience shop, hairdresser, conference centre, gym, laundry and storage facilities.
- 21.2. The treatment of sewerage within the Development, if undertaken by the Developer, shall be handled by a private sewage treatment plant/s to be established by the Developer, at the Developer's cost, on such area/s as the Developer may decide.
- 21.3. An Owner shall be liable for and shall pay the Developer or the third party service provider a monthly charge, to be incorporated in the levy contribution payable to the Association of and for the electricity consumed by the Owner and the sewage reticulation and treatment service provided to the unit. The Association shall account to the Developer and/or third party service provider, as the case may be, on a monthly basis in respect of the Owners' payments for electricity consumption and sewage reticulation and treatment. The amount of the monthly charge payable by Owners for electricity consumption and for sewage removal and treatment shall not exceed the charges as would be payable to the Municipality for the electricity consumption and for sewage removal and treatment.
- 21.4. The utilities services to be provided by the Developer to the Owners of residential units shall include, but are not necessarily limited to the provision of satellite television (DSTV), telephone services, internet service and Wi-Fi connectivity. An Owner shall be liable for and shall pay the Developer or the third party service provider a monthly charge, to be incorporated in the levy contribution payable to the Association of and for the utilities provided to and consumed by the Owner in and on his unit. The Association shall account to the Developer and/or third party service provider, as the case may be, on a monthly basis in respect of the Owners' payments for the utilities services.
- 21.5. The construction, erection and commissioning of the Developer's Facilities and the Community Facilities, which will be undertaken at the Developer's cost, shall be commenced as and when and in such sequence as the Developer in its discretion deems fit, provided that the sewage treatment plant shall be constructed, erected and commissioned by the Developer in accordance with the requirements of the Municipality and any other competent authority.
- 21.6. The Developer shall be entitled to create temporary facilities, including a temporary health care facility, which will operate until the Health Care Centre has been constructed and becomes fully operational.

21.7. With specific regard to the Health Care Centre the following provisions shall apply:-

21.7.1. the Health Care Centre which shall be operated by the Developer and/or a third party service provider ("the Operator"), will be available for use by eligible persons (with owners and occupants, subject to availability, being given preference), who are not in need of hospitalisation but who are not well enough to care for themselves, provided that the admission of any person to the Health Care Centre and that person's continued occupation at the Health Care Centre shall be subject to compliance with the Rules as referred to in Article **8.5.1.18**;

21.7.2. an Owner, occupant or tenant, by his admission to the Health Care Centre, acknowledges that the Association or its employees, servants or agents assume no liability whatsoever for such person's well being whilst in the Health Care Centre and shall under no circumstances be liable in any manner whatsoever, or howsoever arising, for any deterioration in the such person's condition whilst in the Health Care Centre or after his having left, notwithstanding that such deterioration may be due to any negligence, including gross negligence, or any act or omission on the part of the Association or its employees, servants or agents.

21.7.3. all Owners of residential units shall be charged a monthly fee payable to the Operator, with effect from the date that the facility of the Health Care Centre becomes available and operational, even if it is a temporary facility, for the availability for their use of the Health Care Centre and/or its facilities in the amount as determined from time to time by the Operator. The monthly fee payable by Owners of residential units shall not exceed 10% (ten percent) of the total monthly levy amount payable by an Owner to the Association. The fee payable by Owners to the Association shall be incorporated as part of the monthly levy contribution payable by such Owners of the Association.

21.8. The Developer shall be entitled, at any time, to cede its rights in respect of any of the Developer's Facilities to and in favour of a third party.

22. **ENFORCEMENT OF OBLIGATIONS OF OWNERS**

Should any Member or any lessee of an Owner fail to perform any obligation incumbent upon him, within the period of any notice given for compliance, the Association shall be entitled, but not obliged, to do such things and incur such expenditure as is, in the opinion of the Association, necessary and/or requisite to procure compliance. The costs thereby incurred by the Association shall be a debt due by the Owner concerned, which shall be payable on demand. The Owner shall be obliged to bring to the attention of any tenant of his land, the Rules and regulations of the Association. In addition, an Owner shall utilize its best endeavours to ensure that any invitee of the Owner who goes upon the Development complies with the Association's Memorandum, and the Rules and regulations made from time to time in terms thereof.

23. **DETERMINATION OF DISPUTES**

23.1. In the event of any dispute or difference arising between the members inter se or between a Member and the Association as to the construction, meaning, interpretation or effect of any of the provisions or as to the rights, obligation or liabilities of the Association or any Member in terms of this Memorandum, the parties shall forthwith meet to attempt to settle such dispute or difference and failing such settlement within a period of 60 (sixty) days, then such dispute or difference shall be submitted to arbitration in accordance with the provisions set out below.

23.2. The arbitrator shall be if the question in issue is:

23.2.1. primarily an accounting matter, an independent chartered accountant of not less than 15 (fifteen) years standing as such appointed by the President for the time being of the South African Institute of Chartered Accountants in Natal;

23.2.2. primarily a legal matter, a practicing senior Advocate of not less than 10 (ten) years standing as such, or a practicing attorney of not less than 15 (fifteen) years standing as such, in either event as may be appointed by the President for the time being of the KwaZulu-Natal Law Society (or any body enacted to replace such Society);

23.2.3. any other matter, an independent person agreed upon between the parties and, failing agreement, as may be appointed by the President for the time being of the KwaZulu-Natal Law Society (or any body enacted to replace such Society) regard being had to the needs of the dispute and the qualifications required therefore.

23.3. If the agreement cannot be reached within 10 (ten) business days after the arbitration has been demanded as to whether the question in issue falls under Articles **23.2.1**, **23.2.2** or **23.2.3**, then a practicing Advocate of not less than 10 (ten) years standing or alternatively practicing attorney of not less than 15 (fifteen) years standing as such, as agreed between the parties and failing agreement as may be appointed by the President for the time being of the KwaZulu-Natal Law Society (or any body enacted to replace such Society) as soon as possible thereafter, shall determine that issue so that an arbitrator can be appointed and the arbitration can proceed as soon as reasonably practical in the circumstances.

23.4. The arbitration referred to in Article **23.1** shall be held:

23.4.1. in a summary manner, i.e. on the basis that it shall not be necessary to observe or carry out either:

23.4.1.1. the usual formalities or procedure, which may otherwise be prescribed in terms of the law referred to in Article **23.4.3**, or

- 23.4.1.2. the strict rules of evidence;
- 23.4.2. immediately and with a view to it being completed within 30 (thirty) days of the appointment of the arbitrator having particular regard to any urgency regarding the matter in issue, provided that should any party to such dispute delay or omit to fulfill any act required of it to enable the arbitration to be duly completed within the period aforesaid, any other party hereto shall be entitled at its election and upon the expiration of 6 (six) days' notice to the defaulting party to that effect, without any such defaulting party having remedied its default or omission to the satisfaction of the arbitrator, either to require the arbitrator summarily without hearing the parties to determine the rules of procedure for the finalising of the arbitration proceedings within such further period not exceeding 14 (fourteen) days beyond the original 30 (thirty) day period as the arbitration may determine, or alternatively and in the discretion of the party serving such 6 (six) day notice aforesaid, to require the arbitrator to proceed with the arbitration without the further participation of the defaulting party, in which event the defaulting party shall be barred from the participating in the further conduct of the arbitration other than at the hearing thereof, and the decision of the arbitrator then to proceed with the arbitration, either with the presence or in the absence of the defaulting party, will be competent, or further alternatively and in the discretion of the party serving the 6 (six) day notice aforesaid, such party shall be entitled to have recourse to the competent Court having jurisdiction, in which event the arbitrator shall then be entitled to make an award of the wasted costs occasioned by the proceedings, and whereupon such arbitration proceedings shall then terminate and the wasted costs borne by the party against whom the award is made, and the decision of the arbitrator as to such costs shall be final and the binding upon the relevant parties;
- 23.4.3. otherwise, but subject to the relevant provisions hereof and subject to any other alternative directions which the arbitrator may and shall be competent to prescribe, under the provisions of the arbitration laws of the place in which the arbitration takes place as amended from time to time.
- 23.5. The arbitrator shall:
- 23.5.1. be entitled to make any award as to costs of the proceedings;
- 23.5.2. decide the matter submitted to him according to what he considers just and equitable in the circumstances, and shall have regard to the desire of the parties to dispose of such dispute expeditiously, economically and confidentially, and the strict rules of law need not be observed or taken into account by him in arriving at his decision.
- 23.6. The parties irrevocably agree that the decision of those arbitration proceedings:

- 23.6.1. shall be binding on all of them and shall be forthwith carried into effect;
- 23.6.2. may at the instance of any party hereto be made an Order of Court of competent jurisdiction, provided that such proceedings for such Order of Court shall not delay in any way at all the due execution and carrying into effect of the arbitrator's award.
- 23.7. Notwithstanding anything to the contrary contained in this Article **23**, the provisions hereof shall not preclude any party hereto from taking any action against any other party or parties to the dispute in any competent Court having jurisdiction where such action is reasonably required either to restrain temporarily pending the outcome of any arbitration proceedings as hereinbefore provided for, any party hereto from commencing or continuing any action or course of action or likewise to enforce temporarily pending such arbitration proceedings any omission by any party, which action, course of action or omission is or is likely to materially prejudice any party hereto, and regard being had to all the circumstances, is of such urgent nature that it would not be appropriate merely to have recourse to arbitration proceedings, the parties agreeing that the test to be generally applied being that which would otherwise entitle any party hereto to an urgent interdict against any other party in accordance with the relevant laws applicable.

24. **DEVELOPER'S RIGHTS REGARDING THE DEVELOPMENT**

- 24.1. The Developer shall, during the Development Period, be entitled to develop any Land within the Development of which it is the Owner in conformity with the Scheme, without the approval of the Association.
- 24.2. It is recorded that an Owner may have certain contractual obligations to the Developer in terms of the contract of sale, entered into between the Owner and Developer in respect of the purchase of Land. Should there be any conflict between the rights and obligations of the Association, in terms of this Memorandum, and the right of the Developer in terms of the aforesaid contract of sale, the provisions of the contract of sale (and the Developer's rights in terms thereof) shall prevail.

25. **DISCLAIMER OF RESPONSIBILITY**

- 25.1. The Association shall not be liable for any injury to any person, damage to or loss of any property, to whomsoever it may belong, occurring or suffered upon the Development regardless of the cause thereof nor shall the Association be responsible for any theft of property occurring within the Development. Members shall not, under any circumstances, have any claim or right of action whatsoever against the Association for damages, loss or otherwise, nor be entitled to withhold or defer payment of any amount due by them for any reason whatsoever.
- 25.2. The Association and/or its agents shall not be liable to any Member or any of the Member's lessees, or their respective employees, agents, servants, invitees or customers or any member of the public dealing with the Member or any

lessee for any injury or loss or damage of any description which the Member or any such other person aforesaid may suffer or sustain whether directly or indirectly in or about the Development, regardless of the cause thereof.

- 25.3. Members shall indemnify the Association and its employees, servants and agents and lawful invitees and hold them harmless against all claims by any person arising from any injury or loss or damage as contemplated in this Article **25**.

26. **AMENDMENT TO MEMORANDUM**

- 26.1. Subject to Article **27**, this Memorandum may only be amended or varied by way of a Special Resolution adopted at a Member's meeting or in terms of a court order.
- 26.2. Amendments to the Memorandum may be proposed by the Board or by Members entitled to exercise at least 10% (ten percent) of the voting rights.
- 26.3. The Board shall nevertheless have the power to alter this Memorandum to the extent necessary to correct patent errors in spelling, punctuation, reference, grammar or similar defects as envisaged in Section 17 of the Act. A notice of any such alteration must be sent to each Member at least 10 (ten) business days prior to the filing of the notice of alteration with the Commission.

27. **RESTRICTIONS ON AMENDMENT TO MEMORANDUM**

- 27.1. **This Article and to the extent to which they confer rights on the Developer, Articles 1.1.5, 1.1.9, 1.1.12, 1.1.21, 2.1.2, 2.1.5, 2.1.6, 3.3.2, 3.3.5, 3.4.1, 3.4.2, 5.1.1, 5.1.4, 5.3, 5.4, 5.7, 6.1, 8.5.1.16, 8.5.1.17, 11.3, 11.5, 14.3, 14.4, 14.13, 14.14, 14.15, 21, 24 and 29 may not be altered without the prior written consent of the Developer during the Development Period.**
- 27.2. **This Article and the provisions of Article 30 may not be amended by the Members without the prior written consent of the Renishaw Estate Management Association.**

28. **PROHIBITION AGAINST THE SUBDIVISION AND CONSOLIDATION OF ANY LAND**

No Land shall be subdivided or consolidated without the consent of the Association which consent the Association may in its sole and absolute discretion grant or refuse.

29. **PROPERTY TO BE INCORPORATED INTO THE DEVELOPMENT OR EXCLUDED FROM THE DEVELOPMENT**

- 29.1. The Developer may during the Development Period by written notice to the Association, notify the Association of any immovable property of which it is the registered Owner which is to be incorporated into the Development, and such additional immovable property shall be deemed to be included in the Development from the date of receipt of such notice by the Association.
- 29.2. The Developer may during the Development Period by written notice to the Association, notify the Association of any immovable property owned by the Developer, which is to be removed from the Development and such Land shall be excluded from the Development from the date of receipt of such notice by the Association.

30. **RENISHAW ESTATE MANAGEMENT ASSOCIATION**

- 30.1. The Association shall be obliged to become and remain a member of the Renishaw Estate Management Association which body has been established to administer, maintain and control the use of private open spaces, all public road verges and appropriate focal areas, community facilities and security as they in their discretion determine, for the benefit of its members.
- 30.2. The Association acknowledges that other management associations will be established at the instance of the Developer for other phases in the Renishaw Development which associations may at the election of the Developer become and remain members of the Renishaw Estate Management Association.
- 30.3. It is further acknowledged that the members of the various management associations, although they will not themselves be members of the Association, such members of the various management associations shall be entitled to the use of private roads, open spaces, Community Facilities and Conservation Areas within the Development under the control of Renishaw Estate Management Association, subject however to complying with the rules imposed by Renishaw Estate Management Association from time to time.
- 30.4. In the event of any conflict or incompatibility arising between the Memorandum or Rules of the Association and those of the Renishaw Estate Management Association, the Memorandum of Incorporation or Rules of the Renishaw Estate Management Association shall prevail.