

ELAWINI  
— LUXURY RESIDENTIAL ESTATE —  
EST 2007

# MEMORANDUM OF INCORPORATION

## (“MOI”)

of

### ELAWINI HOME OWNERS ASSOCIATION (RF) (NPC) Registration Number: 2007/005261/08

(which is referred to in the rest of this Memorandum of Incorporation as “the **Company**”)

#### **A) OBJECTS AND POWERS OF THE COMPANY:**

The **Company** is a Non-Profit Company with members, with the following objects:

1. The main object of the **Company** is to protect and advance the communal interest of **Members**, occupants and other users of any of the properties (or any portion or sub-division thereof or any **Unit** thereof), comprising the **Township**, as are more fully defined in this **Memorandum of Incorporation**, hereunder.

The “**Township**” means the property comprising the Elawini Estate.

2. It is the main business of the **Company**, ancillary to the main object, to:-

- 2.1 manage, control, and administer, on behalf of its **Members**, the **Common Property** which may include, and where required and necessary, all electric, water, reticulation services, sewerage systems, storm water systems, roads, telecommunication and intercom systems and security within the **Township**; and
- 2.2 formulate rules for the upkeep, maintenance and control of buildings, walling, fencing, gates, lighting, signage, landscaping and to ensure compliance with such rules by the **Members**;
- 2.3 ensure that Members comply with the Township Establishment Conditions, building restrictions and requirements and, where necessary, to ensure that the Local Authority enforces such conditions, restrictions or requirements;
- 2.4 formulate and implement rules for the furtherance and promotion of any of the objects of the **Company** and/or for the better management of the affairs of the **Company** and/or for the advancement of the interests of **Members** and/or **Residents** in the **Township** and without limitation thereto, for *inter alia* relating to security, landscaping, vegetation, parking, road use, signage and advertising, exterior finishes of buildings, fencing or walling;
- 2.5 make and enforce rules concerning design, landscaping, ecological planning, any building activities and the control and collection of refuse;
- 2.6 consent to consolidation, sub-division or re-zoning of any **Erf(Erven)/Unit(s)** and to impose such conditions relating to any landscaping and aesthetic appearance, as they may deem fit;
- 2.7 control access to and from the **Township**;
- 2.8 collect **Levies** and contributions towards funds of the **Company** for the attainment of the objects of the **Company**, to promote and maintain any business or enterprise of the **Company**; and
- 2.9 create rules and regulations concerning the conduct, rights and obligations of **Members** and the use of **Common Property** and **Units/Erven** within the **Township** and rules for enforcement of any rules created and to ensure that the terms, conditions and obligations as are imposed in this **Memorandum of Incorporation** ("**MOI**"), are enforced equally upon all **Members** and are adhered to for the benefit of the **Members** as a whole and subject to such restrictions and/or conditions and/or powers as may be imposed by the **Members** upon the **Directors**, in General Meeting, on the basis that all **Members** shall have equal rights and obligations, save to the extent that such rights and obligations are limited, extended and regulated in terms of this **MOI**;

2.10 in general, to do all things necessary for the furtherance and promotion of any of the objects of the **Company** and/or for the better management of the affairs of the Company and/or for the advancement of the interests of members and/or **Residents** in the **Township**;

2.11 enforce any Rules made.

## **B) ADOPTION OF MEMORANDUM OF INCORPORATION:**

This **Memorandum of Incorporation** was adopted by Special Resolution of the **Members** in General Meeting.

## **C) DEFINITIONS:**

(a) In this **Memorandum of Incorporation** –

- (i) a reference to a **section** by number refers to the corresponding section of the Companies Act, 2008;
- (ii) any word or expression which is defined in the **Act** and which is not otherwise defined in the **MOI** shall have the meaning assigned thereto in the Act as in force at the date of incorporation of the **Company**;
- (iii) a reference to any Act shall include any amendment thereto or Act in substitution thereof;
- (iv) the headings to the clauses in this **Memorandum of Incorporation** are for reference purposes only and shall not be taken into account in the interpretation of the provisions in this **Memorandum of Incorporation**;

(b) The Schedule 1 Rules attached to this Memorandum are part of the **Memorandum of Incorporation**.

(c) Unless the context otherwise requires, any words importing:-

- (i) the singular number, shall include the plural number and *vice versa*;
- (ii) the one gender shall include the other two genders; and
- (iii) persons shall include partnerships, trusts and corporate bodies, and *vice versa*;

- (d) Reference to the **MOI** means this **Memorandum of Incorporation**, including all schedules and annexures hereto;
- (e) If the due date for performance of any obligations in terms of the **MOI** is a day which is not a **Business Day**, then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the succeeding **Business Day**.
- (f) Any reference to a notice shall be construed as a reference to a written notice and shall include a notice which is transmitted electronically in a manner and form permitted in terms of the **Act** and/or the Regulations
- (g) The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it;
- (h) Unless otherwise provided in this **MOI** or the **Act**;
  - (i) Defined terms appearing herein in upper case shall be given their meaning as defined, while the same terms appearing in lower case shall (except where defined in the **Act**) be interpreted in accordance with the plain English meaning, and;
  - (ii) Any words and expressions defined in any Article shall, unless the application of such word or expression is specifically limited to that Article, bear the meaning assigned to such word;
  - (iii) Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention;
- (i) The following words, expressions and abbreviations shall have the meanings hereinafter assigned to them:
  - (i) **"the Act"** : means the Companies Act, 71 of 2008;
  - (iii) **"Auditors"** : means the **Company's** appointed Auditors from time to time;
  - (iii) **"Authorized representative"** : means a person duly authorized by

a Company or other legal entity or Trust, to act as its representative at any General Meeting of the **Company**;

- (iv) **“Board”** : means the **Board of Directors** of the **Company** from time to time;
- (v) **“Body Corporate”** : shall mean, in relation to a Sectional Title Scheme which is situated within the **Township**, a Body Corporate established in terms of Section 36(1) under the Sectional Titles Act, Act 95 of 1986;
- (vi) **“Business day”** : when, in this **Memorandum of Incorporation**, a particular number of ‘business days’ is provided for between the happening of one event and another, the number of days must be calculated by:
  - (a) excluding the day on which the first such event occurs;
  - (b) including the day on or by which the second event is to occur; and
  - (c) excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in paragraphs (a) and (b), respectively;
- (vii) **“Chairman”** : means the **Chairman** of the **Board of Directors**, elected in accordance with this **Memorandum of Incorporation**, or if that expression is used with reference to a General Meeting or meeting of the **Directors** at which that person is not present or does not act as **Chairman**, the person acting as **Chairman** in accordance with the provisions of this **Memorandum of Incorporation**;
- (viii) **“Common Property”** : refers to the **Common Property**

**Areas** in the **Township**, including all the infrastructure, amenities and equipment of any nature, developed and/or installed on the **Common Property Areas** and within servitude areas registered in favour of the **Company**, that are owned by the **Company** and for which the **Company** bears the responsibility to maintain, and may include, but not limited thereto, the streets, streetscapes, pavements, fencing, security fencing and systems, entrance gate, electrical reticulation, sewerage reticulation, storm water reticulation and any equipment or amenities used ancillary to such **Common Property Areas**, including gardens and buildings and excluding the **Units**;

- (ix)
**“Common Property Areas”**
:
means all those areas transferred to or registered in the name of the **Company** and located in the **Township** or those areas within the Township excluding the **Units**;
- (x)
**“Company”**
:
means the Elawini Home Owners Association (NPC), Registration Number: 2007/005261/08;
- (xi)
**“Developer”**
:
means the owner or seller of **Units** in the **Township** before any individual transfers were effected and with voting rights in respect of those **Erven** still registered in the **Developer’s** name from time to time;
- (xii)
**“Development Period”**
:
means the period which commenced with establishment of the **Township** and which terminates when the last **Erf** in the **Township** is transferred from the **Developer** to a third party or is developed for occupation by the **Developer**;
- (xiii)
**“Directors”**
:
means the **Directors** of the **Company** who shall, for the purposes of the **Act**, be the **Directors** of the **Company** appointed or elected in

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Estate Agents Act, Act 112 of 1976, appointed by the **Company** as an independent contractor from time to time, if at any time there is no **MA** then the reference to the **MA** shall be reference to the Board;

- (xx) **“Member / Members”** : means the **Developer**, the **Special Member/s** and/or any person who is reflected in the Deeds Registry of the relevant Deeds Office as the registered owner of a **Unit/Erf** in the **Township** and/or any person who has successfully applied for membership of the **Company**;
- (xxi) **“MOI”** : means this Memorandum of Incorporation of the **Company**;
- (xxii) **“Resident(s)”** : means a person in occupation of a **Unit** on a temporary or permanent basis by agreement with and/or consent from the **Member** of a relevant **Unit** or through his affiliation or association with such **Member**;
- (xxiii) **“Scheme”** : refers to a Sectional Title Development in terms of the Sectional Titles Act, Act 95 of 1986;
- (xxiv) **“Special Member/s”** : means:
- (a) Jozef Marthinus Heunes  
(ID: 490507 5037 08 1)
  - (b) Mercia Heunes  
(ID: 510528 0030 08 3)
  - (c) Craig Heunes  
(ID: 790410 5139 08 9)
  - (d) Ilona Heunes  
(ID: 811115 0068 00 2)
  - (e) Aubrey Heunes  
(ID: 590822 5027 08 4)
  - (f) Mitzi Heunes  
(ID: 590819 0078 08 8)
  - (g) Lizelle Raath



(ID: 810125 0209 08 5)

(h) Michelle Hickman  
(ID: 790911 0304 08 1)

who are the registered owners of **Erf 779** in the **Township**; or may become owners of a portion of **Erf 779** in respect of any sub-division thereof; or a member of a Body Corporate to be established in respect of a Sectional Title Scheme on **Erf 779** and in respect of which Erf a Sectional Title Scheme was opened, comprising of 3 (three) Units and for which the **Bukekayo View Body Corporate** was established;

(xxv) **“Township” / “Estate”** : means the property/ies comprising the Elawini Estate, being Portions 33, 36, 52 and the Remainder of Portion 21 of the Farm Boschrand 283, Registration Division J.T., Mpumalanga and any other adjacent land that may be incorporated into the joint planning, development, regulation and management thereof;

(xxvi) **“Unit”** : means an erf, whether consolidated or comprising a sub-division thereof, improved or unimproved, and including any outbuildings;  
or  
a Sectional Title Unit established in terms of the Sectional Titles Act, Act 95 of 1986;

(xxvii) **“Vice-Chairman”** : means the **Vice-Chairman** of the **Board of Directors**.

(j) A reference to a **“Member”** in this **MOI** shall include a reference to a **Special Member**, except for the provisions of Article 1.5(5)(5.3) and Article 1.5(6)(6.1) which are only applicable to **Members** and not to **Special Members**.

## **D) COMPANY ADMINISTRATION:**

### **Article 1 – Incorporation and Nature of the Company**

#### **1.1 Incorporation**

- (1) The **Company** is a pre-existing Non-Profit Company, as defined in the Companies Act, 2008.
- (2) The **Company** is incorporated in accordance with, and governed by-
  - (a) the unalterable provisions of the Companies Act, 2008 that are applicable to Non Profit companies;
  - (b) the alterable provisions of the Companies Act, 2008 that are applicable to Non Profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and
  - (c) the provisions of this **MOI**.
- (3) This **MOI** is in a form unique to the Company, as contemplated in Section 13(1)(a)(ii).

#### **1.2 Objects and Powers of the Company**

- (1) The Objects of the **Company** are as set out on the cover sheet (**Part A**) and, except to the extent necessarily implied by the stated objects, the **Company** has all of the legal powers and capacity of an individual and the purposes and powers of the **Company** are subject only to the restrictions referred to in Article 13 and are not subject to any further restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii).
- (2) The **Company** is prohibited from amendment of the **Memorandum of Incorporation** as envisaged in terms of the provisions of Section 15(2)(c) of the **Act**, in that:-
  - (a) an amendment of this **MOI** which affects any of the rights of the **Special Members** may only be adopted by Special Resolution, subject to the written consent of the **Special Members** thereto;
  - (b) an amendment of this **MOI** which affects any of the rights of the members of the Elawini Village Body Corporate may only be adopted by Special Resolution, subject to the written consent of the **Members** of the Elawini Village Body Corporate;

- (c) an amendment of this **MOI** which affects any of the rights of the members of the Bodies Corporate to be established on **Erven 656, 627 and 451** may only be adopted by Special Resolution, subject to the written consent of the members of the Bodies Corporate so established;
  - (d) an amendment of this **MOI** which affects any of the rights of the **Developer** during the **Development Period** may only be adopted by Special Resolution, subject to the written consent of the **Developer** thereto.
- (3) Upon dissolution of the **Company**, its net assets must be distributed in the manner determined in accordance with Item 1(4)(b) of Schedule 1 of the Companies Act, 2008, which holds that :-
- (a) the net value of the **Company** must be distributed to one or more non-profit Companies, external non-profit companies carrying on activities within the Republic of South Africa, voluntary associations or non-profit trusts – having objects similar to the **Company's** main object; and
  - (b) as determined:
    - (i) by majority resolution of the **Members**, immediately before the time of dissolution or, failing such determination;
    - (ii) by the Court.
- (4) The **Company** is not permitted to distribute its funds to any person or entity other than a Non-profit Company, Voluntary Association or Non-profit Trust, having objects similar to the **Company's** main object.

### 1.3 Memorandum of Incorporation and Company rules

- (1) Subject to the provisions of Article 1.2(2) above, this **MOI** of the **Company** may be altered or amended only in the manner set out in section 16 or 17, subject to the requirement that any alteration of the **MOI** or the Rules, made in terms of Section 17(1), shall be published to the **Members** of the **Company** by delivering a copy of the altered **MOI** or the Rules to each **Member** in the prescribed manner in terms of Article 8.
- (2) The **Company's Board of Directors** may make rules for the **Company**, without limitation or restriction and only subject to the provisions of Article 1.3(4), as contemplated in section 15(3) – (5), which Rules shall include, but not be limited, to the following matters:

- (a) the preservation of the environment, including the right to control vegetation and the right to prohibit and/or control the erection of fences and other improvements to a **Unit/Erf**, whether upon or within the boundaries of any **Unit/Erf**, which may affect the general aesthetic appearance of the **Township**;
- (b) all aspects of security, vegetation, parking, signage and advertising, exterior finishes of buildings or walling and fences, streetscapes and the maintenance of any **Unit/Erf** and any improvements thereon;
- (c) the right to prohibit, restrict or control the keeping of any animal/bird/reptile which they may regard as dangerous or likely to cause a nuisance and/or disturbance to other **residents** in the **Township**;
- (d) the placing or affixing of ornamentation or embellishments to the outside of the buildings or on a **Unit** within the **Township**, including the power to remove, or order the removal, or to procure an order for removal of any such objects;
- (e) the conduct of any person or persons within the **Township** for the preservation of peace and tranquillity and the prevention of nuisance of any nature to any **Member/Resident**, or to prevent any harm to the environment;
- (f) the furtherance and promotion of any of the objects of the **Company** and/or for the better management of the affairs of the **Company** and/or for the advancement of the interests of **Members** of the **Company**;
- (g) the right to control reasonable access to the **Township** and to any **Unit/Erf** to protect the security of the **Township**, the **Members** and **Residents** and all users thereof;
- (h) the control of any visitors, contractors and labourers and restriction of their access to and activities within the **Township**;
- (i) the enforcement of any of the Rules;
- (j) the operations and activities of all businesses whatsoever conducted on or from a **Unit/Erf** within the **Township**, including the methods of sale and advertising within the **Township**;
- (k) rules regulating the conduct of estate agents within the **Township**, show-houses, accreditation, property transactions, the control and movement of the estate agents and their clients (prospective purchasers of **Units/Erven** in the **Township**);

- (l) the maintenance and preservation of the natural environment and the protection of fauna and flora and the eradication of undesirable flora;
- (m) rules concerning construction and material specification and Architectural Guidelines and Rules and requirements of all improvements and in particular, without derogating from the generality of the foregoing, structures of whatsoever nature, paving, pavements / sidewalks, the appearance of streetscapes, installations of whatsoever nature, including without limiting the generality thereof, air-conditioning units, any power saving devices, generators, swimming pool pumps / filters, TV aerials / dishes / antennae, lighting, washing lines, refuse bins, building rubble, carports, awnings, security systems and landscaping features as well as the maintenance and upkeep of all the foregoing;
- (n) the control of vehicular traffic of whatsoever nature, including parking;
- (o) the use of any facilities or amenities within the **Township**;
- (p) the safety- and other regulations applicable to the playing of any sport or engagement in any other recreational activity, including, but not limited to, the use of balls and other sporting equipment, cycles, scooters, skateboards, etc.;
- (q) the control and recycling of refuse, littering and other safety and anti-pollution related measures;
- (r) the maintenance of all roads, pavements, buildings, outbuildings, structures, electricity-, water- and sewage reticulation, irrigation of **Common Property**, improvements of any nature and landscaping within the **Township** of any **Common Property** and **Units**;
- (s) the right of reasonable access to any **Unit** in order to affect the maintenance of any matters referred to in this **MOI** or the rules;
- (t) the conditions for the use of all or certain parts of the **Common Property**, such as streets and other open spaces, etc.;
- (u) the restriction of domestic workers and other employees and their movement within the **Township**;
- (v) directives concerning processes to be followed regarding internal dispute resolution between **Members** and/or between **Members** and the **Company** concerning conduct and/or the use of **Common Property**;

- (w) rules that may become applicable or necessary from time to time to effectively discharge all the obligations of the **Company** as a juristic person and “responsible party” under the Protection of Personal Information Act No. 4 of 2013 and also the prescriptions of the Promotion of Access to Information Act No. 2 of 2000 for the proper protection, processing, control of and access to the personal information of its Members and any other data subjects that may come under its control.
  - (x) in general, rules in order to maintain tranquillity and a peaceful living environment in the **Township**.
- (3) For the enforcement of any Rules made by the **Directors** or the **Company**, the **Directors** shall be entitled to:
- (a) take such action, including proceedings in Court, as they may deem fit;
  - (b) implement a system of fines and penalties from time to time in order to deter any contravention of these Rules and to ensure the due enforcement of these Rules.
  - (c) Any fines or penalties imposed by the Directors are subject to adjustment and/or ratification by members in General Meeting.
  - (d) In the event of contravention of any of these Rules, the following procedure will be followed and implemented by the Directors/**Managing Agent**:
    - (i) A letter of demand incorporating a penalty will be sent to the **Member**, specifying the nature of the breach and demanding him to remedy the breach where applicable, within a period of 10 (ten) days from date of demand;
    - (ii) Should the **Member** fail to adhere to the demand letter and to remedy the breach then, unless written objection is received by the owner concerning the alleged contravention, the prescribed penalty shall be implemented and levied against the **Member's** levy account and shall be enforceable, as if such penalty or fine constitutes a normal levy;
    - (iii) If the transgression is disputed and upon receipt of any written objection (“the **objection notice**”) from the **Member**, a Committee of 3 (three) **Directors** appointed by the **Chairman** for this purpose, shall convene a meeting with the **Member** within a period of 10 (ten) days, or as soon as reasonably possible after receipt of the **objection notice**, to adjudicate upon the issue. The meeting shall take place at a venue and time, and in

accordance with such procedure, as the **Chairman** of the Committee shall direct; provided that the Rules of natural justice shall be observed and at which meeting the **Member** shall be entitled to address his objection and to call witnesses.

- (iv) The decision of the **Board** shall be final unless objected to **in writing** within 10 (ten) days from notification of its decision;
  - (v) Should the **Member** refuse to accept the decision of the **Committee** on any matter, such dispute shall then be referred to arbitration in terms of Article 5;
  - (vi) Any fine imposed upon any **Member** will be deemed to be a debt due by the **Member** to the **Company** and shall be recoverable by ordinary civil process.
- (4) In the event of any breach of the Rules by a **Member's** lessee, **Resident**, occupant, visitor, employee, contractor, guest, member of his family or of his lessee or occupant, such breach shall be deemed to have been committed by the **Member** himself, but without prejudice to the rights of the **Company** to take or cause to be taken, such action against the person actually committing the breach, as the **Board** in their discretion may deem fit.
  - (5) The **Board** must publish any notice or rules made in terms of section 15(3) – (5) by delivering a copy of those Rules to each **Member** by ordinary mail and/or telefax and/or e-mail. The Rules are available for inspection at the office of the Company at all times within business hours and a copy will be made available against payment of the reasonable fee as determined by the **Board of Directors** from time to time.
  - (6) The **Company** must publish a notice of any alteration of the **MOI** or the Rules, made in terms of section 17(1) by delivering a copy of the notice and altered **MOI** or the Rules, to each **Member** in the prescribed manner in terms of Article 8.
  - (7) All Rules made by the **Board of Directors** must be ratified by the **Members** of the **Company** at the General Meeting following the publication of the Rules to the **Members** and any amendment affecting the rights of **Special Members** should be ratified by the **Special Members** in writing..
  - (8) Any Rules issued by the **Directors** with regards to conduct of **Members** or any other matter, in force on the date before this **MOI** as accepted by the **Members**, will remain of force and effect as if they were issued in terms of Article 1.3(2).

- (9) The **Company** may itself, through the **Members** in General Meeting, make any Rules which the **Directors** may make in terms of Article 1.3(2) and 1.3(3) and may likewise vary or modify any Rules made by it or the Directors from time to time.

#### 1.4 Optional provisions of Companies Act, 2008 do not apply

Although the **Board** may elect to appoint an Auditor, such election will be voluntary and not subject to the provisions of Chapter 3 and specifically not subject to Sections 90, 91, 92 and 93 of the **Act**.

#### 1.5 (1) Membership of the Company

As contemplated in Item 4(1) of Schedule 1 of the **Act**, the **Company** has **Members**, who are all in a single class, being voting **Members**, each of whom has an equal vote in any matter to be decided by the **Members** of the **Company**.

#### (2) Qualification for Membership of the Company

Membership of the **Company** shall be limited to:-

- (2.1) the incorporators of the **Company** during the **Development Period** of the **Township** and the **Special Member/s**; and
- (2.2) those persons (natural persons or juristic entities) who, at incorporation or thereafter are reflected in terms of the Deeds Registries Act No. 47 of 1937, in the records of the Deeds Office concerned as the registered owners of **Erven/Unit(s)** in the **Township**, notwithstanding the provisions of Article 1.5(3), and who will be bound by the provisions of the Companies Act, 2008, this **MOI** and any Rules made and incorporated hereunder;
- (2.3) Where any **Unit(s)** in the **Township** is owned by more than one person, all the registered owners of that **Unit(s)** shall together be deemed to be one **Member** of the **Company** and have the rights and obligations of one **Member** of the **Company**; provided however that all co-owners of an **Erf/Erven/Unit(s)** shall be jointly and severally liable for the due performance of any obligations towards the **Company**.

#### (3) Application for Membership of the Company



- (3.1) Subject to the provisions of Article 1.5(2.2), application for Membership of the **Company** shall be made to the **Board in writing**.
- (3.2) When application is made for membership of the **Company** by a person, such person shall declare himself bound by the terms and conditions of this **MOI** and any Rules made thereunder, and such person shall be deemed to have acquainted himself with the terms and conditions thereof.
- (3.3) All **Members** who are **Members** of the **Company** at the time this **MOI** is adopted, shall remain **Members** of the **Company** by virtue of them being the registered owners of **Unit(s)/Erf(Erven)** in the **Township**.

#### **(4) Initial or periodic costs for membership**

All **Members** shall be liable for payment of a monthly **Levy**, as may be determined by the **Board** or the **Members**, in terms of this **MOI** from time to time, as may be required for the fulfilment of the objectives of the **Company**.

#### **(5) Rights and obligations of Membership**

- (5.1) A **Member** of the **Company** *[including a **Special Member** – refer to definitions-clause C(i)(xxiv) and (j)]* shall remain a **Member** thereof until he ceases to be the registered owner, as reflected in the relevant Deeds Office as an owner of a **Unit/Erf** in the **Township**, and a **Member** shall therefore not be entitled to resign as a **Member** of the **Company** unless he ceases to be an owner of a **Unit/Erf** in the **Township**.
- (5.2) The rights and obligations of a **Member** shall not be transferable and every **Member** shall:
  - (5.2.1) further to the best of his ability the objects and interests of the **Company**;
  - (5.2.2) observe all Rules made by the **Company** or the **Directors**;
  - (5.2.3) pay all **Levies** and special levies due by the **Member**, to the **Company**;
  - (5.2.4) comply with the Conditions of Establishment of the Township;
  - (5.2.5) comply with the Architectural Design Guidelines in force from time to time;

- (5.2.6) obtain the prior written consent of the **Board** of any building plans, including plans for exterior alterations to an existing building, before submission thereof for approval to any local or other authority, prior to commencement with any building activity;
- (5.2.7) not use his **Unit/Erf** or any part thereof, or any part of the common property or common services, or permit it to be used, in such a manner and/or for such purposes as shall be injurious to the reputation of the **Company**;
- (5.2.8) not contravene or permit the contravention of any law, by-law, ordinance, proclamation or statutory regulation, or the conditions of any license, relating to or affecting the occupation of his **Unit/Erf** or of the common property or the carrying on of business, or so contravene or permit the contravention of the conditions of title applicable to his **Unit/Erf** or of any other **Unit/Erf** or the common property;
- (5.2.9) maintain his **Unit/Erf**, and any area allocated for his exclusive use, in a clean and tidy condition and adhere to the Architectural Design Guidelines developed by the **Developer**, specific to each Body Corporate. Any deviations from these design guidelines, alterations and/or extensions to a **Unit** must be approved by the Board;
- (5.2.10) allow any person so authorized by the **Board** to enter onto his **Unit/Erf** for purposes of inspecting any structure to be erected on his **Unit/Erf**. **Members** are responsible to allow entry to such persons for such purpose;
- (5.2.11) not sub-divide or allow the sub-division of any **Unit/Erf**, nor erect a second dwelling on any **Unit/Erf**, without authorization thereto by Special Resolution of the **Members**;
- (5.2.12) abide by the **MOI** and adhere to the rules and regulations proclaimed by the **Directors** from time to time;

provided that nothing contained in this **MOI** of the **Company** shall prevent a **Member** from ceding his rights in terms of this **MOI** as security to the mortgagee of the **Member's Unit**.

- (5.3) No **Member** shall let or otherwise part with occupation of his **Unit**, whether temporarily or otherwise, unless the occupant or tenant has agreed, **in writing**, to be bound by all the terms and conditions of this **MOI** and any **Rules** made thereunder, and such written undertaking is lodged with the **Board** and/or the **Managing Agent** prior to the proposed occupier taking occupation of the **Unit** in question.
- (5.4) Every **Member** shall, when he agrees to transfer ownership of his **Unit** in the **Township**, set it as a condition of the agreement of sale and transfer, that the new owner shall apply for membership of the **Company** and be accepted as **Member** of the **Company** and therefore become a **Member** of this **Company**, accepting his/her/its obligations towards the **Company** as **Member**.
- (5.5) No **Member** of a **Unit** in the **Township** shall be entitled to transfer his **Unit** to any other person without the written consent of the **Company** first having been obtained under the hand of the **Board** or the **Managing Agent**, which consent will not be withheld unless:
- (5.5.1) such **Member** is in arrears with any **Levies**, penalties, fines or interest or other payment due to the **Company** in terms of the **MOI** or the **Rules** or otherwise;
  - (5.5.2) such **Member** is in breach with any of his obligations towards the **Company** in terms of the **MOI** or the **Rules** and has failed to remedy such breach after having been called upon by the **Company**, **in writing**, to remedy such breach and he remains in breach, unless such breach is disputed **in writing** by the **Member** and forms the subject of a dispute resolution process;
  - (5.5.3) the prospective transferee has not applied for membership of the **Company**, where such application is required, or has not been accepted as **Member** of the **Company**.
- (5.6) No **Member** of a **Unit** in the **Township** shall be entitled to pass transfer thereof to any other person until the **Company**, under the hand of the **Board** or the **Managing Agent**, has certified by way of a clearance certificate that such **Member** as at date of transfer has complied with all his/her/its financial and other obligations towards the **Company**. The principles applicable in terms of the Sectional Titles Act, Act 95 of 1986, with regard to the issuing of a clearance certificate shall apply, with the necessary and required amendments, to any clearance

certificate required to be obtained in respect of the transfer of any **Unit/Erf** in the **Township**.

- (5.7) The provisions of Article 1.5(5.5) and (5.6) shall apply *mutatis mutandis* to any alienation of an undivided share in a **Unit** in the **Township**.
- (5.8) The **Directors** of the **Company** may impose an additional, reasonable fee upon the **Members** of the **Company** for the issuing of the Clearance Certificate as referred to in Article 1.5(5.6). The said fee will be determined by the **Directors** or the **Managing Agent** from time to time and will be subject to ratification/amendment/repeal by the **Members** in General Meeting.
- (5.9) **Members** shall have the rights prescribed by the **Act**, the **MOI** and any Rules made thereunder, which shall *inter alia* include the following rights:
  - (5.9.1) Subject to the provisions of Article 4(1)(a)(ii), the right to nominate and elect **Directors** and/or to remove from office, such elected **Directors**;
  - (5.9.2) the right to have access to the **Company** records in accordance with the provisions of Section 26 of the **Act**;
  - (5.9.3) the right to receive notice of, attend, speak and vote at General Meetings of the **Company**;
  - (5.9.4) the right to have access to the Financial Statements or related information of the **Company**;
  - (5.9.5) provided that they are in good standing (i.e. if they have paid all levies and other amounts due and payable to the **Company**), shall have the right to vote at all meetings of the **Company**.
- (5.10) A **Member/(s)** shall not have the right to attend, to vote or to speak at any General Meeting, or as contemplated in terms of the provisions of Section 60 of the **Act**, if:
  - (5.10.1) such **Member** is in arrears with any **Levies**, service costs, contributions, penalties, fines, legal costs or interest, or any other payment due to the **Company** in terms of this **MOI** or the Rules or otherwise;
  - (5.10.2) such **Member** is in breach (other than payment of levies) with any of his obligations towards the **Company** in terms of this **MOI** or the Rules and has

failed to remedy such breach after having been called upon by the **Company, in writing**, to remedy such breach and he remains in breach, unless such breach is disputed **in writing** by the **Member** and forms the subject of a dispute resolution process;

- (5.10.3) the prospective transferee has not applied for membership of the **Company**, where such application is required, or has not been accepted as **Member** of the **Company**.
- (5.11) The rules which are applicable to the **Members** shall similarly also be applicable to Members of a Body Corporate and every Body Corporate is required to:
  - (5.11.1) submit its Conduct Rules and Management Rules to the **Directors** for their consideration and approval;
  - (5.11.2) ensure at all times that its Conduct Rules and Management Rules are in full compliance and in accordance with the Rules of the **Company**. Should there be any conflict between the Conduct- and Management Rules and the provisions of this **MOI** and/or the Rules of the **Company**, the provisions of this **MOI** and/or the Rules of the **Company** shall take precedence;
  - (5.11.3) ensure that, whenever a provision of this **MOI** or any Rules thereunder are amended, the necessary amendments are made to the Conduct- and Management Rules of the Body Corporate;
  - (5.11.4) submit to the **Directors** for their approval, every proposed amendment of the Conduct- and Management Rules of the Body Corporate, whether in accordance with an amendment to this **MOI** or the Rules thereunder, prior to it being voted on by the **Members** of the relevant Body Corporate.
- (5.12) Every **Member**, if so required by the **Company**, shall sign all documents required to create a condition in the Title Deed of his **Unit/Erf**, which will ensure that the **Unit/Erf** may not be sold or transferred without the buyer or transferee binding himself to become a **Member** of the **Company** and without a certificate as contemplated in Article 1.5(5.6). The condition referred to shall be worded as near as possible to the following format:

“Elawini Home Owners Association (RF) (NPC):

- A. Subject to the following conditions imposed by the transferor from time to time, initially Elawini Property Proprietary Limited (registration Number: 2006/002701/07) in its capacity as owner of the abovementioned property and enforceable by Elawini Home Owners Association (RF) (NPC), Registration Number: 2007/005261/08)
1. The transferee and its successors in title or assigns of the within mentioned property shall upon transfer thereof, become a member of the Company and remain as such and be subject to its Memorandum of Incorporation and all village rules and architectural guidelines framed in terms thereof, until the transferee or each subsequent successor in title or assign ceases to be the registered owner of the property. The Company shall have full responsibility to promote the communal interest of owners and residents in the township, which will include but not be limited to maintenance of private roads, private open spaces and servitudes, sewer purification and sanitary services, electricity facility, security facilities, water supply and purification and storm water drainage.
  2. Neither the property nor any interest therein shall be transferred to any person who has not bound him/her/itself in writing to become a member of the Company.
  3. The transferee and its successors in title or assigns shall not be entitled to transfer the property without a clearance certificate from the said Company certifying that all amounts owing by the registered owner to the aforesaid Company have been paid.
  4. For purposes of clause A(1), (2) and (3) above the term “Home Owners Association” is a reference to ELAWINI HOME OWNERS ASSOCIATION (RF) (NPC), Registration Number: 2007/005261/08.
  5. In the event of the Registrar of Deeds requiring the amendment of any of the above conditions in any manner in order to effect registration thereof, the transferee hereby agrees to such amendment.
- B. Should the transferee fail to complete erection of improvements on the said property within 3 (three) years of the date on which the first transfer is registered, then, in that event, the transferee may, in writing and with good reason, appeal to the Board of Directors for a further 2 (two) year

extension (total 5 years), whereafter the transferee and its successors in title shall in addition to the levy payable to the Company, the said Elawini Home Owners Association (RF) (NPC) (Registration Number: 2007/005261/08), become liable for the payment to the Company of a monthly penalty levy, from date of non-compliance as set out above until date of the full compliance therewith by the transferee, both days inclusive, in a sum equivalent to the amount of the monthly levy payable to the said Company. The aforesaid penalty levy shall escalate after every completed period of 12 months after date of non-compliance with a further sum equivalent to the monthly levy as determined by the Company at that time. Accordingly the penalty levy shall, in the second twelve-month period of non-compliance, amount to twice the monthly levy payable and so on for each successive twelve months period."

(5.13) The provisions of Article 1.5(5)(5.12)(B) concerning the time bar for completion of improvements on a property shall not apply to **Erf 779**.

(5.14) The penalty provisions and the time period as referred to in Article 1.5(5)(5.12)(B) may be extended, increased or decreased from time to time in terms of the Rules of the Company.

#### (5.15) **Binding Nature**

(5.15.1) The provisions of this **MOI** and Rules, and the duties of a member in relation to the use and occupation of his **Unit/Erf** shall be binding on the member of any **Unit/Erf** and any lessee or other occupant of any **Unit/Erf** and it shall be the duty of the member to ensure compliance with this **MOI** and Rules upon such lessee or occupant, including visitors, employees, guests, any member of his family or that of his lessee or his occupant;

(5.15.2) It shall be the duty of any member to furnish a copy of this **MOI** and Rules to any lessee or other occupant of his **Unit/Erf** and to refer in any Lease Agreement to the binding nature of this **MOI** and Rules upon such lessee or occupant.

(5.16) If a member ceases to be a **Member** of the **Company** as a result of the transfer of a **Unit/Erf** to another person, such **Member** shall not be released from any liability to the **Company** in respect of any debt or other obligation, the cause of which arose prior to the transfer of such **Unit/Erf**.

- (5.17) Where a **Unit/Erf** is owned by more than 1 (one) person, all the registered owners of that **Unit/Erf** shall together be deemed to be collectively 1 (one) **Member** of the **Company** and have the rights and obligations of 1 (one) **Member** of the **Company**; provided however that all co-owners of any **Unit/Erf** shall be jointly and severally liable for the due performance of any obligation to the **Company**.
- (5.18) The rights and obligations of a **Member** shall not be capable of being ceded and/or assigned, in whole or in part, nor otherwise be transferable.
- (5.19) Members shall not interfere with, nor give instructions to any officers, employees, agents or contractors of the **Company** and **Managing Agent**, and any complaints shall be addressed **in writing** to the **Directors** and/or **Managing Agent**. The **Directors** may request that any complaint made in terms of this clause, be dealt with at the next General Meeting of the **Company**.
- (5.20) To the extent reasonably possible, the **Directors** shall respond to any request or complaint by a **Member** within 7 (seven) business days from receipt of such complaint/request and will at least advise how and when they intend to deal with the complaint/request, if same is not immediately addressed.

## (6) Levies

- (6.1) The **Directors** may from time to time determine the **Levies** payable by the **Members** for the purpose of meeting all the expenses which the **Company** has incurred, or to which the **Directors** reasonably anticipate the **Company** will be put in the attainment of its objects or the pursuit of its business.
- (6.2) In determining **Levies**, the following principles shall apply:
- (6.2.1) All **Members** shall pay equal **Levies** in respect of **Units/Erven** of similar usage;
  - (6.2.2) The **Directors** shall be entitled, within their sole discretion, to differentiate in the determination of the **Levies** between **Erven/Units** utilized for different purposes such as, but not limited to, full title, erven or erven on which Sectional Title Schemes have been established or will be established in future;
  - (6.2.3) Contributions levied against Unit owners who are members of the Elawini Village Body Corporate and/or of a Sectional Title Development on **Erf 779**,



shall not exceed 50% (fifty percent) of the contributions to be levied against **Owners of Erven**;

- (6.2.4) In respect of any future Sectional Title Development to be established on **Erven 656, 627 and/or 451**, the **Directors** shall be entitled to levy contributions upon Unit owners to a maximum of 70% (seventy) percent of the contributions levied upon **Owners of Erven** within the **Estate**.
- (6.3) The **Developer** during the Development Period shall not be liable to effect payment of **Levies** and/or special **Levies**.
- (6.4) The **Special Member/s** shall not be liable for payment of **Levies** or special **Levies**; provided on a sub-division of **Erf 779**, the owners of any sub-divided portion other than the **Special Member/s**, shall have all the rights and obligation of an ordinary **Member** of the **Company**.
- (6.5) The **Directors** shall not less than 30 (thirty) days prior to the end of each financial year or so soon thereafter as is reasonably possible, publish a notice indicating an estimate ("**estimate**"), in reasonable detail, of the amount which shall be required by the **Company** to meet the expenses during the following financial year, and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The **Directors** may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual or recurring nature.
- (6.6) Each notice to each **Member** shall specify the contribution (levy) in accordance with the **estimate**, payable by that **Member** to such expenses and reserve fund.
- (6.7) The annual levy for the ensuing financial year or any special levy to be implemented shall become due and payable on the passing of a **Board** Resolution to that effect, or the publication thereof as envisaged in Article 1.3(4).

The annual levy shall be payable in equal monthly instalments due in advance on the 1<sup>st</sup> day of each and every month of each financial year, provided that **Members** in General Meeting may give directions to the **Directors** to deviate from this arrangement.

Any special levy shall be payable in a form that the **Directors** may direct, subject to the approval of **Members** in General Meeting by a mere majority and/or in terms of such directions as the **Members** may impose at any General Meeting.

- (6.8) In the event of the **Directors** for any reason whatsoever failing to prepare and timeously serve the notice referred to in Article 1.5(6.5) above, every **Member** shall until served with such notice, continue to pay the levy previously imposed and shall after service of such notice pay the levy specified therein. A **Member** shall pay any deficit (comprising the difference between the levies payable during the previous financial year and the new levy imposed, if any) within 30 (thirty) days of receipt of the notice specifying the new contribution payable by the **Member**.
- (6.9) Upon the change of ownership of a **Unit/Erf**, the successor in title becomes liable for the pro-rata payment of **Levies** from the date of change of such ownership.
- (6.10) The **Directors** may from time to time impose special **Levies** upon the **Members** in respect of all expenses as are mentioned in Article 1.5(6)(6.1) which are not included in any estimate made in terms of Article 1.5(6)(6.5).
- (6.11) All **Levies** and any special **Levies** referred to in Article 1.5(6.1) and (6.10), becomes due on the passing of a Directors' Resolution to that effect and may be recovered by the **Company** by action in any competent Court, having jurisdiction from the **Member(s)** who were owner(s) of the **Unit(s)** at the time when such Resolution was passed.
- (6.12) The **Directors** or the **Members** in General Meeting shall be empowered, in addition to such other rights as the **Company** may have in law against its **Members**, to determine the rate of interest from time to time chargeable upon arrear **Levies**. The interest rate shall not exceed any limitation as may be prescribed from time to time in terms of the National Credit Act, No. 34 of 2005, in which event the interest rate shall be limited to the maximum interest rate allowed. Interest shall be calculated monthly in arrears and compounded.
- (6.13) The obligation of a **Member** to pay a levy and interest shall cease upon his ceasing to be a **Member** without prejudice to the **Company's** right to recover arrear **Levies** and interest and penalties, fines and other amounts due to the **Company**. No **Levies** (excluding **Levies** paid in advance), interest, penalties, fines or other amounts paid by a **Member** shall under any circumstances be repayable by the **Company** upon his ceasing to be a **Member**. A **Member's** successor in title to a **Unit/Erf** shall be liable for payment of **Levies** and/or special levies that are still payable in respect of the **Unit**, from as from the date upon which he becomes the registered owner of the **Unit/Erf** as reflected in the Deeds Registry.

- (6.14) No **Unit(s)** registered in a **Member's** name shall be capable of being transferred without a Clearance Certificate as referred to in Article 1.5(5)(5.6) first being obtained from the **Company**, confirming that all **Levies** (including payment of 3 (three) months' levies in advance or as may be determined by the **Directors** from time to time), penalties, fines or other amounts due and interest have been paid up to and including date of registration of transfer thereof.
- (6.15) A **Member** shall be liable for and pay all legal costs, including costs as between attorney and own client, collection commission, expenses and charges incurred by the **Company** in obtaining the recovery of arrear **Levies**, penalties, fines, interest or any other arrear amounts due and owing by such owner to the **Company** or in enforcing compliance with the **Act**, the provisions of this **MOI**, or the Rules.
- (6.16) The **Directors** may from time to time determine a charge to be levied against **Members** in arrears, as an administration charge payable to the **Company** or to the **Managing Agent**.
- (6.17) Interest imposed by the **Directors** shall be subject to review by the **Members** in General Meeting and shall not exceed any limitations set by legislation.
- (6.18) All payments made by a **Member** and received by the **Company**, shall be allocated firstly towards interest, legal costs and thereafter towards capital. The **Board** reserves the right to allocate payments as they deem fit in the absence of an express allocation by the **Member**. In the absence of an express allocation by the **Board** or the **Member**, all payments will be allocated to the debt newest in time.
- (6.19) **Members** shall further have the rights and obligations as specified in the Rules incorporated in this **MOI** and as may be amended from time to time.
- (6.20) Should a **Member** fail to effect payment of **Levies** (annual and/or special) levied in terms of the **MOI** on due date, the full outstanding balance remaining unpaid for the financial year shall become due and payable without notice and/or demand but the **Board** may at their sole election and discretion agree to a re-payment arrangement with the **Member** concerned and subject to such conditions as the **Board** may impose. The **Board**, in managing the financial obligations and cash flow requirements of the **Company**, may at their sole election and discretion agree to reduce, vary or discount the full outstanding balance remaining unpaid by a **Member**, subject to such conditions as the **Board** may impose and subject further to the ratification by the **Members**, with or without amendment, at the

next General Meeting of the **Company** following such determination.

- (6.21) All levies shall be due and payable in advance on the 1<sup>st</sup> (first) day of each month.
- (6.22) Notwithstanding any contrary provision contained in this **MOI**, all notices in respect of **Levies** and/or statements issued to Unit owners of a Body Corporate, shall be issued, sent or delivered to the domicilium address of the Body Corporate or its duly authorized Managing Agent and the Body Corporate on behalf of its Members shall notify the **Members** of any notices or statements and shall collect on behalf of the **Company**, **Levies**, special levies, penalties and other amounts due by the Unit owners in terms of this **MOI**.

## 1.6 The financial year end

The financial year end of the **Company** shall be the last day of December.

## 1.7 Special Member/s

The following provisions shall apply to **Special Member/s**:

- (1) **Special Members** shall have all rights and obligations of membership in terms of this **MOI**, including their compliance with the **Company** Rules, but shall not be liable to effect payment of **Levies** to the **Company**, subject to the provisions of Article 1.7(2);
- (2) It is recorded that a Sectional Title Scheme comprising 3 (three) Units was established on **Erf 779** and for which the **Bukekayo View Body Corporate** was established. On a sub-division of **Erf 779** or upon the extension of the **Bukekayo View Sectional Title Scheme**, **Special Members** shall become liable to effect payment of **Levies** similar to ordinary **Members** of the **Company** in respect of ownership of any sub-division or ownership of a Unit in the extended Scheme;
- (3) The owners of **Erf 779** may only sub-divide **Erf 779** or extend the **Bukekayo View Sectional Title Scheme** with the prior Special Resolution of **Members** of the **Company** and subject to such reasonable conditions as may be imposed. Owners of **Erf 779** may extend any **Section** of the **Bukekayo View Sectional Title Scheme** in terms of the provisions of Section 24 of the Sectional Titles Act, Act No. 95 of 1986.

## **Article 2 – Rights of Members**

### **2.1 Members' right to Information**

A **Member** has the right to information as set out in Section 26(1) of the **Act**. A **Member** shall be entitled to the information as recorded in the **Member's** Register. Unless authorised by a **Member**, the **Company** shall not be entitled to disclose any further contact details.

### **2.2 Authority of proxy to delegate**

The authority of a **Member's** proxy to delegate the proxy's powers to another person, as set out in section 58(3)(b) is not limited or restricted by this **MOI**.

### **2.3 Requirements to deliver proxy instrument to the Company**

The requirement that a **Member** must deliver to the **Company** a copy of the instrument appointing a proxy before that proxy may exercise the **Member's** rights at a **Members** meeting, as set out in section 58(3)(c) is varied to the extent that a copy of the instrument appointing a proxy must be delivered to the **Company** or to any other person acting on behalf of the **Company** (including a Board member or duly appointed **Managing Agent**) at any time before commencement of the proceedings or meeting at which the proxy exercises any rights of the **Member**.

### **2.4 Deliberative authority of proxy**

The authority of a **Member's** proxy to decide without direction from the **Member** whether to exercise, or abstain from exercising any voting right of the **Member**, as set out in section 58(7) is not limited or restricted by this **MOI**.

### **2.5 Record date for exercise of Member rights**

If, at any time, the **Company's Board** of **Directors** fails to determine a record date, as contemplated in section 59, the record date for the relevant matter shall be 15 (fifteen) business days prior to the action, meeting or event as contemplated in accordance with section 59(3).

## **Article 3 – Members Meetings**

### **3.1 Requirement to hold meetings**

- (1) The **Company** shall within 12 (twelve) months after the end of each financial year hold a General Meeting in addition to any other General Meetings during that year, and shall specify the meeting as such in the notices, in terms of Article 3.4 below, calling such meeting;
- (2) The abovementioned General Meeting shall be called the “Annual General Meeting” and all other General Meetings shall be called “Special General Meetings”.

### **3.2 Members’ right to requisition a meeting**

The right of **Members** to requisition a meeting, as set out in section 61(3), may be exercised by at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting despite the provisions of that section.

### **3.3 Location of Members meetings**

The authority of the **Company’s Board of Directors** to determine the location of any **Members** meeting, and the authority of the **Company** to hold any such meeting in the Republic or in any foreign country, as set out in section 61(9) is limited or restricted to the extent that all **Members’** meetings shall be convened to take place at a location within close proximity of the **Township** or vicinity thereof, not exceeding 10km from the main gate of the **Township**.

### **3.4 Notice of Members meetings**

- (1) The minimum number of days for the **Company** to deliver a notice of a **Members** meeting to the **Members**, as required by section 62 is as provided for in section 62(1), being at least 15 (fifteen) **Business Days**.
- (2) The notice convening each meeting of the **Company** shall specify the place, the date and hour of the meeting and shall otherwise contain details of the business, including where relevant, special business, to be conducted at the meeting.
- (3) The notice convening the meeting shall contain adequate motivation and information of any business and especially concerning special business to be conducted at the meeting, to enable the **Members** to make an informed decision.

### 3.5 Electronic participation in Members meetings

The authority of the **Company** to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 is not limited or restricted by this **MOI**, provided that the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively at the meeting.

### 3.6 Quorum for Members meetings

- (1) The quorum requirement for a Members Meeting to begin, or for a matter to be considered, is 25% (twenty five percent) of the votes entitled to be exercised by the **Members** present in person or by proxy. Notwithstanding the quorum requirement, a **Members'** Meeting shall not begin unless at least 3 (three) **Members** are present in person.
- (2) The time periods allowed in section 64(4) and (5) apply to the **Company**, subject to the following variations :
  - (a) If, within 15 (fifteen) minutes after the appointed time for a meeting to begin, the requirements of sub-sections 64(1) *[10% requirement]* or 64(3) *[at least 3 (three) **Members** present in person]*, if applicable, for that meeting to begin have not been satisfied, the meeting is postponed without motion, vote or further notice, for 1 (one) week, at the same place and time;
  - (b) If, within 15 (fifteen) minutes after the appointed time for a meeting to begin, the requirements of sub-sections 64(1) or 64(3), if applicable, for consideration of a **particular matter** to begin have not been satisfied.
    - (i) if there is other business on the Agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
    - (ii) if there is no other business on the Agenda of the meeting, the meeting is adjourned for 1 (one) week, at the same place and time, without motion or vote.
  - (c) The person intended to preside at a meeting that cannot begin due to the operation of sub-section 64(1)(a) or 64(3), where a quorum is not present, may extend the 15 (fifteen) minute limit for a reasonable period on the grounds as specified in sub-section 64(5).
- (3) The authority of a meeting to continue to consider a matter after the quorum has been met, so long as at least 3 (three) **Members** remain present (in person), is not limited or restricted by this **MOI**.

### 3.7 Adjournment of Members meetings

- (1) If a quorum has not been reached within 15 (fifteen) minutes after the appointed time for the meeting to begin or such extended period as the **Chairman** directed, the **Chairman** appointed for the meeting will be authorized to adjourn the meeting of the **Members** for 1 (one) week. Adjournment will take place in accordance with the provisions of Sections 64(4)
- (2) The maximum period allowable for an adjournment of a **Members** meeting is 15 (fifteen) **Business Days** after the date upon which the adjournment occurred.
- (3) No business shall be transacted at an adjourned meeting, other than the business which failed to be transacted at the meeting from which the adjournment took place.
- (4) Notwithstanding any quorum requirement that may be applicable, a **Members'** Meeting shall not begin unless at least 3 (three) **Members** are present in person.

### 3.8 Members resolutions

- (1) For any ordinary resolution to be adopted at a **Members** meeting, it must be supported by at least 50% plus 1 (one) vote of the **Members** who voted on the resolution, as stipulated in the provisions of section 65(7).
- (2) For a special resolution to be adopted at a **Members** meeting, it must be supported by at least 75% of the **Members** who voted on the resolution, as provided in section 65(9).
- (3) A special resolution adopted at a **Members** meeting is not required for a matter to be determined by the **Company**, except those matters set out in section 65(11) and the following matters:
  - (a) to amend the **Company's MOI** to the extent required by Section 16(1)(c);
  - (b) to approve the voluntary winding-up in the circumstances contemplated in Section 80(1);
  - (c) to approve any proposed fundamental transaction, to the extent required by Part A of Chapter 5 of the **Act**, subject to Schedule 1 of the **Act**;
  - (d) to ratify actions by the **Company** or **Directors** in excess of their authority, as contemplated in Section 20(2);



- (e) to authorize the **Board** to grant financial assistance in the circumstances contemplated in Section 44(3)(a)(ii) or 45(3)(a)(ii);
- (f) to authorize the basis for compensation of **Directors** of the **Company**, as required by Section 66(9);
- (g) to remove the Managing Agent, as contemplated in Article 11.4(3).

### 3.9 Votes of Members

At every General meeting:

- (1) Every **Member**, including the **Developer** and **Special Member/s**, in person or by proxy and entitled to vote, shall have 1 (one) vote for each **Unit/Erf** registered in his name;
- (2) If a **Unit/Erf** is registered in the name of more than one person, then all such co-owners shall jointly have 1 (one) vote;
- (3) Save as expressly provided for in this **MOI**, no person other than a **Member**, duly registered and who has paid every levy or other sum due and payable to the **Company** in respect of or arising out of his membership, and who has complied with their obligations as are envisaged in Article 1.5(5), shall be entitled to be present or to speak or to vote on any question, either personally or by proxy, at any General Meeting;
- (4) With reference to section 63(4) and section 63(5) of the **Act**, at any General Meeting a Resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll (before or in the declaration of the result of a show of hands) is demanded by the **Chairman** or **Members**. A declaration by the **Chairman** that a Resolution has on a show of hands been carried, or carried unanimously, or by a particular majority, or has been declined, and an entry to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact, without proof of the number or the proportion of the votes recorded in favour or against such Resolution. The demand for a poll may be withdrawn.
- (5) If a poll is duly demanded, it shall be taken in such manner as the **Chairman** directs, and the result of the poll shall be deemed to be the Resolution of the meeting at which the poll was demanded. Two (2) **Members** shall be elected to determine the result of the poll.
- (6) In the case of an equality of votes, for and against any Resolution, whether on a show of hands or on a poll, the Resolution shall be deemed to have been defeated.

- (7) Every Resolution and every amended Resolution proposed for adoption by a General Meeting shall be seconded at the meeting and if not so seconded shall be deemed not to have been proposed.
- (8) An amendment proposed shall also require to be seconded, and if approved by the meeting, will replace the initial proposal, and such amended proposal must then be put to the vote.
- (9) Unless any **Member** present in person or by proxy at a General Meeting shall, before closure of the meeting, have objected to any declaration made by the **Chairman** of the meeting as to the result of any voting at the meeting, whether by a show of hands or otherwise, or validity of the procedure at such meeting, such declaration by the **Chairman** shall be deemed to be a true and correct statement of the voting, and the meeting shall in all aspects be deemed to have been properly and validly constituted and conducted and an entry in the minutes to the effect that any motion has been carried or defeated, with or without record of the number of votes recorded in favour of or against such motion, shall be conclusive evidence of the votes so recorded.
- (10) The auditor of the **Company**, an attorney or other professional invited by the **Board** may attend and speak at any General Meeting.
- (11) The **Developer** shall have an additional 50% (fifty percent) of the total votes of **Members**, in addition to the votes conferred upon it in terms of Article 3.9(1), provided that this provision shall only apply during the **Development Period**. These rights afforded to the **Developer** shall not be amended during the **Development Period** without the **Developer's** prior written consent having been obtained thereto.

### 3.10 Proxies

- (1) A **Member** may be represented at a General Meeting by a proxy, who need not be a **Member**.
- (2) The instrument appointing a proxy shall be **in writing**, duly signed by the **Member** concerned (or his appointed agent, duly authorized **in writing**) and shall be substantially in the form as set out in clause 3.10(5).
- (3) In accordance with the provisions of Article 2.3, a copy of the instrument appointing a proxy must be delivered to the **Company** or to any other person acting on behalf of the **Company** (including a Board member or duly appointed **Managing Agent**) at any time before commencement of the proceedings or meeting at which the proxy exercises any rights of the **Member**. Notwithstanding this provision, the Directors may call upon a **Member** to lodge the original instrument appointing a proxy to the **Company** within 7 (seven) days from the meeting or proceedings.

- (4) Unless specifically specified in the proxy itself, no instrument appointing a proxy shall be valid for any meetings of the **Company**, other than the meeting for which a proxy was first appointed or in respect of any adjournment of that meeting.
- (5) The instrument appointing a proxy shall include a copy of the Identification document of the **Member** concerned (or of his appointed agent, duly authorized in writing) and where the **Member** is not a natural person, the instrument shall include a resolution of the entity authorizing the signatory, being the resolution of a Trust/CC/Company.
- (6) A vote given in accordance with the terms of a proxy shall be valid notwithstanding the death or insolvency of the principal prior to the time at which the meeting was due to start, or subsequent revocation of the proxy, provided, however, that no notice of the death or insolvency, or revocation shall have been received by the **Company** and the proxy at any time prior to the vote been taken in respect of which the proxy exercises such a vote.
- (7) In order to determine the authority and rights of the proxy holder, it is preferred that the proxy form be substantially in accordance with the following format and that the instructions to the proxy holder are indicated in an unambiguous manner:

## ELAWINI HOME OWNERS ASSOCIATION (RF) (NPC)

### PROXY FORM

I/We, \_\_\_\_\_, the undersigned, the registered owner of Stand/Unit number \_\_\_\_\_, or duly authorized by the registered owner, namely: \_\_\_\_\_, being a Member of the Company, do hereby appoint:

\_\_\_\_\_ of \_\_\_\_\_  
 Or failing him/her: \_\_\_\_\_ of \_\_\_\_\_  
 Or failing him/her: \_\_\_\_\_ of \_\_\_\_\_  
 as my proxy to vote for me on my; behalf at the General Meeting of the Association to be held on the \_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_ and at any adjournment thereof as follows:

1. Motion to \_\_\_\_\_  
 (See attached draft resolution, if relevant)  
 In favour ☐ Against ☐ Abstain ☐
2. Motion to \_\_\_\_\_  
 (See attached draft resolution, if relevant)  
 In favour ☐ Against ☐ Abstain ☐
3. Motion to \_\_\_\_\_  
 (See attached draft resolution, if relevant)  
 In favour ☐ Against ☐ Abstain ☐

Where it has been indicated that the proxy may vote in favour of any of the resolutions, indicate further whether the proxy may vote in favour of any modification to any proposed resolution or not:

With modification ☐ Without modification ☐

***If no indication has been made above as to how the proxy may vote, the proxy may vote as he thinks fit.***

Signed on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

Note:

1. A member entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, speak and vote in his stead. A proxy need not be a member of the Company.
2. The instrument appointing a proxy shall include a copy of the Identification document of the **Member** concerned (or of his appointed agent, duly authorized in writing) and where the **Member** is not a natural person, the instrument shall include a resolution of the entity authorizing the signatory, being the resolution of a Trust/CC/Company.

### 3.11 Conduct of Meetings

- (1) The **Members** may, from time to time, at the Annual General Meeting, by way of an Ordinary Resolution, determine the meeting procedures which shall be properly documented as such and which shall be strictly complied with at all General Meetings.
- (2) The **Chairperson** and **Directors** shall acquaint themselves with the meeting procedures and the **Chairperson** of the relevant meeting shall be entitled to rule on any technical irregularity regarding the conduct of any General Meeting, which ruling shall be final and binding upon the **Directors** and **Members**.

### 3.12 Agenda of General Meetings

In addition to any other matters required by the **Act** or in terms of this **MOI**, to be dealt with at an Annual General Meeting, the following matters shall be dealt with at every Annual General Meeting:

- (1) The consideration of the Chairman's Report;
- (2) The election of **Directors** in addition to the nominated Directors;
- (3) The consideration of any other matters raised at the meeting, including any Resolutions proposed for adoption by such meeting and the voting upon any such Resolutions;
- (4) The consideration of the accountant/auditors of the **Company** for the ensuing financial year;
- (5) The consideration of the report of the auditors;
- (6) The ratification/amendment/repeal of any rules made by the **Board**;
- (7) Confirmation of the estimate of income and expenditure and determination of levies payable by **Members**, as determined by the **Directors**;
- (8) The appointment of an auditor for the ensuing financial year.

### 3.13 Incorporation of further property into the Township

Further property(ies) may only be incorporated into the **Township** and/or the boundaries of the **Township** may only be extended by a Special Resolution to that effect, by the **Members** in General Meeting.

## Article 4 – Directors and Officers

### 4.1 Composition of the Board of Directors

- (1) The **Board of Directors** of the **Company** comprises the nominated and elected **Directors**, and their alternate **Directors**, each of whom:
- (a) is elected/nominated in the following manner:
- (i) There shall be a **Board of Directors** of the **Company** which shall consist of not less than 3 (three) and not more than 9 (nine) **Directors**;
  - (ii) The **Members** of each **Body Corporate** in the **Township** shall be entitled to nominate 1 (one) **Director**, who shall be a Trustee of the relevant Body Corporate, to the **Board** to act in accordance with the provisions of this **MOI**;
  - (iii) Notwithstanding the provisions of Article 4.1(1)(a)(i), the **Company** may, from time to time in General Meeting, increase or reduce the number of **Directors**;
  - (iv) Should there be a need for the appointment of further **Directors** to the **Board** at any time, the **Directors** shall be entitled to nominate, by majority resolution, such further **Directors** to the **Board**;
  - (v) Upon the election/nomination of **Directors**, a **Director** in office or a former Director shall be eligible for re-election to the **Board of Directors**.
  - (vi) In the event of an election of **Directors**, nominations for election of **Directors** must be delivered to the **Company** or to any other person acting on behalf of the **Company** (including a Board member or duly appointed **Managing Agent**) at any time before commencement of the proceedings or meeting at which the nomination is to be considered;
  - (vii) Upon any vacancy occurring in the **Board of Directors** prior to the next Annual General Meeting, the vacancy in question shall be filled by a person nominated by the **Chairman** of the **Board of Directors** for the time being and in his absence or inability, the **Vice-Chairman**;
  - (viii) Within 14 (fourteen) days of the holding of each Annual General Meeting, the **Board of Directors** shall meet and shall elect from their own numbers, the **Chairman**, and if required by a majority of the **Board**, the **Vice-Chairman**, who shall hold their respective offices until the Annual General Meeting held next after their said appointments, provided that the office of the **Chairman** or **Vice-Chairman** (if elected) shall *ipso facto* be vacated by the

**Director** holding such office upon his ceasing to be a Director for any reason;

- (ix) The majority of **Directors** should be resident owners or their spouses, unless insufficient nominations have been received; and
  - (b) shall serve for a term of 1 (one) year.
- (2) (a) In addition to the nominated and elected **Directors** in terms of the provisions of Article 4.1(1)(a)(ii), there may be directly appointed **Directors** of the **Company**, or the appointment or election of alternate **Directors** of the **Company**, as contemplated in section 66(4), to be designated in the following manner: The **Chairman** of the **Board** of **Directors** for the time being, and in his absence or inability to act, the **Vice-Chairman** (if elected) of the **Board** of **Directors** may, upon any vacancy occurring in the **Board** of **Directors**, appoint a Director to fill such vacancy until election of Board Members at the next Annual General Meeting or Special General Meeting convened for this purpose.
- (b) The **Developer** shall during the **Development Period** be entitled to appoint 1 (one) **Director** to the **Board** on written notice to the **Company**.
- (3) In addition to satisfying the qualification and eligibility requirements set out in Section 69, to become or remain a Director of the **Company**, a person must satisfy the following additional eligibility requirements and qualifications and he must therefore:
- (a) be a paid-up **Member**, or a representative of a paid-up **Member** where the **Member** is a legal entity, and/or the spouse of a paid-up **Member**, of the **Company** at the time of appointment as Director;
  - (b) not be in breach of any of his/her obligations as a **Member** of the **Company**, as stipulated in the **MOI** or the **Rules**;
  - (c) not be disqualified from acting as Director of the **Company** in terms of the Companies Act, 2008;
  - (d) not be a nominee or representative of a **Member**, where the **Member** is a legal entity and such legal entity is in breach of any of its obligations in terms of the **MOI** or the **Rules**;
  - (e) not be an employee of the **Company** and/or the **Managing Agent** or a **Member/Director** of the **Managing Agent** or any of its employees.

- (4) Each **appointed** (not elected) Director of the **Company** serves for an indefinite term, until substituted by the person or entity that made his appointment or until his removal in terms of the provisions of Article 4.1(5).
- (5) A **Director** shall be deemed to have vacated his office as such when:
- (a) he resigns his office by notice in writing to the **Company**;
  - (b) he has been disqualified to act as a **Director** in terms of the provisions of Sections 69 of the **Act**;
  - (c) he has been discharged from office under circumstances in terms of Section 71 of the **Act**;
  - (d) he becomes of unsound mind;
  - (e) he is absent from more than 2 (two) consecutive meetings of the **Directors** without leave having been granted to him and if the **Board** so resolve;
  - (f) his removal has been approved by ordinary resolution of the **Members** in General Meeting.
  - (g) he is nominated by a Body Corporate and no longer serves as a Trustee of his Body Corporate;
  - (h) he is suspended by the **Board** due to disciplinary procedures pending or to be initiated, notwithstanding the fact that the cause of such disciplinary action is disputed by the Director concerned.
- (6) A **Director** shall not be entitled to appoint an alternate to function in his stead for any purpose nor by proxy or otherwise appoint any other person to fulfil his functions and duties, save as provided in terms of the provisions of the **MOI**.
- (5) A **Director** may not otherwise delegate or sub-delegate any of his obligations, save as approved by the **Board**.

## 4.2 Authority of the Board of Directors

- (1) The authority of the **Company's Board of Directors** to manage and direct the business and affairs of the **Company** is not limited or restricted by this **MOI** but subject only to any restriction and direction given at a General Meeting of the **Company**.



- (2) The **Company's Board** may only implement the following transactions if approved by Special Resolution of the **Members** of the **Company** in General Meeting:
- (a) The encumbrance of any portion of the **Common Property** by way of mortgage bond, long-term lease **or servitude** of whatever nature;
  - (b) The borrowing of money;
  - (c) Remuneration of **Directors**, other than reimbursement of expenses necessarily incurred by them in the execution of their duties.

### 4.3 Board of Directors meetings

- (1) The authority of the **Company's Board of Directors** to consider a matter other than at a meeting, as set out in section 74 (round-robin resolution) is not limited or restricted by this **MOI** and may instead be adopted by written consent of a majority of the **Directors** given in person, or by electronic communication, provided that each **Director** has received notice of the matter to be decided.
- (2) The right of the **Company's Directors** to requisition a meeting of the **Board**, as set out in section 73(1), may be exercised by at least 25% of the **Directors**, despite the provisions of that section.
- (3) The authority of the **Company's Board of Directors** to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) is not limited or restricted by this **MOI**.
- (4) The authority of the **Company's Board of Directors** to determine the manner and form of providing notice of its meetings, as set out in section 73(4) is not limited or restricted by this **MOI**, subject to the following provision:
  - (a) A **Member** shall be entitled to attend and speak at any meeting of the **Directors**, but shall not in his or her capacity as such, be entitled to vote thereat.
- (5) The authority of the **Company's Board of Directors** to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) is not limited or restricted by this **MOI**.
- (6) The quorum requirement for a **Directors** meeting to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such meeting, are as set out in section 73(5) [51% / a majority of the **Directors**].
- (7) Each **Director** has 1 (one) vote on a matter before the **Board**.

- (8) A simple majority of the votes cast on a Resolution is sufficient to approve a Resolution of the **Board of Directors**.
- (9) The Directors may meet to attend to their business, adjourn and otherwise regulate their meetings, as they think fit, subject to the provisions of the **MOI**.
- (12) Where a **Director** has a personal interest or a conflict of interest in respect of any matter before the **Board**, the said **Director** shall be entitled to attend any meeting of the **Board** at which such matter is discussed or decided, however, such **Director** shall not be entitled to vote in respect of the matter in which he has a personal interest or conflict of interest, and shall recuse himself from any deliberations on the issue.
- (13) Any **Director** who has such a personal interest or conflict of interest regarding any matter as mentioned in Article 4.3(11), shall be obliged to disclose such personal interest or conflict of interest to the **Board** forthwith.
- (14) Should there be an equality of votes for or against any Resolution of the **Board**, the Resolution shall be deemed to have been defeated.
- (15) The **Directors** shall cause the Minutes of each **Board** Meeting to be kept in accordance with Sections 73(6) and (7) of the **Act**, which Minutes shall be reduced to writing and circulated within 14 (fourteen) days of the meeting and certified as correct by the **Board** at the next **Board** meeting.
- (16) All Minutes of **Board** Meetings shall, after certification, be placed in the **Directors'** Minute Book, which shall be kept by the **Managing Agent** in accordance with the provisions of the **Act** relating to the keeping of Minutes of Meetings of Directors of Companies.
- (17) The **Directors'** Minute Book shall be open for perusal at all reasonable times by any **Director** and the **Auditors**.
- (18) Subject to the provisions of this **MOI**, the proceedings of any **Directors'** Meeting shall be conducted in such reasonable manner and form as the **Chairman** shall direct.
- (19) A Resolution signed ("**in Writing**") by a majority of the **Directors** shall be valid in all respects as if it had been duly passed at a meeting of the **Board of Directors** provided that the proposed resolution was circulated to all the **Directors**.
- (20) **Chairman:**
  - (a) The **Directors** will, at the first meeting after being appointed as such in terms of Article 4.1(1), elect a **Chairman** from their

number to hold office as such for 1 (one) year or until the next Annual General Meeting, whereafter the newly elected **Directors** will elect a new **Chairman** at their first meeting after the Annual General Meeting.

- (b) The **Chairman** elected shall hold his office until the Annual General Meeting next after his appointment, provided that the office of **Chairman** shall *ipso facto* be vacated by a **Director** holding such office upon him ceasing to be a **Director** for any reason. In the event of any vacancy of the aforesaid office occurring during the term for which the **Chairman** is elected, the **Vice-Chairman**, if any, shall act as such and the **Directors** present shall immediately appoint one of their number or a **Member** present, as a replacement to the office of **Chairman** or **Vice-Chairman**.

(21) **Chairman** to preside at meetings:

Except as otherwise provided, the **Chairman** shall preside at all meetings of the **Board of Directors** and at all General Meetings of **Members** and in the event of him not being present within 5 (five) minutes of the scheduled time for the commencement of the meeting or in the event of his inability or unwillingness to act as **Chairman**, the **Vice-Chairman**, to be appointed by the **Board of Directors**, if not yet appointed, shall preside at such meeting and failing such appointment, a **Chairman** shall be elected from the ranks of the **Members** present, by the **Members** present.

#### 4.4 Indemnification of Directors

- (1) The authority of the **Company's Board of Directors** to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, as set out in section 78(4) is not limited or restricted by this **MOI**.
- (2) The authority of the **Company's Board of Directors** to indemnify a Director in respect of liability, as set out in section 78(7) is not limited or restricted by this **MOI**.
- (3) The authority of the **Company's Board of Directors** to purchase insurance to protect the **Company**, or a Director, as set out in section 78(7) is not limited or restricted by this **MOI**.

#### 4.5 Officers and Committees

- (1) The **Board of Directors** may appoint any officers or committees from their ranks or from the ranks of the **Members** or outsiders, including the Managing Agent, as they may deem fit and to delegate to such

committees, such of their functions, powers and duties as they may deem fit, together with the further power to vary or revoke such appointments and delegations, as the **Directors** may from time to time deem necessary. The **Directors** may also appoint to such committee, an executive member of the **Board** as the Chairman of the relevant committee.

- (2) The authority of the **Company's Board of Directors** to appoint committees, chaired by a **Director**, and to delegate to any such committee any of the authority of the **Board** as set out in section 72(1), or to include in any such committee persons who are not **Directors**, as set out in section 72(2)(a) is not limited or restricted by this **MOI**.
- (3) The authority of a committee appointed by the **Company's Board**, as set out in section 72(2)(b) and (c) may be restricted or limited by the **Board** when the committee is so established.
- (4) Notwithstanding the **Board's** entitlement to appoint committees as aforesaid, as and when it deems appropriate, the following committees shall at all times be in place and the **Board** shall delegate the requisite functions, powers and duties to such committees to enable them to properly fulfil their functions and to ensure the proper day-to-day functioning of the **Company**:
  - (a) the Financial Committee;
  - (b) the Maintenance Committee;
  - (c) the Security Committee;
  - (d) the Corporate Governance Committee.
- (5) The **Directors** shall ensure that each committee is under the Chairpersonship of a **Director**.
- (6) The appointment of a committee shall be effected **in writing** with duly defined rights, powers and duties.
- (7) The **Directors** reserve the right to terminate the existence of any committee, or to withdraw or suspend any of the rights, powers and duties so delegated.
- (8) The Minutes of Meetings of each committee shall be promptly provided to the **Directors**.
- (9) The **Directors** furthermore reserve the right to remove any committee member, without reasons being advanced therefor, and similarly, to appoint and/or co-opt further **Members** to such committee.

- (10) Each committee shall meet as frequently as deemed necessary (or as otherwise directed by the **Directors**).

#### 4.6 Accounting records

- (1) The **Directors** shall cause such accounting records as are prescribed by Section 28 of the **Act** to be kept. Proper accounting records shall not be deemed to be kept if they are not kept sufficiently to fairly present the state of affairs and business of the **Company** and to explain and support the transactions and financial position of the **Company**.
- (2) The accounting records shall be kept or be accessible from the registered office of the **Company** during normal business hours of the **Company**.
- (3) Before every **AGM**, the **Directors** shall cause to be prepared an itemised estimate of the anticipated income and expenses of the **Company** during the ensuing financial year, which estimate shall be laid before the **AGM** for consideration and approval.
- (4) The estimate of expenses referred to in Article 4.6(3) above shall include a reasonable provision for contingencies and maintenance of the **Common Property**.
- (5) The **Directors** shall cause to be prepared, and shall lay before every **AGM**, for consideration and approval, a financial statement in conformity with generally accepted accounting practice and in compliance with section 29 and 30 of the **Act**, which statements shall present the state of affairs of the **Company** and its finances and transaction as at the end of the financial year concerned.
- (6) The financial statements shall include information and notes pertaining to the proper financial management by the **Company**, including:
  - i. an analysis of the periods of debts due and the amounts due in respect of **Levies**, special levies and other contributions;
  - ii. an analysis of the periods and the amounts due, owing by the **Company** to the creditors and in particular to any public or local authority in respect of charges for consumption or services, including but not limited to, water, electricity, gas and refuse removal;
  - iii. the expiry dates of all insurance policies.
- (7) The **Directors** shall further cause to be prepared and shall lay before every **AGM** a report signed by the **Chairman** reviewing the affairs of the **Company** during the past year, for consideration by the **Members**.

- (8) The **Directors** shall cause copies of the schedules, estimate, audited statement and report referred to in this Article and Article 8.6.3 to be delivered to each **Member**, and to any **Registered Mortgagee** which has advised the **Company** of its interest, at least (15) fifteen business days before the date of the **AGM** at which they are to be considered.
- (9) Delivery under Article 13.6 above shall be deemed to have been effected if the documents referred to are sent to the **Member** at his *domicilium* referred to in Article 6.
- (10) A copy of the **AFS** shall be provided to a **Member** at the written request thereto, or shall be open for inspection at the registered office of the **Company** during normal business hours and upon reasonable notice.

#### 4.7 Annual Financial Statements, Audit and Independent Review

- (1) The **Directors** shall from time to time, in accordance with Section 29 and 30 of the **Act**, cause to be prepared and laid before the **Company** in General Meeting, such Annual Financial Statements as are referred to in those Sections.
- (2) The **Company's** Annual Financial Statements shall be prepared in accordance with the provisions of Section 30 of the **Act** and is subject to either a statutory audit, or non-statutory audit by **Board** Resolution only, independent review, if so required in terms of Sections 30(2), 30(2A) and 30(7) and Regulations 26, 28 and 29.
- (3) In the event that the **Company** appoints an Auditor in terms of a **Board** Resolution as contemplated in Section 30(2)(b)(ii)(aa), the Auditor shall not be subject to Section 90 (Appointment of Auditor), Section 91 (Resignation of Auditors and vacancies), Section 92 (Rotation of Auditors), and Section 93 (Rights and restricted functions of Auditors) of the **Act**.
- (4) In terms of the **Act** and this **MOI**, a copy of the relevant Annual Financial Statements must be presented at the first Members Meeting after the statements have been approved by the **Board**, provided that such copy may be made available electronically to the **Members**.
- (5) A copy of any Annual Financial Statements which are to be laid before the **Company** in Annual General Meeting, in terms of Section 30(3)(d) of the **Act**, shall be included in the notice of the Annual General Meeting, at which it is to be considered.

#### 4.8 Director's compensation and financial assistance

The **Directors** shall not be paid any remuneration for their services, unless the **Company** has approved remuneration payable to its **Directors** for the rendering of services as **Directors**, in accordance with a Special Resolution approved by the **Members**, within the previous two years as set out in Section 66(9), provided that the Executive Committee Members shall be remunerated for their services as the **Board** may determine from time to time, subject to ratification, amendment or withdrawal of such remuneration by the **Members** in General Meeting from time to time.

#### 4.9 Expenses incurred by Directors

Notwithstanding the provisions of Article 4.8, the **Directors** may be paid any travelling, subsistence and other expenses properly incurred by them in the execution of their duties in or about the business of the **Company** and which are authorised or ratified by the **Board**.

#### 4.10 Powers and functions of Directors

- (1) The **Directors** may exercise all such powers which are required and/or ancillary to attaining the objects of the **Company**.
- (2) Unless otherwise resolved by way of an Ordinary Resolution at any General Meeting, the powers and functions of the **Directors** include, but are not limited to, the power to:
  - (a) Appoint and dismiss on behalf of the **Company**, a **Managing Agent**;
  - (b) delegate powers to a **Managing Agent** (including the power to appoint and dismiss employees for and on behalf of the **Company**);
  - (c) institute legal proceedings to protect the rights of the **Company**, enforce the provisions of the **MOI** and/or Rules and to defend any legal proceedings brought against the **Company**;
  - (d) open and conduct a banking account(s) for purposes of the **Company's** business;
  - (e) disburse from the bank account(s), such operational- and capital expenditure as approved in the budget (and/or as raised by way of any additional- and/or special levy) and as otherwise may be authorized by the **Members** in General Meeting;
  - (f) enforce compliance with the provisions of this **MOI** and the Rules and in the event of non-compliance, to impose sanctions and penalties in terms of the Rules, such penalties to be determined by the **Directors** from time to time;

- (g) enter into contracts necessary for the purposes of the objects of the **Company** and giving effect to the powers of the **Company** in its **MOI** and implementation of this **MOI**;
- (h) appoint committees with respect to security, environment, disciplinary- and such other ad hoc committees as deemed necessary, and to delegate to such committees, such powers and authorities as may be considered necessary, subject to any restrictions imposed or directives given at any General Meeting;
- (i) to invest funds of the **Company**, provided that funds available for investment may only be invested with a financial institution as defined in Section 1 of the Financial Services Board Act, 1990 (Act Number 97 of 1990), and in securities listed on stock exchange as defined in Section 1 of the Stock Exchanges Control Act, 1985 (Act Number 1 of 1985).

## **Article 5 – Dispute Resolution, Fines and Penalties and Rule Enforcement**

### **5.1 Dispute Resolution**

- (1) Any dispute between the **Company**, and a **Member** or between **Members** arising out of or in connection with or related to the provisions of this **MOI** (including any or all of its Annexures) and concerning any of the rights/obligations of the parties, including any dispute as to the validity of the **MOI**, save where an interdict or any form of urgent and/or other relief may be required or obtained from a Court having jurisdiction, shall be determined in terms of these dispute resolution provisions.
- (2) Arbitration:
  - (i) Notwithstanding the provisions of this Article 5.1(2) any dispute concerning the payment of **Levies** or special levies due to the **Company**; shall be excluded from arbitration.
  - (ii) If a dispute or complaint arises, the aggrieved party shall notify the other affected party or parties **in writing** and copies of such notification shall be served on the **Board** and, if appointed, the **Managing Agent** and should the dispute or complaint not be resolved within 14 (fourteen) days of such notice, either of the parties may demand that the dispute or complaint be referred to arbitration.



- (iii) Having regard to the nature and complexity of the dispute or complaint and to the costs which may be involved in the adjudication thereof, the parties shall appoint an arbitrator who shall be an independent and suitably experienced and qualified person as may be agreed upon between the parties to the dispute.
- (iv) If the parties cannot agree as to the person of the arbitrator to be appointed in terms of Article 5.1(2)(iii) within 5 (five) days after the arbitration has been demanded, the **Auditors** of the **Company** shall upon written application of any of the parties, appoint **in writing** an arbitrator within 7 (seven) days after they have been required to make the appointment.
- (v) The arbitration shall be held informally or otherwise as the arbitrator may determine in his own discretion. The arbitrator shall have the right to demand that the party demanding the arbitration furnish the arbitrator with security for payment of the costs of the arbitration in such amount and form as the arbitrator may determine, failing which the arbitration shall not be proceeded with. If such failure to furnish security for payment persists for longer than 7 (seven) days after demand for security for payment was made, the other party shall be entitled to abandon arbitration proceedings.
- (vi) The intention being that the arbitration shall be concluded within 45 (forty five) days after an arbitrator has been appointed or security for costs has been furnished.
- (vii) The arbitrator shall make his/her award within 7 (seven) days from the date of the completion of the arbitration and shall, in making his/her award, have regard to the principles laid down in terms of the **MOI** and the **Rules** thereunder. The arbitrator may determine that the costs of the arbitration be paid by any one of the disputing parties or any of them jointly or in such shares as he/she may determine and as he/she in his/her discretion may deem appropriate, having regard for the outcome of the arbitration.
- (viii) In making an award of costs, it shall be competent for the arbitrator to award costs against the **Company** on the basis that the **Member** in whose favour the award was made, shall be excluded from contributing to such costs through his general **Levy** and/or any special **Levy** contributions.
- (ix) The decision of the arbitrator shall be final and binding and may be made an Order of the High Court upon application of any party to, or affected by, the arbitration.
- (x) The provisions of the Arbitration Act, No. 42 of 1965 shall be applicable.

- (xi) Notwithstanding that the Arbitration Act, No. 42 of 1965 makes no provision for joinder of parties to an arbitration without their consent thereto, should a dispute arise between the **Company** and a **Member** or more than one **Members** or between a number of **Members** arising out of the same or substantially the same cause of action, or where substantially the same order would be sought against all the parties against whom the dispute has been declared, such parties shall be joined in the arbitration by notice thereof to such other parties as soon as possible after commencement of the arbitration proceedings, but in any event, not later than 10 (ten) days prior to the arbitration hearing.

## 5.2 Enforcement of Rules:

For the enforcement of any Rules made by the **Directors** or the **Company**, the **Directors** shall be entitled to:

- (a) take such action, including proceedings in Court, as they may deem fit;
- (b) implement a system of fines and penalties from time to time in order to deter any contravention of these Rules and to ensure the due enforcement of these Rules.
- (c) Any penalties imposed by the **Directors** are subject to adjustment and/or ratification by **Members** in General Meeting.
- (d) In the event of contravention of any of these **Rules**, the following procedure will be followed and implemented by the **Directors/Managing Agent**:
  - (vii) A letter of demand incorporating a penalty will be sent to the **Member**, specifying the nature of the breach and demanding him to remedy the breach where applicable, within a period of 10 (ten) days from date of demand;
  - (viii) Should the **Member** fail to adhere to the demand letter and to remedy the breach then, unless written objection is received by the owner concerning the alleged contravention, the prescribed penalty shall be implemented and levied against the **Member's** levy account and shall be enforceable, as if such penalty or fine constitutes a normal levy;
  - (ix) If the transgression is disputed and upon receipt of any written objection ("*the objection notice*") from the **Member**, a Committee of 3 (three) **Directors** appointed by the **Chairman** for this purpose, shall convene a meeting with the **Member** within a period of 10 (ten) days, or as soon as reasonably possible after

receipt of the **objection notice**, to adjudicate upon the issue. The meeting shall take place at a venue and time, and in accordance with such procedure, as the **Chairman** of the Committee shall direct; provided that the Rules of natural justice shall be observed and at which meeting the **Member** shall be entitled to address his objection and to call witnesses.

- (x) The decision of the **Board** shall be final unless objected to **in writing** within 10 (ten) days from notification of its decision;
- (xi) Should the **Member** refuse to accept the decision of the **Committee** on any matter, such dispute shall then be referred to arbitration in terms of Article 5;
- (xii) Any fine imposed upon any **Member** will be deemed to be a debt due by the **Member** to the **Company** and shall be recoverable by ordinary civil process.

## **Article 6 – Company Rules**

6.1 In accordance with the provisions of Section 15 of the **Act**, the Rules as set out in Schedule 1 hereto, are effective as at the **Effective Date**, which Rules may from time to time be ratified, amended, supplemented or repealed in accordance with the provisions of the **MOI** and the **Act**. Any Rules made, amended or repealed by the **Board** of the **Company** from time to time shall be published in accordance with the following requirements:

- (a) Any alteration of the **MOI** or the Rules made in terms of Section 17(1) shall be published to the **Members** of the **Company** by delivering a copy of the altered **MOI** or the Rules to each **Member** in the prescribed manner in terms of Article 8.
- (b) Any Rules made from time to time by the **Company's Board** of **Directors** or the **Company** in terms of Section 15(3) – (5), or any amendment or repeal thereof, shall be published to the **Members** of the **Company** by delivering a copy of those Rules to each **Member** in the prescribed manner in terms of Article 8.

6.2 The Rules concern all matters referred to in Article 1.3(2) and 1.3(3), and the conduct of **Members**, **Residents** and visitors of the **Township**, including Guidelines concerning any improvements, encroachments on **Common Property** and alterations thereto, to the extent that such improvements/alterations may influence the aesthetical and harmonious appearance of the **Township**.

6.3 Save to the extent that the Rules as set out in Schedule 1 hereto were amended, the Rules issued by the **Directors** or the **Company** with regards to

conduct of **Members** or any other matter, in force on the date before this **MOI** is accepted by the **Members**, will remain of force and effect as if they were issued in terms of Article 1.3(2).

## **Article 7 – Domicilium Citandi Et Executandi**

- 7.1 The address of the **Company** constituting its *domicilium citandi et executandi*, shall be as is registered in terms of the Notice of Incorporation registered with the Companies and Intellectual Property Commission ("CIPC").
- 7.2 The *domicilium citandi et executandi* of each **Member** shall be the address of the **Unit** registered in his name, provided that such **Member** shall be entitled to change the said domicile but that any new domicile selected shall be situated in the Republic of South Africa, and that the change shall only be effective upon receipt of written notice thereof by the **Company**.

## **Article 8 – Notices**

- 8.1 For any notice or document to be delivered or published for any purpose contemplated in the **Act**, the Regulations, this **MOI** or the **Rules** of the **Company**, the provisions of Table CR3 in terms of Regulation 7, as amended in terms of this **MOI**, shall apply and for which purpose such notice may be delivered:
- (1) by fax, if the addressee has a fax number; or
  - (2) by electronic mail, if the addressee has an address for receiving electronic mail; or
  - (3) by registered post to the addressee's *domicilium citandi et executandi* or last known address; or
  - (4) by hand to the addressee or to any representative authorized in writing by the addressee to accept service; or
  - (5) by leaving the notice at the addressee's place of residence or business with a person who is apparently at least 16 years old and in charge of the premises at the time; or
  - (6) by leaving the notice at the addressee's place of employment with a person who is apparently at least 16 years old and apparently in authority.

8.2 A notice will be deemed to have been delivered if:

- (1) by fax – on the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or a different time;
- (2) by electronic mail – on the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time;
- (3) by registered post – on the 3<sup>rd</sup> (third) day following the day on which the notice or document was posted, as recorded by the Post Office, unless there is conclusive evidence that it was delivered on a different day;
- (4) by hand – on the date and at the time recorded on a receipt for the delivery;
- (5) by leaving the notice at the place of residence or business of the addressee – on the date and at the time recorded on a receipt for the delivery;
- (6) by leaving the notice at the addressee's place of employment – on the date and at the time recorded on a receipt for the delivery.

8.3 Any notice to be given by a **Member** to the **Company** shall be delivered to the **Company** by delivery of such notice to the registered address of the **Company**, as recorded in the records of CIPC from time to time, unless a **Managing Agent** is appointed, in which event such notice shall be delivered to the office of the **Managing Agent**, as will be recorded and reflected in the Minutes of the Annual General Meeting from year to year.

## **Article 9 – Deposit and Investment of Funds**

9.1 The **Directors** shall cause all moneys received by the **Company** to be deposited to the credit of an account or accounts with a registered commercial bank in the name of the **Company** and, subject to any direction given or restriction imposed at a general meeting of the **Company**, such moneys shall only be withdrawn for the purpose of payment of the expenses of the **Company** or investment in terms of Article 9.3.

9.2 The **Directors** may authorise the **Managing Agent** to administer and operate the accounts referred to in Article 9.1 and 9.3, provided that where the **Managing Agent** is an estate agent as defined in the Estate Agents' Act (Act 112 of 1976), the **Directors** may authorise such **Managing Agent** to deposit moneys contemplated in Article 9.1 in a trust account as contemplated in section 32 (3) of the Estate Agents' Act, 1976, which moneys shall only be withdrawn for the purposes contemplated in Article 9.1.

- 9.3 Any funds not immediately required for disbursement, may be invested in a savings or similar account with any bank approved by the **Directors**.
- 9.4 Interest on moneys invested shall be used by the **Company** for any purpose consistent with its objectives.

### **Article 10 – No refunds or distribution of profits or assets**

- 10.1 No **Levies** (excluding **Levies** paid in advance), interest, penalties, fines or other amounts paid by a **Member** shall under any circumstances be repayable by the **Company** upon his ceasing to be a **Member**.
- 10.2 No portion of the profits or gains of the **Company** shall be distributed to any **Member** or any other person except upon destruction or deemed destruction of the building, or where such profit or gain is of a capital nature.

### **Article 11 – Appointment, powers and duties of a Managing Agent**

- 11.1 The **Directors** may from time to time and shall, if required by the **Members** of the **Company** in a general meeting, appoint in terms of a written contract, a **Managing Agent** to control, manage and administer the **Property** and the obligations to any public or local authority by the **Company** on behalf of the **Members**, and to exercise such power to collect **Levies** and to appoint a supervisor or caretaker.
- 11.2 The appointment of a **Managing Agent** shall be in **writing**.
- 11.3 The **Directors** shall ensure that there is included in the contract of appointment of any **Managing Agent**, a provision to the effect that if he is in breach of any of the provisions of his contract, or if he is guilty of conduct which at common law would justify the termination of a contract between master and servant, the **Directors** may, without notice, cancel such contract of appointment, and that the **Managing Agent** shall have no claim whatsoever against the **Company** or any of the **Members** as a result of such cancellation.
- 11.4 The contract with the **Managing Agent** shall further provide for the appointment to be revoked, and such **Managing Agent** shall cease to hold office, if:-
- (1) where the **Managing Agent** is a juristic person, an order is made for its provisional or final liquidation or, where the **Managing Agent** is a natural person, he applies for the surrender of his estate as insolvent or

his estate is sequestrated either provisionally or finally or, where the **Managing Agent** is a company, it is placed under business rescue; or

- (2) the **Managing Agent** is convicted of an offence involving an element of fraud or an element of dishonesty or, where the **Managing Agent** is a company or a close corporation, any of its directors or members is convicted of an offence involving an element of fraud or an element of dishonesty; or
  - (3) a special resolution of the **Members** of the **Company** is passed to that effect; provided that in such event the **Managing Agent** so removed from office shall not be deprived of any right he may have to claim compensation or damages for breach of contract.
- 11.5 The **Managing Agent** shall keep full records of his/her/its administration and shall report to the **Company** and all holders of registered sectional mortgage bonds who have notified the **Company** of their interest of all matters which in his/her/its opinion detrimentally affect the value or amenity of the **Property** and any of the sections.
- 11.6 The **Directors** shall give reasonable prior notice to the **Managing Agent** of all meetings of the **Directors** and he may with the consent of the **Directors** be present thereat.
- 11.7 The **Directors** shall from time to time furnish the **Managing Agent** with copies of all minutes of the **Directors** and of the **Members**, unless the **Managing Agent** has prepared such Minutes.

## **Article 12 – Club**

- 12.1 The **Company** shall establish a clubhouse with related facilities for its **Members**.
- 12.2 All **Members** and **Special Members** of the **Company**, excluding the **Developer**, shall automatically be members of the club for so long as they are **Members** of the **Company** or owners of a **Unit** in such a Sectional Scheme and no such member shall be entitled to resign as a member of the club whilst he is a **Member** of the **Company** or owner of a **Unit** in such a Sectional Scheme, provided that **Special Members** shall not be liable to effect payment of any **Levies**, special levies or contributions otherwise levied in respect of club membership.
- 12.3 The **Directors** shall be entitled from time to time to formulate and enforce Conduct Rules and determine levies and fees for the use of the club and/or other facilities of the club which shall also determine the classes of membership and the rights and obligations attached to the classes of membership.

- 12.4 The **Company** by majority vote shall be entitled to contract with third parties to manage the clubhouse and/or its facilities on such terms and conditions as it may deem fit.
- 12.5 The **Company** shall be entitled by majority vote to deal in any way with the land on which the clubhouse or any other club facility is situated as well as with any of the facilities situated thereon, provided that it shall not have the power to allow or facilitate a change in the usage of the land and improvements thereon from clubhouse and related facilities to any other usage, nor to alienate or encumber such property in any way without the prior authorization by Special Resolution of the General Meeting of members.

### **Article 13 – Restrictions**

- 13.1 It is recorded that, in order to establish the **Township**, conditions were imposed on the **Developer** and the **Company** by the Sellers of the properties on which the **Township** was established, the Sellers being Jozef Marthinus Heunes and Mercia Heunes and which conditions hold that:
- (1) the **Special Members** shall become and remain **Members** of the **Company** with all rights and obligations of membership of the **Company**, save as are specifically excluded or recorded in this **MOI**;
  - (2) the **Special Members** shall, subject to the specific provisions as recorded in this **MOI**, not be liable to effect payment of **Levies** or special levies in respect of their membership of the **Company**;
  - (3) any of the provisions of this **MOI** may not be amended, supplemented, repealed or deleted by Special Resolution of the **Members** of the **Company** without the prior written consent of the **Special Members** thereto, to the extent that any of the rights of the **Special Members** are affected;
  - (4) the Sellers and their successors in title shall retain an 18% (eighteen per centum) right in any stand and/or portion of the original land on which the Elawini Estate has been laid out and which has been transferred to the **Company** and/or **Developer**. Upon the alienation by the **Company** and/or **Developer** of any stand and/or portion of the property transferred to the **Company**, 18% (eighteen per centum) of the gross selling price or market value thereof shall be paid to the Sellers or their successors in title by the **Company** and/or **Developer** upon the effective date of the alienation thereof;
  - (5) in the event of an alienation as referred to in Article 13.4, the market value will be determined by a valuator to be nominated by the Sellers and a major estate agency operating in the Nelspruit/White River region;



- (6) the Sellers and/or their successors in title shall have the first right of refusal in respect of any sale or alienation of a stand or portion of the property to be sold.

13.2 In the event of an alienation as contemplated in Article 13.1(4) above, the Sellers and/or their successors in title will be notified of any intended alienation of the land, in writing, by the **Company** and/or **Developer**.

# **Schedule 1**

## **Rules of the Elawini Home Owners Association (RF) (NPC)**

These Rules comprise of:

<b>(A) Estate Rules</b>	Page <b>58</b>
<b>(B) Gymnasium Rules</b>	Page <b>86</b>
<b>(C) Clubhouse Facility Rules</b>	Page <b>91</b>
<b>(D) Architectural Design Manual</b>	Page <b>94</b>

### **DISCLAIMER**

Any person wishing to enter Elawini Luxury Residential Estate and / or make use of the Private Open Spaces in the Estate does so at his / her own risk. The Elawini Luxury Residential Estate Homeowners Association and the individual registered Owners, their agents, employees and appointees, shall not be liable for any injury, loss or damage sustained by any owner or any other person or their property arising from any cause whatsoever, including without limitation thereto, the negligence of any of the above persons or the intentional acts of any agents, employees and appointees. Without in any manner derogating from the above, all entrants to the Estate make use of the streets, parks and jungle gyms thereon, whether public or private, at his / her own risk. Whilst every effort is made to secure and monitor the Estate, the Homeowners Association and individual registered Owners, all their agents, employees or appointees shall not be deemed to have warranted the safety of any owner or other persons or their property (whether moveable or immovable) on the Estate.

### **WARNING**

The Estate has a security system comprising perimeter security, access control and physical patrolling. The system has a detection purpose only. It serves as a deterrent and is not guaranteed to prevent any intrusion into the Estate. The fence on the perimeter is electrified and could cause injury if touched.

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**E L A W I N I**  
— LUXURY RESIDENTIAL ESTATE —  
EST 2007

**(A)**

**ESTATE RULES**

The main objective is to establish the ultimate in hassle free country living and to provide a pleasant living environment for all the residents in the Estate.

The intention of these rules is that of protecting the themed lifestyle.

These Rules may be amended, supplemented or repealed from time to time by the Board and/or the Members in General Meeting.

## 1. Use of the Streets

- 1.1 Speed limit is as per the decision of the Company and as indicated by the relevant signage (40 km/h).
- 1.2 All road traffic rules for the National Traffic Act and Mpumalanga Province will prevail and must be obeyed.
- 1.3
  - (a) Parents are responsible for ensuring that their children do not play in the streets and must have full knowledge of the fact that should they allow their children to do so, it will be done at their own risk.
  - (b) The dual road between the Security Entrance and the circle at Letaba Terrace is strictly out of bounds for children on bicycles and at play.
  - (c) Children may not interfere with guards or distract them from carrying out their duties.
- 1.4 Residents are requested to always be on the lookout for pedestrians crossing the roads in the Estate.
- 1.5 Parking and driving on sidewalks is not allowed in the Estate.
- 1.6 Visitors will park in the spaces provided in front of the individual homes.
- 1.7 Engine powered vehicles are not allowed to drive anywhere except in the streets.
- 1.8 Golf carts are not permitted to drive on the estate roads as this contravenes the National Traffic Act.
- 1.9 Off road motorbikes and four wheelers (quad bikes) are however not permitted anywhere in the Estate, neither the streets nor the reserves. Only the Security Manager of the Estate may however use such a vehicle for official duties, should the need arise.
- 1.10 Owners or occupiers of property shall observe and shall ensure that their visitors and guests:-
  - \* Observe any road signs on the common property;
  - \* Do not drive the vehicles within the common property in any manner which creates a nuisance or is considered by the Company not to be in the interest of safety, and;
  - \* Do not allow unlicensed persons to drive any vehicle within the common property;
- 1.11 Hooters shall not be sounded within the common property other than for emergencies.

- 1.12 Damaged vehicles and vehicles that are not in general use, drip oil or brake fluid in the common property, or that are not roadworthy may not be parked on a common property other than such short periods as may be approved by the Company, and with their prior written consent.
- 1.13 All residents must ensure that their visitors, contractors, domestics, etc. adhere to the rules as set out in this document.

**\*\*\* Penalty fees applicable**

## **2. Good Neighbourliness**

- 2.1 The volume of music or electric instruments, partying and the activities of domestic help should be kept at a level not disturbing to the owners of adjoining properties. No loud music or noise after 22h00 weekdays and weekends.
- 2.2 The mechanical maintenance and use of power tools, lawnmowers and the like should only be used at responsible hours and as not to cause nuisance to the neighbours i.e. Monday to Fridays 08h00 – 16h00 and Saturday 08h00 – 13h00.
- 2.3 No disturbing noise like the use of generators and if so, it must be in accordance with the Provincial Noise Control Regulation Act (NOISE CONTROL REGULATIONS Environment Conservation Act, 1989 (Act 73 of 1989) PN 24 of 1998 (PG 35 of 24 April 1998)
- 2.4 Washing and any other unsightly items may only be hung on lines in the courtyards and not over outside walls or gates, balustrades, verandas and patios. Washing lines should not be visible from the street front.
- 2.5 All washing hung out to dry is at the sole risk of the owner thereof.
- 2.6 All municipal by-laws will also be applicable to each owner/resident in the Estate and all provisions thereof are to be adhered to.
- 2.7 No trucks, caravans, trailers, boats or other heavy vehicles may be parked on the common property.
- 2.8 No trucks, caravans, boats, trailers etc must be visible from the street front. Must be inside the garage or screened off from street view.
- 2.9 No person may wash, dismantle or effect major repairs to any vehicles on any portion of the common property.
- 2.10 Garage doors must be kept closed at all times except when access to or egress from the garage is required.

- 2.11 The committee may cause to be removed or to tow away, at the risk and expense of the owner of any vehicle parked, standing or abandoned on the common property in contravention of these rules.
- 2.12 Parking of vehicles upon the common property is subjected to the express condition that every vehicle is parked at the owner's risk and responsibility and that no liability shall attach to the Company or its Agents or any of their employees for any loss or damage of whatever nature the owner or any person claiming through or under him, may suffer in consequence of his vehicle having been parked on the property.
- 2.13 No commune / student houses allowed in the estate.
- 2.14 No fireworks or crackers allowed without proof of the necessary permits.
- 2.15 The presentation or use of pellet guns, or any form of firearm, hunting bows, catapults and other such weapons, is strictly forbidden within the estate. Any instruments designed, intended or have the capacity to kill/injure/maim/harm persons and/or animals are included.

**\*\*\* Penalty fees applicable**

### **3. Refuse Disposal**

- 3.1 An owner or occupier of a property shall maintain in a hygienic and dry condition, a receptacle for refuse within his property.
- 3.2 Refuse collections will only be done every Tuesday after 10h00. Please ensure your bags are placed in front of your house / unit before 10h00.
- 3.3 Household refuse bags only (black or green) no shopping bags to dispose of household refuse.
- 3.4 All garden refuse must be placed in green bags. No branches can be collected by the Estate.
- 3.5 No boxes, broken furniture, toys, etc. will be collected.

### **4. Pets**

- 4.1 Only 2 dogs per household are allowed.
- 4.2 Dogs must be walked on a leash in public areas.
- 4.3 Pets are not allowed to roam the streets.
- 4.4 Should any excrement be deposited in a street or other public area, the owner of the pet shall immediately remove it.

- 4.5 Every pet must wear a collar with a tag indicating the name, telephone number, and address of its owner.
- 4.6 The Company reserves the right to have a pet removed should it become a nuisance within the estate. The Company has an unfettered discretion in this regard, but will not exercise the said right without having first directed a written notice to the owner furnishing details of the complaint and the complainant and affording the owner a reasonable opportunity to eliminate the cause of the complaint.
- 4.7 The **local authority bylaws** relating to pets and livestock are applicable and will be strictly enforced e.g. slaughtering of animals on a stand/unit, which is strictly prohibited.
- 4.8 Dogs and Cats: From 1 March 2013 all the pets must be registered at the Estate Office. Registration is free for the first two pets; thereafter a R250.00 permit fee per annum for each pet above two will be levied. All pets must wear an ID tag and a photo of each pet (submitted by owner) must be kept on the home owner's personal file at the Estate Office.
- 4.9 All pets (especially untagged ones) found roaming around the Estate will be confiscated either by die Estate Management or by the SPCA and a collection fee will be payable to SPCA on collection by the home owner.
- 4.10 Cats: Only one spayed cat may be allowed, provided that such cat always wears a collar with a bell that works.
- 4.11 Any stray cats without identification will be permanently removed from the Estate.
- 4.12 No dog kennels may be visible from street front. Dogs must be housed behind a gate as per the Architectural Design Manual.
- 4.13 Birds: Caged birds will be allowed subject to no more than two birds – per cage, to a maximum of two portable cages. Aviaries are not permitted.
- 4.14 Owners should ensure that caged bird noise should be contained within reasonable levels so as not to create a nuisance to fellow residents.
- 4.15 No wild animals, reptiles, cattle (livestock), poultry or the like may be kept on stands.
- 4.16 No Breeding of any animals is allowed.

**\*\*\* Repeated infringements will result in the owner receiving a warning per letter or email, after two warnings have been issued and no action taken by the owner, a penalty fee will be imposed. This penalty fee must be paid within 7 days at the Estate Office.**



## 5. Streetscaping / Gardening

- 5.1 Every owner has a responsibility to the Estate community as a whole to maintain the area between the road curb and the boundary of the stand, including trees that might be planted at a later stage, if so decided by the Company.
- 5.2 Building material may not be dumped on the sidewalks under any circumstances.
- 5.3 No trees, plants or sidewalk lawn (from kerb to site boundary) may be removed without the permission of the Company. No person may cut down, fell, mark, injure, remove or destroy a tree or any other plant or part thereof, whether living or dead, on the **Common Property**.
- 5.4 Planting should not obscure the vision of the motorists.
- 5.5 Gardens abutting onto private open spaces must be kept neat and tidy at all times failing which the Company shall have the right to maintain the garden at the cost of the owner.
- 5.6 Only indigenous trees may be planted. Every owner shall ensure that all exotic plants are removed and destroyed especially plants such as lantana, guava, syringe, bugweed, jacaranda, senna and yellow bells.
- 5.7 Garden tools and other equipment shall not be kept in any place where they will be visible from other properties or any portion of the common property.

### **Preferred (but not limited) selection of indigenous trees suitable for planting in residential gardens**

Botanic name	Common name (English)	Deciduous Evergreen	PlantzAfrica Link
Acacia sieberiana	Paperbark Thorn	D	<a href="http://www.plantzafrica.com/plantab/acasiaieber.htm">http://www.plantzafrica.com/plantab/acasiaieber.htm</a>
Syzgium cordatum	Water Berry	E	<a href="http://www.plantzafrica.com/plantqrs/syzyg cord.htm">http://www.plantzafrica.com/plantqrs/syzyg cord.htm</a>
Erythrina spp.	Sacred Coral Tree	D	<a href="http://www.plantzafrica.com/plantefg/erythrinlysis.htm">http://www.plantzafrica.com/plantefg/erythrinlysis.htm</a>
Acacia xanthploe	Fever Tree	D	<a href="http://www.plantzafrica.com/plantab/acaciaxanth.htm">http://www.plantzafrica.com/plantab/acaciaxanth.htm</a>
Rauvolfia caffra	Quinine tree	D	<a href="http://www.plantzafrica.com/plantqrs/rauvolfiacaffra.htm">http://www.plantzafrica.com/plantqrs/rauvolfiacaffra.htm</a>
Bridelia micrantha	Mitseeri	D	<a href="http://www.plantzafrica.com/plantab/brideliamicrantha.htm">http://www.plantzafrica.com/plantab/brideliamicrantha.htm</a>
Combretum erythrophyllum	River Bush Willow	D	<a href="http://www.plantzafrica.com/plantcd/combretumeryth.htm">http://www.plantzafrica.com/plantcd/combretumeryth.htm</a>
Combretum kraussii	Forest Bush Willow	D	<a href="http://www.plantzafrica.com/plantcd/combretumkraus.htm">http://www.plantzafrica.com/plantcd/combretumkraus.htm</a>

Cussonia spicata	Cabbage Tree	E	<a href="http://www.plantzafrica.com/plantcd/cussonspic.htm">http://www.plantzafrica.com/plantcd/cussonspic.htm</a>
Dombeya rotundifolia	Wild Pear	D	<a href="http://www.plantzafrica.com/plantcd/dombeyrotund.htm">http://www.plantzafrica.com/plantcd/dombeyrotund.htm</a>
Heteropyxis natalensis	Lavender Tree	D	<a href="http://www.plantzafrica.com/planthij/heteropnatal.htm">http://www.plantzafrica.com/planthij/heteropnatal.htm</a>
Pterocarpus angolensis	Kiaat	D	<a href="http://www.plantzafrica.com/plantnop/pterocarpangol.htm">http://www.plantzafrica.com/plantnop/pterocarpangol.htm</a>
Sclerocarya birrea	Marula	D	<a href="http://www.plantzafrica.com/plantqrs/sclerobirr.htm">http://www.plantzafrica.com/plantqrs/sclerobirr.htm</a>
Sterculia murex	Lowveld Chestnut	D	<a href="http://www.plantzafrica.com/plantqrs/sterculmurex.htm">http://www.plantzafrica.com/plantqrs/sterculmurex.htm</a>
Eckebergia capensis	Cape Ash	E	<a href="http://www.plantzafrica.com/plantefg/eckebergcap.htm">http://www.plantzafrica.com/plantefg/eckebergcap.htm</a>
Aloe bainesii	Tree Aloe	E	<a href="http://www.plantzafrica.com/plantab/aloebarber.htm">http://www.plantzafrica.com/plantab/aloebarber.htm</a>
Olea europaea	Wild Olive	E	<a href="http://www.plantzafrica.com/plantnop/oleaeurop.htm">http://www.plantzafrica.com/plantnop/oleaeurop.htm</a>
Bolusanthus speciosus	Tree Wisteria	D	<a href="http://www.plantzafrica.com/plantab/bolusanthspect.htm">http://www.plantzafrica.com/plantab/bolusanthspect.htm</a>
Buddleia saligna	False olive	E	<a href="http://www.plantzafrica.com/plantab/buddleialig.htm">http://www.plantzafrica.com/plantab/buddleialig.htm</a>
Trichelia emetic	Natal Mahogany	E	<a href="http://www.plantzafrica.com/planttuv/trichiliaemetic.htm">http://www.plantzafrica.com/planttuv/trichiliaemetic.htm</a>
Kiggelaria Africana	Sausage Tree	D	<a href="http://www.plantzafrica.com/plantklm/kiggelarafric.htm">http://www.plantzafrica.com/plantklm/kiggelarafric.htm</a>

### **Useful Links for Indigenous South African Plant information, lists and ideas.**

<http://www.egardens.co.za/landscaping-inspiration/theme/landscaping-an-indigenous-garden/the-magical-indigenous-garden>

<http://plantinfo.co.za/>

<http://www.theindigenousgardener.co.za/>

<http://www.lifeisagarden.co.za/category/eco-gardening/>

<http://www.plantzafrica.com/frames/plantsfram.htm>

## **6. Environmental Management and Open Areas**

- 6.1 Rubble and refuse may not be dumped or discarded anywhere in the perimeter of the Estate.
- 6.2 Picnicking and fishing are only allowed in the designated areas and these areas are to be kept clean at all times. These areas might change from time to time at the discretion of the Developer and the Company.
- 6.3 A particular appeal is made to residents to leave open spaces they visit in a cleaner condition than which it was found in. Residents are requested to develop the habit of picking up and disposing any litter found in the open spaces, especially where hiking trails is located.

- 6.4 No person may cause damage to any object of botanical, zoological, Geological, Archaeological, historical, educational or of any other scientific interest nor remove seeds or flowers or any part of any plant.
- 6.5 Fauna of any nature may not be chased or trapped in any area, be it by people or dogs. No person may hunt, maim, kill, disturb, tease or capture any wild animal (the term "animal" refers to any form of vertebrate or invertebrate life) or feed any wild animal or leave food for such a purpose or keep any wild animal or remove any wild animal, whether dead or alive. No person may remove from its natural site, damage or destroy the nest of a bird, reptile, amphibian or invertebrate, or the eggs thereof.
- 6.6 Residents must ensure that noxious flora is not planted or growing in their gardens.
- 6.7 Vacant stands must be kept clean on a regular basis to the satisfaction of the Company, and if not maintained, the Company reserves the right to clean the stand at the owners' expense. Owners are further referred to the municipal bylaws relating hereto.
- 6.8 The use of the open space areas by the residents will be entirely at their own risk.
- 6.9 It is advised that all owners staying on perimeter fence is responsible to monitor fence. All irregularities or damages must be reported to the Estate Manager or Security Manager immediately.
- 6.10 No human remains may be buried on the estate property as described in the National Health Act of 2003 (Act No. 61 of 2003).

## **7. Architectural Standards/ Guidelines**

- 7.1 All building plans, including future alterations and materials, should be in accordance with the Architectural Design Manual applicable to the Estate and all owners and will comply with the following:
  - i) A R10 000-00 (Fifteen Thousand Rand) sidewalk deposit, otherwise known as building deposit, shall be paid into the levy account before any construction will commence.
  - ii) No improvements of any nature may be effected to a stand in the Estate without the prior written approval of the Aesthetics Committee and any building plans in respect of any improvements to be erected on the property, shall be in accordance with the Architectural Design Manual and be subject to the prior written approval of the Aesthetics Committee.
  - iii) 30 (Thirty) days prior to the lodgement of building plans at the Local Authority the owner shall also submit such building plans to the

Aesthetics Committee for approval of the building plans and the design of the structure in accordance with the Architectural Design Manual (refer to the Agreement of Sale (12.3)).

- 7.2 An owner will not commence with construction of any improvements to his property without the prior written approval of the Aesthetics Committee.
- 7.3 All owners must acquaint themselves with the contents of the Architectural Design Manual and promote and sustain the principles of such guidelines.
- 7.4 TV aerials will have to be "in-roof systems". Satellite dishes may not be installed in such a way as to be unsightly and degenerative to the prestige atmosphere of the Estate. The position, size and settings of the aerials and / or satellite dishes, must take into account the effect on the view from the neighbouring street front properties. The Company may require that satellite dishes be hidden from view to its satisfaction.
- 7.5 A maximum of 2 (two) satellite dishes per house is allowed.
- 7.6 Air-condition units must not be visible from street front. It must either be placed ground level, or hidden on the roof by means of screen partitioning (wood), or painted same colour as the roof / walls or concealed behind a pot plant or shrubbery.
- 7.7 Permission must be obtained from the Board to install any form of power saving or power generating device such as solar panels, solar geysers, generators, etc. The Board may impose such reasonable conditions as they in their sole discretion may determine concerning the design and location of any such additions and shall at all times ensure that the aesthetical appearance of the Estate in general is not negatively affected.

### **\*\*\* Penalty fees applicable**

## **8. Security**

- 8.1 Security measures for the Estate will include:
  - \* Guarded security gate on the Estate,
  - \* Electric fencing on the perimeter of the Estate.
- 8.2 All residents, visitors and contractors are required to adhere to the access control procedure as set out herein below.
- 8.3 All attempts at burglary or instances of fence jumping must be reported to a member of the security staff, Security Manager or the Estate Manager.
- 8.4 No public display, or unlawful use, of firearms shall be allowed inside the Estate at any given time.

- 8.5 Alarm systems may only be installed by an "accredited" vendor as approved by the Company as to ensure alarm system standards within the Estate.
- 8.6 An Estate Emergency plan will be available for each resident either on the website or at the office.
- 8.7 Random vehicle searches will be conducted from time to time.

## 9. Access Control

*Access control systems will be upgraded from time to time. The operating procedures and allied regulations will be made known. All persons are required to comply with regulations once in place.*

### 9.1 Residents

- 9.1.1 Residents' information will be loaded and activated onto the Intercom System where access will be allowed through a finger print.  
The finger registration work in conjunction with a vehicle tag (Payable at the office of the Security Manager).  
Registrations are done at the office of the Security Manager.
- 9.1.2 Only residents staying on premises on a permanent basis will be activated onto the system. Any other person will be treated as a visitor. Permanent residents are required to make use of the Residents lane and may be penalised for using the Visitors lane.
- 9.1.3 Residents are requested to treat all security officers in a cordial, co-operative and patient manner.

### 9.2 Visitors to residents

- 9.2.1 Visitors will have to wait at the gate until permission for access is granted by a resident.
- 9.2.2 All visitors must enter through the visitor's lane.
- 9.2.3 Residents are not allowed to open the gates for their visitors with their finger prints.

**\*\*\* Penalty fee applicable for non-compliance by residents. No warnings will be issued with this offence, as it is a security breach.**

### 9.3 Other visitors

- 9.3.1 Prospective buyers – Prospective buyers will be issued a permit that must be signed / stamped by the respective sales representatives. No stamp – no exit the Estate.

- 9.3.2 Tenants / Owners should meet visitors/or workers been delivered by minibus/taxi's at the gate. Exceptions will be made for school children that might be picked up and or dropped off by arrangement with Management only.
- 9.3.3 Customers (if applicable) – A customer of a resident will be treated as a day visitor via the visitor's lane.
- 9.3.4 All pedestrian visitors must be collected and dropped off at the gate by the respective residents and are to exit via the turnstile in the presence of a gate guard.

#### **9.4 Domestic workers / Gardeners**

- 9.4.1 The resident must complete the required application/ registration forms with the Estate Manager with all required documentation in respect of all domestic worker and gardeners and obtain a security/identification card from the Estate manager at the prescribed fee.
- 9.4.2 Should the owner give items like food, cleaning materials, clothes etc. to their domestic worker or garden help, a gate pass must be provided to Security at the main gate i.e. a letter from owner that they gave the items to the worker.
- 9.4.3 All Domestic workers and Gardeners must have a valid SA ID. No foreign workers allowed in the estate, unless a valid work permit can be provided. . No copies of ID's accepted, must be original green SA ID book.

### **10. Tenants, Visitors, Contractors and Employees**

- 10.1 Should any owner let his property, he shall in advance of occupation by the lessee in writing advise the Company of the name of the lessee and the period of such lease. The owner will inform and give a copy to the lessee of all Estate Rules and other rules and bind the lessee to adhere to such rules in the lease agreement. A lessee shall sign an acceptance form of these rules and all lease agreements shall contain the following clause:

*"The lessee acknowledges upon occupation of the premises, that his family, visitors, contractors and domestic workers/ gardeners shall adhere to the rules and regulations as contained in the Estate Rules and any other rules applicable to owners in the Estate."*

- 10.2 The occupiers of a dwelling within the Estate are liable for the conduct of their visitors, contractors and employees, and must assure that such parties adhere to the Estate Rules.

- 10.3 Visitors for domestic help, gardeners or contractors will only be allowed in the area adjacent to the main gate and under no circumstances whatsoever will these visitors be allowed to enter upon the Estate.

## 11. Re-selling of the property

- 11.1 In the event of the resale of a stand the owner or his agent must ensure that the purchaser is informed about and receives a copy of the Estate Rules, Architectural Design Manual and any other administrative regulation applicable at the time. The owner /sales representative must specifically advise the purchaser of any liability or pending liability to pay penalty levies to the Company due to non- compliance with the time limits for completion of improvements on his property.
- 11.2 A clearance certificate must be obtained from the Company prior to any transfer to serve as proof that levies to the Company are paid in full. This clearance is to be obtained over and above the rates and taxes clearance from the Local Authority.
- 11.3 In terms of The National Environmental Management: Biodiversity Act, the onus is on the seller to ensure that the property is free of Invasive Alien Plants. A clearance certificate may be obtained from the Company once it has been deemed that the property is devoid of IAPs.

## 12. Administration and Levies

- 12.1 The **Directors** may from time to time determine the **Levies** payable by the **Members**, excluding the **Special Members**, for the purpose of meeting all the expenses which the **Company** has incurred, or to which the **Directors** reasonably anticipate the **Company** will be put in the attainment of its objects or the pursuit of its business.
- 12.2 In determining **Levies**, the following principles shall apply:
- 12.2.1 All **Members** shall pay equal **Levies** in respect of **Units/Erven** of similar usage;
  - 12.2.2 The **Directors** shall be entitled, within their sole discretion, to differentiate in the determination of the **Levies** between **Erven/Units** utilized for different purposes such as, but not limited to, full title, erven or erven on which Sectional Title Schemes have been established or will be established in future;
  - 12.2.3 Contributions levied against Unit owners who are members of the Elawini Village Body Corporate and/or of a Sectional Title Development on **Erf 779**, shall not exceed 50% (fifty percent) of the contributions to be levied against **Owners of Erven**;

- 12.2.4 In respect of any future Sectional Title Development to be established on **Erven 656, 627 and/or 451**, the **Directors** shall be entitled to levy contributions upon Unit owners to a maximum of 70% (seventy) percent of the contributions levied upon **Owners** of **Erven** within the **Estate**.
- 12.3 The **Developer** during the Development Period shall not be liable to effect payment of **Levies** and/or special **Levies**.
- 12.4 The **Special Member/s** shall not be liable for payment of **Levies** or special **Levies**; provided on a sub-division of **Erf 779**, the owners of any sub-divided portion other than the **Special Member/s**, shall have all the rights and obligation of an ordinary **Member** of the **Company**.
- 12.5 The **Directors** shall not less than 30 (thirty) days prior to the end of each financial year or so soon thereafter as is reasonably possible, publish a notice indicating an estimate ("**estimate**"), in reasonable detail, of the amount which shall be required by the **Company** to meet the expenses during the following financial year, and shall specify separately such estimated deficiency, if any, as shall result from the preceding year. The **Directors** may include in such estimate an amount to be held in reserve to meet anticipated expenditure not of an annual or recurring nature.
- 12.6 Each notice to each **Member** shall specify the contribution (levy) in accordance with the **estimate**, payable by that **Member** to such expenses and reserve fund.
- 12.7
- 12.7.1 The annual levy for the ensuing financial year or any special levy to be implemented shall become due and payable on the passing of a **Board** Resolution to that effect, or the publication thereof as envisaged in Article 1.3(4). The annual levy shall be payable in equal monthly instalments due in advance on the 1<sup>st</sup> day of each and every month of each financial year, provided that **Members** in General Meeting may give directions to the **Directors** to deviate from this arrangement.
- 12.7.2 Any special levy shall be payable in a form that the **Directors** may direct, subject to the approval of **Members** in General Meeting by a mere majority and/or in terms of such directions as the **Members** may impose at any General Meeting.
- 12.8 In the event of the **Directors** for any reason whatsoever failing to prepare and timeously serve the notice referred to in Rule 12.5 above, every **Member** shall until served with such notice, continue to pay the levy previously imposed and shall after service of such notice pay the levy specified therein. A **Member** shall pay any deficit (comprising the difference between the levies payable during the previous financial year and the new levy imposed, if any) within 30 (thirty) days of receipt of the notice specifying the new contribution payable by the **Member**.



- 12.9 Upon the change of ownership of a **Unit/Erf**, the successor in title becomes liable for the pro-rata payment of **Levies** from the date of change of such ownership.
- 12.10 The **Directors** may from time to time impose special **Levies** upon the **Members** in respect of all expenses as are mentioned in Rule 12.1 which are not included in any estimate made in terms of Rule 12.5.
- 12.11 All **Levies** and any special **Levies** referred to in Rule 12.1 and 12.10, becomes due on the passing of a Directors' Resolution to that effect and may be recovered by the **Company** by action in any competent Court, having jurisdiction from the **Member(s)** who were owner(s) of the **Unit(s)** at the time when such Resolution was passed.
- 12.12 The **Directors** or the **Members** in General Meeting shall be empowered, in addition to such other rights as the **Company** may have in law against its **Members**, to determine the rate of interest from time to time chargeable upon arrear **Levies**. The interest rate shall not exceed any limitation as may be prescribed from time to time in terms of the National Credit Act, No. 34 of 2005, in which event the interest rate shall be limited to the maximum interest rate allowed. Interest shall be calculated monthly in arrears and compounded.
- 12.13 The obligation of a **Member** to pay a levy and interest shall cease upon his ceasing to be a **Member** without prejudice to the **Company's** right to recover arrear **Levies** and interest and penalties, fines and other amounts due to the **Company**. No **Levies** (excluding **Levies** paid in advance), interest, penalties, fines or other amounts paid by a **Member** shall under any circumstances be repayable by the **Company** upon his ceasing to be a **Member**. A **Member's** successor in title to a **Unit/Erf** shall be liable for payment of **Levies** and/or special levies that are still payable in respect of the **Unit**, from as from the date upon which he becomes the registered owner of the **Unit/Erf** as reflected in the Deeds Registry.
- 12.14 No **Unit(s)** registered in a **Member's** name shall be capable of being transferred without a Clearance Certificate as referred to in Article 1.5(5)(5.6) first being obtained from the **Company**, confirming that all **Levies** (including payment of 3 (three) months' levies in advance or as may be determined by the **Directors** from time to time), penalties, fines or other amounts due and interest have been paid up to and including date of registration of transfer thereof.
- 12.15 A **Member** shall be liable for and pay all legal costs, including costs as between attorney and own client, collection commission, expenses and charges incurred by the **Company** in obtaining the recovery of arrear **Levies**, penalties, fines, interest or any other arrear amounts due and owing by such owner to the **Company** or in enforcing compliance with the **Act**, the provisions of this **MOI**, or the Rules.

- 12.16 The **Directors** may from time to time determine a charge to be levied against **Members** in arrears, as an administration charge payable to the **Company** or to the **Managing Agent**.
- 12.17 Interest imposed by the **Directors** shall be subject to review by the **Members** in General Meeting and shall not exceed any limitations set by legislation.
- 12.18 All payments made by a **Member** and received by the **Company**, shall be allocated firstly towards interest, legal costs and thereafter towards capital. The **Board** reserves the right to allocate payments as they deem fit in the absence of an express allocation by the **Member**. In the absence of an express allocation by the **Board** or the **Member**, all payments will be allocated to the debt newest in time.
- 12.19 **Members** shall further have the rights and obligations as specified in the Rules incorporated in this **MOI** and as may be amended from time to time.
- 12.20 Should a **Member** fail to effect payment of **Levies** (annual and/or special) levied in terms of the **MOI** on due date, the full outstanding balance remaining unpaid for the financial year shall become due and payable without notice and/or demand but the **Board** may at their sole election and discretion agree to a re-payment arrangement with the **Member** concerned and subject to such conditions as the **Board** may impose. The **Board**, in managing the financial obligations and cash flow requirements of the **Company**, may at their sole election and discretion agree to reduce, vary or discount the full outstanding balance remaining unpaid by a **Member**, subject to such conditions as the **Board** may impose and subject further to the ratification by the **Members**, with or without amendment, at the next General Meeting of the **Company** following such determination.
- 12.21 All levies shall be due and payable in advance on the 1<sup>st</sup> (first) day of each month.
- 12.22 Notwithstanding any contrary provision contained in this **MOI**, all notices in respect of **Levies** and/or statements issued to Unit owners of a Body Corporate, shall be issued, sent or delivered to the domicilium address of the Body Corporate or its duly authorized Managing Agent and the Body Corporate on behalf of its Members shall notify the **Members** of any notices or statements and shall collect on behalf of the **Company**, **Levies**, special levies, penalties and other amounts due by the Unit owners in terms of this **MOI**.
- 12.23 A further penalty to be determined from time to time will be imposed on any accounts unpaid after 60 days.
- 12.24 The Company may amend or add to the Estate Rules from time to time, as may be deemed necessary to ensure the happy and orderly co-existence of residents.
- 12.25 The Company has the right to fine/penalise transgressors where any of the rules stipulated by the Estate Rules have been broken. Such fines / penalty

fees will form part of the levy and be due and payable on due date of the payment of the levy.

- 12.26 The Company and Developers will have the right to restrict all services and access to the individual properties if any amount due or payable remains unpaid after proper demand.
- 12.27 The Company shall be entitled to impose penalty levies payable by members who have failed to commence and complete the construction of the building structures on the stand/s registered in the names of such members within the time limit as contractually agreed to between the Developer and the initial purchaser of such stand/s.
- 12.28 The owner shall not be entitled to attend or vote at any meeting of members of the Company nor be a director of the Company while any amount due to the Company is in arrears.

### **13. Contractors Contract / Contractors Security Rules**

- 13.1 Construction of any structure/dwelling will only be done by a Contractor fully accredited and approved by the Home Owners Association Board of Directors.
- 13.2 Owners must apply for accreditation on behalf of the Contractor. (See Architectural Design Manual paragraph 5.1) Construction of any structure/dwelling will only be done by a Contractor fully accredited and approved by the Home Owners Association Board of Directors.
- 13.3 The Contractors Contract / Contractor Security Rules issued by the Developer and/or the Company and as amended from time to time, form part of these Estate Rules
- 13.4 The owner of a stand shall ensure that prior to commencement of building works, the contents of such rules are incorporated into the building contract with his contractor in order to ensure compliance therewith by the contractor and his sub contractors.
- 13.5 All building workers must have a valid SA ID. No foreign workers will be allowed in the estate, unless a valid work permit can be provided. No copies of ID's accepted must be original green SA ID book.

### **14. Quad Bikes and Off Road Motorcycles**

- 14.1 Quad bikes and off-road motorcycles are banned from the Estate unless the Company or its managing agent grants special prior permission to utilize one

within the parameters of the Estate. Such consent shall be subject to such terms and conditions that the Company may prescribe within their discretion.

- 14.2 The owners acknowledge that this rule 16 has been promulgated to protect the quality of the lifestyle in the Estate, and that compliance therewith will be strictly enforced, if necessary by the Company taking legal action against the transgressor, and the transgressor will be liable for all such legal costs to be incurred. All owners will be liable in this regard for transgressions by their children, family members, and visitors.

## 15. Penalty Clause

- 15.1 For the enforcement of any Rules made by the **Directors** or the **Company**, the **Directors** shall be entitled to:

- 15.1.1 take such action, including proceedings in Court, as they may deem fit;
- 15.1.2 implement a system of fines and penalties from time to time in order to deter any contravention of these Rules and to ensure the due enforcement of these Rules.
- 15.1.3 Any penalties imposed by the **Directors** are subject to adjustment and/or ratification by **Members** in General Meeting.
- 15.1.4 In the event of contravention of any of these **Rules**, the following procedure will be followed and implemented by the **Directors/Managing Agent**:
  - (i) A letter of demand incorporating a penalty will be sent to the **Member**, specifying the nature of the breach and demanding him to remedy the breach where applicable, within a period of 10 (ten) days from date of demand;
  - (ii) Should the **Member** fail to adhere to the demand letter and to remedy the breach then, unless written objection is received by the owner concerning the alleged contravention, the prescribed penalty shall be implemented and levied against the **Member's** levy account and shall be enforceable, as if such penalty or fine constitutes a normal levy;
  - (iii) If the transgression is disputed and upon receipt of any written objection ("**the objection notice**") from the **Member**, a Committee of 3 (three) **Directors** appointed by the **Chairman** for this purpose, shall convene a meeting with the **Member** within a period of 10 (ten) days, or as soon as reasonably possible after receipt of the **objection notice**, to adjudicate upon the issue. The meeting shall take place at a venue and time, and in

accordance with such procedure, as the **Chairman** of the Committee shall direct; provided that the Rules of natural justice shall be observed and at which meeting the **Member** shall be entitled to address his objection and to call witnesses.

- (iv) The decision of the **Board** shall be final unless objected to **in writing** within 10 (ten) days from notification of its decision;
- (v) Should the **Member** refuse to accept the decision of the **Committee** on any matter, such dispute shall then be referred to arbitration in terms of Rule 16;
- (vi) Any fine imposed upon any **Member** will be deemed to be a debt due by the **Member** to the **Company** and shall be recoverable by ordinary civil process.

15.2 The member of the Company who contravenes any of the rules herein contained agrees to pay the following penalties:

**Immediate Penalties (No Warnings):**

Presentation or use of weaponry, including pellet

guns, catapults, hunting bows etc R 5 000

Fireworks R 1 000

Building control violation R 5 000

*(Any offence, as per the Contractors contract)*

Deviation from Building plans (Garage doors) R 20 000

Occupation without Estate Clearance Certificate R 50 000

Vandalism R 10 000

Tampering with Estate equipment R 10 000

Quad bikes, unlicensed vehicles or scramblers driving around in the Estate (contravention of Estate Rules) R 5 000

Security related issues i.e. opening the gates for your visitors with your finger R 5 000

Illegal dumping of refuse and/or building rubble R 10 000

Dumping on open sites	R 10 000
Noise after 22H00 – 2 <sup>nd</sup> offence within 30 days	R 1 500

### **Warnings**

Dogs running without leash

Dog excrement on sidewalks

Washing over fences, gates, walls, balustrades etc

Alarms continuously going off 24hrs a day

Contractors: Leaving building sites untidy

Any aesthetic instruction given not adhered to

***In summary, any contravention of Estate Rules, Contractors Contract or Architectural Design Manual.***

Based on the above, the following compliance periods will be exercised:

First warning	5 Working days to rectify
Second Warning	3 Working days to rectify
Final Written warning	1 Working day to rectify
Penalty	

*The Elawini Board reserves the right to make amendments as and when it deems necessary*

### **Speed limit            40 km/h**

All offenders will receive a final warning on their first transgression. Thereafter:

40 – 50 km/h	R 250.00
50 – 55 km/h	R 500.00
55 – 60 km/h	R 750.00
60 km/h +	R 1500.00

Repeat offenders (3+) transgressions of any speed will be sanctioned at the sole discretion of the Board of Directors. This may result in vehicle access being denied at the gate for up to 3 months, or in the case of contractors and delivery vehicles, permanent access denial.

- 15.3 The above penalty clause does not preclude the Company from taking any alternative legal action provided for in Law or in the MOI.

## 16. Dispute Resolution

- 16.1 Any dispute between the **Company**, and a **Member** or between **Members** arising out of or in connection with or related to the provisions of this **MOI** (including any or all of its Annexures) and concerning any of the rights/obligations of the parties, including any dispute as to the validity of the **MOI**, save where an interdict or any form of urgent and/or other relief may be required or obtained from a Court having jurisdiction, shall be determined in terms of these dispute resolution provisions.

### 16.2 Arbitration:

- 16.2.1 Notwithstanding the provisions of this Rule 16.1 any dispute concerning the payment of **Levies** or special levies due to the **Company**; shall be excluded from arbitration.
- 16.2.2 If a dispute or complaint arises, the aggrieved party shall notify the other affected party or parties **in writing** and copies of such notification shall be served on the **Board** and, if appointed, the **Managing Agent** and should the dispute or complaint not be resolved within 14 (fourteen) days of such notice, either of the parties may demand that the dispute or complaint be referred to arbitration.
- 16.2.3 Having regard to the nature and complexity of the dispute or complaint and to the costs which may be involved in the adjudication thereof, the parties shall appoint an arbitrator who shall be an independent and suitably experienced and qualified person as may be agreed upon between the parties to the dispute.
- 16.2.4 If the parties cannot agree as to the person of the arbitrator to be appointed in terms of Rule 16.2.3 within 5 (five) days after the arbitration has been demanded, the **Auditors** of the **Company** shall upon written application of any of the parties, appoint **in writing** an arbitrator within 7 (seven) days after they have been required to make the appointment.
- 16.2.5 The arbitration shall be held informally or otherwise as the arbitrator may determine in his own discretion. The arbitrator shall have the right to demand that the party demanding the arbitration furnish the arbitrator with security for payment of the costs of the arbitration in such amount and form as the arbitrator may determine, failing which the arbitration shall not be proceeded with. If such failure to furnish security for

payment persists for longer than 7 (seven) days after demand for security for payment was made, the other party shall be entitled to abandon arbitration proceedings.

- 16.2.6      The intention being that the arbitration shall be concluded within 45 (forty five) days after an arbitrator has been appointed or security for costs has been furnished.
  
- 16.2.7      The arbitrator shall make his/her award within 7 (seven) days from the date of the completion of the arbitration and shall, in making his/her award, have regard to the principles laid down in terms of the **MOI** and the **Rules** thereunder. The arbitrator may determine that the costs of the arbitration be paid by any one of the disputing parties or any of them jointly or in such shares as he/she may determine and as he/she in his/her discretion may deem appropriate, having regard for the outcome of the arbitration.
  
- 16.2.8      In making an award of costs, it shall be competent for the arbitrator to award costs against the **Company** on the basis that the **Member** in whose favour the award was made, shall be excluded from contributing to such costs through his general **Levy** and/or any special **Levy** contributions.
  
- 16.2.9      The decision of the arbitrator shall be final and binding and may be made an Order of the High Court upon application of any party to, or affected by, the arbitration.
  
- 16.2.10     The provisions of the Arbitration Act, No. 42 of 1965 shall be applicable.
  
- 16.2.11     Notwithstanding that the Arbitration Act, No. 42 of 1965 makes no provision for joinder of parties to an arbitration without their consent thereto, should a dispute arise between the **Company** and a **Member** or more than one **Members** or between a number of **Members** arising out of the same or substantially the same cause of action, or where substantially the same order would be sought against all the parties against whom the dispute has been declared, such parties shall be joined in the arbitration by notice thereof to such other parties as soon as possible after commencement of the arbitration proceedings, but in any event, not later than 10 (ten) days prior to the arbitration hearing.

## 17. Indemnity

The residents' use of private open spaces and communal areas is entirely at their own risk at all times. Every member of the Company hereby waives any right he may obtain against the Company to claim any damages incurred by virtue of damage to or loss of property or the personal injury of the member



occasioned while anywhere in the Township. Every member indemnifies the Company against any such claim made by the member's spouse, child, parent, servant, guest or invitee. It is recorded that the perimeter security & access control system serve a deterrent and detection function and are not guaranteed to prevent a determined attempt at intrusion into the Estate. Accordingly, neither the developer, the Company, the managing agents, the security contractor, nor any of their agents or employees shall be held liable for any loss of life, injury, damage or loss of property suffered by any person.

## 18. Business Activities

- 18.1 No business, profession or trade may be conducted on the **Common Property** or from a **Unit**, except those which are specifically allowed by the Local Authority and with the prior written approval of the **Directors** first having been obtained.
- 18.2 No industry / profession or business that inconveniences in any way other residents may be practised on the **Common Property** or from a **Unit**.
- 18.3 Business operations that result in customers or employees regularly visiting the property of Elawini are prohibited.
- 18.4 No auctions or jumble sales may be held on the **Common Property** or from a **Unit** without the prior written consent of the **Directors**.
- 18.5 No advertisements or promotional materials may be displayed or distributed on the **Common Property** without the prior written consent of the **Directors**.
- 18.6 Hobbies that cause a disturbance are not permitted.
- 18.7 When an **Owner** applies for permission to use any part of his **Unit** for a business, profession or trading, the **Directors** will consider the following:
  - 18.7.1 Will the business comply with sub-rules 18.2 and 18.3?
  - 18.7.2 Would it cause excessive noise?
  - 18.7.3 Will it have a negative impact on adjacent units?
  - 18.7.4 Will the business enhance the desirability for criminal elements?
  - 18.7.5 Would the business be dependent on advertisement and high visibility?
  - 18.7.6 Is the business beneficial to the general character of the Estate?
  - 18.7.7 Would the business enhance the desirability of the Estate for prospective investors?

- 18.7.8 Will the business enhance the general value of the Estate, not have any affect on it, or be detrimental thereto?
  - 18.7.9 Would the business require additional building construction on the relevant portion?
  - 18.7.10 Have the surrounding neighbours of the relevant portion 3 consented to the intended business activity?
  - 18.7.11 Is there adequate parking as to prevent sidewalk parking?
- 18.8 All business activities must meet the criteria and requirements set by the **Directors** and the Local Municipal by-laws and regulations.

## **19. Use of Clubhouse, Swimming Pool, Gymnasium**

- 19.1 The Clubhouse and Swimming pool area is used at own risk.
- 19.2 No Functions is allowed at the clubhouse e.g. birthday parties, kiddies parties, yearend functions, kitchen tea's etc.
- 19.3 No Alcohol is allowed in and around the swimming pool area, as well as the braai area.
- 19.4 No Vehicles allowed to park on the greens behind the clubhouse or in front of the Clubhouse
- 19.5 No pets of any kind are allowed at the swimming pool area, or inside the clubhouse. No Pets allowed inside the swimming pool.
- 19.6 Only appropriate swimming wear (bathing suits) is allowed. No swimming in clothes (t-shirts and shorts and dresses) or underwear is allowed.
- 19.7 Babies / children with nappies not allowed swimming in the pool. Please remove nappy and put on a bathing suit first.
- 19.8 No running through the clubhouse with wet feet or wet clothes. Please use your own towels.
- 19.9 Gymnasium rules available on the website, please obtain a copy for your records.

**\*\*\* Penalty fees applicable**

## 20. Tennis Court

The tennis court is for the exclusive use of Elawini Luxury Residential Estate and Elawini Village residents and their guests. Residents using the court must have a Registered Access Tag in their possession demonstrating that they are residents of the Estate.

1. Tennis court is available for use free of charge between 06h00am and 10h00pm. No playing after these times.
2. Tennis court play requires that all players wear appropriate attire (i.e. shirts/tennis shoes). Shirts must be worn at all times.
3. Only tennis shoes may be worn on the court (no black marking soles).
4. Tennis court is for tennis only. Bicycles, rollerblades, skateboards, strollers, basketballs, chairs and pets or any other non-tennis balls or equipment are strictly prohibited. No sport playing of any kind other than tennis permitted.
5. No food, gum, snacks, glass containers, alcoholic beverages, tobacco products, or amplified sound permitted in the tennis court area.
6. Please use trash receptacles to keep court and surrounding area clean and pleasant from trash and other debris.
7. Sitting or leaning on the nets causing damage to the nets and net straps and is strictly prohibited.
8. Residents are liable for damages to the Estate facilities that directly involve them, their children and their guests.
9. Violations of these rules should be brought to the attention of the Estate Manager for review. Disciplinary action may include suspension of future playing rights, as determined by the Board of Directors.
10. Please limit play to 1 hour if others are waiting. Play may continue beyond the 1 hour limit as long as the court has not been reserved and if no one is waiting to play.
11. The Court cannot be held by one person alone or by the placing of equipment or racquet on a court. Booking / reservation system will be in place.
12. Court reservations have a 10 -minute grace period. If reserved court has not been taken, the reservation is considered cancelled and the court can be used at will. Walk-up players may take any court that is not being used or

reserved as long as they sign up on the tennis board located in front of the entrance gate.

13. It is recommended that children under 12 are supervised by a parent or adult.
14. Remember: Surface is slippery when wet!
15. The ethics of tennis and sportsmanship shall prevail at tennis facilities.
16. Report vandalism, court damages or light outages to the Estate Manager or the Security Manager.
17. No more than four players on the court are permitted.
18. The gate must not be kept open with a brick, bag or any item. Gates must be locked /closed at all times.
19. Rough play or abusive conduct is not permitted.
20. Players must conduct themselves in a manner consistent with tennis etiquette. Abusive language, physical force, or threats are prohibited and will not be tolerated.
21. Always come prepared. Bring not only towels but water to drink when it is hot.
22. No selling of products is permitted on site.

## **21. Clubhouse Closing Times**

Mondays - Fridays : 08h00 – 18h00

Monday – Fridays (winter) : 08h00 – 17h00

Saturdays & Sundays: 09h00 – 18h00

(winter: 17h00)

**Public Holidays: CLOSED**

## **22. IN THE EVENT OF EMERGENCY:**

### **Estate**

Facilities and Security Manager [security@elawini.co.za](mailto:security@elawini.co.za)

Estate Manager  
Byrne Millard  
082 787 8630  
[manager@elawini.co.za](mailto:manager@elawini.co.za)

### **Village Phase 1**

Ondine Cowell  
072 228 5513

### **Village Phase 2**

CSI Management :  
+27 (11) 805 6316  
[robert@csimanagement.co.za](mailto:robert@csimanagement.co.za)

### **Or your Armed Response Company**

Hi Tech (013) 752 447  
ADT 086 12 12 560

**ELAWINI**  
— LUXURY RESIDENTIAL ESTATE —  
EST 2007

**(B)**

**GYMNASIUM RULES**

**RULES / GENERAL CLUBHOUSE USE**

- 1.1 Operating hours are displayed at the front door. Opening and closing hours may vary from time to time.
- 1.2 Pets (other than guide dogs) are not allowed.
- 1.3 Firearms or other weapons are not permitted.
- 1.4 Smoking is not permitted anywhere on Gym premises or within the Clubhouse.
- 1.5 The taking of photographs or videos is prohibited. Use of camera phones is not permitted in this facility without prior approval from management.
- 1.6 Drugs or alcohol is prohibited the Gym or Clubhouse area.
- 1.7 Except for capped water bottles, eating or drinking is prohibited. Please dispose of all trash in the proper bins provided inside of the fitness centre.

**2. ACCESS POLICY**

- 2.1 Access will be granted once members are registered on the system. This is done by means of a finger print reading.
- 2.2 Only registered members allowed inside the Gym area.
- 2.3 All visitors must be accompanied by a member (squash only)
- 2.4 If a member does not reside on the estate, but has a tenant in his residence, member waives all rights to the use of Gym and Clubhouse facilities.
- 2.5 Members are not allowed to open the turnstile gate for guests. Guests / visitors (squash only) must be registered on the system 2 days in advance.

### **3. CHILDREN'S ACCESS**

Children under the age of 12 years may not use any equipment in the Gym.

### **4. USE OF EQUIPMENT**

- 4.1 Equipment must be used for its intended purpose and follow the instructions provided. Do ask for help if you need it.
- 4.2 It is suggested you inspect equipment before use and do not use the equipment if it appears damaged and/or inoperable or any component appears to be missing, worn and/or damaged.
- 4.3 Please report damaged equipment to Estate Manager.
- 4.4 When using strength equipment make sure that the weight pin is completely inserted. Never pin the weight stack in an elevated position. Inspect all cables, straps and other connections.
- 4.5 Do not use dumbbells or any other equipment, other than equipment specifically provided by the manufacturer, to incrementally increase weight resistance on strength equipment.
- 4.6 Ensure that the belt has come to a complete stop before stepping onto or getting off a treadmill.
- 4.7 Handle weights and equipment with care and place back on their places after use.
- 4.8 No food, drinks or bags are allowed on the training floor, with the exception of plastic water bottles and sports drinks.
- 4.9 A sweat towel must be used at all times and wipe equipment after every use.

### **5. SAFETY**

- 5.1 No tampering with fire doors or any safety devices.
- 5.2 Please follow the health and safety notices displayed throughout the Club.
- 5.3 Emergency procedures are pinned on the wall near the water machine. If there is an emergency, please follow the staff's instructions at all times.
- 5.4 No running in the Gym or Clubhouse. Be aware of the different floor surfaces that you move across as you walk through the Club. As on-going cleaning and maintenance will be taking place, related tools, chemicals and

equipment may be hazardous, and some floor surfaces may be wet and therefore slippery. Proceed with caution in these areas.

- 5.5 Please report all injuries/incidents and/or any hazards to the Estate office.

## 6. GUEST POLICY

- 6.1 All guests must be over 18 years.
- 6.2 Guests must be accompanied by stand owner or resident (for squash only).
- 6.3 Only 1 guest per resident (squash only).

## 7. BEHAVIOUR IN GYMNASIUM

- 7.1 You may not enter the Clubhouse or use the facilities whilst under the influence of alcohol.
- 7.2 You must not use foul, loud or abusive language, and you must not physically or sexually abuse, or harass other gym users, guests, visitors, tenants or staff members.
- 7.3 You will have to pay for any damage caused by you, your dependants and your guests while in the Gymnasium.
- 7.4 Suitable and appropriate exercise clothing must be worn at all times while exercising in the Gym. T/Shirts/vests and closed training shoes (no slops) must be worn at all times.
- 7.5 Replace all equipment and weights back onto their places.
- 7.6 Disrupting or interfering with the workout of another member is not allowed. Respect the rights of others by using courteous and appropriate behaviour. Profanity is not allowed.

## 8. SWIMMING POOL

**Fair Use Policy:** *The swimming pool and surrounding areas are specifically intended for communal use. No one person or group of persons may engage in any activity or behaviour that will disturb other users to the extent that their experience is unpleasant or unenjoyable.*

- 8.1 No lifeguard supervision is provided at the pool area of the Estate.
- 8.2 Children under the age of 10 years must be supervised by an adult at all times. No running on the edging of the pool – tiles might be wet and slippery.



- 8.3 You may not use the pool if you have a communicable / transmitted disease.
- 8.4 No climbing, sitting or playing on the walls around the pool area/ patio area.
- 8.5 No jumping or playing on the pool chairs.
- 8.6 Rubber dinghies and any pool play equipment that occupies space in the pool and that impacts negatively on the free and open use of the pool by other bathers, is strictly forbidden.

## **9. SQUASH COURTS**

- 9.1 Court usage /bookings are for 45 minute sessions only.
- 9.2 One session per game allowed to be booked at peak times.
- 9.3 Bookings are recorded on the booking sheet at Estate Manager.
- 9.4 Bookings can only be made a maximum of 24 hours in advance.
- 9.5 Appropriate squash shoes with non-marking soles must be worn on the squash court.

## **10. PERSONAL TRAINING**

Only authorised Personal Trainers are permitted to provide personal training in our Gym. Personal Training by any other member is not allowed whether it's for payment or not. If we find someone providing unauthorised Personal Training, our Estate Manager will investigate and you and the trainer may be expelled or suspended/ fined.

## **11. PERSONAL BELONGINGS**

- 11.1 Members must wipe off all equipment after use. Members bring their own towels; the Estate does not provide them.
- 11.2 There are no lockers in the Gym or changing facilities. Please check that your personal insurance policy covers you for loss of personal effects. We do not accept responsibility for any loss or theft of money or loss or damage to personal property of owners / tenants or their guests.
- 11.3 Do not leave your belongings unattended in the change rooms or anywhere else in the Gym or Clubhouse at any time and report any lost item immediately to the Estate Manager.
- 11.4 Any belongings left in the Gym or Clubhouse overnight will be removed and donated to charity if they are not collected within 10 days.

- 11.5 Any belongings removed or left unattended will be available at lost property at the Estate Manager Office for 14 days. If you do not collect it within this time, it will be donated to charity.

## **12. WAIVER AND RELEASE**

In the act of becoming a resident of Elawini Luxury Residential Estate (referred to as "the Company") I agree and acknowledge: that the Company will not be liable for death, injury, loss or damage suffered by me through or contributing to by any cause whatsoever including but not limited to, any negligent (including gross negligent) act and/or omission or breach of contract on the part of the Company, its directors, employees, contractors, independent consultants or other members(s); that Company premises will invariably be entered and exited (inclusive of the parking areas) entirely at my own risk and that the Company equipment and facilities will, furthermore, be utilized on this very same basis; that the Company would not be vicariously liable for any loss or damage suffered by me and/or other member(s) as a result of theft on the part of its employees, independent contractors, consultants or other member(s). In the process of becoming a member Elawini Luxury Residential Estate I and/or my estate, furthermore, indemnified the Company against any claim by any person arising directly or indirectly from my death, injury, loss or damage suffered by a member, allegedly caused or contributed to any act or omission by the Company, its directors, employees, contractors, consultants and agents.

# ELAWINI

— LUXURY RESIDENTIAL ESTATE —

EST 2007

(C)

## **CLUBHOUSE FACILITY RULES**

### **DISCLAIMER**

Any person wishing to enter the ELAWINI LUXURY RESIDENTIAL ESTATE (hereinafter referred to as "the Estate") and / or make use of its common facilities and / or private open spaces does so at his or her own risk.

The ELAWINI LUXURY RESIDENTIAL ESTATE HOME OWNERS ASSOCIATION (hereinafter referred to as "the HOA") and the registered Owners, their agents, employees and appointees shall not be liable for any injury, loss or damage to any person or property arising from any cause whatsoever, including without limitation thereto, the negligence of any of the above persons of the intentional acts of any agents, employees and appointees. Without in any manner derogating from the above, all entrants to the Estate make use of the streets thereon, whether public or private, at her or his own risk. Whilst every effort is made to secure and monitor the Estate, The HOA and registered Owners, all their agents, employees or appointees, shall not be deemed to have warranted the safety of any person or property (whether movable or immovable) in the Estate.

## **POOL RULES AND INDEMNITY**

**THESE PREMISES CONTAIN AN UNSUPERVISED, OPEN SWIMMING POOL AND CLUBHOUSE WHICH ARE USED SOLELY AT THE RISK OF THE PERSONS ENTERING THIS FACILITY AND NEITHER THE ELAWINI LUXURY RESIDENTIAL ESTATE HOME OWNERS ASSOCIATION, ITS DIRECTORS, EMPLOYEES OR AGENTS SHALL BE HELD LIABLE FOR ANY INJURY TO ANY PERSON OR DEATH OF ANY PERSON, HOWSOEVER CAUSED, OR ANY LOSS OF OR DAMAGE TO ANY PROPERTY, OR ANY CLAIM OF WHATSOEVER NATURE WHICH MAY ARISE AS A RESULT OF OR IN CONNECTION WITH THE USE OF THIS POOL OR ITS ASSOCIATED FACILITIES BY THEMSELVES, THEIR CHILDREN AND / OR THEIR VISITORS.**

Notwithstanding the above indemnity, the pool area may only be used on condition that the following **RULES** are adhered to:

## **RULES AND REGULATIONS WHEN USING CLUBHOUSE FACILITIES**

1. Please report any breakages / damages to the Estate Manager. Depending on the nature of the damage, any breakages / damages will be for the member's account, which can be added to the levies or paid in cash/card at the Estate office.
2. Children that are under the age of 12 must be accompanied and supervised by a responsible adult whilst on the premises and in the pool area.
3. Clubhouse is available from 09h00 till 13h00. 14h00 – 17h00 (Mondays – Saturdays) - clubhouse closes at 17h00 and alarm activated.
4. Members must take responsibility for the behaviour of their guests.
5. The area used must be cleaned and furniture removed / stacked before departure. No littering is permitted. Please use litter bins provided.
6. Should the area be in such a state that we have to bring in additional cleaners to assist with cleaning, a fee will be charged on the members levy account.
7. Parking on any grass area either in front or at the back of the clubhouse is not permitted. Breach of this rule, or any damages done to the sprinklers and grass / sidewalks will be charged on the member's levy account.
8. No Dogs / pets permitted on premises or in the swimming pool / pool area.
9. No playing / running around inside the clubhouse. No bicycles, scooters or skateboards are permitted on the premises on inside clubhouse.
10. No playing on the cladded walls around the swimming pool.
11. Persons using the pool area may not cause a nuisance to others.
12. Loud music is not permitted. Music may only be played in the area if played in a soft and discreet manner for the enjoyment of the persons in close proximity of the music player.
13. No glass of any description is allowed beyond the patio area, inside the Club House or in the swimming pool area.
14. No alcohol is allowed inside the clubhouse, braai area or swimming pool.

15. No diving or jumping in the pool is permitted.
16. No uncontrolled open fire braais are permitted. Use designated braai facilities.
17. Inside the Club House is a smoking free zone.
18. Any incidents and or damage must be reported to the Security/Estate Manager immediately.
19. Pool equipment may not be removed from the swimming pool.
20. Tampering with the pool filter and changing pump settings is not allowed.

***A FINE / PENALTY SYSTEM IS IN PLACE WHEREBY PENALTIES, AT THE DISCRETION OF THE DIRECTORS OF THE HOME OWNERS ASSOCIATION, WILL BE IMPOSED ON THE LEVY ACCOUNTS OF OWNERS AND TENANTS WHERE THEY OR THEIR GUESTS DO NOT ADHERE TO THE RULES OF THE ELAWINI LUXURY RESIDENTIAL ESTATE HOME OWNERS ASSOCIATION.***

**ELAWINI**  
— LUXURY RESIDENTIAL ESTATE —  
EST 2007

**(D)**

**AESTHETICAL DESIGN MANUAL**

This document must be consulted prior to commencement of the design of any property improvements or building proposal

**(Version: 1 January 2013)**

**Elawini Luxury Residential Estate**

This handbook is issued by the Estate Management Association to each registered home owner. Copies of this handbook may be obtained from the offices of your Estate Management Association. An electronic format of this handbook can be emailed if and when required, or visit the website [www.elawini.co.za](http://www.elawini.co.za). We also refer to the Offer to Purchase Guideline.

It is important for a basic understanding of the operation of the Estate that every **HOMEOWNER** is thoroughly familiar with all the information contained in this handbook.

The Homeowner undertakes to comply with the contents of this schedule in its entirety.

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## INTRODUCTION

The purpose of these guideline is to inform homeowners and their architects or designers of the building and landscape requirements for the estate and provide information relating to the procedure to be followed in order to obtain the necessary approval from the developer or home owners association for all buildings and structures to be erected on each erf and any alterations and additions thereto.

The Elawini Luxury Residential Estate accommodates 668 residual units, divided into 383 generous freestanding residential stands of between 800 and 1400m<sup>2</sup> each with distinct qualities and characteristics. A further 7 higher density residential stands have been incorporated into the estate, providing an additional 300 housing units.

A unique element of this development is that architectural guideline have been stipulated in an attempt to create an estate in which the Architecture responds to the local context, climatic conditions and environmental opportunities whilst also embracing the use of construction materials in their raw form. With this in mind there

has been a conscious decision to specifically **exclude** imported architectural styles (Tuscan, Bali, and Provencal etc.).

The plan of Elawini is a response to the historic lifestyle patterns found in traditional villages and neighbourhoods, where the urban form and the special natural features merge to create a memorable whole. A place with pedestrian scaled streets, hidden garden, shuttered verandas, narrow park lanes, broad overhanging roofs, all brought together to provide a new sense of familiarity, stimulation and ease.

Elawini aims to establish a sense of wholeness that is expressed by the interweaving of natural and build elements, each reinforcing an appreciation of the other. Mature shade trees and parks set the address for many intimate neighbourhood streets while along the river edge the natural beauty is preserved for all to enjoy.

Interspersed among and giving form to this distinctive local landscape are strong vernacular Highveld farmstead buildings of varying size, finish and colour – all of which underscore the strong regional character of the place.

The estate aims to be a landmark, as well as a benchmark for all residential developments in Mpumalanga. With this in mind Elawini offers an opportunity to create an aesthetic icon recognizable a truly homebred.

It is intended that these guidelines will allow for a fairly broad range of personal choice in the external appearance of the houses but that the overall character of the development will be identifiable by the use to certain unifying external elements such as the regulated positioning of houses on the sites, colour and finish external walls, roof covering and their pitches and standardized boundary definition. The nature of the landscaping will also contribute to this objective.

The primary concept behind these guidelines is to allow the individual homeowners to express their personal needs and preferences freely, guided only by the use of materials and the restriction of stylized elements.

## 2. **AESTHETIC CONCEPT**

The design of houses throughout the estate should be in response to the South African climate and lifestyle. Homeowners will have the freedom to create unequalled and diverse homes, which will be in keeping with the vision of the estate. Within this specified formula the use of various raw materials will be encouraged, with a focus on stone, brick, wood and glass.

The character and quality of traditional rural town in the greater region have been studied carefully as a resource and guide to the building and planning of Elawini. The rural townscape character found in the area is expressed in the architecture, which has been modified to respond to the environment in subtle ways. It can be seen in the structure of the development, the street layout and the shared public spaces and in the landscape elements and materials.



Houses are simple, low-key and defer to one another and the indigenous qualities of the landscape. The architecture takes advantage of shade and breezes, can be seen in the verandas, overhanging eaves, shuttered window and screened doors. The architectural goal is a simple elegance derived from well-proportioned massing and fenestration, a rich colour palette and details that are derived from the rich surrounding building tradition.

This development will create a truly unique and climatically appropriate style that is honestly South African and particularly relevant to the Mpumalanga Lowveld.

Emphasis should be placed on excellent proportions, scale and the interrelation between architectural and structural elements to the landscape and context. The aesthetic of this estate should be refined through excellence in detailing and execution. Simplicity of form requires excellent detailing and construction quality as well as thoughtful resolution of the interrelation of forms, materials and spaces.

Materials should be chosen for their ability to improve with age. The estate and each of its residences should be seen as an example of excellence in design, exclusivity and desirability, tastefulness and authenticity. The homes on this estate should set a precedent for all future developments in this country, and be unparalleled South Africa for many years to come. This estate should be an embodiment of our South African Lifestyle, past, present and future.

It is important that all homeowners embrace the vision for the estate and it is vital that they work together with and support the developer and architect appointed to scrutinise the plans in implementing these guidelines. It should be borne in mind that we should strive to create an environment in the estate where the whole is greater than the sum of the parts and in so doing homeowners may need to make compromises for the benefit of all.

### **3. SELECTED ARCHITECTS & ENGINEERS**

In order that the quality of the building of The Elawini Lifestyle is ensured, it is recommended that the designer must be a member of the South African Council for the Architectural Profession (SACAP). Only EHOA approved architects and engineers to be used. Architects and engineers to be used and not yet approved must submit credentials and references for approval by Aesthetic Committee.

### **4. PLAN APPROVAL PROCESS**

The homeowner must obtain from the Aesthetic Committee, prior to the submission of the design concept and sketch plans, a list of the requirements relating to the details to be provided for the plan approval process and also obtain all documentation including erf diagrams, services connection diagrams and contour plans that may be required in order to facilitate the design process. No building or addition may be erected or altered without

the approval of the Aesthetic Committee. This does not apply to internal alterations (see Estate Rules).

It will be the responsibility of a homeowner to ensure that he or she is in possession of the current version of the guidelines. The approval process will involve the following stages:

#### 4.1 First Stage

The design concept and sketch plans must be submitted to the Aesthetic Committee for approval in pdf format. A scrutiny fee of R3500.00 incl VAT (three thousand five hundred rand) will be payable when the plans are submitted. This fee is a once off payment and may be increased from time to time.

Stage 1 Sketch Plans – One (1) A3 sketch plan be submitted for comments, to include the following:

- Site Plan showing the site, building lines, entrances, boundary treatment, all structures, landscaping, paving, pool, etc.
- Plans and elevations to scale, describing finishes.
- An artist's impression or design model is recommended.
- A landscape plan specifying indigenous plants.
- Proof of paid EHOA scrutiny fee
- Proof of paid up levies
- Proof must be supplied to the EHOA by the member that there is adequate funds to complete the residence in question, once construction has commenced.

#### 4.2 Second Stage

After the design concept and sketch plans have been approved the detailed design and working drawings must be submitted to the Aesthetic Committee for approval.

*1 X pdf format working drawings*

*1 X Exterior lighting layout and specifications*

*3 X Three sets (any format) for council submission to be stamped and signed off by Elawini as well as Elawini records*

to include the following:

- Working Drawings – A1 Plans
- Plans, sections, elevations, roof plan, foundation plans and schedules (door and windows schedules, finishes).
- Services: drainage plan compulsory. Electrical, water supply recommended.
- Landscape plan showing boundary walls heights

### 4.3 Third Stage

After the detailed and working drawing has been approved the plans must be submitted to the local authority for approval. Certain prescribed fees will be payable at this stage to the local authority.

These Aesthetic guidelines are in addition to, and do not supersede, the requirement of the local authority or any statutory authority or the National Building Regulations.

Once the building plans have been approved by Mbombela Local Authority, the member needs to supply EHOA with a stamped & signed colour copy of the building plans for EHOA records.

## 5. BUILDING PROCESS

The home owner must obtain from the aesthetic committee or the Estate Manager a list of the requirements relating to the building process.

The aesthetic committee will be entitled to regulate the activities of all building and other contractors and determine that the contractor(s) and the homeowner sign the Builder's Code of Conduct with the Home Owners Association for this purpose. This Code of Conduct can be obtained from the Estate Manager. OR CAN BE DOWNLOADED FROM [WWW.ELAWINI.CO.ZA](http://WWW.ELAWINI.CO.ZA)

**No building shall commence until all the relevant approvals have been obtained and the Building Code of Conduct (Contractor's Contract) has been signed by the homeowner and builder.**

### 5.1 Pre-Construction Phase

Construction of buildings must **commence within 3 years** from the date of registration of transfer of ownership. This construction must be completed within **12 months** after commencement. All vacant stands must be kept clean by the respective homeowners. If not, the erf will be maintained by the Estate Management Association at the expense of the homeowner. If construction does not commence within the stipulated three years, a double levy on the property may be charged.

All trees marked by the landscape architect and those not interfering with proposed structures must be protected during construction. If marked trees are damaged the Estate Management Association will impose fines of up to R5 000 (Five thousand Rand) per tree. Trees may only be removed with the written consent of the Aesthetic Committee.

Where the girth measured at 500mm above ground level is:

- <200mm – no replacement required
- 200mm to 400mm – replace with 2 x 20lt trees selected from the list provided

- 400mm to 700mm – replace with 2 x 50lt trees selected from the list provided
- >700mm – replace with 3 x 50lt trees selected from the list provided.

The selected contractor will provide the Estate Management Association's security control with the names of all the workers of the main contractor and sub-contractors to be employed with each construction project. This list must be updated on a monthly basis.

Contractors must have qualified under the following criteria:

- Registered with the Master Builders Association and NHBRC;
- Be well informed with regard to the National Building Regulation.
- Be approved by Estate Management

The Developer in no way accepts responsibility for the contractor and the contract remains firmly between the client and the contractor.

## 5.2 Construction Phase

Prior to construction, home owners and their selected building contractors must be thoroughly familiar with the rules and regulation regarding the construction process. The **Construction Rule Document** (Contractor's Contract) is available from the Estate Management.

During the construction phase the Aesthetic Committee will monitor the construction and site cleanliness to ensure that the standards are maintained on the estate. They will not be responsible for the quality control of individual houses, but will be available to advise where necessary.

## 5.3 Additions and Alterations

All possible additions and alteration to the original building must go through the same processes, stage 1 and 2 plans submissions, and approval by Aesthetic Committee.

# 6. SITE PLAN AND HOUSE POSITIONING

## 6.1 Building lines

Street boundary:	5.0m Building Line
Side boundaries:	2.0m for single storey 3.0m for double storey
Rear boundary:	2.0m for single storey 3.0m for double storey
Open space / Park boundary:	0-meter build-to-line

Higher density development building lines will abide with Mbombela relaxation conditions, except on 3m street building line.

## **6.2 Street Interface and Street Frontage**

Boundary walls along or relating to street frontages are not mandatory but if constructed they must be masonry, natural stone in accordance with given examples. Finish and colours according to approved colour specification (refer Architectural Precedents Document). Anything other than a built wall must be approved by Aesthetic Committee. Wall coping to be natural cement or coloured same as wall.

Street boundary walls may not exceed 1.2 meters.

## **6.3 Internal or Side Boundary Walls**

Internal boundary walls can be constructed to a maximum of 2.1 meters measured from the top of the wall to the natural ground level on the highest side. The first 3 meter between street boundary and building line may not exceed 1.2 meter.

Boundary walls must be plastered on both sides if facing the street or public area, the side facing a vacant stand needs to be bag washed only.

Pre-cast concrete and wire mesh fencing will not be allowed. Palisade fencing can be used on borders facing park areas and needs to be indicated and specified on the building plans.

All boundary walls must be built in accordance with SABS 0400 and all walls plans are to be accompanied by an engineer's certificate and on completion an engineer's completion certificate is to be issued for the developer's records.

## **6.4 Public Space and Park Interface**

All erven flanking public parks have no building line restrictions. Structures are to be permeable. Dead edges or frontages onto the parks and river edge will not be allowed.

## **6.5 River Edge Interface**

Erven flanking the river edge have to consider flood-line restriction. Building along river edge may be built up to the flood-line. (River Zone Restriction plan.)

To ensure consistency, the Developer will provide, at his own cost, the construction of a security / palisade fence along the River Edge.

## **6.6 Coverage**

### a) Single storey dwellings

In order to enable residents to construct a single storey dwelling, with the same maximum floor areas as is permitted for a double storey, the coverage for a single storey dwelling shall be 50% (fifty percent) of the erf size. The objective is to encourage the construction of single storey rather than double storey houses in the estate.

### b) Double Storey dwellings

The ground floor coverage of double storey dwellings shall not exceed 50% (fifty percent) of the area of the stand. 1<sup>st</sup> floor area will not exceed 60% of the ground floor area.

## 6.7 Minimum Size

The size of the house for single residential stand must not be less than 170 square meters. Residential 2 zoned erven will be allowed a minimum size per unit of 90 square metres.

## 6.8 Height restriction

The maximum permissible height of any building on an erf is 2 storeys (8 meters) when measured from the highest point of the roof to the highest point of the natural ground level along the perimeter of the building.

Chimneys will be exempt from height restrictions, but must adhere to NBR.

Natural ground level shall be deemed to be level as determined on a contour plan. Should a dispute arise relating to the determination of any natural ground level, the aesthetic committee and/or appointed architect will be entitled to rely on the details shown on the contour plan in his possession.

## 6.9 Land use

A stand may not be subdivided or rezoned or a sectional title plan be registered under any circumstances. Two dwellings are permitted with the council's approval provided that the second dwelling is not more than 20 % of the total built area.

Where two residential stands are consolidated to form a larger erf, a **double levy** will be applicable to the consolidated stand. No sub-division or rezoning of residential stands, or consolidated stand will be allowed.

Laundry drying areas and refuse storage areas must be enclosed with screen walls so as to screen them from view at street level and park view (see Estate Rules).

Boats and caravans must be concealed inside garages. Domestic trailers may be stored on the property provided they are screened from the street (see Estate Rules).

Temporary structures including but not limited to Wendy Hoses, huts and tents are not permitted, save for during construction. Dog kennels are permitted provided that they are screened from view at street level. No shade cloth clad structures are permitted, including carports i.e. materials must be the same as roof.

No banners or flags may be erected on the erven (see Clubhouse)

Any other structure or device not contemplated in this document will require the approval of the Aesthetic Committee before installation or construction (see Estate Rules).

## **7. MATERIALS**

Elawini Luxury Residential Estate aims to encourage the use of materials in their natural state, thereby creating a unifying element to all the homes, as diverse as we hope they will be. The quality of design and the application of these raw materials in new and relevant ways are of paramount importance to this concept. The materials that will be expressed in their natural form on the estate are as follows:

### **7.1 Stone**

The use of natural stone can be used to give warmth and depth to design, especially in the form of founding of feature elements for example: chimneys, columns, bases and retaining walls.

**No** fake concrete facings will be allowed i.e. no artificial concrete or look- a-like concrete.

### **7.2 Bricks**

The use of exposed brickwork is very effective in detailing arches, lintels and edges, as well as introducing a human scale and earthly feel to larger buildings.

### **7.3 Plaster**

Plaster whether plain or pigmented tends to improve overtime with a natural patina, as well as being extremely flexible in terms of creating moulded or sculpted details.

It is also useful to create contrast with the more heavily textured brick and stone elements.

The plaster may be painted in a limited selection of colours. Colour to be an earth tone and a sample or specification is to be submitted to the Aesthetic Committee for approval.

#### **7.4 Wood**

Timber in its natural state lends warmth and interest in many applications, from doors and windows, to heavy beams, columns and trusses. The grain of the wood itself gives texture and life to elements and spaces.

The timber may also be painted in a limited selection of colours. Colour to be an earth tone and a sample or specification is to be submitted to the Aesthetic Committee for approval.

#### **7.5 Steel**

Steel allows spaces to become light and airy, especially when used in conjunction with glass. It makes it possible to span large openings and create spaces that are open and free. Steel is a modern material that can be used to create dramatic effects. It may be galvanized or painted. Colour to be an earth tone and a sample or specification is to be submitted to the Aesthetic Committee for approval.

#### **7.6 Glass**

Glass can create warmth when it's cold and provide cooling when it's hot. This is done through the use of shading and screening devised in summer, and by allowing the low winter sun to penetrate from the north in winter. It can bring the outdoors inside and can create spaces that flow. The use of glass in home is unlimited in its application, from doors and windows, to screening devices and ventilation.

#### **7.7 Paint colours**

Refer to Annexure B and C for full range of allowable colours and % coverage for different colours.



**15.9 COLOUR SPECS**

**15.9 COLOUR SPECS**

COLOUR RANGE: WALLS, DOORS AND WINDOWS  
 Colour range as per Plascon EXPRESSIONS RANGE

E12-1	Canson	
E12-2	Degas	
E12-3	Carling	
E12-4	Munch	
E12-5	Flack	
E12-6	Underbrush	maximum 5% paintable area
E12-7	Elk	maximum 5% paintable area
E13-1	Pleasant Point	
E13-2	Permafrost	
E13-3	Pinto	
E13-4	Trenton	
E13-5	Haworth	
E13-6	Evo	maximum 5% paintable area
E13-7	Nobel	maximum 5% paintable area
E14-1	Liberia	
E14-2	Hudson	
E14-3	Papyrus	
E14-4	Mayan Stone	
E14-5	Sombrero	
E14-6	Dark Raffia	maximum 5% paintable area
E14-7	Sepia Print	maximum 5% paintable area
E15-1	Dockside	
E15-2	Landing	
E15-3	Dundas	
E15-4	Burwell	
E15-5	Plattsville	
E15-6	Sawmill	maximum 5% paintable area
E15-7	Camp Walk	maximum 5% paintable area
E16-1	Eyelet	
E16-2	Plaster	
E16-3	Mayor	
E16-4	Neutral	
E16-5	Tent	
E16-6	Teepee	maximum 5% paintable area
E16-7	Anodised	maximum 5% paintable area
E17-1	Angora	
E17-2	Corbusier	
E17-3	Titian	
E17-4	Matisse	
E17-5	Botticelli	
E17-6	Homer	maximum 5% paintable area
E17-7	Calvin	maximum 5% paintable area
E18-1	Seurat	
E18-2	Steen	
E18-3	Picasso	
E18-4	Rothko	
E18-5	Guadeloupe	
E18-6	Martini	maximum 5% paintable area
E18-7	Klimt	maximum 5% paintable area
E19-1	Long Beach	
E19-2	Ida	
E19-3	Amherst	
E19-4	Sandy Stream	
E19-5	Keewatin	
E19-6	Garden Lake	maximum 5% paintable area
E19-7	Saugeen	maximum 5% paintable area
E20-1	Ridge Crest	
E20-2	Arborway	
E20-3	McGill	
E20-4	Seasons	
E20-5	Normand	
E20-6	Barolo	maximum 5% paintable area
E20-7	Lark	maximum 5% paintable area

## 8 ARCHITECTURAL EXPRESSION

### 8.1 Architectural Form

The aim of the development is to create unpretentious buildings that are isolated, simple and orthogonal in form. It is suggested that the buildings forms can be broken down into smaller elements.

Essential Elements to be considered:

- Simple, straightforward volumes with side wings and verandas added to make more complex shapes.
- 2. Clear distinction of main body of the building and its attachment by differentiating roof pitches.
- Asymmetrical, though orderly relationship between windows, doors and building mass.
- Simplified versions of traditional South African rural architectural craftsmanship in columns, eaves, pergolas and chimneys.
- Vertically proportioned windows and doors.
- Chimneys, entrance doors. Gables and dormers treated as special design features.

### 8.2 External Walls

External walls must be plastered and painted (both sides) or finished with an approved cementitious paint in earthy colours. A sample or specification must be submitted to the Aesthetic Committee for approval prior to commencement of the application thereof.

No type or form of face or un-plastered brick will be permitted on external walls (both inside and outside) as the dominant feature of the house but **may** be considered for decorative purposes solely at the discretion of the Aesthetic Committee. A guideline is that only 25% (twenty five percent) of face brick will be allowed on the exterior of the house. Two-tone face brickwork is specifically excluded. Flush pointed joints are preferred.

Natural stone can be used to give warmth and depth to design, especially in the form of plinths or feature elements for example: chimneys, columns, bases and retaining walls.

**No** fake concrete facing will be allowed.

Horizontal string courses and simple plaster surrounds to openings will be permitted. **No** multiple corbelling or coining will be permitted on any part of the building, boundary wall or outbuildings.

### 8.3 Roofs

Roofs must be dominantly pitched in form. Major plan forms are to be roofed with symmetrical double pitch roofs with a pitch of between 30 and 40 degrees. Roofs over verandas may have lesser pitch provided that the same covering is used as on the major elements. Roof pitches between 10 and 27.5 degrees.

Roof coverings are to be restricted to

- Natural slate
- Natural clay tiles including the Antique range, Concrete roof tiles (subject to the Aesthetic Committee approval) from the Coverland "Elite" range, Marley 'Modern' range, Amatile slate or similar approved.
- Dark grey or charcoal Chromadek or similar roof sheeting

Refer to Annexure A

Architectural Precedents Document

#### 15.10 FINISHES

##### ROOF SPECIFICATION

###### A - Steel/sheeting

A.1 - Brownbuilt  
Standard Classicoat Colour Range  
DOVE GREY

A.2 - Chromadek  
Standard Colour Range  
DOLPHIN GREY

###### B - Roof tile specifications

B.1 - Concrete Roof tiles  
The flat profiled COVERLAND ELITE TILE, MARLEY MODERN or similar clean lined concrete roof tile.

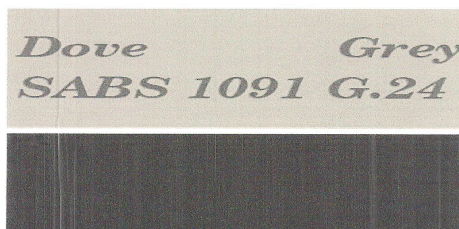
Concrete Roof Tiles Colour Range:  
Marley Tile Colour Range as an example of the preferred colour range:

M22 Slate  
Standard Slate  
Antique Slate  
Slurycote Slate

Similar colour range (GREY-BLACK) to be used for other concrete tile products. Colour range to be approved by aesthetic committee

C - Natural Slate Roofing  
Mazista Slate Roof Tiles  
West Country Slate or similar

Annexure A



A sample or specification must be submitted for approval prior to the commencement of the laying thereof.

The same material must be used in all pitched roofs.

Roof sections which have pitch less than 10 degrees and are constructed from concrete shall be finished with pebbles or stone chips. No silver waterproofing may be visible.

Roof overhangs can be generous or clipped back close to the building face. Exposed rafter tails are typical. Facias or barge boards will be permitted and must be painted the same colour as the roof covering. On Chroma deck roofs only the EHOA approved barge profile will be permitted.

Roof lights and roof windows are permitted provided that they are set in the plane of the roof. Dormer windows may be approved if motivated by the overall design.

No variations to these restrictions on roof coverings will be permitted under any circumstances. The aesthetic committee reserves the right to order the removal of any roof coverings in contravention of the submitted approved specification.

No photovoltaic panels, solar water heaters or water storage tanks may be visible **without** the approval of the Aesthetic Committee (detail drawings showing mounting method or substructure will be required.) Again, the aesthetic committee may demand the removal of such panels or water heaters in contravention of the guidelines.

#### 8.4 Veranda Roofs and eaves

Verandas are encouraged. Verandas can be either gable-end or shed verandas, or a combination of the two forms.

Verandas are to be single-storey with shallow lean-to or hipped roofs. Typically, the verandas have deep eaves repeating the same rafter treatment of the main roof. Exposed and decorated rafter rails are typical.

#### 8.5 Columns and Railings

Columns types include square posts used as singular structural element or in pairs or multiple groupings. Pre-cast classical, fluted or reeded columns **will not** be permitted.

Balustrades are to have a simple vertical or horizontal pattern. Pre-cast concrete balustrades **will not** be permitted.

#### 8.6 Windows, French Doors & Sliding Doors

Windows and doors must be constructed from natural hardwood; natural anodized or, bronze or charcoal powder coated aluminium. **No** steel

windows or doors will be permitted. **No** tinted or reflective glazing (only as per National Building Regulations), and **no glass blocks** will be permitted.

Windows, French doors and sliding doors must be at least square or have a dominant vertical proportion of no less than 1:1.25, however variations to this may be permitted with approval solely at the discretion of the Aesthetic Committee.

Windows on all elevations must be carefully thought out and proportioned so that no elevation is left blank or with uneven openings. Each elevation must have a minimum of 5% fenestration.

External shutters are encouraged. Shutters must be constructed from same material as windows.

External burglar bars and expanding type external security grids are **NOT** permitted on the outside of windows. For security purposes bronze or charcoal powder coating expanding type security grids are permitted. **ONLY** grids with fixed rails on top and bottom will be permitted.

## 9 GARAGES, CAR PORTS AND DRIVEWAYS

Garages must be set back at least to the build-to line from the erf boundary abutting the street. The doors may be double and may exceed 2.5 meters in width.

Carports **MAY NOT** be of the pre-fabricated type and must form part of the architectural design of the residence.

Garage doors must be constructed from horizontally slatted natural or painted hardwood or horizontally slatted powder coated metal. Colour to be an earthy tone and a sample or specification is to be submitted to the Aesthetic Committee for approval prior to installation.

Driveways shall **not** be constructed from asphalt, concrete or any form of brick imprint or crazy paving. A Sample or specifications must be submitted to the Aesthetic Committee for approval prior to commencement of the laying thereof. Exposed aggregate concrete may be considered as a driveway material.

## 10 EXTERNAL PIPES, FITTINGS, FIXTURES & DEVICES

**ONLY** seamless powder coated gutters may be used and the colour to match the roof covering.

Plumbing pipes must be concealed with access points acceptably concealed. No fibre cement boxing will be allowed.

Window mounted air-conditioning units are **not** permitted. Wall mounted air-conditioning unit are permitted provided that they are mounted at ground level and screened from view at street level.

Visible aerials are not permitted. Satellite dishes are permitted but limited to one unit per residence.

The aesthetic committee will be entitled to regulate the position and intensity of all external lighting. Any other structure or device not contemplated in this document will require the approval of the Aesthetic Committee before installation or construction.

## 11 SIGNAGE

Signs relating to the address and / or the name of the house are permitted provided that the height of the lettering does not exceed 300mm.

Street numbers and address signs must be mounted on the wall adjacent to the gate, in natural, unfinished materials to be approved by the Aesthetic Committee.

Cement casted Street numbers have been approved; sample is available at the Estate Office. These street numbers must be mounted on the sidewalk, once construction is completed. These street numbers is compulsory and must be paid and installed at the end of Construction.

## 12 SWIMMING POOLS

The restriction of the building lines shall apply to the positioning of swimming pools and filtration plants. The residents may apply for relaxation of the building lines for swimming pools.

Any fencing of the pool must be sympathetic to the architectural style and designed accordingly. **No** pre-fabricated sparred steel fencing will be allowed.

Pool pumps must be enclosed and screened so as not to be audible or visible from adjacent properties or the street.

Discharge pipes from swimming pools must not discharge water directly onto a street, sidewalk or erf. It is suggested to incorporate it in the garden system for watering plants and trees.

## 13 LANDSCAPING

### 13.1 Landscape Principals

The landscape of Elawini is extraordinary, a rare and magical configuration of plant communities set within a rugged terrain of rock outcrops, streams and the strong flowing River.

Home owners and their selected building contractors must be thoroughly familiar with the rules and regulations regarding the natural environment and the landscaping of their site. Please refer to Landscape Code Document, available from Estate Management.

## 14 GENERAL

These buildings and landscaping guidelines are to be read in conjunction with the Agreement of Sale between the homeowner and the developer and the constitution of the Home Owners Association including any amendments thereto. Even if a home owner has complied with these guidelines the aesthetic committee will have the absolute right to reject any plans that do not, in its sole discretion embody the spirit or what is intended for the built environment within the estate.

The Aesthetic Committee will in its absolute discretion be entitled, but not obliged to waive any of these guidelines. Any waiver granted shall **not constitute a precedent** automatically applicable to any other homeowner(s).

Homeowners must be members of the Home Owners Association.

During the development period the developer or the trustees shall be entitled in its absolute discretion, to amend this guideline from time to time.

Should any disputes arise relating to the application or implementation of these guidelines the aesthetic committee's decision shall be final and binding on the parties concerned.

These guidelines may not be amended by the Home Owners Association in future without the aesthetic committee or Trustees' written consent.

Every owner should familiarize himself with the Geotechnical soil conditions of his property. The developer, Trustees and EHOA cannot be held responsible for any claims with regards to movement or cracking of buildings because of soil conditions as well as inferior foundations. The initial Geotechnical report is available at estate management. Specific reference to more detail Geotechnical soil conditions should be taken at stands close to green areas as well as wetlands. This includes (but is not limited too) the following stands:

- 279 – 301
- 424 – 450
- 454 – 466
- 470
- 474 – 480"

Any relaxation of the rules needs to be approved by the EHOA at their scheduled (3) monthly meetings. Applications must be submitted two weeks before a scheduled meeting to be included in the agenda. The application must be accompanied by a motivational letter explaining the reasoning and the need to deviate from the manual. The application will only be entertained if motivated by the Estate Aesthetical Architect (Jarrod Brickhill - Nr 0714545343)





