CONSTITUTION OF THE STYX MILL COUNTRY CLUB INCORPORATED
("the Society")

INTRODUCTION

1 NAME:

1.1 Name of Society: The name of the Society shall be The Styx Mill Country Club Incorporated.

2 OBJECTS

2.1 General: The Developer has transferred ownership of the Common Facilities to the Society for the benefit of Members and intends to:

a. create a quality development.

b. establish Common Facilities in the Styx Mill Development for the benefit of Members and the Styx Mill Development generally.

2.2 Specific: The Society is formed to promote the following specific objects for the benefit of Members:

a. To promote and maintain rules and covenants for Members, the Common Facilities and the Styx Mill Development generally.

b. It is intended that some control will be exercised over home and landscape designs in the Styx Mill Development to ensure a continuity of building style and prevent the use of different and extreme building themes that are not in harmony with each other. This control is intended to emphasise and highlight the quality and value of property in the Styx Mill Development where houses will blend together and flow on from each other, with each house within that theme showing its own individuality. These objects will be achieved by the creation and maintenance of appropriate Design Controls and control mechanisms in respect of each Developed Property.

c. The proper operation, maintenance, repair, renovation and replacement of the Common Facilities and the levying of Members for the purpose of providing funds for meeting the costs and expenses of such work.

d. The ownership and continued ownership of the Common Facilities by the Society.

e. Do any act or thing incidental or conducive to the attainment of any of the above objects.

2.3 Pecuniary gain not to be an object: The Society does not operate for profit.

2.4 Members may contract: A Member may enter any agreement with the Society for the supply of any goods or services for such consideration and on such other terms and conditions as would be reasonable if that person were not a Member.

3 DEFINITIONS AND INTERPRETATION:

3.1 Definitions: In these rules, unless the context otherwise requires:

“AGM” means an annual general meeting of the Society.

"Act" means the Incorporated Societies Act 1908.

“Annual Subscription” means the annual subscription payable in accordance with rule 6.

“Applefield Court” means the gated area of the Styx Mill Development contained in Lots 300 to 360 and 2004 DP 334548.

"Bank" means a bank registered under the Reserve Bank of New Zealand Act 1989.

"Capital Improvements" means structural repairs to, and the replacement or renewal of, the Common Facilities.

"Committee" means the committee members from time to time elected to manage the affairs of the Society pursuant to this Constitution.

“Common Facilities” means all roads and access ways and such other land and facilities including the Country Club and the Reserve Tennis Court as are intended for common use by members within the Styx Mill Development, as shown on the attached plan.

“Completion” means with respect to the Styx Mill Development when all Developed Properties have been sold by the Developer and “Completed” shall have the corresponding meaning.

"Constitution” means this Constitution as amended or added to, including all Schedules to this Constitution.

“Country Club” means the Country Club and associated recreational facilities and infrastructure located on Lot 500 DP 325710 comprised in Certificate of Title 103821 (excluding the ground floor and first floor offices occupied by the Developer).

“Country Club Villas” means those villas contained in those Lots which have been developed in accordance with Living 3 zone specifications which are situated in close proximity to the Country Club.

"Default Interest Rate" means two per cent above the Society's banker's overdraft rate applicable during the continuance of the default.

“Defaulting Member” shall bear the meaning ascribed to it in rule 8.3.
"Design Control Committee" means the committee members from time to time appointed under rule 15.1 to consider design approval applications by Members.

"Design Control Procedures" means the Design Control Procedures issued by the Design Control Committee pursuant to rule 15.2, which are contained in the Rules.

"Design Controls" means the Design Controls contained in the Rules and any other Rules relevant to design control.

"Developed Property" means a property within Styx Mill Development:

a. for which a separate title has issued; and

b. which has been fully developed as a residential property or for any other permitted use by the Developer or which is a bare section available for such development.

"Developer" means H Investments (NZ) Limited promoting and carrying out the development of Styx Mill Development and/or any assignee and/or successor in title.

"District Plan" means the Christchurch City Proposed District Plan.

“Easement Facilities” shall bear the meaning ascribed to in Schedule 4 of the Land Transfer Regulations 2002.

"Easement Facilities Subscriptions" means any subscription payable by Members in a Gated Community in respect of Easement Facilities in accordance with rule 6.5.

“Encumbrance” shall bear the meaning ascribed to it in rule 4.1.

“Expense Year” means each 12 month period commencing on 1 April and ending on 31 March, or such other 12 month period as the Committee from time to time sets.

“Gated Communities” means the gated areas of the Styx Mill Development including without limitation Royal Court and Applefield Court.

“Gated Community Facilities” means all Common Facilities within the Gated Communities.

“Gated Community Subscriptions” means any subscription payable by Members in a Gated Community in accordance with rule 6.4.

"Guest" means any guest of or any visitor to an Owner or Occupier.

"Manager" means the manager or management company of the Society (if any), appointed under rule 12.1. Where no manager has been appointed, any reference to the "Manager" in this Constitution shall be deemed to be, where appropriate, a reference to the chairperson of the Committee.

“Managing Member” shall bear the meaning ascribed to it in rule 4.2

"Member" means each person who shall from time to time be a member of the Society pursuant to rules 4.1 to 4.6.

“Member’s Gated Community Proportion” means the proportion that the aggregate of the total number of developed properties in the Gated Community owned by a Member bears to the total number of developed properties in that Gated Community.

"Member’s Proportion" means the proportion that the aggregate of the total number of Developed Properties owned by a Member bears to the total number of Developed Properties in the Styx Mill Development.

“Member’s Villa Proportion” means the proportion that the aggregate of the total number of Villas owned by a Member bears to the total number of Villas in that Villa Building.

"Occupier" means any person occupying any Developed Property under any lease, licence or other occupancy right and shall include all members of an Owners immediate family and in respect of Lot 124 shall not include children attending the preschool.

“Other Developer” means a developer, other than the Developer, who is developing land adjacent to or in close proximity to the Styx Mill Development and to whom the Society in its sole and absolute discretion has agreed to issue Unallocated Memberships in accordance with rule 4.7.

"Owner" means each person registered as a proprietor (whether individually or with others) of a Developed Property.

"Owner’s Title" means the certificate of title issued for an Owner’s Developed Property.

“Reserve Tennis Court” means the tennis court situated at the Northern end of the Styx Mill Development.

“Royal Court” means the gated area of the Styx Mill Development contained in Lots 200 to 207 and 2002 DP 330891.

"Rules" means rules made by the Society pursuant to this Constitution.

"Society" means The Styx Mill Country Club Incorporated.

"Special Resolution" means subject to rule 14.2 a resolution of the Society in general meeting passed by a majority of not less than 75% of such Members as, being entitled to do so, in person or by proxy at such general meeting.

“Special Subscription” means any special subscription payable in accordance with rule 6.
"Styx Mill Development" means Lots 4003 and 4004 of DP 318347 and any land in close proximity to those Lots including without limitation land on Johns Road and the Country Club and any other land acquired by the Developer that the Developer wishes to be part of Styx Mill Development.

“Subscription” means any subscription payable by Members to the Society including Annual Subscriptions, Special Subscriptions, Gated Community Subscriptions, Easement Facilities Subscriptions and Villa Subscriptions.

“Unallocated Membership” means a membership which is not allocated to a Developed Property but which has been issued to an Other Developer in accordance with rule 4.7 so that an Other Developer can offer membership of the Society to purchasers of land in the Other Developer’s development.

“Users of the Member’s Developed Property” shall bear the meaning ascribed to it in rule 8.1.

“Vendor” shall bear the meaning ascribed to it in rule 6.9.

“Villas” means the Country Club Villas.

“Villa Building” means any building of which a Villa forms part of.

“Villa Subscriptions” means any subscription payable by Members who are Owners of Villas in accordance with rule 6.6.

3.2 Interpretation: In this Constitution, unless the context otherwise requires:

a. words denoting the singular shall include the plural and vice versa;

b. one gender shall include the other genders;

c. words denoting persons shall include any individual, company, corporation, firm, partnership, joint venture, association, organisation, trust, state, agency of a state, municipal authority, government or any statutory body in each case whether or not having separate legal identity;

d. any covenant or agreement on the part of two or more persons shall bind those persons jointly and severally;

e. reference to anything of a particular nature following upon a general statement shall not in any way derogate from, or limit the application of the general statement, unless the particular context requires such derogation or limitation;

f. any reference to "month" or "monthly" shall mean, respectively calendar month or calendar monthly;

g. references to rules are references to rules in this Constitution;

h. the table of contents, the rule headings and sub-rule headings have been inserted for convenience and a quick guide to the provisions of this Constitution and shall not form part of this Constitution or affect its interpretation in any way;

i. reference to any statute, regulation, ordinance or bylaw shall be deemed to extend to all statutes, regulations, ordinances or bylaws amending, consolidating or replacing the same.

4 MEMBERSHIP:

4.1 Owners to be Members: Each Owner shall be required to be a Member and, subject only to rule 4.7, only Owners shall be Members, and for that purpose:

a. Each Owner shall take title subject to an encumbrance ("Encumbrance") noted against that Owner's Title, securing that Owner's obligations to become and remain a Member and to perform the obligations of a Member as set out in this Constitution. Each Encumbrance will bind the respective Owners' successors in title so that contemporaneously with the acquisition of any interest in any Developed Property all such successors in title must become and remain a Member and observe and perform the obligations of a Member as set out in this Constitution.

b. A Member shall be deemed to have resigned from the Society immediately that Member is no longer an Owner, provided that such resignation shall not relieve a person of any obligation or liability arising before that person ceased to be a Member.

c. Each Owner shall, immediately upon becoming an Owner (and thereafter as any details change), provide the Society in writing with the details necessary for maintenance of the register of Members pursuant to rule 4.3.

d. A new Owner shall not be entitled to use the Common Facilities until all money payable to the Society by its predecessor in title has been paid and any default by its predecessor in title has been remedied and the Manager in its sole discretion considers that there are no other compliance issues relating to the new Owner's predecessor in title.

4.2 Developer as Managing Member: Until the Completion of the Styx Mill Development:

a. the Developer; or

b. the nominee of the Developer,

shall be the member with effective control of the Society ("Managing Member") regardless of whether the Developer or its nominee is at any time a Member. The Managing Member shall have only the rights specified in this Constitution, and shall have no other rights or obligations of a Member. No reference in this Constitution to a Member shall be taken as including a
reference to the Managing Member. Upon the Completion of the Styx Mill Development, the Developer shall by written notice resign as a Managing Member, and thereafter, there shall be no Managing Member in respect of the Society.

4.3 **Register of Members:** The Society shall maintain a register of Members recording:

a. For each Member: name, address, occupation, telephone number and facsimile number (at home and at work) and similar details for a third party to be contacted in the event of absence or emergency.

b. For each Occupier: name, address, occupation, telephone number and facsimile number (at home and at work) and similar details for a third party to be contacted in the event of absence or emergency.

c. Membership: the date upon which each Member became a Member.

d. Voting: where there is more than one Owner of a Developed Property, which of such Owners is entitled to vote in accordance with rule 14.1.

e. Type of security allotted: namely, a participatory security.

4.4 **Register to be audited:** The Committee may decide that the register of Members is to be audited annually by a qualified auditor.

4.5 **Not assignable:** The rights, privileges and obligations of Member are not assignable.

4.6 **More than one Owner per Developed Property:** If there is more than one Owner for a Developed Property such Owners shall collectively constitute one Member.

4.7 **Unallocated Membership:** The Society may, at its sole and absolute discretion, issue an Unallocated Membership to an Other Developer subject to the following conditions and any other terms and conditions the Society may in its sole and absolute discretion prescribe:

a. An Unallocated Membership shall be issued in the name of the Other Developer and recorded as a separate class of membership in the Society’s register of Members;

b. The holder of an Unallocated Membership shall not be entitled to use and enjoy the Common Facilities or be entitled to vote at meetings of Members of the Society or in any way enjoy the benefits conferred on Members of the Society or have any rights under this Constitution;

c. The holder of an Unallocated Membership who is not in breach of any term of the Unallocated Membership shall have the right to call on the Society to issue a Membership in the Society to the owner of a property within the Other Developer’s development provided that:

(i) a separate title has issued in respect of the property; and

(ii) the property has been fully developed as a residential property or is a bare section available for development as a residential property; and

(iii) the Other Developer has entered into an unconditional agreement for sale and purchase to sell the property; and

(iv) the other Developer has complied with the provisions of the Securities Act (Residential Property Developments) Exemption Notice 1999 and has provided evidence of compliance satisfactory in all respects to the Society.

d. The holder of an Unallocated Membership shall pay to the Society a fee fixed by the Society from time to time for each Unallocated Membership held and invoiced to the holder of the Unallocated Membership.

e. If the holder of an Unallocated Membership fails to pay the prescribed fee in accordance with the terms of the Society’s invoice then the Society may at its sole and absolute discretion withdraw and terminate the Unallocated Membership and the Society shall be under no further obligation to issue a membership to owners of properties within the Other Developer’s development.

5 **USE OF COMMON FACILITIES:**

5.1 **Use of Common Facilities:** Subject to any rules of the Society relating to the use of the Common Facilities, each Member, Occupier and Guest shall be entitled to use the Common Facilities.

5.2 **Maximum Usage for Developed Property:** A maximum of two adults and their immediate family from each Developed Property shall be entitled to use the Common Facilities provided that they occupy the Developed Property.

5.3 **Maximum Usage by Guests:** A maximum of four Guests per Developed Property shall be entitled to use the Common Facilities at any one time.

5.4 **Where Member not Occupier:** In the event that a Member leases, licences or otherwise parts with possession of the Member’s Developed Property (other than by sale made in accordance with rules 6.9) either the Occupier(s) of the Developed Property or the Member shall be entitled to use the Common Facilities, not both.

5.5 **Managing Member’s Usage:** The Managing Member (if there is one) shall be entitled to use the Common Facilities at any time and invite any number of guests to view or use the Common Facilities and this right to use the Communal Facilities shall
also extend to the shareholders, directors and employees of the Managing Member if the Managing Member is a body corporate.

5.6 No Warranty Given: Neither the Society nor the Developer makes any warranty as to the capacity of the Common Facilities or as to their suitability for use as recreational facilities.

5.7 Refusal of Access: Notwithstanding any other rule in this Constitution, the Manager shall be entitled to refuse any Member, Occupier and Guest access to the Common Facilities if in its sole discretion it considers that:

a. use of the Common Facilities is at or near full capacity; or
b. to do so is in the interests of health and safety; or
c. admittance of any further persons would interfere with the use and enjoyment of the Common Facilities by Members using the Common Facilities at that time; or
d. the behaviour of the Member, Occupier or Guest is unacceptable.

6 OBLIGATIONS OF MEMBERS:

6.1 Subscriptions: Prior to or as soon as practicable after the commencement of each Expense Year, the Society shall by written notice advise each Member of the Subscription for that Expense Year, plus such contingency sum as the Society shall, in its sole discretion, fix. Such written notice shall include a budget detailing the expenditure which the Committee anticipates will be incurred by the Committee during the upcoming Expense Year. All Subscriptions and all other monies paid by Members to the Society pursuant to this Constitution shall be applied for the purposes of holding, administering, maintaining, enhancing and redeveloping the Common Facilities, and administering and enforcing rules relating to the use and enjoyment, repair, decoration and landscaping of, and provision of services, to residential properties in the Styx Mill Development and generally for all purposes related to the achievement of the Society’s objects.

6.2 Payment of Subscriptions: Each Member shall by the 15th day of the first month in each Expense Year, pay the Annual Subscription for that Expense Year without deduction or set-off by direct debit or automatic payment. Payment shall be made by each Member in the manner set by the Society.

6.3 Special Subscriptions: The Committee shall from time to time fix an additional payment to be paid by each Member together with the Subscription to be set aside as a sinking fund to allow for and meet the costs of Capital Improvements.

6.4 Gated Community Subscriptions: The Committee shall from time to time fix an additional payment to be paid by each Member who is the Owner of a Developed Property in a Gated Community to meet the additional costs associated with the infrastructure and utilities contained within such Gated Community. The Gated Community Subscriptions shall be calculated by the Society on the basis of that Member’s Gated Community Proportion.

6.5 Easement Facilities Subscriptions: The Committee shall from time to time fix an additional payment to be paid by each Member who is the Owner of a Developed Property in a Gated Community to meet the additional costs associated with the Easement Facilities in such Gated Community. The Easement Facilities Subscriptions shall be calculated by the Society on the basis of that Member’s Gated Community Proportion. Any maintenance, repair or replacement of the Easement Facilities on the servient or dominant land that is necessary because of any act or omission by the Member who is the Owner of the servient land or the Member who is the Owner of the dominant land (which includes agents, employees, contractors, subcontractors and invitees of that Member) must be carried out promptly by that Member and at that Member's sole cost. Where the act or omission is the partial cause of the maintenance, repair or replacement, the costs payable by that Member responsible must be in proportion to the amount attributable to that act or omission (with the balance payable in accordance with this rule).

6.6 Villa Subscriptions: The Committee shall from time to time fix an additional payment to be paid by each Member who is the Owner of a Developed Property which is a Villa to meet the additional costs associated with the Villa Building. The Villa Subscriptions shall be calculated by the Society on the basis of that Member’s Villa Proportion.

6.7 Member’s Proportion: The Subscriptions (except for the Gated Community Subscriptions, Easement Facilities Subscriptions and Villa Subscriptions) shall be calculated by the Society on the basis of that Member’s Proportion. The Annual Subscription shall not be increased by more than the amount of the increase in the Consumer Price Index (All Groups) published by the Department of Statistics for the year immediately prior to the date the Annual Subscription is changed, unless such an increase is approved at a general meeting of the Society. For the avoidance of doubt, the Developer shall pay such Subscriptions in relation to Developed Properties of which it is the registered proprietor.

6.8 Staged Development: The Members acknowledge that the residential component of Styx Mill Development may be developed in stages, with new Owners becoming Members as each stage is completed.

6.9 Sale of Developed Property: If a Member sells ("Vendor") a Developed Property:

a. Notwithstanding any other rule in this Constitution, the Vendor shall remain liable for sums owed to the Society by that Vendor.

b. Without limitation, the Vendor shall continue to be liable as a primary and principal debtor for all indebtedness of the purchaser of the Developed Property to the Society until such time as:

i. the transfer to the purchaser is registered at the Land Transfer Office;
ii. the purchaser is legally bound by the Encumbrance secured against the Developed Property; and

iii. the Vendor has complied with its obligations under rules 6.9 and 8.2.

c. The purchaser of the Developed Property shall be liable as a Member for all indebtedness of the Vendor to the Society in respect of the Developed Property purchased.

d. The Vendor shall give the Society written notice as soon as the agreement for the sale of the Developed Property becomes unconditional, such notice shall include, without limitation, the name, address, occupation, telephone number and facsimile number of the Purchaser and the date of settlement. On settlement of the sale of the Developed Property the Vendor shall send a copy of the notice of sale to the Society.

6.10 Managing Member and Developer: Rule 6.9 shall not apply to the Managing Member or the Developer.

6.11 Notification of Occupier: In the event of a lease, licence or parting with possession of the Member’s Developed Property (other than by a sale made in accordance with rule 6.9) the Member shall notify the Society of the lease, licence or parting with possession and shall provide the Society with the name, address, occupation, telephone number and facsimile number of the Occupier.

6.12 Member Remains Liable: For the avoidance of doubt, in the event of any lease, licence or parting with possession of the Member’s Developed Property (other than by a sale made in accordance with rule 6.9), the Member shall remain primarily liable for any Subscriptions payable and it is up to the Member to arrange with such Occupier(s) to reimburse them for any Subscriptions.

6.13 Society to provide statement: The Society shall, on application by a Member, or any person authorised in writing by such Member provide the Member or authorised person with a statement of the indebtedness of the Member to the Society calculated to the date specified in the application. The statement shall show:

a. the Subscriptions and any other monies owed for the current Expense Year;

b. payments made by the Member in the current Expense Year;

c. payments due from the Member in the current Expense Year, and not paid by the Member; and

d. any accumulated unpaid default interest.

Provided that the Society shall not be required to provide more than four (4) statements to a Member in any one Expense Year.

6.14 Covenants and rules: Each Member agrees to promptly and fully comply with any Rules made by the Society from time to time, and any covenants given in favour of the Society by such Member (whether by separate Deed of Covenant or as noted against each Owner's Title). In the event of there being any conflict between the provisions of this Constitution (including any Rule) and the provisions of any restrictive covenant registered against the title to the Developed Property the provisions of this Constitution (including any Rule) shall prevail and be given priority over the provisions of any such restrictive covenant.

6.15 Annual Financial Statements: The Society shall ensure that each Member receives a copy of its audited financial statements each year as soon as reasonably practicable after their completion.

7 MEMBERS’ ASSISTANCE TO DEVELOPER:

7.1 Future Development: The Members acknowledge that development of Styx Mill Development is ongoing, and that the Society is required to allow the Developer such access to, and interests in, the Common Facilities as are necessary or desirable for the development to proceed, and to allow the Developer to add, remove or alter structures and services forming part of the Common Facilities, and to procure that its Members amend this Constitution if such amendment is necessary or desirable for the development to proceed. Each Member agrees:

a. to, and hereby allows, the Developer access to the Developed Property of that Member, except the dwelling house, for the purpose of proceeding with the development, including without limitation, allowing the Developer to remain on the Developed Property with such vehicles, machinery and tools as the Developer may desire;

b. not to prevent, hinder or obstruct the use by the Developer of the Common Facilities or the addition, removal or alteration of structures or services forming part of the Common Facilities by the Developer;

c. that neither any Member nor the Society shall oppose, or take part in any opposition to, any development undertaken by the Developer on any adjoining property;

d. to sign any document or do any other thing reasonably necessary to support any resource consent or other authorisation applied for by or on behalf of the Developer or their nominee in respect of the development of Styx Mill Development and/or any land adjoining or in close proximity to the Styx Mill Development;

e. to support any resolution to amend this Constitution, where the Society is bound by agreement with the Developer to procure such amendment.

8 BREACH OF OBLIGATIONS:

8.1 Occupiers and Guests: A reference to an act or omission by any Member in this Constitution shall include any act or omission by any mortgagee in possession of that Member’s Developed Property, the Occupiers of such Member's Developed Property,
the Guests of such Occupier, the Guests of such Member and the purchaser of such Member's Developed Property ("Users of the Member’s Developed Property").

8.2 **Obligations of Member:** Each Member must:

a. procure that all leases, licences, agreements for sale and purchase and all other agreements and documents that relate to the Member's Developed Property include a provision for the benefit of the Society that requires all Users of the Member's Developed Property to comply with this Constitution and any rules made by the Society; and

b. make all Users of the Members Developed Property aware of the Encumbrance described in rule 4.1; and

c. attach a copy of this Constitution to all leases, licences, agreements for sale and purchase and all other agreements and documents that relate to the Member's Developed Property; and

d. take all reasonable steps (including enforcing the terms of all leases, licences, agreements for sale and purchase and all other agreements and documents that relate to the Member's Developed Property) to ensure that all Users of the Member's Developed Property comply with this Constitution and the rules. In any case of persistent default by a User of the Member's Developed Property of this Constitution or the rules, the Owner shall on demand by the Society and where legally possible, terminate the User of the Member's Developed Property rights to the Developed Property.

8.3 **Reimbursement of costs for damage:** Upon any breach of this Constitution or the Rules by a Member and without prejudice to the Society’s other rights and remedies against the Member ("Defaulting Member"):  
a. Where damage has been caused to the Common Facilities, the Society shall give the Defaulting Member written notice of their default requiring the Defaulting Member to remedy the default within a time-frame determined by the Society. If the Member fails to remedy the default to the Society’s satisfaction the he Society may do anything, including paying money necessary to remedy the default except that where the Society determines that remedial work is required urgently it may undertake that work immediately at the expense of the Member.

b. All money paid and the expenses incurred by the Society (including any legal costs of the Society) in remedying, or attempting to remedy any damage caused to the Common Facilities by the Defaulting Member or any breach of this Constitution or any losses suffered by the Society as a consequence of the default shall be a debt due from the Defaulting Member to the Society.

c. If any money payable by a Defaulting Member to the Society is in arrears and unpaid for seven days such money shall be payable on demand and shall bear interest at the Default Interest Rate, computed on a daily basis from the due date until the date of payment in full.

d. The Society may suspend the Defaulting Member’s right to access and utilise the Common Facilities until the Defaulting Member has remedied the default(s) to the Society’s satisfaction.

9 **OBLIGATIONS AND POWERS OF THE SOCIETY:**

9.1 **Rules:** The Society shall promulgate, amend and distribute to Members from time to time Rules:

a. for the use of the Common Facilities;

b. concerning the behaviour of Owners, Occupiers and Guests;

c. governing the use of Developed Properties; and

d. covering any other matter concerning the management, administration and operation of the Society and the relationship between the Society and the Members.

9.2 **Repair of Common Facilities:** The Society shall ensure the proper operation, maintenance, repair renovation and replacement of the Common Facilities consistent with standards generally proposed or adopted in superior communal facilities of this nature, and shall undertake such Capital Improvements as are necessary for this purpose.

9.3 **Insurance:** The Society shall effect and maintain all insurances as it considers prudent with respect to the Common Facilities and the Society's affairs, and shall meet all costs of such insurance.

9.4 **Powers:** In addition to its statutory powers, the Society:

a. May use such of its funds to pay the costs and expenses of furthering or carrying out its objects, and for that purpose may employ such people as may seem expedient.

b. May acquire and dispose of property, to further carry out its objects as may seem expedient.

10 **LIMITATIONS OF THE SOCIETY:**

10.1 **No indebtedness:** The Society shall not borrow any money other than short-term borrowing to cover any temporary shortfall in meeting the Society's obligations under this Constitution, except by Special Resolution.

10.2 **No encumbrances:** The Society shall hold the Common Facilities in its own name and shall not mortgage, charge, encumber, transfer or otherwise deal with such Common Facilities, except by Special Resolution.

10.3 **No investments:** The Society shall hold all funds with a Bank, and shall not invest those funds other than by deposit with a Bank, except by Special Resolution.
10.4 **No improper use**: All Common Facilities designed for recreational purposes shall be used only for such purposes. The Society shall procure the noting of a restrictive covenant to that effect against the title for such facilities for the benefit of all Members.

10.5 **No improper purpose**: Notwithstanding any other rule in this Constitution, the Society shall not expend money other than to further lawful purposes.

11. **OPERATION OF SOCIETY BY COMMITTEE**:

11.1 **Powers**: Until the first general meeting the administration of the Society shall be vested in the Managing Member and the Managing Member may exercise all the powers, authority and discretions of the Society as permitted by this Constitution and do on its behalf all such acts as it deems necessary or expedient. The administration of the Society shall be vested in the Society on a date to be nominated by the Managing Member in general meeting, and shall be delegated to the Committee. The Committee may exercise all the powers, authority and discretions of the Society as permitted by this Constitution and do on its behalf all such acts as it deems necessary or expedient. The powers, authority and discretions as exercised by the Committee are subject always to any limits which may from time to time be imposed by the Society.

11.2 **Responsibilities**: The Committee's responsibilities include:

   a. maintenance of roads, footpaths, utilities (if applicable), rubbish removal (if applicable), street furniture, street signage, street features and street lighting in the Gated Communities;
   b. maintenance of the reticulation of electric gates and associated gear, and intercom cables, entrance feature, gates and landscaping;
   c. management and maintenance of the Country Club, car parks, reserves and Common Facilities within the Styx Mill Development.

The Committee may, but shall not be required to, take any action to ensure compliance with this Constitution or the Rules.

11.3 **Approval of Expenditure**: Any Committee expenditure of over $5,000.00, not being expenditure which the Committee is legally obliged or previously authorised to incur or which has been budgeted for, shall be referred to a general meeting. Notwithstanding the foregoing provision the amount of $5,000.00 shall be deemed to be a base figure as at 1 January 2004 and shall be increased by the percentage increase (if any) of the Consumer Price Index (All Groups) during the period commencing 1 January 2004 and ending on the date of the making of any such expenditure.

11.4 **Sub-Committee**: The Committee may appoint Members of the Society to form a Sub-Committee for any purpose it deems appropriate. All Sub-Committees shall not be given any control over the assets or finances of the Society and must confer with the Committee upon any matters of expenditure. A Sub-Committee must report back to the Committee periodically at such intervals as the Committee may determine.

11.5 **Bank accounts**: The Society shall establish a bank account, with a Bank and any drawings on that account (including any cheque drawn on that account) shall be made only under the signature of:

   a. the Managing Member (if there is one); or
   b. any two (2) members of the committee

11.6 **Deeds**: Any contract which, if made between private persons, must be by deed shall, when made by the Society be in writing under the common seal of the Society to be affixed in accordance with rule 11.17.

11.7 **Other Documents**: All other documents and written announcements requiring execution on behalf of the Society must be signed by the chairperson.

11.8 **Composition**: The Committee shall comprise the following persons:

   a. a chairperson;
   b. a manager/treasurer/secertary; and
   c. four (4) general Committee members who must be Members, as determined by the Society in general meeting before election of Committee members.

11.9 **Committee Members**: The Chairperson shall be the Managing Member (if there is one) or where there is no Managing Member the Chairperson shall be as elected by the committee of five (5). The treasurer/secretary shall be the Manager provided that while the Managing Member is the Manager, be such other person as the Managing Member shall appoint or, where there is no Managing Member, such other person as the Committee shall appoint from time to time. The balance of the Committee shall be elected by the Society at every AGM, and may be elected at any other time by the Society in general meeting.

11.10 **Duration of Membership**: A Committee member shall hold the elected position until the earliest of:

   a. the next AGM following election (when a minimum of two (2) existing committee members are eligible for re-election);
   b. the date written resignation from such position is received by the Society;
   c. the date of removal from such position by the Society in general meeting; or
   d. the date of cessation of membership.
11.11 **Casual vacancies on Committee**: In the event of a casual vacancy in any position on the Committee (whether caused by death, cessation of membership from the Society or some other means) the remaining Committee members may appoint another Member to fill the vacancy until the position is filled by the Society in general meeting. A Committee member who is convicted of a criminal offence or who is bankrupted must resign from the Committee.

11.12 **Manager and Managing Member**: Notwithstanding any other rule in this Constitution, while there is a Managing Member the Manager shall remain as treasurer/secretary and the Managing Member shall remain as Chairperson as long as they remain Manager and Managing Member respectively and the Society shall not be entitled to remove either from those positions for any reason whatsoever.

11.13 **Duties of Manager/Treasurer/Secretary**: The manager/treasurer/secretary shall:

a. convene general meetings when requested to in accordance with this Constitution;

b. subject to rule 11.18 attend all meetings of the Committee and have full rights at such meetings;

c. give all notices required to be given by these rules directed from time to time by the Society or the Committee;

d. keep minutes at all general meetings and Committee meetings and enter into the minute book:
   i. the time, date and venue of such meeting;
   ii. all business considered and resolutions passed at such meeting;

e. hold in safe custody the common seal of the Society;

f. receive, and issue receipts for all Subscriptions, fees, and any other moneys paid to the Society;

g. operate and maintain a current bank account in the name of the Society;

h. pay all accounts properly incurred by or on behalf of the Society;

i. report immediately to the Society if any Member fails to pay Annual Subscriptions or additional fees within the prescribed period;

j. keep all financial records and any security documents in safe custody;

k. compile all proper accounting records from time to time as required by the Act or the Securities Act 1978 by the Committee which give a true, fair and complete account of the financial affairs and transactions of the Society;

l. compile the financial statements immediately following each financial year as required by the Act, and provide for the annual auditing of those records and the distribution of the audited financial statements to Members as soon as reasonably practicable after each audit is completed and in any event, no later than 5 months after the end of each accounting period of the Society;

m. maintain the Register of Members; and

n. be entitled to charge and be paid for all acts done or time expended by him or her, in connection with the duties undertaken by him or her in accordance with this Constitution.

11.14 **Conduct of Meetings**: The Committee may meet together, adjourn and otherwise regulate its meetings and procedures for conducting its business as it thinks fit. A majority of the members of the Committee from time to time, provided that such majority includes the Managing Member (if there is one) shall form a quorum for a Committee meeting. No business of the Committee shall be conducted at any time when less than a quorum is present at the same time and place. The Committee may meet at any time and the secretary shall, upon the request of the chairperson or any three Committee members, convene a meeting of the Committee.

11.15 **Chairperson**: Subject to rule 11.9, the Committee from time to time shall appoint, remove and replace a Chairperson for such term as it sees fit from one of their number to chair Committee meetings and otherwise exercise the powers of the chairperson set out in this Constitution.

11.16 **Chairperson to have casting vote**: In the case of a tie in votes, where the Chairperson is not the Managing Member, then the Chairperson may exercise a casting vote.

11.17 **Seal**: The Committee shall obtain a common seal for the use of the Society and shall provide for its safe custody. The common seal shall not be used except by resolution of the Committee. Every instrument to which the common seal is affixed shall be signed by the Chairperson and one other member of the Committee. The Society shall maintain a register recording the affixing of the seal.

11.18 **Voting**: Resolutions of the Committee shall be passed by majority. Each Committee member shall be entitled to exercise one vote, provided that the manager/treasurer/secretary shall not be entitled to vote and further provided that the Managing Member (if there is one) shall be entitled to exercise a number of votes equal to one more than the number of other Committee members present at any Committee meeting. Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by such of the Committee members as would constitute a quorum at a Committee meeting shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted. Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by the Managing Member (if there is one) shall be as valid and effectual as if it had been passed at a meeting of the Committee duly convened and constituted.
11.19 Validity of Committee's actions: All acts properly done by any meeting of the Committee or by any person acting as a Committee member, notwithstanding that it may afterwards be discovered that there was some defect in the appointment or continuance in office of any such Committee member or that they were disqualified, shall be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a Committee member.

11.20 Committee minutes and records: The Committee shall cause proper minutes to be kept of the proceedings of all meetings of the Society and of the Committee. All business transacted at such meetings signed by the chairperson shall be accepted as a correct and accurate record of the business transacted at such meetings without any further proof of the facts contained in such minutes.

11.21 No Remuneration: Committee members, other than the Managing Member and the secretary/treasurer, will not be entitled to receive remuneration other than to receive reimbursement of out of pocket expenses reasonably incurred as a consequence of their membership of the Committee. To avoid any possible conflict of interest anyone who is employed by the Styx Mill Country Club Committee cannot also be on that committee.

12 MANAGER:

12.1 Appointment by Managing Member: Notwithstanding any other rule in this Constitution prior to the resignation of the Managing Member the Managing Member shall be the Manager or shall appoint the Manager and they shall from time to time carry out such of the obligations of the Society, and exercise such of the discretions and powers of the Society, as the Committee shall see fit. The Manager may delegate such of its obligations, discretions and powers as it sees fit.

12.2 Appointment by Committee: After the resignation of the Managing Member the Committee may appoint, remove and replace a Manager from time to time to carry out such of the obligations of the Society; and exercise such of the discretions and powers of the Society, as the Committee shall see fit.

12.3 Payment: The Society shall enter into a Management Agreement with the Manager on such terms and conditions as the Managing Member if there is one or the Committee see fit and for the avoidance of doubt the Manager shall be entitled to be paid for services rendered to the Society. In determining the terms and conditions of such Management Agreement the Managing Member (if there is one) exercise such discretion in good faith towards the Members.

13 GENERAL MEETINGS:

13.1 AGM: In addition to any other meetings in that year, the Society shall hold an AGM each year. Not more than 18 months shall elapse between the date of one AGM and that of the next. The Committee will determine the time and place of each year's AGM.

13.2 Special general meetings: A general meeting other than an AGM may be requested by the Committee, or by written requisition signed by not less than 25% of current Members. The secretary shall call a special general meeting within seven days of receiving an effective request.

13.3 Powers of the Society in general meeting: The Society in a general meeting may, by resolution, exercise all powers, authorities and discretions of the Society notwithstanding that any such power, authority and discretion may have been delegated to the Committee by or pursuant to this Constitution. Notwithstanding any contrary provision in this Constitution, a resolution in writing signed by 75% of the Members entitled to vote in person or by proxy at general meetings, together with the Managing Member (if there is one), shall be as valid and effectual as if it had been passed at a general meeting of the Society duly convened and constituted.

13.4 Quorum: No business shall be transacted at any general meeting of the Society unless the quorum is present when a meeting proceeds to business. Quorum shall not be less than 20% of all Members or 10 Members (whichever is the lesser eligible to vote at general meetings, present in person or by proxy) together with the Managing Member (if there is one).

13.5 Notice of general meeting: A notice of general meeting of the Society shall be sent to every Member not less than 10 working days before the date of such meeting. Such notice shall specify the date, time and venue of such meeting. In the case of a general meeting other than an AGM such notice shall specify all business and all notices of motions to be considered at such meeting. No business or notice of motion which is not specified shall be discussed or transacted at such meeting.

13.6 Failure to give notice: The accidental omission to give notice, or the non-receipt of such notice by a Member shall not invalidate the proceedings at any such meeting.

13.7 The Chairperson: The chairperson at any general meeting shall be:
   a. the Chairperson of the Committee; or
   b. if the Chairperson is not present or is unwilling to take the chair, then those Committee members who are present may choose one of their number to chair the meeting; or
   c. if for any reason no chairperson is selected by the Committee any Member appointed by a majority of Members present in person or by proxy.

13.8 Adjournment: If a quorum is not present within half an hour from the time appointed for the holding of a general meeting convened on requisition of Members, the meeting shall be dissolved. In any other case the meeting shall stand adjourned to the next day, at the same time and place, or to such other day and at such other time and place as the Committee shall determine (such date not to be later than two (2) days from the date of the adjourned meeting). If at such adjourned meeting a quorum is
not present within half an hour from the time appointed for holding the meeting, the Members present together with the Managing Member (if there is one) shall constitute a quorum.

13.9 **Adjourned meetings:** No business other than that business which might have been transacted at the meeting from which the adjournment took place, shall be transacted at any adjourned meeting. Members shall not be entitled to receive any notice in respect of adjourned meetings.

14 **VOTING:**

14.1 **One Member one vote:** Each Member present at a general meeting of the Society shall be entitled to one vote for each Developed Property of which that Member is a registered proprietor which may be exercised either in person or by proxy using the Society’s form of proxy. If there is more than one Owner for a Developed Property, and such Owners are collectively a Member pursuant to rule 4.6, and such Owners wish to be present at the AGM then such Owners shall only be entitled to one vote at that meeting and shall only count as one Member for the purposes of establishing a quorum. In the absence of agreement between such Owners as to who shall exercise this vote, the Owner appearing first on the certificate of title to the property within Styx Mill Development shall be entitled to exercise that vote. On the death of any Member the personal representative of that Member’s estate shall be entitled to exercise that Member's vote subject to first providing the Society with satisfactory evidence of that person’s appointment as personal representative.

14.2 **Managing Member’s vote:** The Managing Member (if there is one) shall be entitled to exercise a number of votes equal to one more than the number of Members entitled to vote at any general meeting, and for the avoidance of doubt, this right may without limitation be exercised on any matters requiring a special resolution.

14.3 **Corporation representatives:** Any corporation which is a Member may, by resolution of its directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the Society, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation which that person represents as that corporation could exercise if it were an individual Member and references in this Constitution to a Member being present in person shall mean and include a representative appointed pursuant to this rule, and such person may also stand for election to the Committee.

14.4 **No vote if fees unpaid or Member in Default:** Unless all Subscriptions and additional fees presently payable by the Member to the Society have been paid in full and the Member is not a Defaulting Member, the Member shall not be entitled to vote at any general meeting of the Society, whether in his own right or as a proxy for another person.

14.5 **Voting at meetings:** At any general meeting:

a. A resolution may be put to the vote by the chairperson or by any Member present at the meeting entitled to vote.

b. Resolutions put to the vote shall be decided on voices or a show of hands, unless a poll is demanded on or before declaration of the result of the voices or show of hands by:
   i. the chairperson of the meeting; or
   ii. at least five Members present in person or by proxy.

c. In the case of a resolution put to the vote at the meeting by voices or a show of hands, a declaration by the chairperson that such resolution has been carried or lost or an entry to that effect in the Society's minute book, shall be conclusive evidence of that fact, without further proof of the number or portion of votes recorded in favour of or against such resolution.

d. Resolutions shall be passed by a majority of votes, except where Special Resolution or the unanimous resolution of all Members is required by this Constitution.

e. In the case of a tie in votes, the chairperson may exercise a casting vote.

14.6 **Good faith:** Members shall, in exercising any vote at any general meeting, or as a Committee member exercise such vote in good faith with a view to ensuring that all Members are treated equally by the Society, and that each Member shall bear that Member's Proportion of all costs and expenses to be met by Subscriptions made by the Society under rule 6, irrespective of whether any expenditure by the Society benefits all Members.

15 **DESIGN CONTROL COMMITTEE:**

15.1 **Composition:** The Design Control Committee shall comprise the Managing Member (if there is one) and after the resignation of the Managing Member the following persons:

a. a representative of the Society appointed from time to time by the Society;

b. a landscape architect with appropriate qualifications and expertise appointed from time to time by the Society; and

c. an architect appointed from time to time by the Institute of Architects (Canterbury).

15.2 **Design Controls:** The Design Control Committee may revise and publish from time to time Design Control Procedures and Design Controls in respect of residential development within Styx Mill Development. Each Member shall fully comply with the Design Control Procedures and the Design Controls and any other Rules relevant to design control.
15.3 **Design approval**: Before commencing any residential building or development or other structure within the Styx Mill Development or obtaining any consent from any local authority to build, a Member must first submit the design of the proposed building/structure to the Design Control Committee for its written approval in accordance with the Design Control Procedures and the relevant Rules.

15.4 **Approval Costs**: All costs of the design approval process shall be met by the Managing Member or the Design Control Committee unless the Managing Member (if there is one) or the Design Control Committee considers in its sole discretion that negotiation relating to disputed designs is in wide variation to the Design Controls in the event of which the Member seeking approval shall pay the Managing Member or the Design Control Committee, as the case may be, the hourly rate equivalent to an architects fee to consult and make recommendations to make such design compliant.

16 **GENERAL:**

16.1 **Dissolution**: The Society may be wound up in accordance with section 24 of the Act. Upon the winding up of the Society:
   a. ownership of the Common Facilities shall vest in; and
   b. the contents of any sinking fund collected by the Committee in accordance with rule 6.3 shall be distributed to; the Members as tenants in common in shares equal to the Member's Proportion as at the date of winding up, and the Society shall take all necessary steps to vest legal title to the Common Facilities in the Members.

16.2 **Alteration of Constitution**: Subject to rules 16.3 the Constitution shall not be amended, added to or rescinded unless:
   a. such action is taken at an AGM, or a general meeting convened for that purpose;
   b. written notice of the proposed amendment, addition or rescission has been given to all Members in accordance with this Constitution;
   c. such action is taken by Special Resolution; and
   d. such action is taken with the written consent of the Managing Member (if there is one).

16.3 **Alteration of Constitution by Managing Member (if there is one)**: Notwithstanding rule 16.2, the Constitution may be amended by a resolution signed in writing by the Managing Member (if there is one). The Managing Member does not require the consent of the Members but each Member agrees that they will, if requested by the Managing Member, sign a notice of rule change required under the Act to effect registration of such rule change

16.4 **Registered office**: The registered office shall be at the Styx Mill Country Club, 160 Hussey Road, Belfast, Christchurch.

16.5 **Liability of Members**: No Members shall be under any liability in respect of any contract or other obligation made or incurred by the Society.

16.6 **Society to indemnify Members**: The Society shall indemnify each Member, including the Managing Member, against any action claim, demand, loss, damage, cost, expense and liability properly incurred by such Member in respect of the affairs of the Society, to the extent of property owned by the Society. In respect of the Managing Member this indemnity shall inure after the Managing Member resigns pursuant to rule 4.2.

16.7 **No action in favour of Members**: No action in law or otherwise shall lie in favour of any Member against any other Member or the Committee, or any Committee member or the Managing Member or the Developer in respect of any act or omission pursuant to this Constitution. Nothing in this rule shall prevent an action in respect of any loss or expense arising from the wilful default of the person against whom such action is taken. In respect of the Managing Member this indemnity shall inure after the Managing Member resigns pursuant to rule 4.2.

16.8 **Member to indemnify Society**: Each Member shall indemnify and keep indemnified the Society from and against any action claim, demand, loss, damage, cost, expense and liability which the Society may become liable in respect of or arising from any breach of this Constitution by a Member.

16.9 **Arbitration**: Any difference or dispute which may arise between a Member and the Society concerning this Constitution or any act or thing to be done, suffered or omitted under this Constitution, or concerning the construction of this Constitution shall be referred to the arbitration of a single arbitrator if the parties can agree upon one, but if they cannot agree on one within five (5) days then to two arbitrators (one to be appointed by either party) and an umpire (to be appointed by the arbitrator before entering upon the reference). Any dispute, difference or question as to the jurisdiction of the arbitrator shall be determined by the arbitrator. The arbitration shall be conducted in accordance with and subject to the provisions of the arbitration statutes for the time being in force in New Zealand. Such arbitration shall be a condition precedent to the commencement of any action at law. The costs of the arbitration shall be shared equally by the Member and the Society unless the arbitrator or umpire determines otherwise.

16.10 **Approval**: Where in this Constitution any reference is made to the approval or consent of the Society or the Developer or the Managing Member:
   a. Such approval or consent shall be given at the sole discretion of the Society or the Developer or the Managing Member;
   b. No approval or consent given on any occasion by either the Society or the Developer or the Managing Member shall serve as a precedent for or be binding in any way with respect to, any future application for consent or approval; and
c. Such reference shall mean the prior written approval or consent of the Society or the Developer or the Managing Member as appropriate.

16.11 Conflicts: In the event of any conflict between an agreement for sale and purchase between a Member and the Managing Member and this Constitution or the Rules, this Constitution and the Rules shall prevail. In the event of any conflict between this Constitution and the Rules this Constitution shall prevail.

16.12 Notices: The address for service of the Committee for the purposes of any notice or document to be served or delivered pursuant to this Constitution or the Rules if there is a Managing Member shall be, c/- H. Investments (NZ) Limited, PO Box 20383, Christchurch or the address for service advised by the Committee in writing to all Owners.

If no such address for service has been advised the address for service shall be:
The postal or residential address of the Chairman for the time being of the Committee if a Chairman has been appointed;
If no such Chairman has been appointed, the postal or residential address of any member of the Committee;
If no Committee has been appointed, each and every address for service of the Owners of all Lots, for the avoidance of doubt, the document must be served on every such address.

The address for service of any Member, Owner or Occupier for any notice or document under the provisions of this schedule shall be the address contained in the register maintained by the Society pursuant to rule 4.3.

Registered with the Companies Office
15th September 2006